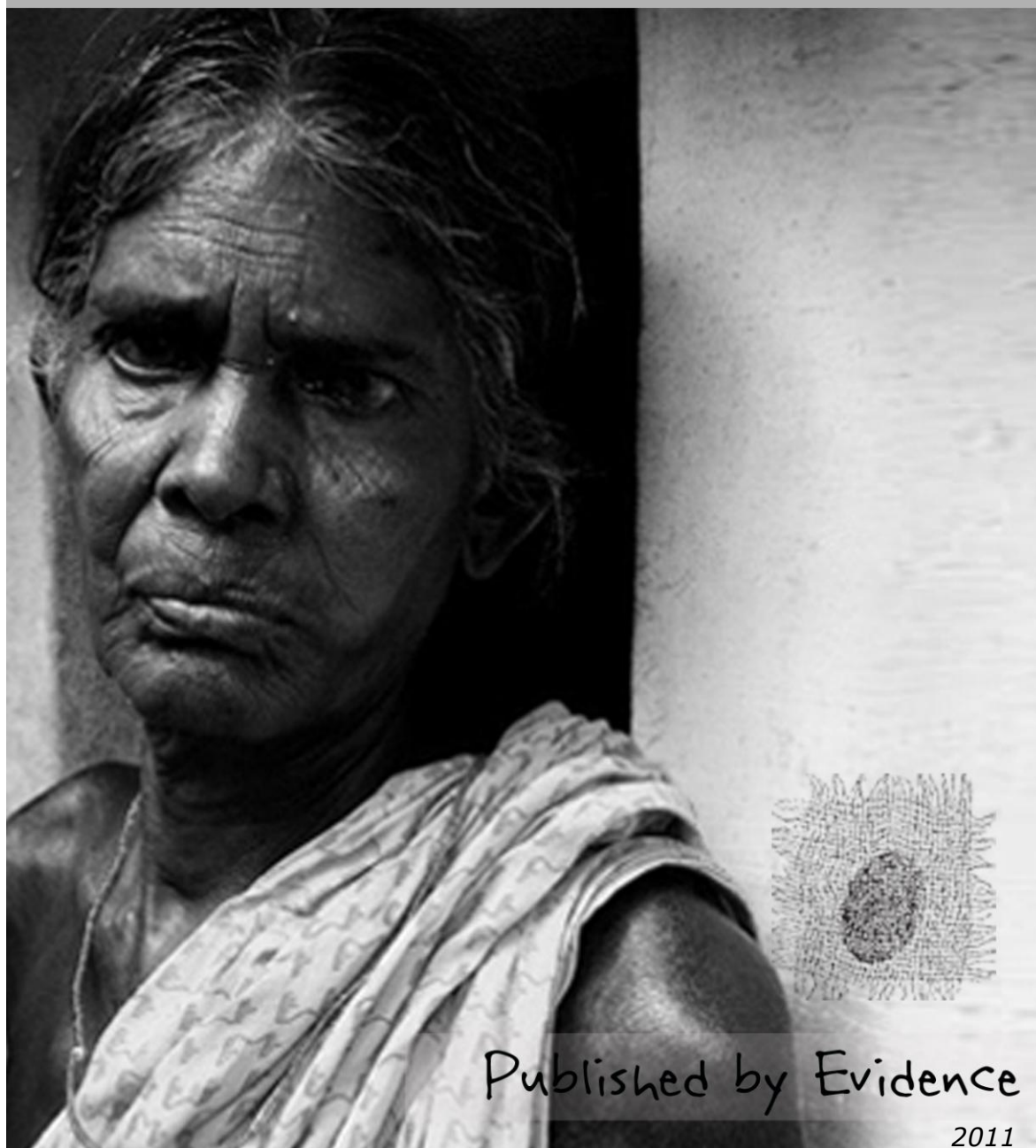


# Atrocities against Dalit women and Access to Justice



Published by Evidence

2011

## Preface

Dalit women face the worst expressions of caste and gender discrimination. Violence is used against Dalit women to reinforce caste and gender norms. It is socially legitimized through the impunity which the perpetrators enjoy. The perpetrators use their socio, economic and political powers to silence dalit women in accessing justice. This study on Atrocities against Dalit women and Access to justice is an attempt to analyze the barriers that Dalit women face while seeking legal and judicial redress for violence. This study is a parallel similar effort taken in the states Gujarat and Maharashtra in collaboration with Minority rights Group International –London.

This research analyses the manifestations of both caste and gender violence and the response of the State to the dalit women seeking justice through the reported cases from Nov 2004-Dec 2009.

We acknowledge the entire EVIDENCE team comprising of Ms. Cinthuja, Mr. Viswanathan, Ms. Alagurani and Ms. Meenakshi who were involved in data collection and cases follow up. We appreciate Mr. Ilayaraja and Ms. Andal who were involved in data entry and report drafting.

We thank Ms. Jayshree Mangubahi –Independent Researcher, Ms. Kathryn Ramsay - MRG, London and Ms. Manjula Pradeep, Director -Navsarjan for their valuable inputs in formulating the report.

Research team

EVIDENCE

2011

# *Content*

Preface

I. Introduction

Dalit women in Tamilnadu

II. Legal context

III. Objectives, scope, purpose & Methodology

Districts Profile

IV. Violence

I Caste based violence

II Gender based violence

a. Forms of violence

VI. Struggle for justice

a. Filing of FIR -Access to police stations –

a. Table – Total number &% of police stations registered with cases of atrocities

b. Table - % of atrocities registered in police station in 3 districts in both gender violence and caste violence

b. Registering of cases

a. Table - period of delay in FIR in both gender and caste violence

c. SC/ST provisions invoked in the reported cases

a. Table of cases with sections of SC/ST invoked

d. Arrest

a. Table –Period of delay in arresting the perpetrators

e. Bail

f. Investigation and charge sheeting

g. Status of cases in the selected three districts

a. Table - Status of cases district wise in both caste and gender violence

I Overall analysis of the performance of the criminal justice system

## Introduction

Dalit women due to their socio, economic and political vulnerability have been exposed to multiple forms of violence throughout history. They face caste and gender based violence and discrimination as they are placed at the lowest strata of caste, gender and class hierarchies. In India, though we have constitutional and legislative safeguards to protect dalit women from discrimination and violence, they have been ineffective due to the deep rooted caste and gender biases within the enforcement agencies. The United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in its Concluding Comments on India noted concern about “the ongoing atrocities committed against Dalit women and the culture of impunity for perpetrators of such atrocities”<sup>1</sup>. It also calls upon the State party to increase Dalit women’s legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights.

Scheduled castes or dalits, who constitute 16% of the total Indian population, continue to suffer descent and work based discrimination, “untouchability” practices and atrocities from the caste system. They are extremely vulnerable as they have been socially excluded, denied access to resources and they lack effective political participation. They form the majority of the landless agricultural labor and the unorganized labour which forces them to be insecure and dependent on the dominant castes who are socially and economically powerful.

Within the dalit community, Dalit women face more burdens due to caste and gender discrimination. Dalit women are subjected to systematic oppression and structural violence both from the general community and from within their own community and their families.

Atrocities and violence against dalit women are used as means to reinforce this systemic caste and gender discrimination as well as to punish them when they challenge caste and gender norms. Since 2005, EVIDENCE has been involved in over 253 cases of violence against Dalit women. Observation of these cases shows that more than 70% of atrocities are committed as these women tried to assert their rights and challenge caste and gender norms<sup>2</sup>. Violence is used to curb the assertion of the rights of dalit women in particular and of the community in general. Their socio-economic vulnerability combined with being a woman and Dalit also increase the incidence of violence on them.

Research studies and other available data prove that violence against dalit women is on rise<sup>3</sup>. But the lesser number of registered cases and low level of conviction rates assert the fact that dalit women are denied access to justice when they face violence. Due to social sanction and the impunity that the perpetrators enjoy dalit women become more vulnerable to violence.

---

<sup>1</sup> Committee on the Elimination of Discrimination against Women examination of INDIA, 18 January 2007, CEDAW 37th session: In the Concluding Comments (CEDAW/C/IND/CO/3)

<sup>2</sup> Atrocity Cases intervened by EVIDENCE since 2005

<sup>3</sup> <http://www.frontlineonnet.com/fl2425/stories/20080104242500400.html>;  
<http://www.isidelhi.org.in/hrnews/isidownload/Women/women-2009.pdf>;

Lack of concrete data (both government and non-government data) with regard to caste and gender discrimination and violence against dalit women, is also a major concern while addressing violence. We mostly get data disaggregated either by gender or by caste and not by both categories. This sadly proves the fact that the intersectional vulnerability of dalit women in facing caste and gender violence and its adverse effects are not understood properly.

“The consequences of the interaction of multiple forms of subordination, including gender and race discrimination, are often considered to be separate and mutually exclusive forms of discrimination. As a result, victims of multiple forms of discrimination may not have access to effective remedies for redress....”<sup>4</sup>

Data on crimes against dalits shown in Table: 1 below is the official data available with regard to the crimes reported against dalits. More importantly the data on rape cases is the only disaggregated crime data available on dalit women.

**Table: 1- Crimes against Dalits in India 2008 and 2009**

Total No. of cases reported		Total No. of rape cases reported	
2008	2009	2008	2009
33,615	33,594	1,457	1,346

Source: crimes against Scheduled castes- National Crime Records Bureau

Dalit women’s higher illiteracy rates, higher poverty levels and lower social status increases their vulnerability to more discrimination and violence than non dalit women and dalit men.

At the same time, perceiving dalit women generally through a dalit only or women only lens will not allow anyone to understand their status in a true sense. This will also hamper the effective implementation of the policies and programs in protecting the rights of dalit women.

### **Dalit women and access to justice**

For Dalit women who have suffered the multiple oppressions of caste, class and gender since birth, after facing the violence and its adverse effects on her and her family, it would really be a challenge and struggle for while seeking justice. Various factors act as obstacles to their access to justice. They would be influenced, pressurized, blocked, intimidated, stigmatized and revictimised. If they still take up the struggle for justice, it would really be a difficult path that they have to travel.

The process of criminal justice starts with the registration of information about the violence by the police and ends with the judgment by the courts – to punish the accused and provide compensation to the affected.

Are these dalit women – the survivors of violence able to access law enforcement agencies – the local police? When they approach the police, do the Officers take action according to the law? Do the courts provide justice to the affected woman? Are these state mechanisms with

<sup>4</sup> *Gender and racial discrimination* Report of the Expert Group Meeting (DAW, OHCHR, UNIFEM), 2000 Zagreb, Croatia

due diligence preventing, investigating and punishing acts of violence? The questions are endless.....

Thus this study is an attempt to find out the barriers that dalit women face while accessing justice by analyzing the responses of the law enforcement agencies and the judiciary through the reported cases from three selected districts in Tamilnadu.

## Dalit women in Tamilnadu

Tamil Nadu has a relatively high Dalit (SC) population. As against the national average of 16 %, 19 % of Tamil Nadu's population consists of Dalits – fifth largest dalit populated state in the country. Within this, dalit women number 5.9 million or 49.9 %.

Though they are numerically a significant section of population in Tamilnadu, the situation of dalits in socio, economic and political context is still appalling. Though Tamilnadu is one of the top three states with fast economic growth (next to Gujarat and Maharashtra) the caste disparities continues and even increasing. Dalit in general and dalit women in particular continue to remain the poor, landless marginalized labourers. They are denied access to education, employment, land and other resources. Below are the evidences to show the actual situation of dalit women in Tamilnadu:-

### **Socio-economic status**

Majority of dalit women 70 % reside in villages<sup>5</sup> and the vast majority of them do not own land. Most of the Dalits lead lives as landless agricultural labourers.

### **Work population Rate<sup>6</sup>**

There has been a decline in SC main workers from 94.7 in 1991 % to 79 % in 2001 which in turn increased the marginal workers from 5.3% in 1991 to 21% in 2001. This shows an increase in unorganized labour and unemployment among dalits. According to census of India 2001, only 10.2 % SC workforce come under the classification of cultivators.<sup>7</sup> On the total, lands owned by dalits form only 7.1%.

This has resulted in the decrease in the work participation rate (WPR) of dalits. WPR is the percentage of workers to the total population. The WPR among SC population is 48.1 per cent in 2001, which is higher than 44.7 per cent for the state population as a whole. The WPR of SC population however, has declined marginally, if compared to 48.4 per cent reported in 1991 Census.

### **Poverty ratio**

Landlessness combined with their concentration in wage labour resulted in higher poverty rate among dalits. Poverty ratio among SCs is very high compared to non SCs with 33%<sup>8</sup>.

<sup>5</sup> <http://census2001.tn.nic.in/pca2001.aspx>

<sup>6</sup> Tamilnadu data highlights : the scheduled castes census of India 2001

<sup>7</sup> Government of Tamilnadu, Statistical *handbook of Tamilnadu 2011*- Adi-Dravidar and tribal welfare-classification industry wise.

<sup>8</sup> Ministry Of Rural Development, *Rural development statistics 2007- 8*, New Delhi

## Health and basic amenities

Poverty, lack of health care facilities in rural areas and under – nutrition prevented dalits from enjoying right to health.

*Table: 2 Percentage of households having the amenities*

	Dr. Water	Electricity	Sanitation
Dalits(SC)	70.85	30.91	9.84
Non-SC/ST	66.81	61.31	26.76

(Ninth Five Year Plan Tamilnadu: 1997-2000)

With regard to access to basic amenities, the available facts reveal the discrimination that the dalits face.

