
VIOLENCE AGAINST DALIT WOMEN

Input to the UN Special Rapporteur on Violence against Women

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Submitted by

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Dismantling institutions that reek of patriarchy and caste discrimination is a long haul for anti-caste feminism and all women – from the margins to the center, from the poorest to the most empowered women. We all stand to live in a better world if that's done.

DALIT WOMEN: A CASTE-CLASS-GENDER DYNAMIC

The terrains of the canvas on which the expressions of Dalit women are framed are determined by the suffocating history of exclusion based on structures of caste and patriarchy in India. The position and status of subaltern Indian woman can only be understood by unpacking the larger questions of identity, agency and self-determination within the community.

Further, prevailing caste and secondary status of women in the society is largely responsible for violation of human rights of Dalit women. To understand the root cause of the situation it is essential to examine basic factors responsible for their vulnerability.

In order to identify the issues of violence; the reality of Indian society in general; and the Dalit community and Dalit women in particular, an analysis of caste-class-gender dynamics is very critical.

“Caste is a system of graded inequality in which castes are arranged according to an ascending scale of reverence and a descending scale of contempt... i.e. as you go up the caste system, the power and status of a caste group increases and as you go down the scale the degree of contempt for the caste increases, as these castes have no power, are of low status, and are regarded as dirty and polluting.”

The power play of patriarchy Indian society is visible in every aspect of life. Ranging from female foeticide, discrimination of girl children, dowry related deaths, rapes and murders are only a glimpse of the gender based violence in the country.

The nexus of both patriarchy and caste compounded with poverty makes the situation of a Dalit woman extremely vulnerable and risky. As the National Commission for Women has commented, “in the commission of offences against... scheduled caste [Dalit] women the offenders try to establish their authority and humiliate the community by subjecting their women to indecent and inhuman treatment, including sexual assault, parading naked, using filthy language, etc.”¹

¹ 20 years Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act), Report Card, National Coalition for strengthening of SCs & STs (Prevention of Atrocities) Act, April 2010. P. 10.

In 2007, the UN Committee Elimination of Discrimination against Women (CEDAW) addressed the issue of Dalit women India. In the Concluding Comments, the Committee noted among other things that²:

“28. The Committee is concerned about the ongoing atrocities committed against Dalit women and the culture of impunity for perpetrators of such atrocities. The Committee is concerned that, despite a law banning manual scavenging, this degrading practice continues with grave implications for the dignity and health of the Dalit women who are engaged in this activity.

29. The Committee recommends that the State party put in place a mechanism to monitor effective enforcement of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act in order to ensure accountability and end impunity for crimes committed against Dalit women. It 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. It requests the State party to report specifically on the impact of such initiatives in its next periodic report. The Committee also urges the State party to study the health implications of manual scavenging on Dalits engaged in this profession and on the community as a whole, and to address all the impediments to eradicating this practice, including by putting in place modern sanitation facilities and providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood.”

Special Rapporteur on violence against women, Ms. Yakin Ertürk (2009) quoted - *“Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Land and property issues in particular, tend to cause or be at the root of conflicts over which Dalit women have faced eviction, harassment, physical abuse and assault. Dalit women are often denied access to or are evicted from their land by dominant castes, especially if it borders land belonging to such castes. They are thus forced to live in the outskirts of villages, often on barren land.*

Violence against Dalit Women: Missing Data and Statistics:

Disaggregated data on violence against Dalit women are not widely collected, so a picture of their critical conditions are available by looking at fragmented information, mainly collected at local, nongovernmental level, or as a result of independent studies.

Dalit women’s experience of violence across four Indian states shows that the majority of Dalit women report having faced one or more incidents of verbal abuse (62.4%), physical assault (54.8%), sexual harassment and assault (46.8%), domestic violence (43.0%) and rape (23.2%)

In less than 1% of cases were the perpetrators convicted by the courts. In 17.4% of instances of violence, police obstructed the women from attaining justice.

In 26.5% of instances of violence, the perpetrators and their supporters, and/or the community at large, prevented the women from obtaining justice.

In 40.2% of instances of violence, the women did not attempt to obtain legal or community remedies for the violence primarily out of fear of the perpetrators or social dishonour if (sexual) violence was revealed, or ignorance of the law, or the belief that they would not get justice.

Source: [Dalit Women Speak Out - Violence against Dalit Women in India](#), Written by Aloysius Irudayam, Jayshree P. Mangubhai, Joel G. Lee, National Campaign on Dalit Human Rights, New Delhi, March 2006

² Committee Elimination of Discrimination against Women, Concluding comments: India, 02/02/2007. UN Doc. (CEDAW/C/IND/CO/3).

Reportedly, on many occasions, cases of violence against Dalit women are not registered, and adequate procedures are not taken by the police.”³

In December 2012, the High Commissioner for Human Rights Navi Pillay condemned the escalation of violence and of rapes against Dalit women, a well known problem neglected at the National level, until it has become an emergency after an alarming number of sexual violence occurred, and have been globally widespread. The High Commissioner hoped for fundamental changes in wake of India rape tragedy, and for “at the National level, the transformation in systems that discriminate against women to a culture that respects the dignity of women in law and practice”.⁴

Issues of Dalit women have remained largely unexplored by academia, feminist organizations and other human rights groups in India. The intersection at which Dalit women are placed often creates further challenges to visibilize the issues of violence within mainstream frameworks of analysis and action.

In January 2013, the European Parliament adopted a resolution on violence against women in India which includes several references to caste discrimination and the situation of Dalit women. The resolution expresses “deep concern about the widespread violence committed against Dalit women and girls in India, including sexual violence committed by men of dominant castes.”⁵

DALIT WOMEN: DISCRIMINATION AND VIOLENCE

Discrimination is the denial of agency and dignity to an individual or group of individuals based on a perceived accident of birth, occupation, language, religious affiliation or any other primordial identity is visibilised to the full extent in the analysis of situation of Dalit women. Often denied entry into places of worship, sources of water and livelihood, governance and education, Dalit women are the worst sufferers of injustice and oppression in Indian society.

Human rights of Dalits and women in general are normally violated by dominant castes and powerful communities to practice and exhibit patriarchy and caste based discrimination. Dalit women are oppressed by the broader Indian society, men from their own community and also their own husbands and male members in the family. Thus, Dalit women face multiple disadvantages and vulnerabilities. Their issues are clearly different from that of other Indian women.

But human rights of Dalit women are violated in peculiar and extreme forms. Stripping, naked parading, caste abuses, pulling out nails and hair, sexual slavery & bondage are few forms peculiar to Dalit women.

³ Addendum to Special Rapporteur on Violence against Women, Ms. Yakin Ertürk’s report to 11th HRC session, June 2009 (A/HRC/11/6/Add.1)

⁴ High Commissioner for Human Rights Navi Pillay, December 2012 Declaration. <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=12910&LangID=E>

⁵ European Parliament resolution of 13 December 2012 on caste discrimination in India (2012/2909(RSP))

Dalit women are in worst position than Dalits in general, in terms of sex ratio, wages, employment, occupation, assets, education, health, social mobility and political participation.⁶

Without economic assets including land and other resources, Dalit women have to go out to the fields and constructions sites, necessitated by economic deprivation, and an urgent need to earn for livelihood. Thus, their subjugation is more acute - being Dalit they are treated with great contempt by upper caste men and women alike, and their own men folk.

Further Dalit women have been subjected to rape, molestation, kidnapping, abduction, homicide, physical and mental torture, immoral traffic and sexual abuse. The National Crime Records Bureau data records reveal that more than four Dalit women are raped every day in India.⁷

The recent years has also seen a rising violence against Dalit human rights defenders, and Dalit women activists are at greater risk. They have been silenced using various forms of pressure and violence including threats, intimidation, kidnapping and sexual violence.

Backlash violence is always a result of growing assertion and without a doubt it the Dalit women who are the first to be hit. Oppression and torture of the women is a tool that is very often used to to silence the entire community. Several recorded incidents of challenges faced by Dalit women elected representatives is a clear indication of this kind of 'backlash violence'. In spite of being constitutionally elected Dalit women Panchayat representatives are abused and threatened and murdered. Political participation of Dalit women in governance is ridden with serious deep rooted problems, again inter-twined in caste and patriarchy.