*Table: 3 Literacy Rate<sup>9</sup>*

Years	General Category			Scheduled Castes		
	Male	Female	Total	Male	Female	Total
2001	82.42	64.43	73.45	73.41	53.01	63.19

Around 40% of the total dalit population and 50 % dalit women are illiterate in Tamilnadu. The literacy data show that though SC population of the state has made improvement during the decade (39.47% in 1991, 54.69% in 2001 and 63.19 in 2005), it is still lower than the general population and general female.

*Table: 4 Drop-out rates of sc students in classes I-V, I-VIII & I-X - 2004- 05<sup>10</sup>*

STATE/UTs	Classes I- VIII			Classes I- X		
	Boys	Girls	total	Boys	Girls	Total
Tamil Nadu	25.65	11.84	19.49	49.43	43.11	46.50

Tamilnadu has been recognized for having achieved near total enrolment of all children of school going age with holding second rank in the whole country, in terms of enrolment at the primary level. Even if we agree to this figures (As the field survey prove it as manipulative facts), the dropout rates are serious concern at the higher levels that too among the dalit girls.

## Crime rate in Tamilnadu

In the absence of caste and gender based disaggregated data, the only available information we have on atrocities against dalit women are from the data on crimes against women (general) and atrocities against dalits (general). But from the above data on socio, economic situation of dalit women, it is evident that the dalit women face the brunt of both caste and

<sup>9</sup> Ministry of Human Resource development-Department of Higher education - *Selected educational statistics 2005-6*, New Delhi

<sup>10</sup> *ibid*



gender based violence, more than the men from their own community and the women from the general population.

**Table –5: Crime Head-wise Incidents of crime against women (general) during 2005 - 2009 in Tamilnadu**

S.No	Crime Head under IPC and Special laws	Year				
		2005	2006	2007	2008	2009
1.	Rape (Sec. 376 IPC)	571	457	523	573	596
2.	Kidnapping & Abduction (Sec. 363 to 373 IPC)	783	718	1097	1160	1133
3.	Dowry Death (Sec. 302 / 304 IPC)	215	187	208	207	194
4.	Torture (Sec. 498-A IPC)	1650	1248	1976	1648	1460
5.	Molestation (Sec. 354 IPC)	1764	1179	1540	1705	1242
6.	Sexual Harassment (Sec. 509 IPC)	665	852	875	974	501
7.	Immoral Traffic (Prevention) Act, 1956	2777	1732	1199	687	716
8.	Indecent Representation of Women (Prohibition) Act, 1986	30	35	25	4	2
9.	Dowry Prohibition Act, 1961	193	81	368	262	207
	<b>Total</b>	<b>8648</b>	<b>6489</b>	<b>7811</b>	<b>7220</b>	<b>6051</b>

Source: <http://www.tnpolice.gov.in/> Crimes in Tamilnadu 2009 - Crimes against women

**Table-6: Comparative Incidence of Crime against Scheduled Castes in Tamilnadu**

Sl. No.	Crime-Head (both under IPC and Special Laws)	Year				
		2005	2006	2007	2008	2009
1.	Murder	30	26	39	31	27
2.	Rape	19	21	27	17	11
3.	Kidnapping & Abduction	2	3	3	2	8
4.	Dacoity	0	0	0	0	0
5.	Robbery	0	0	0	1	1
6.	Arson	11	7	15	8	4
7.	Hurt	142	136	198	147	105
8.	Protection of Civil Rights Act	12	84	6	3	2
9.	SC/ST (Prevention of Atrocities) Act	829	468	1,064	1,194	1,047
10.	Other IPC crimes	161	246	391	215	107
	<b>Total</b>	<b>1,206</b>	<b>991</b>	<b>1,743</b>	<b>1,618</b>	<b>1,312</b>

Source: <http://www.tnpolice.gov.in/> - Crimes in Tamilnadu 2009 Crimes against SC/STs

### Important observations

Research by human rights groups reveals that large number of cases of atrocities against dalits in general and dalit women in particular go unreported every year. In 2006, the National Campaign on Dalit Human Rights (NCDHR) published a detailed study of violence against Dalit women in four states in India, including Tamilnadu. In it, they found that of the 500 Dalit women surveyed (125 from Tamilnadu) who had experienced violence, 40.2% did not attempt to seek any type of legal redress and another 26.5% were blocked in their attempt



to seek redress before they reached the police. The study also found that 1.6% of women obtained informal justice at the community level without involving the legal system and that 17.4% of women were blocked from obtaining legal redress either by the police or by other state actors. This meant that in a massive 85.7% of instances of violence experienced by women in the four states, they did not or were unable to gain entry to the legal system at all and their cases would not appear on any official figures.<sup>11</sup>

In Tamil Nadu among the total 32 districts, 28 are declared as atrocity prone districts. In these 28 districts 186 villages are considered as atrocity prone and 230 as dormant atrocity prone, and among them 166 villages have been described as 'highly sensitive'. However, of the total cognizable crimes against SCs/STs in the state reported during 1995 to 2007, only 33.2% were under the *SC/ST (PoA) Act*<sup>12</sup>.

These facts suggest that the official figures of numbers of incidents of violence against Dalits in general and dalit women in particular reported to the police in Tamilnadu are significantly lower than the actual number of incidents which take place in reality.

---

<sup>11</sup>Aloysius Irudayam S.J., Jayshree P. Mangubhai and Joel G. Lee, *Dalit Women Speak Out: Violence Against Dalit Women in India*, National Campaign on Dalit Human Rights, National Federation of Dalit Women, Institute of Development Education, Action and Studies, 2006, p. 499 - 501

<sup>12</sup>'Little Impact', *Frontline*, 4/12/2009, pp.15-16

## Legal context

Violence inflicted on dalits, rooted in the caste structure and relations forces them to a life of indignity and social subordination. By recognizing this, The Constitution of India provides a multilevel strategy aimed to eliminate the conditions that lead to violence and promote equality in the society. They are the *protective measures* - to enforce equality, to eliminate practices that perpetuate inequalities; to provide punitive measures for transgression etc. *Affirmative measures* – enable the deprived to get access to education, employment, political participation through reservations. *Development measures* – provide for resources and benefits to bridge the wide gap in social and economic conditions between the deprived and other communities.

As per the protective measures, under the fundamental rights chapter of the Constitution, Article 14 ensures equality before the law and equal protection of law. Article 15 guarantees non discrimination on the basis of sex, caste, race, religion or place or birth and Article 17 abolishes the practice of untouchability. Article 21 ensures the right to life and personal liberty to all its citizens.

In pursuance of Article 17 of the Constitution of India, **the Untouchability Practices Act, 1955** was enacted. Later it was amended and renamed in 1976 as the **Protection of Civil Rights Act** to make it more effective. On witnessing an increase in violence against members of Scheduled Castes (SCs) and Scheduled Tribes (STs), leading to brutalities such as mass murder, rape, arson, grievous injuries, etc., a special law for their protection was enacted known as the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989** to provide for strong punitive measures which could serve as a deterrence. According to the Act, all the offences committed against SCs and STs will be termed as atrocities. For the purpose of speedy trials, The Act provides Special courts to try the cases registered under this Act. It also ensures stringent punishment to the violators and relief and rehabilitation for the affected victims. The SC/St POA Act 1989 rule 1995 mandates that the offences registered under this Act should be investigated by an officer not below the rank of officer Deputy Superintendent of Police. For the better implementation of this Act and its supervision, the rules mandate for the establishment of vigilance committee in both District and State level.

At the national level for effective implementation of the various safeguards provided in the Constitution and the other protective legislations for the SCs & STs, the Constitution provided for a National Commission for SCs at the centre and Directorates in the states. These monitoring bodies will also act as an advisory body to the government in formulating policies and programs.

India has signed and ratified international treaties such as - the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of all forms of Racial Discrimination (CERD) and the International Convention on Elimination of all forms of Discrimination Against Women (CEDAW) etc. These treaties stipulate human rights standards and norms for the treatment of individuals and groups and protection of their rights.

Under international law, India has the obligation to act with due diligence to prevent, investigate and punish the acts of violence by both the state and non state actors and provide compensation to victims.<sup>13</sup>

---

<sup>13</sup> Committee on the elimination of all forms of discrimination against women, general recommendation 19: violence against women 1992.

## Methodology

The state of India holds the responsibility for protecting and respecting the rights of its citizens more importantly the sections of citizens who have been facing the brunt of caste, class and gender oppressions. The responsibility lies not only in enacting the laws but also in effective implementation of the laws in preventing the violence and providing legal justice to the affected.

This research is an attempt to analyse the effectiveness of the criminal justice system in ensuring legal justice to dalit women who have experienced violence.

### **Objectives**

1. To provide data on the forms of violence against dalit women that get reported in the police stations
2. To provide disaggregated data on violence against dalit women in selected districts
3. To analyze the criminal justice system and its effectiveness in investigating and punishing acts of violence against dalit women

### **Geographical area of the study**

The research was conducted in three districts of Tamilnadu namely Madurai, Theni and Sivagangai.

### **Reasons for Selection of Districts**

Madurai, Theni and Sivagangai situated at the southern part of the state Tamilnadu were taken as sample districts for this analytical research on criminal justice and dalit women. These reasons behind the selection of these districts are that the districts are - These three districts are among the 28 atrocity prone districts in the State. According to the document prepared by the Human rights and Social Justice Wing of Tamilnadu Adi- Dravidar welfare department, Madurai and Sivagangai are the top 2 districts with high rate of cases pending in the court respectively.<sup>14</sup> Moreover, EVIDENCE has previously conducted researches in these districts on the *prevalence of untouchability practices in the socio economic arena, functioning of dalit Panchayat presidents in Tamilnadu, existence of Katta panchayats (Informal caste village council) in southern districts* etc. The findings of these researches revealed that these districts are highly feudal and caste ridden. Dalit settlements are separately located, Dalits are not allowed to walk or ride vehicles freely in the area where the dominant castes live, separate burial grounds exist, denial of temple entry occurs as does not allowing the Dalit Panchayat presidents to exercise their rights to political participation freely etc.

### **Data collection**

- Secondary data on reported cases of caste and gender based atrocities and violence against dalit women in the three sample districts for the period December 2004 - November 2009 from the government enforcement agencies – the police by using Right to Information Act

---

<sup>14</sup> The Hindu, "conviction rate poor under Sc/St Act: official document" dated 04.11.2010

- Primary data from the affected women /families on the sample of cases selected from the above reported cases.

### **Data collection tools**

The Right to Information Act was used to get data on the caste based atrocities and gender violence against Dalit women for the period December 2004 - November 2009

*For information on cases of violence against Dalit women by non-Dalits (atrocities cases) we requested information under the SC/ST PoA Act*

*For information on cases for violence against Dalit women committed by Dalits we requested information under Indian Penal Code.*

Data collection tools were prepared by the research team in consultation with the research teams of the parallel study undertaken in Gujarat and Maharashtra.

A format with questions was prepared to get data on the reported cases of violence against dalit women in the three sample districts through an RTI application. The application asked for details about the victim including the caste of the victim and the accused, the relationship (if any) between the victim and accused, the date of the First Information Report (FIR) and the legal sections applied, the date of arrest of the accused, the date of bail, the date of filing of the Charge Sheet and the status of the case including conviction, acquittal and pending cases

For the primary data collection of the selected cases, field visits and interviewing of the victim and her family were done. During the field visits information was collected on how they prepared to fight for justice, when they approached the police what were the hurdles/obstacles that they had encountered and the responses of the police from the stage of registering their complaint to the final stage of case trial.

### **Data analysis**

On receiving the data, the forms and nature of violence perpetrated against Dalit women were analyzed as was the effectiveness of the criminal justice system in providing redress for these women. For the analysis of the justice system the police stations which responded to women, number and nature of cases registered, the struggles the women undergo like delaying in filing FIR, arresting the accused, filing final reports and finally status of the cases were taken in to account.

Subsequently three cases from each of the 3 research districts (and 3 more from Madurai as it has more number of reported cases) taken as sample and studied in detail. Cases that were grievous in nature (murder, sexual assault, serious physical attack), cases that needed immediate follow up or necessarily to be followed up (pending for long years at the investigation /trial, closed as MF) )were chosen for this purpose. These cases were analyzed especially from the point of view of the responses that the dalit women received from the justice system and the struggles that they went through.

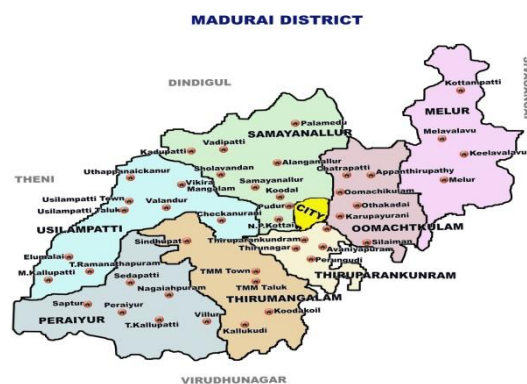
The facts also were corroborated with the experiences of EVIDENCE (– the organization that has undertaken this study) in intervening cases of atrocities before the redressal mechanisms at the district, state and the national level.

## CHALLENGES AND LIMITATIONS

As we decided to analyze the situation of the effectiveness of the justice system, the starting point had to be those cases that were officially reported to the police. Therefore, we are solely dependent on the police records. We had some difficulties obtaining data. We were able to collect information about the atrocities cases (cases filed under SC/ST (POA) Act 1989 with relatively little difficulty by using the Right to Information (RTI) Act. But information on cases of crimes against Dalit women perpetrated by other Dalits (gender violence cases or crimes under IPC –Indian Penal Code) was not easily available. Even after 2-3 attempts we could get only a nil report from a majority of the police stations. Even those who provided some data, gave atrocity cases data instead of cases of violence against Dalit women by other Dalits. Only from a limited number of police stations did we get data on crimes against Dalit women by Dalits. Officials admitted openly that they did not have disaggregated on Dalit women and gender violence by Dalits. When we could reach the police for accurate data, the Legislative assembly elections caused delays while officials were unable to respond and this cause us to have to wait for the data for nearly 6 months. Getting data from Madurai district/City was far more difficult due to the high number of police stations and incidents of crimes. Later on filing appeal before the appellate body (The Superintendent of Police at the district/Commissioner of police at the city) we got data on gender crimes against Dalit women. For the cases of accidental deaths, suspicious deaths and suicides of dalit women, the police responded that they could not provide the data as they had not registered cases with caste identify.

## Districts Profile

### Madurai district



Madurai is a politically active district located in the southern Tamilnadu. It has 2.7% of the total Dalit population of the State and 12.5% of the total population of the district are Dalits. Around 70% of the dalit population is based in rural areas. It has the presence of all the three major Dalit communities namely Parayar, Pallar and Arunthathiyar. Untouchability practices

and caste-based atrocities are rampant in this district. In the village Panchayats that were reserved for Dalits, namely Pappapatty and Keeripatty, elections could not be held for a 10 year period between 1996 and 2006 because the dominant castes prevented Dalits from contesting the elections. In another reserved Panchayat, Melavalavu, the Dalit panchayat president Murugesan and 6 others were brutally murdered because the dominant castes could not see a Dalit as the Panchayat head. In a village namely, Uthapuram, an ‘untouchability’ wall existed for 2 decades to separate Dalits from the dominant caste non-dalits. Madurai district is also infamous for the prevalence of female infanticide. The literacy rate of dalits in Madurai district 63.3%<sup>15</sup>.

### Sivagangai District

Sivagangai district is located in southern east part of Tamilnadu. It has a dalit population of 16.4 % of the total district population. It has all the three major dalit communities with Pallar and Parayar forming the majority respectively. Around 85% of dalits live in rural areas. The majority of them are landless agricultural or daily wage labourers. Untouchability practices and caste based discrimination are prevalent in this district. Sivagangai is infamous for continuously denying dalits their rights to participate in the Kandadevi temple. Bonded labour is also prevalent among dalits in this district especially in the brick kilns. The literacy rate for dalits is 63.7%<sup>16</sup>

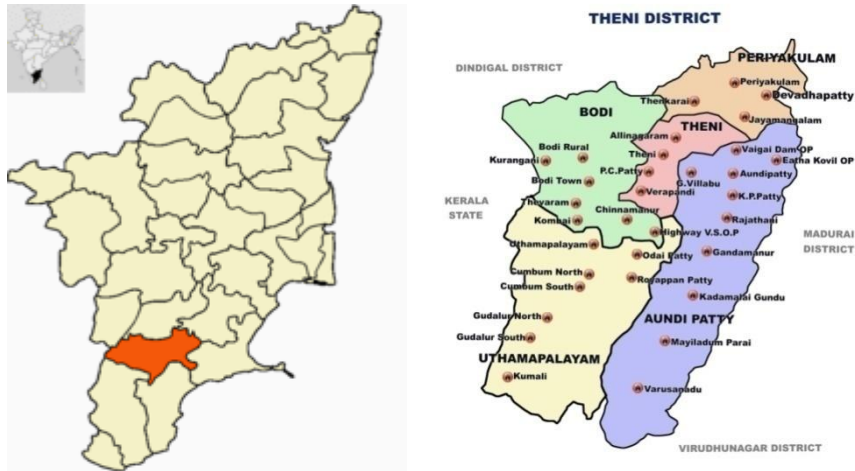


<sup>15</sup> Government of Tamilnadu, *Statistical Handbook 2011*, Adidravider and Tribal welfare - Literacy Rate of Total, General, Scheduled Castes and Scheduled Tribes by State/Districts

<sup>16</sup> *ibid*



## *Theni District*



Theni district is a south western district lying in the western guards. It borders Madurai district on the eastern side. The dalit population makes up 19.4 % of the district's total population. The literacy rate of dalits in this district is 60.7%.<sup>17</sup> This is, again, a district based on agriculture and the majority of the dalit population is rural based agricultural laborers. Untouchability practices and gender based discrimination is high in this district.

---

<sup>17</sup> ibid

## IV Violence against Dalit women

*In Madurai, a Dalit woman, Rani, and her family were abused and attacked for fetching water from the common tap. As she made a police complaint, she was brutally attacked and sexually molested resulting in fracture of her hand. When Andichi went ahead in filing an FIR for the second incident, the police registered a false case against her son.*

*In Theni, a Dalit woman, Uma, and her sister Manu were sexually harassed by caste Hindu men while shopping. On noticing that Uma had called her male relatives for help, the caste Hindu men attacked both the women, stripped their sarees off them and molested them. Male relatives were also attacked.*

*A minor dalit girl from Sivangai was forcibly abducted and raped by a dominant caste man. She somehow managed to escape before the perpetrators' friends also could assault her sexually.*

*In Sivangai, a Dalit woman, Rama was attacked and her modesty was outraged by a dominant caste couple who were alleging that Rama and her husband had diverted excess water to their field.*

*In Madurai, a dalit woman, Guna had been continuously abused, attacked and ill-treated (by dumping waste and obnoxious materials near her house) in order to force her to sell the house plot and leave the locality where the dominant castes live. In the struggle, her grandson was brutally murdered of late.*

*(Note: all the names of the affected dalit women are changed)*

These excerpted cases clearly indicate the intertwined layers of violence that pervades dalit women's lives. Dalit women face violence from the general community, their own community and their family, from state to non state actors and from different men and women of different socio-economic status.

### **Caste and gender based violence by the general community**

Dalit women suffer both gender and caste based violence at the hands of the dominant caste men due to their socio, economic and political power and dalit women's oppressed socio, economic and political status. Dalit women are considered as easily available 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>18</sup>." Violence against dalit women reinforces caste norms. Analysis of the cases also denotes that dalit women are targeted when they dare to assert their rights – be it for right to land, resources, government programs and for accessing legal justice.

### **Gender based violence by own community/family**

Dalit women face violence from their own community and family which is obviously the manifestation of the patriarchal order and gender discrimination. Gender inequality sanctified by religious and cultural norms subordinate women to face discrimination and violence. Dalit women face gender based violence from within their home to public places at the hands of their family members and non family members.

### **Forms of violence**

From the reported cases it is revealed that verbal, physical and sexual violence are the major forms of violence inflicted upon dalit women. In most cases they are often combined. Kidnapping cases also got reported which often led to sexual violence. Though the psychological violence or effects of the above mentioned forms of violence are enormous they are not counted under any legal provisions or documented.

---

<sup>18</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.

With regard to the gender violence by her family and community, domestic violence is the major form of violence faced by women from their families. Physical and sexual violence are also the common forms of violence faced by them from their community members.

From the available data we have cases from the extreme forms violence like murder and rape to legally and punitively Non-Grievous cases like verbal abuse, intimidation and physical abuse not resulting grievous injuries. Hence for the purpose of this research and analysis, we have categorized the cases (as per the legal connotations) as grievous and non-grievous. But it is acknowledged that whether they are extreme or non-grievous the effects of gender and caste based violence on the dalit women victims are enormous and enduring.

**Grievous cases** include cases of: Rape (Sec. 376 IPC), Physical assault causing grievous injuries (324 IPC ), murder (302 IPC), attempt to murder (307 IPC), Kidnapping & Abduction (Sec.363 –373 IPC), Homicide for Dowry, Dowry Deaths or their attempts (Sec.302/304-BIPC), Cruelty by husband or Relatives (Sec. 498-A IPC), Molestation (Sec. 354 IPC) , Sexual Harassment (Sec. 509 IPC)(vii), Importation of Girls (up to 18 years of age) (Sec. 366-B IPC).

Other physical assault with simple injuries, verbal abuse and harassment are classified as **non-grievous cases** under the Indian Penal Code.

**I. Atrocity cases (Caste and Gender based violence) against Dalit women by non-Dalits**

*Table-7: Total Number of Non-Grievous and Grievous cases from the selected three districts reported from Dec 2004- Nov 2009<sup>19</sup>*

District	1 <sup>st</sup> December 2004 to 30 <sup>th</sup> November 2009		
	Total	Non-Grievous	Grievous
Madurai	93	31	62
Sivagangai	32	7	25
Theni	25	5	20
<b>Total</b>	<b>150</b>	<b>43</b>	<b>107</b>

*Table-8: Total Number and forms of grievous atrocity cases reported from three districts (Dec 2004 - Nov 2009)<sup>20</sup>*

S.No	Facts	Mad	Siv	Theni	Total
1.	Total cases of Murders of Dalit women (IPC 302)	1	-	2	3
	Total attempt to murder		1*	3	3
	Total cases of Abetment to Suicide (IPC306)	2	1		3
	Total cases of Rapes on Dalit women (376)	13	4	1	18
	Total cases of kidnapping and rape (366 A) 376 of minor girls (under 18)	2	1		3

<sup>19</sup> Response by the Public information officer and Additional Superintendent of Police – Madurai, Theni and Sivagangai to the RTI application of Mr.Viswanathan, EVIDENCE dt. 19.02.10 & 26.02.10

<sup>20</sup> Ibid

years)				
Total outraging the modesty of a woman (354)	19	8	6	40
Sec 4 of TN Prevention of Sexual harassment against women Act	1	(+1*)		
Kidnapping and sexual abuse	1			
POA Act Sec 3(1) (xi)outraging the modesty of a SC/ST woman	5			
Cruelty by husband and in-laws	1			1
Total Physical injuries on Dalit women (326, 325, 324)	16	11	7	34
Total Kidnapping of Dalit women (366)	1		1	2
Total abduction of Dalit women (363)	-	-	-	-
Total	62	25	20	107

(Few women had faced multiple forms of atrocities like sexual assault and outraging the modest of a woman, sexual assault and attempt to murder etc. For the calculation the severest form of atrocity is taken for consideration – sexual assault for outraging the modesty of a woman and attempt to murder.)

Among the total 150 reported cases 107 cases are of grievous nature. Among the 107 reported grievous cases, 61 cases (58%) are of sexual offences. Adding to that there are 2 cases of kidnapping which would probably resulted in sexual abuse or harassment to the women. This alarming revelation proves the extend of vulnerability of Dalit women's lives. Madurai district tops the list with the highest number of reported cases of grievous atrocities as well as of sexual offences.

### Gender based violence against Dalit women

*Table-9: Total Number of Non-Grievous and grievous cases from the selected thee districts reported from Dec 2004- Nov 2009 <sup>21</sup>*

District	1 <sup>st</sup> December 2004 to 30 <sup>th</sup> November 2009		
	Total	Non-Grievous	Grievous
Madurai	89	14	75
Sivagangai	50	25	25
Theni	100	27	73
<b>Total</b>	239	66	173

<sup>21</sup> Response by the Appellate authorities for Right to information (RTI) the Commissioner of Police and the Superintendent of Police Madurai dt 22.08.2011 to the RTI application of Ms.Andal, Response by the Public information officer & Addl. Supdt. Of Police Theni and Sivagangai to the RTI application of Mr.Viswanathan, EVIDENCE dt 15.07.10 &19.07.10 respectively.

**Table-10: Total Number of grievous cases reported from three districts (Dec 2004 - Nov 2009<sup>22</sup>)**

Sr. No.	Facts	Mad	Siv	Theni	Total
1.	During the period of 5 years: Total Murders of Dalit women (302)	2	-	6	8
	Total attempt to murder (307)	1(+1*)		1 (+1)	2
	Total Rapes on Dalit women (376)	9	4	6(+1)	19
	Total outraging the modesty of a Women(354)	17	2	26	45
	Total cases of cruelty by husband and in-laws (498A)	2(+1*)	4(+1)*	8(+1)	12
	Total cases of abetment of suicide	2 (+4*)	1	3	6
	Total cases of Physical injuries (326, 325, 324)	27	12	9	48
	Suspicious death (174 Cr.PC)	5	1	3	9
	Total Kidnapping of Dalit women (366,366a)	1(+1*)	-	6(+2)	7
	Total abduction of Dalit women (364)	1	-	-	1
	Sec 4 of Tamilnadu Prohibition of Harassment of Women Act	8	1	5	13
	Total	75	25	73	173

(Offences marked \* are combined offences- The grievous among the combined offences are taken for calculation i.e. among *attempt to murder and murder* , *abetment of suicide and suspicious death*, *kidnapping and rape cases* & *rape and murder* combined offences murder, suspicious death, rape and murder cases are taken for calculation respectively)

The above data reveals that high rate of grievous offences reported in Madurai and Theni districts.