The nature of the crime against Dalit women is always different. It is almost always associated with verbal abuse and these abuses are laced with casteist tones. Most common abuses in India are formed with either the mother or sister in the frame. They are all gendered abuses. But, a Dalit woman is not abused as a 'slut' or 'prostitute' but as a '*madiga slut*', '*chamar prostitute*'⁸. Dalit women have painfully expressed that is better to be beaten physically than be abused in a manner that kills the soul, strips us of human dignity and is almost equal to death.

Hence, violence, which serves as a crucial social mechanism to maintain Dalit women's subordinate position in society, is the core outcome of gender-based inequalities shaped and intensified by caste system.

⁶ Bandhu, Dalit Women's cry for Liberation: My Rights Are Rising like the Sun, will you deny this sunrise", edited in Rao (2003) Caste and Gender, Kali For Women, New Delhi, 2003

⁷ National Crime Records Bureau, Gov. Of India. <http://www.ncrb.gov.in/>

⁸ Madiga and Chamar are names of low castes.

DALIT WOMEN: CHALLENGES AND ROADBLOCKS

Religious and philosophical sanctions and structural mechanisms of ostracism against Dalit women to change their position has promoted a high degree of impunity against harassment, exploitation and atrocities – abuse and physical violence on women, children , sexual exploitation of Dalit women including practices like *devdasi* system, exploitation of Dalit labour through extraction of free labour, bonded labour, child labour, destruction of assets, preventing their rights to free franchise and disallowing political participation.

In all matters of social relationships, discrimination takes a form of barriers to common property resources like land, water and livelihood sources, exclusion from schools, places of worship, common dining, inter-caste marriages etc. It puts a ban on all the common cycles of participation in a community. Public administration is also deeply entrenched in this spirit of discrimination and it has seeped into Government departments, police, courts, banks, educational institutions and every other state machinery.

Therefore the key problem is ‘impunity’ – which is enjoyed by the dominant castes to get away scot free in a country like India with a powerful Constitution and progressive policies in place. The Indian legislative framework promotes and protects women, starting from fundamental constitutional provisions like Article 15 which affirms the principle of non-discrimination on the basis of caste and gender. Article 21 guarantees the right to life and to security of life; and art. 46 specifically protect Dalits from social injustice and all forms of exploitation. Moreover, the Indian State has approved more specific documents aimed at protecting Dalit women; the most important is the Scheduled Castes/ Scheduled Tribes (Prevention of Atrocities) Act approved in 1989. But the law has largely failed in its ambitious mandate. The provisions that promote women rights have to be considered empty of meaning, since the low level of implementation left the situation basically untouched, and has lead to a perceived and de facto impunity for the perpetrators of crimes against Dalit women.

What follows incidents of violence is a silence; a resounding “silence” that is specific to violence against Dalit women are that cases are not spoken out in public by the women themselves, or not reported in the media, or not registered by law enforcement authorities, or hidden by the Dalit women’s families, relatives and community, or suppressed by the diktat of the perpetrators and/or the perpetrators’ caste community. The effect is the creation and maintenance of a culture of violence, silence and impunity when it comes to violence against Dalit women. This further exacerbates the denial of their rights to security of life and basic human dignity.

Impunity runs so deep, entrenched in the casteist and patriarchal mind set and as a result within the state and within every institution, including judiciary and even the media. Further, the legal proceedings are so

complicated, tardy, time consuming, costly and unfriendly to Dalits that usually they do not approach courts or other law enforcing agencies for their redressal. Counter cases on victims and family members, threats and offer of money to compromise the cases are observed in almost every case reported.

DALIT WOMEN: WHAT WE ARE SEEKING?