#### **Atrocities of grievous nature are higher**

Though research proves that many cases of atrocities committed against dalits in general and dalit women in particular go unreported and that frequently the police wrongly file cases only under non-grievous sections of the laws, the data available reveals that a high percentage of reported cases are actually of a grievous nature. 107 out of 150 (71.3%) atrocity cases and 173 out of 239 (72.3%) gender offences are grievous atrocities. The sample of cases which were subject to follow up detailed research reveal that apart from family and community pressures, dalit women are either discouraged or advised not to take legal action on cases of 'Non-Grievous violence' like verbal abuse or verbal sexual harassment, intimidation, and physical abuse not amounting to serious injuries by the police themselves.

With regard to the domestic violence cases that get reported at the women's police stations, these cases generally result in a compromise being made between the victim and perpetrator.

If we look in to the 172 grievous gender violence cases , majority of the cases (82%) are of offences like murder, sexual offences etc committed by the (dalit) persons who do not have any relation with the affected dalit women. Only 27 out of 172 grievous gender violence

<sup>22</sup> Ibid

cases, are of domestic violence cases (committed by the family members). This data gives striking information that only a less number of domestic violence gets reported or registered. Dalit women's socio economic vulnerability might not allow them to opt for police action against their own family members. They rely mainly on their family and their own community for support in order to protect them from any violence and discrimination by dominant castes. Hence if the dalit women reach the doorsteps of the police station they do it only after dealing with all the hurdles that they encounter. But unfortunately the law enforcement agencies, fail to adequately implement the laws to protect women from family violence. Even among the reported/registered cases, the disaggregation of cases based on caste and gender is also not done. The Commissioner of Police Madurai responded to the RTI application of Ms.Andal that they could not provide complete data especially for suspicious deaths and accidental deaths as they had not disaggregated the cases on the basis of caste.

“In the public hearings conducted by NCW it was brought out that there were instances of women police personnel themselves being insensitive to women's issues and to women victims...<sup>23</sup>”. Women police personal, who are mostly entrusted with dealing violence against women and domestic violence cases, often try to settle the cases through compromises. Considering domestic violence as private matter, trying to play safe by showing less number of cases etc are the main factors behind it. Gender insensitiveness among the police often obstructs women from accessing justice. Ever since the protection of women from Domestic Violence Act came into existence in 2005, AWPS and the Protection officers of the DV Act 2005 have been failing to support the victims by throwing away the responsibility on to each other. These above factors deprive Dalit women of their right to access to justice.

The large number of grievous atrocities also shows that women are made to suffer until the gravity of the violence committed against them becomes unbearable. Though there are mechanisms and legal provisions for the protection of women from discrimination and atrocities, neither of these provisions have been proved to have prevented or protected women from the atrocious violence. Rather it tried to give remedies only after the women were faced with irretrievable damages.

---

<sup>23</sup> Dr.Sarala Gopalan , *A situation analysis of women and girls in Tamilnadu*, National Commission for Women commission, New Delhi 2005

## **Access to Justice**

“Victims should be treated with compassion and respect for their dignity. They are entitled to access the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.”<sup>24</sup>

There are criminal laws and social justice based laws for the protection of the rights of the victims of violence and oppression. According to the Criminal Procedures Code (Cr.PC) in all the cognizable offences, the police have to register a First Information Report (FIR) and a copy of the same must be given to the complainant free of cost. If the victim is in need of medical assistance, the police must send her to the hospital by serving a memo. In the case of cognizable (serious) offences the accused can be arrested by the police without a warrant. All the offences listed in the SC/ST POA Act are cognizable. Apart from the penal laws, the SC/ST POA Rules of 1995 also set out procedures to be followed by the police. On registering the FIR, the investigation of cases of atrocities should be done by an officer not below the rank of Deputy Superintendent of Police (DSP). SC/ST atrocities are non-bailable and anticipatory bail (bail before arrest) cannot be given. The investigation should be completed within 30 days and the final report (charge sheet) should be submitted. On filing of the charge sheet the district administration should arrange for immediate relief for the affected dalit. The Act also provides for action against officials who willfully neglect duties which are required by the law.

Though there is legal protection, still there is a gap between the legal framework and the accessibility to justice and law enforcement.

### **Dalit Women’s Struggle for Justice**

#### **I.Filing First Information Report – Access to police stations**

The Police are the first agency in the criminal justice system and with the registering of an FIR following any incidence of violence the criminal justice system is set in motion. But unfortunately the police still decide which complaints to register and which one to leave. Unless pressurized through court directions, through interventions by movements and NGOs or through media highlighting the case, frequently the police try not to register an FIR in cases of atrocities against dalits. The NHRC (National Human Rights Commission) in its Report on Atrocities against Scheduled Castes 2002 observes that “even in respect of heinous crimes the police machinery in many States has been deliberately avoiding SCs and STs (Prevention of Atrocities) Act, 1989.

The modern Tamil Nadu Police Force is over 150 years old and it is the fifth largest State Police Force in India. It has 1492 police stations including 196 all women Police stations (AWPS). In Madurai district there are 69 police stations, Theni and Sivagangai have 34 and 41 police stations respectively. The following table shows the total number of police stations

---

<sup>24</sup> clause 4 of UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985



which have registered cases of atrocities against dalit women in the selected three districts from Dec 2004-Dec 2009.

**Table-11: Total number and percentage of police stations that have reported cases of atrocities (under SC/ST POA Act 1989) from Dec 2004- Nov 2009<sup>25</sup>**

District	Total number of Police Stations in the District	Police Stations that had reported cases of atrocities against dalit women.	
		In numbers	Percentage
Madurai	<b>69 (Rural 44 + 5 AWPS + city 17+3 AWPS)</b>	40 ( including 6 AWPS)	57.9%
Sivagangai	<b>41 (36+ 5 AWPS)</b>	18 (including 3 AWPS)	44%
Theni	<b>34 (30 + 4 AWPS)</b>	14( including 1 AWPS)	41%
<b>Total</b>	<b>144</b>	<b>72</b>	<b>50%</b>

(AWPS –All women Police stations)

From the total of 144 police stations in the selected 3 districts, only 72 police stations (50%) have registered at least one case of an atrocity against Dalit women in the 5 year period from December 2004 to November 2009. The remaining police stations (exactly 50%) have not registered a single case in the 5 years. The National Campaign on Dalit Human Rights research surveyed 500 Dalit women and found that 54.8% had been subjected to some form of physical violence, 46.8% had suffered sexual assault or harassment and 23.2% had been raped.<sup>26</sup> The high proportions of women affected by various forms of violence implies it is highly unlikely that in the area around 50% of the police stations there have been no incidents of violence against Dalit women. It is far more likely that only 50% of the police stations in these districts have been accessible to dalit women seeking justice.

<sup>25</sup> Supra 19

<sup>26</sup> Aloysius Irudayam S.J., Jayshree P. Mangubhai and Joel G. Lee, Dalit Women Speak Out: Violence Against Dalit Women in India, National Campaign on Dalit Human Rights, National Federation of Dalit Women, Institute of Development Education, Action and Studies, 2006, p. 229 and 301

**Table - 12: Data on police stations with reported Cases of gender violence (filed under IPC) from Dec 2004- Nov 2009<sup>27</sup>**

District	Total number of Police Stations in the District	Number of Police Stations with cases of gender violence	Percentage of Police Stations
Madurai	<b>69 (44 + 5+ 17+3 AWPS)</b>	23	33.3
Sivagangai	<b>41 (36+ 5 AWPS)</b>	16	39%
Theni	<b>34 (30 + 4 AWPS)</b>	17	50%
<b>Total</b>	<b>144</b>	<b>56</b>	<b>38.8%</b>

As per the police information for the RTI application, from Madurai, Sivagangai and Theni, it is revealed that 56 police stations out of 144 police stations have the reported cases of gender violence. Though the police could not provide complete data for some of the IPC crimes (suspicious deaths and accidental deaths) as they don't have disaggregated data, from the available information (provided by the police after 3 reminders and one appeal for the RTI application) indicates that only 50.6% police stations are accessible for dalit women who have suffered gender violence from other Dalits.

**Table- 13: Comparative analysis on the numbers of reported cases of all crimes against women and cases of atrocities against dalit women in selected three districts**

District	2007		2008		2009	
	General	Dalit women	General	Dalit women	General	Dalit women
Madurai	380	11(2.9%)	280	21 (7.1)	350	25(7.5%)
Sivagangai	117	5 (4.2%)	121	10 (8.26%)	84	6 (7.1%)
Theni	127	7 (5.5%)	104	7 (6.1%)	201	6 (2.9%)

The above comparative analysis table also corroborates the fact that only a low number of atrocity cases against dalit women get registered in the police station. Out of the total number of cases against general women in the three districts number of cases where the victim was a dalit woman is less than 9% of the total whereas Dalits make up between 12.5% and 19.4% of the population in the three districts. In 2009 cases of atrocities against dalit women in Theni district is only 2.9% of the cases of general women whereas Dalits are 19.4% of the population of Theni.

<sup>27</sup> Supra 21

At the same time it also to be noted that that only a fraction of cases of violence against women in general are reported<sup>28</sup>.

For the Dalit women who suffer the brunt of caste and gender discrimination from birth, when they face atrocities in the hands of the dominant castes or their own community/family, it has an adverse effect on their personal and social integrity. Violence may even shatter their hopes for justice and thereby reinforce their excluded socio, economic and political status and subjugation. Amidst all these, the available data proves that dalit women do attempt to challenge the caste and gender structures by seeking justice from the formal system. However, 50 % of the police stations in these districts are found to be completely inaccessible to these women. From the sample cases and the analysis of the other cases that EVIDENCE has been involved with, it is revealed that dalit women are often ill-treated when they go to register cases, made to wait for hours, asked to come on the next day, advised and indirectly threatened not to go against the perpetrators at the police stations.

*“Andal from Madurai district, who had approached the police for seeking justice against her dominant caste neighbor, was sent back for days by the police saying that they would enquire the matter. When she continued to go to the police station, she was abused as filthy woman, and threatened by the Inspector of police that if she continue to come to the police station he would register false case against her. Fearing police threatening and abuses, she decided not to take further action.”*

*Meena a bonded labour from Madurai district approached the police for seeking action against the owner of brick kiln who forced them to work as bonded labour in his kiln and beaten them both. Police instead of taking action sent them to bring the perpetrator and forced them to compromise the matter.*

These were the kind of responses that almost all the women (from the sample) had experienced. When the women proved determined to take legal action, the police tend to invite the perpetrator to make an offer of a compromise to the victim in return for her dropping the case.

If the woman continues to insist on pursuing the case, the police just give a receipt of acknowledgement for the complaint and send them away, falsely assuring the woman that they would investigate and register the FIR. Later they will try to prolong the process until the perpetrator has put enough pressure on the victim to silence her.

## **II. Delay in filing FIR**

Registering a FIR is the first stage of the criminal justice system. On the basis of the data received, a total number of 398 cases (150 atrocity cases and 248 gender violence) have been registered in around 50% of the police stations of the selected 3 districts (Madurai district incomplete). It means that Dalit women in only 398 cases, could access to first level of the criminal justice system – the police stations. But were they able to go through all the other levels without any hurdles? Have they received the legal remedies for the violence that they suffered?

---

<sup>28</sup> Oishik Sirkar and Nalini Bhanot -*Violence Against Women*, infochange news and features Nov 2008.

It is a statutory requirement that in all the cognizable offences the police have to register an FIR immediately on receiving information from the victims. It is to be noted that in almost all the cases provided, police seems to have registered FIR on the date of compliant /information received. By giving these information police tried to prove themselves as genuine and had registered cases as soon as they had received the information. But there were variation between the date of incident and the date of FIR. On analyzing the sample cases 14 from Madurai and 3 each from Sivagangai and Theni, it is found out that the victim had indeed approached the police on the very same day that the atrocity occurred.

But the victims were sent back by the police by giving the reasons 1) the investigation officer is not present at the station, 2) they will take action after making enquiry 3) victim is asked to bring the accused or the village caste Hindu elders 4) sending the injured victim for medical treatment etc. When it was delayed in registering FIR, the affected women had followed various strategies to make sure that the FIR is registered. On not getting response from the police, victims had approached the higher officials, sought the support of the movements and Dalit organizations and with stand all the pressures and abuses by the perpetrators and the police.

Though the victim had given complaint on the date of occurrence itself in all the 20 sample cases police had delayed the registration of FIR .but at the same time they had stated in the data provided for this research that they had received information on the date of occurrence. Hence in the following section it is to be analyzed that how many cases got delayed in getting registered in the police station.

#### A) Atrocity Cases (SC/ST POA Act)

**Table- 14: Delay in filing FIR in cases of non-grievous atrocities<sup>29</sup>**

Police Station	Total cases registered	No. of cases with no delay	No. of cases got delayed	No. of cases with no/ incorrect information	Period of Delay (days)				
					1-3	4-6	7-15	16-30	31 and above
Madurai	31	13	18	-	10	3	-	1(24 days)	4 (1- 4 months max)
Sivagangai	7	-	6	1	3	1		1(20 days)	1 (2months)
Theni	5	1	4	-	2	1	1		
Total	43	14	28	1	8	5	1	2	5

The table above shows that out of 43 cases of non-grievous atrocities, in 28 cases the registering of the FIR was not done immediately. It was delayed from the minimum period of 1 day to a maximum of 4 months. Among the cases which had most delays, 2 cases were delayed for 20-24 days and 5 cases for more than a month. The maximum delay occurred in a case with a delay of 4 months.

<sup>29</sup>

## Delay in filing FIR in grievous atrocities

*Table- 15: Delay in filing FIR in cases of grievous atrocities*

District	Total cases registered	No. of cases with no delay	No. of cases with no/ incorrect information	Total cases got delayed	Period of Delay (days)				
					1-3 days	4-6	7-15	16-30	31 and above
Madurai	62	24	3	35	22	3	3	1 (22 days)	6 (2 cases 4 months and 1 case 5 months)
Sivagangai	25	3	4	18	14	2	2		
Theni	20	1	1	18	12	2	1		3 (1 case 8 months)
	107	28	8	71	48	7	6	1	9

(\*In 6 more cases we have incorrect/ incomplete data reg. the date of FIR)

Among the 107 grievous atrocities, in 71 cases the filing of the FIR was delayed. In 48 cases the delay was between 1-3 days, in 7 cases between 4-6 days, in 6 cases between 7-15 days, 1 case for 22 days and 9 cases for more than a month. Among the 9 cases which were delayed for more than a month, 2 cases were delayed for 4 months, 1 case for 5 months and 1 case for 8 months.

From the above data it is known that among the total atrocity cases, 68.2% of cases had delayed in registering the FIR and among the grievous atrocity cases, the figure was higher at 74.7% of cases with delays.

It is not denied that women face hurdles at their personal, family and community levels. They indeed need family support for going to police. Even though the dalit women come forward to approach the police stations for remedies, they had to undergo a struggle for months. It bluntly implies that the police continuously devalue the violence and the suffering that the women had gone through. The police seem to have blatantly denied the dalit women's right to legal protection and remedies, due to their caste and gender status.

Only when an FIR is filed the investigation process, arrest and other measures will be followed up. The more the delay in the FIR filing, the more the investigation and justice will be delayed and denied. When we analyzed the 12 cases (5 non-grievous and 7 grievous) that had delays in filing the FIR for over one month, 6 cases resulted in an acquittal and 6 cases ended up in a dismissal or were referred as a mistake of fact.

**Table-16: no. of cases delayed nearly a month and above with results**

Type of violence	Period of delay in FIR over a month and above	No. of cases	Result of the case
Atrocity cases	8 months	1	Referred for Closure as Mistake of Fact
	5 months	1	Referred as MF
	4 months	3	Acquittal
	3 months	1	MF
	2 months	1	“
	2 months	1	MF
	1 1/2 months	1	Acquittal
	1 month	2	MF
	22 days	1	Acquittal
<b>Total</b>		<b>12</b>	

**B) Gender Violence (Non SC/St POA cases)**

**Table- 17: Delay in filing FIR in cases of non- grievous gender violence**

District	Total cases registered	No. of cases with no delay	No. of cases with no/ incorrect information	Total cases got delayed	Period of Delay (days)				
					1-3 days	4-6	7-15	16-30	31 and above
Madurai	14	5	-	9	6		1		2
Sivagangai	25	22	-	3	3				
Theni	27	27	-	-	-		-		-
<b>Total</b>	<b>66</b>	<b>54</b>	<b>-</b>	<b>12</b>	<b>9</b>		<b>1</b>		<b>2</b>

**Table- 18: Delay in filing FIR in cases of grievous gender violence**

District	Total cases registered	No. of cases with no delay	No. of cases with no/ incorrect information	Total cases got delayed	Period of Delay (days)				
					1-3 days	4-6	7-15	16-30	31 and above
Madurai	75	32	3	40	29	7	2		2
Sivagangai	25	16	4	5	1	2			2
Theni	73	72	-	1	1				
	<b>173</b>	<b>120</b>	<b>7</b>	<b>46</b>	<b>31</b>	<b>9</b>	<b>2</b>		<b>4</b>

There seems to be no delay in registering of FIR in majority of gender violence cases (from the data cases provided by the police). But within the few that had been delayed, 40 cases had been delayed between 1-3 days, 3 cases have been delayed for between 7-15 days and 6 cases had been delayed for more than a month. As we had seen for the atrocity cases, the cases

delayed for more time in getting registered as FIRs the results were not in favor of the affected. Among the 6 cases delayed for more than a month 2 cases got acquitted.

The above caste and gender data shows clearly that the delayed justice is denied justice. The real intention of the police is clearly manifested that the dalit women are given the message not to challenge the caste and patriarchal systems. By delaying the process the police had frustrated the Dalit women's efforts and their hopes in the legal systems and forced them to remain within the caste and cultural boundaries set upon them.

### **III .Sections of SC/ST (POA) Act 1989 invoked in the reported cases of atrocities**

**Table -19: sections invoked in Non-Grievous nature of atrocities**

Nature of cases	Total cases reported	POA Act Sections invoked		
		3(1)(2)	3(1)(5)	3(1)(10)
Non-Grievous cases	43	1	1	41

In almost all the cases, the least punitive atrocity under sec 3(1) (10) POA Act 1989 is applied. Although the IPC sections applied in these cases are vary from assault, sexual harassment, causing damages to the property, wrongful restraint and intimidation, in all the cases except in 2, only Sec 3(1) (10) of the PoA Act is applied. Sec 3(1) (10) relates with the insulting of a Sc/ST person with an intent to humiliate him/her in public view.

Sections 3(1)(2) *dumping excreta, waste matter, carcasses or any other obnoxious substance in the premises or neighbourhood of a dalit; and 3(1)(5) dispossess a dalit from a land/premises or Interferes with the enjoyment of the rights over land , premises or water of a dalit* are applied in one case each.

Main reason for the police to apply only 3(1) (10) is that this is the most minor offence and it provides only a least punishment to the perpetrators.

**Table- 20: Sc/ST POA Act sections invoked in grievous nature of atrocities**

Nature of cases	Total cases reported	3(1) (3)	3(1) (5)	3(1) (8)	3(1) (10)	3(1) (11)	3(1) (12)	3(1) (15)	3(2) (3)	3(2) (5)
Grievous offences	107	1	1	1	71*	26	9	2	1	29

(\*Sec 3(1) (10) used along with other sections too)



3(1)(3)- forcibly removing clothes / parading naked or with painted face or body or commits any similar derogatory act  
 3(1) (5) dispossess a Sc/St person from land/premises or interfering in the enjoyment of rights over the land  
 Sec 3(1) (8) institutes false, malicious or vexatious suit or criminal or other legal proceedings  
 3(1)(10) insulting a SC/St person with an intent to humiliate in public view  
 3(1)(11) assaults or uses force to any SC/St woman with intent to dishonor or outrage her modesty;  
 3(1) (12) being in a position and using that position to exploit SC/ST women sexually  
 3(2) (3) commits mischief by fire or any explosive substance intending to cause damage to any property  
 3(2) (5) Committing offences (murder, rape, culpable homicide, abetment to suicide, Physical hurt causing grievous injuries, attempt to murder) )under the IPC punishable with imprisonment for a term of 10 years or more

The above table shows that in the reported 107 grievous atrocity cases, the major section invoked is again the Sec 3(1) (10). It is to be noted that these are the grave offences ranging from murder to grievous physical assault and rape to outraging the modesty of a woman. The sections that should be invoked for these serious atrocities are 3(2) (5), 3(1) (11) &3(1) (12). The data reveals that though Section 3(2) (5) is applied in all the murder cases it is not applied in all the rape cases. Sec 3(2) (5) provides imprisonment of life to persons who commit offences under IPC punishable with 10 years of imprisonment. When this section is not applied the perpetrator is made to escape from the severest of punishment provided in the Act. The way the police had registered the rape cases under sec 3(1) (10), 3(1) (11) or Sec 3(1) (12) shows that they acted with an intent to help the perpetrators to get away from the stringent punishment.

More worrying is the list of cases which are very grievous in nature, but still filed only under the Less punitive sec 3(1) (10) of SC/ST POA Act. The table: 19 found below gives the list of cases registered under different grievous IPC offences but registered only under Sec 3(1) (10) of SC/St Act that could be the proof for the caste biased attitude of the police whose only intention could be protecting the perpetrators rather than enabling the dalit women to get legal remedies. This again proves the fact that the police purposely file cases under improper sections.

**Table - 21: No of grievous nature of cases registered under Sec 3(1) (10) of Sc/St Act**

district	Rape IPC 376	Outragin g the modesty IPC 354 Mostly a combined violence with assault (IPC 323, 324)	Attempt to murder IPC 307	Kidnappin g of a minor girl IPC 366(a)	Physical assault/assaul t combined with sexual harassment 324, 325 / 324 & 294(b), Sec 4 of Prohibition of	Abetmen t to Suicide 306 IPC	Cruelty By husban d 498(b) IPC
----------	--------------------	---	------------------------------------	---	--	--	---

					Harassment of Women Act		
Madurai		15	1	1	5	2	1
Sivagangai	1	6			5		
Theni		3	2		2		
<b>Total</b>	<b>1</b>	<b>24</b>	<b>3</b>	<b>1</b>	<b>12</b>	<b>2</b>	<b>1</b>

From the listed 44 cases it is proved clearly that police without looking into the gravity of the atrocities, decide to apply sections of the PoA Act that offer less penalties to the perpetrators. This again shows how insensitive the police are towards the sufferings of a dalit woman. Due to their caste and gender biases, the Police refuse to consider not only the gravity of the atrocities but also the adverse damages that the dalit women victims have had inflicted upon them. By not applying the correct sections or only applying lesser sections, the seriousness of the case gets diluted and the perpetrators get to escape from the punishment.

#### **IV Arrests in the cases of atrocities**

The above analysis shows that in 80.5% of the grievous offences and 70.8% of the non-grievous atrocity cases against dalit women registration of FIR had got delayed. The next process to be followed after the registration of the FIR is the arrest of the accused. The entire list of atrocities contained in the POA act is cognizable (serious) offences. This means that the police should mandatorily arrest the accused immediately even without a warrant and bail should not be given. The data on the arrest of the accused in the cases reported gives a depressing picture.

**Table-22: Particulars regarding the details on arrests made in non-grievous cases of atrocities**

District	Total cases registered	No of cases – arrest not made	No. of cases - arrest delayed	Surrendered before the court and got bail	Anticipatory bail (bail before arrest)	Arrests made without delay
Madurai	31	12	13 ( 4 cases 4-6 months)	1	2	3
Sivagangai	7	2	3	1	1	-
Theni	5	3	1	-	-	1
<b>Total</b>	<b>43</b>	<b>17</b>	<b>17</b>	<b>2</b>	<b>3</b>	<b>4</b>

**Table No -23: Particulars regarding the details on arrests made in grievous cases of atrocities**

District	Total cases registered	No of cases – arrest not made	No. of cases - arrest delayed	Surrendered before the court	Anticipatory bail –high court	Arrests made without delay
Madurai	62	15	22 (3cases more than a month, 1 case 4 years )	4	2	19
Sivagangai	25	4	14( in 2 cases one of the accused got arrested after 4 months and after a week respectively)	3	2	2
Theni	20	7	7			6
Total	107	26	43	7	4	27

The above tables on the arrest of the accused in non-grievous and grievous atrocity cases shows that the arrest was delayed in 17 non-grievous atrocity cases and 39 grievous atrocity cases. More worrying is the data on the cases in which accused was not arrested at all. In 17 cases of a non-grievous nature and 25 grievous cases the accused were not arrested at all.

Apart from this, in 7 cases of atrocities (3 cases of non-grievous atrocities and 4 cases of a grievous nature) the accused obtained anticipatory bail in the high court.

So out of 150 atrocity cases, the arrest was delayed in 56 (35.9%) cases and the accused were not arrested at all in 42 (26.9%) cases.

Dalit women from the sample cases had been threatened by the perpetrators who claimed that they could not be touched by any police or any law. As the police delay the arrest the faith on the legal system and the confidence level of the affected women and her family get diminished. Simultaneously the perpetrator also gives pressure in the form of intimidation to her family and her relatives. There were intimidations of social boycott, life threatening, false cases against the family members, further attacks and abuses etc.

In a case of brutal attack over a dalit woman namely Andichi and her family from Madurai district, due to the sensitive nature of the case the police had registered an FIR. Andichi had suffered a fracture of her elbow and 3 of her family members were admitted to hospital. In order to threaten the family to go for compromise, the perpetrators with the guidance of the police filed a false case against Andichi's son - with the charges of sexual abuse. As Andichi had approached EVIDENCE, she filed for anticipatory bail for her son. She continues to fight her case in the court.

But this could not possible for other dalit women seeking justice. While responding to our RTI application the Inspector of police (IOP) from the Thirunagar police Station, Madurai City, gave an update for a case of assault of a dalit woman namely Rakku . The IOP wrote that the case was referred for closure as Mistake of Fact (MF) since both the parties had

agreed a compromise following a counter case.<sup>30</sup> In this instance after Rakku had filed her case, the perpetrator had filed a counter case against the son of Rakku, falsely accusing him of rape. Rakku therefore felt pressurized and agreed to compromise her case by accepting a Mistake of Fact referral in order to have the case against her son dropped. It is indeed disheartening to find that dalits in general and dalit women in particular are victimized not only at the hands of the dominant caste perpetrators but also at the hands of the police. Even though the FIR was registered, the police delayed the investigation and arresting the accused. If the aggrieved women insist on the arrest and the investigation, frequently the perpetrators make false claims and register counter cases with an intention to punish them for their legal efforts and thereby forcing them to accept a compromise.