Violence and legislative reforms

- We further draw attention to the fact that the Justice Verma Committee⁹ has proceeded to make a strong argument for aggravated sexual assault in the context of targeted violence against Dalit women, by making over 20 references to ‘CASTE’ in the context of sexual assault, including the following statement on page 38, para 34,
 - If there has to be a society which is based on equality of gender, we must ensure that not only does a woman not suffer on account of gender but also not suffer on account of caste or religion in addition. Thus, a woman may suffer a double disadvantage – a) because she is a woman, and b) because she belongs to a caste/tribe/community/religion, which is disadvantaged, she stands at a dangerous intersection if poor.
 - Further, they have made the following statement on page 224, para 44,

.we think that the demonstration of male sexuality by active forcible penetration and overpowering of women is something which needs to be rejected as a part of masculinity and we need psychological practices which correct such aberrations which have crept into society on account of the marginalization of women, including the claim of dominant caste to be able to overpower women belonging to Dalit and oppressed sections of society.
- Therefore we recommend that rape and sexual assault committed during episodes of targeted violence – communal, sectarian, caste violence - is recognized as a category of aggravated sexual assault under law.
- The GOI should build in measures to check the effective implementation of the SC/ST PoA Act. In particular Include additional crimes which SCs/STs are subjected to, but do not figure in the present list of offences in the Act, such as tonsuring of head and moustache, garlanding with chappals; employment of manual scavengers; dedicating SC/ST women as devadasi; employing SCs/STs to remove human or dead animal bodies; refusing to pay equal wages; false counter

⁹ Report of the Committee on Amendments to Criminal Law, (Justice Verma Committee) 23 January 2013 <https://docs.google.com/a/ncdhr.org.in/file/d/0Bw1jv7r97bSidHRidVBJeTQwRmM/edit>

cases; uttering or writing words of caste abuse or using hate speech; stripping woman of her clothes; social or economic boycotts; offences committed by public servants while discharging the duties such as custodial death, torture, rape etc.

- The GOI should include substantive provisions for victim/witness protection that focus on safety, physical and psychological well being, privacy and dignity. The provisions should include medical assistance, counseling and psychological support, protection of the identity of victims and witnesses, ensuring a congenial atmosphere in the open court for the woman to give her testimony. Further, full socio-economic rehabilitation of the survivor and her family should be ensured, by providing housing, livelihood support, education facilities and safety. The GOI should establish support services and shelter for the survivors of violence and ensure rehabilitation
- The Government of India (GOI) should bring out disaggregated data based on caste and gender and build schemes to address the specific needs of Dalit women. Further budgetary allocations to address the development gaps need to be put into place through reforms in legislations.

Participation in Governance

- Amend the SC/ST (Prevention of Atrocities) Act 1989 to include offences related to interference with Dalits' political participation: that is, any person not being a member of a scheduled caste or scheduled tribe forcing, intimidating or bribing a member of a scheduled caste or scheduled tribe to function as a benami for them; and any person not being a member of a scheduled caste or scheduled tribe instigating false or malicious no confidence motions or complaints against panchayat presidents with the intention to remove them from office. The latter offence could be created through a suitable amendment to sec. 3(1)(viii) SC/ST (PA) Act – instituting false, malicious or vexatious suit or criminal or other legal proceedings against a member of a scheduled caste or scheduled tribe – to include no confidence motions in the panchayats.
- Mandate the National and State Scheduled Caste, Scheduled Tribe and Women's Commissions with sufficient powers, funds and staff to specifically inquire into acts of political obstruction or violence committed against Dalit women, Dalit men, Adivasi women, Adivasi men and other women elected representatives.
- Provide free legal aid for Dalit women panchayat representatives who seek access to judicial redress for obstructions in the performance of their official duties, and review the reasons why Dalit women are unable to access legal aid in many cases.
- The GOI should adopt convergence model within concerned ministries and establish a special task force to address the issues of violence faced by Dalit women elected representatives. The inter-

ministerial task force should ensure planning and resource allocation to promote effective participation of Dalit women in governance.

Defenders

- The GOI should recognize the concerns of Dalit women human rights defenders and ensure specific policy to address the range of violence faced by them. The challenges of impunity for Dalit rights activists and non-registration of cases were recognized by the UN Special Rapporteur on human rights defenders in her mission report from her visit to India in 2011.¹⁰
- Finally, it is crucial to initiate a dialogue with governments, relevant UN bodies, the private sector, local authorities, national human rights institutions, CSOs and academic institutions and community based organizations/women with a view to identify, promote and exchange views on best practices related to violence and discrimination against women.

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¹⁰ See selected extracts on Dalit human rights defenders from the mission report of the UN Special Rapporteur on human rights defenders (A/HRC/19/55/Add.1)

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