## B) Gender Violence

**Table-24: Particulars regarding the details on arrests made in non-grievous cases**

District	Total cases registered	No of cases – arrest not made	No. of cases - arrest delayed	Info. Not clear	Anticipatory bail (bail before arrest)	Arrests made without delay
Madurai	14		9		1	4
Sivagangai	25	2	13			11
Theni	27	1(AD)	6	2		18
<b>Total</b>	<b>66</b>	<b>9</b>	<b>32</b>		<b>1</b>	<b>29</b>

**Table-25: Particulars regarding the details on arrests made in grievous cases**

District	Total cases registered	No of cases – arrest not made	No. of cases - arrest delayed	Surrendered before the court	Anticipatory bail –high court	Arrests made without delay
Madurai	75	3	35	1	3	33
Sivagangai	25	2	12		3	8
Theni	73	1	43	-	-	29
<b>Total</b>	<b>173</b>	<b>6</b>	<b>90</b>	<b>1</b>	<b>6</b>	<b>70</b>

From the above data on gender violence majority cases (among the cases provided by the police) though arrests have been made in quite high number of cases, in majority of cases it had been delayed.

<sup>30</sup> Registering false cases against the victims to pressurize them for compromise. Rakku's complaint was registered in Crime No. 699/09. The counter case against her son was filed in Cr.No.700/09 under IPC sections 376, 354, 452 r/w 511.

## **1. Granting bail**

Under the Code of Criminal Procedure (Cr.PC), offences have been classified as ‘bailable’ and ‘non-bailable’ offences. In the case of bailable offences, it is binding upon the investigating officer to grant bail. However, in case of a non-bailable offence the police do not grant bail. The decision is taken by a Judicial Magistrate/Judge only. In the case of a non-bailable offence, the Investigating Officer must produce the accused before the Judicial Magistrate/Judge concerned within 24 hours of the arrest. At that time, the accused has a right to apply for bail himself or through his representative/lawyer. Though the Court has sufficient discretion to deny or to grant bail, the Cr.P.C provides that any accused person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life.

Among reported caste and gender violence cases, in 23 murder and rape cases the accused were granted bail by the courts. The table below gives the list of the cases granted bail.

**Table No- 26: Bail granted to accused in Rape and Murder cases**

District	Atrocity cases				Gender violence			
	Total cases registered		Bail granted after arrest		Total cases registered		Bail granted after arrest	
	Murders	Rapes	Murders	Rapes	Murder	Rapes	Murder	Rapes
Madurai	-	15		7	2	9	-	-
Theni	2	1	2	1	6	7	3	3
Sivagangai	-	5	-	5	-	4	-	2
Total	2	21	2 (100%)	13 (60.9%)	8	20	3 (37.5%)	5 (25%)

Cases filed under SC/St POA Act cannot be granted anticipatory bail. The data available reveals that in 7 cases the courts have granted anticipatory bail. Though it is the courts that grant bail, in atrocities cases that are tried as prosecution cases, the police and the prosecution should be held responsible for not only the granting of the bail but for the acquittal of the cases.

The law mandates that the aggrieved party has a say in granting bail to the accused. But the sample cases reveals that they were neither informed of the status of the case or of the granting of bail to the accused.

## **2. Case investigation and charge sheeting**

The SC/ST POA Rules, 1995 mandate that the cases filed under this Act should be investigated by the Deputy Superintendent of Police (DSP), who is a senior police officer of the police Division. The investigation should be completed within 30 days with high priority.

Although in their response to our RTI application, the police stated that all the cases were investigated by the DSP, an analysis of the sample cases gives a different picture. In all the sample cases it is revealed that the victim had not met any senior officer, they had only met the inspector or the Sub inspector of the local police stations.

From all the cases EVIDENCE has been involved with between 2005 and present, we have seen that only in high profile cases which are given attention by the media or are intervened before the high court (to ask for directions to add SC/ST provisions to the case, order the arrest of the accused, or speed up the investigation etc) does the DSP meet with the affected victim and investigate the case. Otherwise lower rank officials conduct the investigation, prepare the report and get it signed by the DSPs.

With regard to the completion of the investigation within 30 days, in majority of the cases the investigation was not completed within the stipulated time.

The table below reveals the list of cases not completed within 30 days.

**Table -27: Delay in filing charge sheet and summary filed in non-grievous cases reported in three districts from Dec 2004-Nov 2009**

District	Total cases	Period of Delay					Summary		
		1 month	1-3 month	3-6month	6month-1 year	Above 1 year	Referral as MF	Case not taken on file	Cases with our delay
Madurai	31	2	2 (2 mths)	5 (4cases for 3mths 1 case for 5months)	-	1 (still not filed for 3 yrs )	9	1	11
Sivagangai	7	-	1 (3 mths)	-	-	-	2		4
Theni	5	-	2	-	-	-	3		-
<b>Total</b>	<b>43</b>	<b>2</b>	<b>5</b>	<b>5</b>		<b>1</b>	<b>14</b>	<b>1</b>	<b>15</b>

In Madurai, in 10 cases of non-grievous atrocities the investigation is not completed and charge sheeting is not done. The delays are between months to years – in one case filed in May 2009 the police investigation is not yet completed. 9 cases were referred for closure as Mistake of Fact (MF).

In Sivagangai, in one case the investigation and filing of the charge sheet was delayed for 3 months. 2 cases were referred for closure as MF.

In Theni, 2 cases were delayed for 1 month each and 3 cases were referred for closure as Mistake of fact.

In total from the three districts, of the cases registered from Dec 2004- Dec 2005, in 13 cases (30.2%) filing of the charge sheet was delayed between 1 month and several years. 14 cases were referred for closure and 1 case was not taken on file (34.9%).

**Table No 28: Delay in filing charge sheet and summary filed in Grievous cases**

District	Total cases	Delayed cases with Period of Delay					Summary			Cases without delay
		1month	2-3 months	3-5 months	5-8 months	Above 1 years	Referral as MF	Charge Abetted	Charge altered	
Madurai	62	6(2 cases 1 month each)	10(8 cases 2 months and 2case-3 month)	2(4months) 1(5 mnths)	2 (6 months) 1 (8 mth) 1(9mth 0	<b>5(3 still pending)</b>	10		2	22
Sivagangai	25	6 (5 one months each , I 20 days)	2 (3 months each				4			13
Theni	20	<b>4 ( 1 ½ month s one case)</b>	<b>2 ( 2 month &amp; 3 month s each)</b>	-	-	-	4	1	2	7
Total	107	<b>16</b>	<b>14</b>	<b>3</b>	<b>4</b>	<b>5</b>	18	1	4	42

From the data on grievous cases, in 42 cases the investigation and charge sheeting was delayed. Madurai district has the highest number of cases in which the investigation was delayed. In 5 cases filed in 2009, the investigation has not yet been completed. In all these three districts 18 cases were referred for closure as MF.

The more the police delay the investigation, the more the case becomes weak and does not result in justice for the victim. Delays in completion of investigation and filing of the charge sheet will have adverse consequences on the lives of the dalit women victims. The mental, physical and social trauma the victims go through while seeking justice is unexplainable. If the process is also delayed and legally guaranteed rights are denied, this will have an adverse effect on the victims and their family. They will be further stigmatized and victimized but their abusers will be roaming around freely. The delay in filing charge sheet can pave the way for the accused to get bail even in the cases of heinous crimes like rape and murder.

The Police, due to their caste and gender biases which are manifested clearly at every stage of the criminal proceedings, frequently carry out sloppy investigations so that the charge is not



filed within the stipulated time. This delay would be very well utilized by the perpetrators in influencing the victims or the witnesses and decide the fate of the case.

**Table No-29: Delay in filing charge sheet in non-grievous gender violence cases reported in three districts from Dec 2004-Nov 2009**

District	Total cases	Period of Delay					Summary		Cases with no delay
		1 month	1-3 month	3-6month	6month-1 year	Above 1 year	MF/Ad	Info. Not clear	
Madurai	14	-	-	1	-	2	2(MF)	2	7
Sivagangai	25	1	1	-	-	-			23
Theni	27	2	-	-	-	-	1(AD)	3	21
<b>Total</b>	<b>66</b>	<b>3</b>	<b>1</b>	<b>1</b>		<b>2</b>	<b>3</b>	<b>5</b>	<b>51</b>

(MF- referred for closure as mistake of fact, AD -Action Dropped)

**Table No-30: Delay in filing charge sheet in grievous gender violence cases reported in three districts from Dec 2004-Nov 2009**

District	Total cases	Period of Delay					Summary		Cases with no delay
		1 month	1-3 month	3-6month	6month-1 year	Above 1 year	Referral as MF	No/ wrong Info.	
Madurai	75	3	17	8	5	4	3	3	32
Sivagangai	25	3	4	1				1	16
Theni	73	10	7	4	1	1	-	11	39
<b>Total</b>	<b>173</b>	<b>16</b>	<b>28</b>	<b>13</b>	<b>6</b>	<b>5</b>	<b>3</b>	<b>15</b>	<b>87</b>

Completing Investigation and filing charge sheet have been done in majority of the cases with in stipulated time period of 3 months. In few domestic violence cases, suspicious death cases and cheating women in the name of marriage, the charge sheeting had been delayed from 6 months to more than a year.

**3. Analysis on the status of the cases of atrocities (POA Act) reported from Dec 2004-Nov 2009 from the selected three districts**

**Table No – 31: Status of the Non-Grievous cases in the Sessions courts in the three districts**

District	Time Frame	Status					others
		Convicted	Acquitted	Pending	Referred for closure	Altered to IPC	
Madurai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005	-	1	2	3mf		
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006	-	1	3			
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007	-	1		1mf		
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	-	-	6	3mf		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009	-	-	5	3mf		1 NTF 1 UI
	<b>Total</b>	<b>-</b>	<b>3</b>	<b>16</b>	<b>10</b>	<b>-</b>	<b>2</b>
Theni							
	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005						
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006		1		1mf		
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007				1mf		
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008				1mf		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009			1			
	<b>Total</b>		<b>1</b>	<b>1</b>	<b>3</b>		<b>-</b>
Sivagangai							
	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov 2005		1	2			
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006						
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007			1			
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008			1		1	
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009					1	
	<b>Total</b>		<b>1</b>	<b>4</b>		<b>2</b>	

NTF – Case Not taken on file; UI- Under Police investigation; altered to IPC – Removal of SC/ST POA Act sections

**Table No- 32: Status of the grievous cases in the three districts**

District	Time Frame	Status						
		Convicted	Acquitted	Pending	Referred for closure (MF)	Altered to IPC	Charge abetted	Others
Madurai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005		2	7	2	1	1	
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006		3	8	1			
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007			7	2		1	
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	1		10	1			
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009			6	3			2 CNT 1AD 3 UI
	<b>Total</b>	<b>1</b>	<b>5</b>	<b>38</b>	<b>9</b>	<b>1</b>	<b>2</b>	<b>6</b>
Theni	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005		1	1				
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006		1					
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007		2	2	1			
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008		1	3	1	1		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009			2	2	1	1	
	<b>Total</b>		<b>5</b>	<b>8</b>	<b>4</b>	<b>2</b>	<b>1</b>	
Sivagangai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005			3	1			
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006			3				
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007			3				
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008			8	1			
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009			4	2			
	<b>Total</b>			<b>21</b>	<b>4</b>			

(CNF –Case not taken on file, UI –Under investigation, AD – Action Dropped, Charge abetted as the accused had died)

Among the total 43 non-grievous cases reported from December 2004 to November 2005 in the three districts, in not a single case was the accused convicted. In 5 cases the accused was acquitted. 22 cases are pending in the court for trial and 6 among them have been pending since 2005. 12 cases were referred for closure and 1 case not taken on file. 1 case from Madurai district is still under investigation by the police.

Out of the 107 reported grievous atrocities in the selected three districts between December 2004 and November 2009, only in one case (registered in Feb 2008 from Madurai district) was the accused convicted.

**4. Analysis on the status of the cases of Gender Violence (IPC) reported from Dec 2004-Nov 2009 from the selected three districts**

**Table No- 33: Status of the simple cases in the Sessions courts in the three districts**

District	Time Frame	Status				
		Convicted	Acquitted	Pending	Referred for closure	Others
Madurai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005		1		1MF	
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006	1	2	1		
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007	1	2	1		
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	2		1	1MF	
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009					
	<b>Total</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>2</b>	
Theni	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005	3	1			
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006	1	2	1		AD(1)
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007	3	2	1		
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	5	2	1		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009	1		2		UI(1)
	<b>Total</b>	<b>13</b>	<b>7</b>	<b>5</b>	<b>-</b>	<b>2</b>
Sivagan gai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov 2005	5	2			
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006	4				
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007	3	1			
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	1	2	1		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009		3	5		
	<b>Total</b>	<b>13</b>	<b>6</b>	<b>6</b>	<b>-</b>	

Among the 66 non grievous gender violence cases, the accused got convicted in 30 cases. It is to be noted that 23 out of these 30 cases are of very simple bailable but sexual offence<sup>31</sup> for which the punishment is 3 months' imprisonment or fine or both. In 18 out of total 66 non grievous cases, the accused got acquitted and 14 cases are under trial in the courts.

**Table No -34: Status of the grievous cases in the Sessions courts in the three districts**

District	Time Frame	Status				
		Convicted	Acquitted	Pending	Referred for closure	Others
Madurai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005	2	13	2		
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006	1	4	4	1	
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007	4	5	10		
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	1	2	11	1	
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009	2	2	8	1	
	<b>Total</b>	<b>10</b>	<b>27</b>	<b>35</b>	<b>3</b>	
Theni	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005	7	8			Charge abetted-1

<sup>31</sup> 294 b Indian Penal code

	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006	5	6	1		"1
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007	1	12	2		Info. not available -1
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008	1	4	8		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009	1	1	12		1 Under investigation
	<b>Total</b>	<b>15</b>	<b>31</b>	<b>23</b>		<b>4</b>
Sivagangai	1 <sup>st</sup> Dec 2004 to 30 <sup>th</sup> Nov2005	1	2			
	1 <sup>st</sup> Dec 2005 to 30 <sup>th</sup> Nov2006		3	1		
	1 <sup>st</sup> Dec 2006 to 30 <sup>th</sup> Nov2007		4	2		
	1 <sup>st</sup> Dec 2007 to 30 <sup>th</sup> Nov2008		2	3		
	1 <sup>st</sup> Dec 2008 to 30 <sup>th</sup> Nov2009		1	6		
	<b>Total</b>	<b>1</b>	<b>12</b>	<b>12</b>		

Among the total 173 serious gender offences, in 70 cases 40.5% the accused got acquitted and in another 70 cases (40.5%) the victims are waiting for justice as they are still pending before the courts. Only in 26 cases (15.02%) the accused got convicted.

### **Summary on the status of the total cases of atrocities (POA Act) registered in Dec 2004- Nov 2009 from selected three districts of Tamilnadu**

*Table No -35: Status of the total Atrocity cases*

Status of the cases	Madurai District Total cases :93	Sivagangai District Total Cases : 32	Theni district Total cases : 25	Total cases	% to total cases
convicted	1	-	-	1	.66%
Acquitted	8	1	6	15	10%
Pending Trial	54	25	9	88	58.7%
Under Investigation	4			4	2.7%
Referred as MF	19	6	7	32	21.3%
Altered To IPC	1		2	3	2%
others	6		1	7	4.7%
<b>Total:</b>	<b>93</b>	<b>32</b>	<b>25</b>	<b>150</b>	<b>100</b>

(Others – action dropped, case not taken on file and charge abetted)

Among the total of 150 atrocity cases, 32 cases or 21.3 % were referred for closure as MF. In only 1.3 % of the cases was the accused convicted. 58.7% of the cases are still pending for trial.

**Summary on the status of the total cases of Gender violence (IPC) registered between Dec 2004- Nov 2009 from selected three districts of Tamilnadu**

*Table No -36: Status of the Total Gender violence cases*

Status of the cases	Madurai District	Sivagangai District	Theni district	Total cases	% to total cases
convicted	14	14	28	56	23.4
Acquitted	32	18	38	88	36.8
Pending Trial	38	18	28	84	35.2
Under Investigation			2	2	0.84
Charge abetted	1	-	1	2	0.84
Action dropped	-	-	1	1	0.41
MF	5	-	-	5	2.1
Info. Not clear	-	-	1	1	0.41
Total:	89	50	100	239	100

Among the gender violence cases 88 out of 239 total cases i.e. 36.8% cases are acquitted and 35.2% cases are still pending before the court for trial. Only in 23.38% cases the accused got convicted. As noted earlier, the cases which got convicted of are of minimum punishment offences or of simple charges.

**Overall analysis of the performance of the criminal justice system**

**The law enforcement agencies – The police**

The aggrieved dalit women who seek justice have to approach the local police for preferring the complaint. It is to be noted that generally women who suffer violence decide to seek formal justice only as a last resort. The police are the first one to receive these women who come shattered humiliated, suffering with pain and trauma. It is expected that the police would be receptive, sensitive on both gender and caste perspective, conscientious and accountable. Tamilnadu is the first state which had all women police stations in all the 32 districts to enable women to seek legal remedies without any apprehensions.

In spite of these, still legal justice for dalit women seeking justice seems to be a dream. The police continue to act with caste and gender biases and often collude with the dominant perpetrators. Police attitude towards the women who seek justice is appalling – insensitive to the sufferings of the women, reluctant to register their complaints and further more

humiliating and blaming women for the incident of atrocity especially the sexual offences, filing cases under less penalizing legal provisions, forcing women for compromises etc. This attitude is clearly substantiated from the data analyzed. At every stage right from receiving the complaint to the completion of the investigation and filing the charge sheet, they use different dilatory tactics which result in denying justice and revictimising the dalit women. Thereby they try to reinforce the caste and gender based subjugation of dalit women. The data analysis confirms that the law enforcement agencies have failed to act diligently to provide redress for violence against dalit women. But a significant point to be noted is that even though the police deliberately neglect their responsibilities and even they try their best to silence the women in support of the perpetrators, dalit women continue to struggle and show resilience against the discrimination and atrocities inflicted upon them. It is purely due to their efforts that the cases get registered and reach the courts at least - even if the system fails to deliver justice.

### **The Judiciary**

The judiciary – courts are looked upon as the last hope for the women who seek justice in the criminal justice system. But the data proves that the judiciary is no better than the enforcement agencies in rendering justice to the women. They maintain the same pace in denying justice compared to the police.

The SC/ST POA Act provides that for the purpose of speedy trials. The State Government should specify for each district a Sessions Court to be a Special Court to try offences. Tamil Nadu has only 4 special courts with the jurisdiction, covering 6-7 districts each. The three districts taken for the research have to depend on the special court situated in Madurai for the trial of the SC/ST atrocity cases. As the number of special courts is very low, to try the cases of atrocities, it results in cases pending for long periods. The data from these three districts shows that among the cases reported between December 2004 and November 2009 58.7% cases are pending in the court for trial.

Even though the Atrocities filed under SC/ST Act are non-bailable and anticipatory bail should not be granted, it is clear from the cases analyzed that the courts frequently have violated this principle by granting anticipatory bail to the accused and bail to the accused charged with atrocities punishable with 7 years imprisonment. In 13 out of 21 rape and murder cases (60.9%), the accused got bail. In 7 cases the accused got anticipatory bail.

Regarding the conviction rate of the cases filed between December 2004 and November 2009, out of the total of 150 atrocities cases registered in this period, only 16 cases ended up in judgments. Only 2 cases got conviction among the 16 cases. Undue delay from filing of complaint to filing of charge sheet, poor investigation which delays the proceeding of the case, and that the long period pending in the court makes the victims and witness lose interest in the cases are said to be the reasons according to research by NGOs and reports by the National Commission for Schedule Castes.

“It is equally true however, that since judges also come from the same society, from which come the other members of the criminal justice system, and they also cannot be entirely free



from the value system, the prejudices, the biases and stereotypical views. These cannot but get reflected in the evaluation of evidence and formulation of judgments.<sup>32</sup>

The National Commission for Scheduled Castes criticized the Tamil Nadu government for high pendency of cases and low conviction rate under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989. Vice-Chairman of the Commission N.M. Kamble, who along with Member of the Commission Mahendra Boddh, in a State-level review meeting with Adi-Dravidar Welfare Minister Tamilarasi and senior officials of the government on Feb 2011, pulled up the police department for not completing investigation within the stipulated timeframe in many cases. He told reporters that that in the absence of details on the grounds under which acquittal was done, the panel was in no position to say who was at fault.<sup>33</sup>

### **Monitoring mechanisms for the implementation of the SC/ST POA Act**

The National Commission for SCs is the constitutionally mandated commission to investigate and monitor the safeguards provided under various arrangements including the constitutional safeguards provided through the SC/ST POA Act 1989. The commission has to submit reports annually to the parliament. It also acts as an advisory body for evolving programs and policies for the development of the SCs.

The National Commission for SCs is criticized by dalit and human rights groups for non compliance with its mandate. From the cases intervened by EVIDENCE, it is clear that of the nearly 400 complaints sent to the National Commission and its directorate in the State, almost all received the response “received complaint and sent to the SP of the concerned district for report” and no further follow up action was taken. Other than satisfying the fact that the incident of the atrocity has been registered with the commission, no action has been taken and based on the 400 previous complaints, nothing further expected from them.

Moreover, the Commission mostly found to be satisfied with the action taken report received from the state authorities.

It is revealed through the research reports of the NHRC and on the performance of the National Commission for SCs is that the commission has its own issues - The Investigating Wing of the Commission relating to the investigation of cases had been non-functional because the post of Director-General in charge of that cell had been lying vacant for nearly ten years; The Commission also does not have any Law Wing and therefore is unable to examine in-house various legal matters which become particularly important in criminal cases and reservation matters; acute shortage of funds and Considerable delay - on an average of three years in submitting reports to the Parliament<sup>34</sup>.

---

<sup>32</sup> Dr.Poornima Advani, National Commission for women and Gender sensitization , *Equal justice to women- role of courts and judges* (National Commission for women New delhi )

<sup>33</sup> Conviction rate under SC, ST Act low in State: National Commission ,The Hindu , Feb 19’2011

<sup>34</sup> *Report on Prevention of Atrocities against SCs, NHRC, New Delhi, 2002, pp.94-5; 20 years Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act –report Card , National coalition for Strengthening Sc/St (POA) Act*

Thus it is evident that the National monitoring institution set up by the constitution itself has not put enough pressure on the governments for the better implementation of the policies and programs. The governments also seem to not be interested in mandating the commission with more power, funds and infrastructure and thereby are collectively defeating the very purpose of the setting up of the Commission itself.

### **State and district Level Monitoring mechanisms**

In order for the implementation and monitoring of the SC/ST POA Act 1989, under the Rules 1995, the state governments are mandated to constitute State-level and District-level Vigilance and Monitoring Committees to review implementation of the Act across the state and districts respectively.

The National Commission for SC/ST in its Sixth Report (1999-2000 and 2000-2001) has observed that in most States that Monitoring and Vigilance Committees at State & District levels have either not been constituted or their meetings are not held on a regular basis. From the responses received from the Adi dravida Welfare secretaries at the State and the district level in an RTI petition, it is revealed that the state level vigilance committee which had not met since its formation in 2006 finally met for the first time under the former Deputy Chief minister M.K Stalin in November 2010. This is the reality of the attitude of the government towards the implementation of the safeguards available for dalits.

With regard to the district level committees particularly in the three sample districts, (Madurai, Sivagangai and Theni) in Madurai the committee was constituted in 2000 but not met till 2003. Again from 2006 to 2009 it had not met. Other 2 districts we hardly got any data regarding this. While responding to the RTI petition, it was reported that one of their main agenda is to look and give approval to the cases that are referred for closure as MF. Nearly 25% of the cases from these districts, reported between December 2004 and November 2009 were referred for closure as MF<sup>35</sup>.

Thus on the whole the criminal justice system consisting of Police, prosecution and the judiciary has failed blatantly in delivering justice to women inflicted with atrocities. The monitoring agencies also failed miserably to look into the implementation of the policies and laws for the rights of the dalit women.

---

<sup>35</sup> Response from the Adi –Dravida Department , Madurai to RTI petition by Mr.Arumugam , social justice, Madurai Dt

## **Recommendations**

1. As demanded and reiterated by many dalit rights groups and organizations, the implementation of the SC/ST POA Act should be reviewed and measures should be taken for the strengthening of the Act, for its effective implementation and for monitoring of the same .
2. The SC/ST POA Act should be amended to include atrocities committed especially against dalit women including rape, gang rape, naked parading, dedicating dalit women as a devadasis, sexual harassment, sexually abusing women with the false promise of marriage, abduction, trafficking, social boycott and filing counter cases.
3. The Act should also have provision for the protection of the rights of the victims/witnesses right from the registering the complaints to the court judgments. Victims/witnesses should be protected from pressure/influence by the accused. They should be informed of every stage of the case including registering of the FIR, arrest, filing of the charge sheet, the moves of the accused for bail, trial dates etc.
4. Support mechanisms should be established in every district with the involvement of the important agencies - the police, medical department, revenue and administration and the judiciary along with dalit rights NGOs to facilitate the aggrieved dalit women in accessing justice from the legal mechanisms.
5. Formation and regular meeting of the district and state vigilance committees for the monitoring of the Act should be ensured. The committee meeting proceedings and the results should be made public immediately after the meetings.
6. Mandate the State and National Commission for SC, ST and Women with powers, funds and infrastructure to enquire in to the complaints of atrocities against dalit women and give directions. Recommendations by these National commissions on the implementation of the Acts and polices for the SCs to be adhered to.
7. The law enforcement agencies and the judiciary who form the criminal justice system should be sensitized to address the issue of caste and gender based discrimination against dalit women in accordance with national and international human rights laws. The officials who neglect their duty to protect the rights of the dalit women should be punished with enhanced criminal measures.

## **Annexure I**

### **Extract of Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. OFFENCES OF ATROCITIES**

Punishment for 3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribes

- (i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
- (ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste, or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;
- (iii) forcibly removes clothes from the person of a member of a Scheduled- Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;
- (iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- (v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
- (vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
- (vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;
- (viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe.
- (ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
- (x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;
- (xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
- (xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or a Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
- xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to

prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;

(xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;

(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offences; or

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

## ***II Indian Penal Code (IPC), Excerpted***

IPC 302. Whoever commits murder shall be punished with death or [imprisonment for life] and shall also be liable to fine.

IPC 354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

IPC 376. (1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(1) Whoever: -

(a) Being a police officer commits rape-

(i) Within the limits of the police station to which he is appointed; or

(ii) In the premises of any station house whether or not situated in the police station to which he is appointed; or

(iii) On a woman is his custody or in the custody of a police officer subordinate to him; or

(b) Being a public servant, takes advantage of his official position and commits rape on a woman is custody as such public servant or in the custody of a public servant subordinate to him; or

(c) Being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

(d) Being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or

(e) Commits rape on a woman knowing her to be pregnant; or

(f) Commits rape when she is under twelve years of age; or

(g) Commits gang rape,

Shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1- Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.



Explanation 2-"Women's or children's institution "means an institution, whether called an orphanage of a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of women or children.

Explanation: 3. - "Hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation].

### **IPC 306. Abetment of Suicide**

If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

### **IPC 304B. Dowry Death**

Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subject to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

### **IPC 376. Punishment for Rape**

Whoever...commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the women raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

### **IPC 498A. Husband or relative of husband of a woman subjecting her to cruelty,**

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also is liable to fine. For the purpose of this section, cruelty means (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical ) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. Punishment - imprisonment for 3 years and fine.

IPC 294 Whoever, to the annoyance of others-

(a) Does any obscene act in any public place, or

(b) Sings, recites or utters any obscene song, balled or words, in or near any public place,

Shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.



## Appendix 11 – Case studies

### 1. Case brief of Ramani, Vaviyarenthal, Sivagangai District:

Victim Ramani (43) resides in Vaviyarenthal colony, Vaviyarenthal village, Manamadurai Taluk at Sivagangai district along with her husband Ayyanar (55), her sons 3 sons and a daughter got married and settled separately.

On 14.6.08 Victim has gone to collect fodder from their field around 7am by the time the caste Hindu Subbramani (27) S/o Perumal had tied his cow near the haystack of the affected. On return seeing this, the victim intervened and asked him not to tie the cow near haystack. The caste Hindu Subbramanian abused her “how dare you Para dog opposing me,” and slapped her and the victim has fallen down. Then he had stripped off her saree and blouse and outraged modesty. Then he had assaulted her with his slipper on her stomach and chest. He had attacked her for about 20 minutes.

Hearing her sound some of her neighbours rescued her. She got severely injured. On 14.6.08 they had lodged a complaint in Thirupuvanam police station regarding this issue, Medical memo was given and she was sent to Madurai Government hospital and there she got treatment for 3 days. While she was in the hospital, the perpetrators came for compromise. Later seeing their determination case was registered by the police on 16<sup>th</sup> July 2008 in Cr.No.268/08 under IPC section 323,324,354,506(2) r/w 3(1) (10) SC/ST Act .

The accused was arrested on 16.6.08 at 8pm. victim received compensation of Rs.25,000 on 24.7.08. Case is still pending before the court for trial.

### 2. Case brief of Kala, Vembathur, Sivagangai District:

Victim Kala resides in Indiranagar colony, Vembathur, Sivagangai Taluk & District along with her parents and brothers.

On 26.4.08 at 8.30am victim with her neighbours had gone to the field of caste Hindu Karuppaiah for work. By the time the caste Hindu Tirupathi (30) came there shouted and abused the victim and others in caste name for not coming for work. When the victim and others objected this, the caste Hindu abused them again and threatened them to murder. When intervened before the elders and the Panchayat president, they tried to pacify the victim. Fearing for further consequences, victim along with her relative went to Thirupachethi police station and lodged a complaint. The police advised her to go for peace after waiting of hours at the police station. Later with the help of a local activist she approached the Deputy Superintendent of police , only then the Thirupachethi police had registered FIR on 28.4.08 in Cr.No.53/08 under IPC section 294(b), 354,506(2) r/w 3(1) (10), 3(2) (5) SC/ST Act. The Accused was arrested on 28.04.08. The victim received a compensation of Rs.25, 000. And the case is pending in the Sivagangai court for trial.

### 3. Case Brief of Prabha, Thenkarai, Sivagangai District

Victim Prabha (19) resides in Amachi Oorani Nanthavanam in Devakottai Taluk at Sivagangai District along with her parents and a brother. Prbha had studied B.com in Alagappa University, Karaikudi.

Accused Muneeswaran (27) a caste Hindu and a neighbor, stalked her and proposed her for marriage. Though Victim objected his intentions, he was adamant and continuously followed her wherever she went. Finally victim also accepted his proposal. The caste Hindu

accused by giving false promise of marriage, sexually assaulted her often. Thus she got pregnant. In the meantime, victim's parents came to know about their love affair. Then victim along with her parents approached caste Hindu Muneeswaran and asked him to marry Prabha. On hearing this Muneeswaran's parents abused them in caste name and intimidated them. Fearing threats victim and her family members returned back.

Then on 14.4.09 victim had lodged a complaint in Devakottai AWPS. On receiving the complaint, police just receipt of acknowledgement. On 17.4.09 Devakottai AWPS had registered FIR in Cr.No.02/09 under IPC sections 417,506(2) r/w 3(1) (12) SC/ST Act and arrested the accused. Before registering the case police abused her badly insulting her character and her caste. Perpetrators were called to the police station and efforts were taken for compromise. As local dalit activist was with them, the police had to register the case. Prabha was sent to Karaikudi Government hospital for medical examination. The case was pending in Sivagangai court. Interim compensation of Rs.6250 was given to the victim.

#### **4. Case brief of Latha, Kombukaranpuliur, Theni District**

Victim Latha resided in Kombukaranpuliur, Aundipatti Taluk at Theni District along with her husband Thangapandi (24) and in-laws. On 31.07.09 Victim had gone to her native place Karuvelanayakkanpatti, Theni to celebrate a local festival. While she was doing shopping along with her sister, some of the caste Hindus who stood at a Tailor shop teased and abused them by using castiest and sexual terms. On getting scared, they both moved from that place quickly. But the accused continuously teased them. Following this, the victim informed her husband and brother over phone.

Within sometime around 2 .30 pm victim's husband and brother rushed to the spot. On noticing this caste Hindu gang came out of the tailor shop and shouted at the victim. One of them slapped the victim's sister due to which she fell down on the ground. When the victim's husband and her brother intervened, the gang assaulted them. Victim was also beaten, stripped and sexually modesty.

On the same day around 3pm victim's family lodged a complaint to Superintendent of police, Theni and District collector. Due to the SP and collector's forwarding Allinagaram police filed an FIR in Cr.No.720/09 under IPC sections 324, 323, 147, 341, 354 r/w 3(1) (10), 3(1) (11) SC/ST Act on 31.7.09. Police made the victim to wait for more than 2 hours and then sent them to Theni Government hospital for treatment.

Asked to wait for 2 hours. Police had arrested the accused on 31.7.09.

The victim was given compensation of Rs.50, 000 on 30.9.09. The case is pending before the court for trial.

#### **5. Ranjitham , Ariya patty, Usilampatty TK, Madurai.**

Dalit Ranjitham (30) and husband Eswaran (35) reside along with mother in law and children in Ariyapatti, Usilampatti Taluk, Madurai dist. Eswaran worked at a brick-kiln in Vadugapatti colony 5 km away from Ariyapatti village

In August 2008, Angusamy Thevar, owner of the brick kiln gave Rs. 10,000/ as advance to Eswaran to work in his kiln. As the wages was too less and the entire family had to work under the agreement , the Eswaran decided not to work in the Angusamy' s brick kiln and returned the advance Rs. 10,000.

Later Eswaran agreed to work in another brick kiln of one Thangapandi from Pottalpatti. On 09/12/2008 when Eswaran was having tea in a tea shop near the brick kiln in pottalpatty,

caste Hindu Angusamy who came to the spot abused him in caste language in public and assaulted with an iron chair on the chest, head and other parts of the body. He was angry at Eswaran for refusing his work and accepting another. When the tea stall owner, another labour Mani and Ranjitham intervened, but the caste Hindu Angusamy abused Ranjitham also in caste bias manner. He also outraged her modesty by pulling her saree and beat her with brick cake.

On the same day at 9.00 p.m. the affected couple along with the witness Mani went to the Usilampatti police station and preferred a complaint. But the police received the complaint and asked them to come on the next day for enquiry. On 10/12/2008, Sub Inspector of Police, Usilampatti came to their village and after an enquiry directed the couple to come to police station for further enquiry with both parties.

On 10/12/2008 when the victim and husband Eswaran reached police station, a group of caste Hindu led by Thiru Amaithi, Panchayat President, Pottalpatti came and tried to pacify them. The caste Hindus also took the couple to a private hospital in Usilampatty and arranged for medical treatment. After a long persuasion by the caste Hindus in the presence of the police officials the couple decided to withdraw the complaint. Later they got admitted in the government hospital as the injury was grievous. As it was due to brutal assault, the victim's case was registered as medico legal case and forwarded to the police station. The victim's family started receiving threatening from the accused simultaneously.

On 31/12/2008 when Eswaran was proceeding towards his village Aryapatty from pottalpatty, he was attacked brutally with small crow bar and knife abusing in caste name by the caste hindu gang. Eswaran who was grievously hurt, had escaped from the place. On 01/01/2009 when Ranjitham approached caste Hindu Angusamy to complain about this attack, she was also attacked and abused by Angusamy. He also threw the hot coffee that he was drinking by that time which caused severe injury on her.

As there was no further action, they approached EVIDENCE for further legal support. Another complaint was given on their behalf. Case is pending.

#### **6. Thangam (52), Thenpalanchi post, Madurai District**

Thangam resides in Thenpalanchi along with her children. Her husband Korrandi passed away some years ago due to illness.

On 10.03.2009 Victim's daughter in law went to fetch water from the public tap. During that time the caste Hindus Ramuthai (30), her husband Pitchaithevar (40) and her relations Ramukalai w/o Perumal, Sairam s/o Perumal and others who were present, stopped her from fetching water. They started brutally attacking her by pulling her hair, kicked the pot, beat her severely with broom stick and abused her by calling caste name. When tried to pacify, they threatened victim's that they would murder them. Victim's family lodged a complaint at the Thirunagar police station but they didn't take any action regarding this. Further, Due to intimidation from the caste Hindus they were forced to withdraw the complaint.

Then on 19.11.2009 around 6.30 am the caste Hindu Sundararajan (40) s/o Durairaj, his elder brother Pitchai (45) S/o Durairaj and their relatives Ramukalai (40) S/o Perumal, Ramuthai (30) W/o Pitchai, Sairam, Umadevi W/o Ramukalai, Selvi W/o Sundrarajan, Thangamayan of Chakilliyapatti village and some violent gang entered victim's house with some lethal weapons. The caste Hindu Pitchai shouted and abused her

and her son in castiest terms. They alleged that her son had the audacity to ask the phone number of a caste hindu girl. The entire family was assaulted her left hand got broken; sons got severely wounded. Her house was also damaged.

On the same day around 1 pm they got admitted in Rajaji Government hospital and case recorded as Medico legal. Following this a case was registered in Cr.No.668/2009 under section 147,148,379 of IPC and section 3(1)(10), 3(1)(11),3(1)(15) of SC and ST (Prevention of atrocities act )1989. To add their pain, they came to know that her son was registered with a false case. The affected family had approached for legal support.

### **7. Case study of Saroja (38) Pakianathapuram, Madurai**

Saroja lives with her husband Balamuthu (40), and the deceased son Nayagapandi (21)

About one year back they lived in Bharathi Nagar, Thathaneri, Madurai in a house build in her mother in law Veerammal's patta land. Their Caste Hindu neighbours Pownraj and his wife Selvi lived illegally occupied one cent of their land and intimidated them to vacate from their house also. A civil case was filed and got verdict in their .But even then the caste hindus were trying their best to vacte the dalit family. They dumped filths and waste near their house. In this connection about 4 years back, a case was filed by her sister in law Lalitha (30) w/o Shahjohn against the caste Hindu Pownraj and his wife Selvi for atrocity of assault

About one year back while victim's husband Balamuthu were sleeping in the house the caste Hindus Pownraj and his wife Selvi, Selvi's sister Jayarani trespassed into the house and abused in caste discrimination and assaulted. Further they filed a false a case against the victim's family. Following which victim's husband was detained in Cenral prison, Madurai and victim had been detained in Central prison, Trichy. After they came out on bail, they were continuously intimidated by the abusers. Hence they left their house and shifted to nearby area.

Meanwhile, victim's son Nayagapandi went to see the old house at Bharathi Nagar where we lived already. On seeing Nayagapandi the caste Hindus Pownraj's sons Sasikumar, Mayandi, Muniyandi's sons Nirupan, Premkumar and Viji d/o Dhanikodi, abused in caste bias and assaulted and threatened to murder why he came here and go. Nayagapandi escaped and told Lalitha about the incident.

About two days passed, on 31/08/2009 at about 12.30 noon when Nayagapandi, lalitha, relative Rajlakshmi were talking near their old house, the caste Hindus Pownraj, Selvi, Jayarani, the caste Hindus Sasikumar, Mayandi, Premkumar, Nirupan and Viji who armed with weapons trespassed into the house and attacked Nayagapandi. Due to severe attack Nayagapandi fell down and succumbed to injuries.

On 31/08/2009 a case was registered in Cr. No. 1982/2009 under sections 147,148,341,302 IPC and r/w120 (b) IPC and 3(2)(5) SC/ST Act 1989.It was known that only a few of the accused were arrested by the police. They got compensation. But the family is still under fear. The case is pending for trial.

