

References to Caste-Based Discrimination in the report of the Special Rapporteur on Violence against Women, Ms. Rashida Manjoo on her mission to India (22 April to 1 May 2013) and Bangladesh (20 May to 29 May 2013), to be presented at the 26th session of the Human Rights Council (June 2014)

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<p>Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, following her mission to India</p> <p>A/HRC/26/38/Add.1</p> <p>April 1 2014</p>	<p>I. Introduction</p> <p>5. The Special Rapporteur’s mission was underpinned by knowledge of the ongoing struggle in India for women’s rights and its present complexities. The establishment of self-governance during the colonial period was influenced by the leadership of Mahatma Gandhi, whose discourse included the need to address recurrent issues affecting women in India, such as caste-based discrimination, harmful customary and religious practices and sexual violence. The historical struggle against patriarchy was also shaped by the role of the women’s rights movements in exposing the root causes of inequality, discrimination and violence against women.</p> <p>II. Manifestations of violence against women and girls, its causes and consequences</p> <p>7. Violence against women in India is systematic and occurs in the public and private spheres. It is underpinned by the persistence of patriarchal social norms and inter- and intra-gender hierarchies. Women are discriminated against and subordinated not only on the basis of sex, but on other grounds, such as caste, class, ability, sexual orientation, tradition and other realities. That exposes many to a continuum of violence throughout the life cycle, commonly referred to as existing “from the womb to the tomb”. The manifestations of violence against women are a reflection of the structural and institutional inequality that is a reality for most women in India.</p> <p>B. Violence against women in the community</p> <p>15. Violence against various groups is also of concern. Dalit and Adivasi women and women from other scheduled castes and tribes and other “backward classes” are frequent victims of multiple and intersecting forms of discrimination, as well as violence. Caste-based discrimination, which also includes intra-caste hierarchies, continues to be pervasive and widespread. The intergenerational nature of caste-based discrimination condemns women to a life of exclusion, marginalization and disadvantage in every sphere of life. Many of those women are denied an education and economic opportunities, and perform dangerous and unprotected work, including bonded labour (debt bondage) and manual scavenging, which are both widely regarded as forms of forced labour and modern forms of slavery. Women represent the vast majority of manual scavengers in the country, and are commonly from scheduled castes and minority groups.</p>
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	<p>While legislation has been adopted to eradicate bonded labour and manual scavenging,⁸ reports and interlocutors indicate that there is a consistent failure in the implementation of such laws⁹ and a tendency to minimize the significance of the problem.</p> <p>9. Ravi S. Srivastava, “Bonded labour in India: its incidence and patterns”, International Labour Organization working paper (2005), p. 35; and International Dalit Solidarity Network, “Manual scavenging”, briefing paper (2012), p. 1.</p> <p>D. Violence against women in the transnational sphere</p> <p>28. The trafficking of women and girls from, and to, India was reported as widespread. Disadvantaged women from minority groups, scheduled castes and tribes and the “backward castes” are usually the main victims. Young unskilled women are allegedly given false work promises, resulting in forced domestic servitude in foreign countries. Women who are trafficked and forced into prostitution are left unable to defend their rights, and lack access to rehabilitation and compensation for such crimes. This lack of protection and prioritization of the problem by the State has intensified the violence perpetrated against them by criminals or those involved in trafficking practices. The complicity of State officials in human trafficking was also reported as a concern. The Immoral Traffic (Prevention) Act, 1956 and its amendments¹⁸ are reportedly more directed at safeguarding public moral than combating trafficking in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.</p> <p>III. Implications of inequality, discrimination and violence on women’s enjoyment of their human rights</p> <p>31. At the national level, laws and policies have been put in place to prevent and respond to violence against women. These include the Penal Code, the Criminal Law (Amendment) Act 2013, the Sexual Harassment of Women at Workplace (Prohibition, Prevention and Redressal) Act, 2013, the Protection of Women from Domestic Violence Act, 2005, the Indecent Representation of Women (Prohibition) Act, 1986, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Dowry Prohibition Act, 1961, the Commission of Sati (Prevention) Act, 1961, the Immoral Traffic (Prevention) Act, 1956 and the Bonded Labour System (Prohibition) Act of 1976, among others. Despite those positive developments, effective implementation of those laws and the allocation of financial resources to support their execution adequately is reportedly lacking in many instances.</p> <p>IV. Challenges in fulfilling the State’s obligation to act with due diligence to eliminate violence against women</p> <p>B. Protection</p>
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60. Although telephone hotlines are available, the police are usually the first point of contact for many women, according to reports received. Victims of violence, who require from the State special security, shelter, public housing, health care and socioeconomic protection, often face significant challenges. Many services are channelled through providers that lack sufficient resources. Numerous allegations were made of de facto **caste-based discrimination**, perpetrated by police officers, public representatives and community members, with regard to access to services.

D. Provision of effective redress, including reparations

70. With regard to systemic failures, the low rate of prosecution and conviction for acts of violence against women contributes to the lack of effective redress provided to victims. Redress begins with the filing of domestic incident reports and a First Information Report. As noted above, this is deficient in many respects. Compensation payment is dependent on the filing of a case, which is dependent on the availability of protection officers and the provision of some form of legal identification. Women belonging to marginalized groups, including irregular migrants, domestic workers, **scheduled castes** and tribes and so-called backward **castes** are often unregistered citizens, or lack identification cards. Such factors contribute to a culture of normalization of violence against women.

E. Remedies for specific groups at risk

74. The Special Rapporteur was informed that the draft Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill envisages offering protection to religious and linguistic minorities and to scheduled **castes** and tribes, while providing standards for addressing communal violence. The Bill reaffirms the importance of non-discrimination when public officials discharge their responsibilities, in particular with regard to addressing violence against religious and linguistic minorities and scheduled **castes** and tribes. However, as noted by the Committee on the Elimination of Discrimination against Women, the Bill should include, inter alia, “a comprehensive system of reparations for victims of such crimes; and gender-sensitive victim-centred procedural and evidentiary rules” (CEDAW/C/IND/CO/3, para. 25).

V. Conclusions and Recommendations

Statistics and data collection

81. The Special Rapporteur recommends that the Government: (a) Strengthen the current system hosted by the National Crime Records Bureau of the Ministry of Home Affairs for the collection and analysis of data relating to crimes against women, by disaggregating data by sex, age, **caste**, disability, religion, language and other relevant characteristics;

<p>Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, following her mission to Bangladesh</p> <p>A/HRC/26/38/Add.2</p> <p>April 1 2014</p>	<p>II. Manifestations of violence against women and girls, its causes and consequences</p> <p>B. Violence against women in the community</p> <p>16. The Special Rapporteur also received information indicating high levels of violence against women from religious and ethnic minority communities, with Dalits, Hindus and indigenous groups most at risk.¹⁵ Persecution of minorities includes rape and sexual assault of women in these communities.¹⁶ The rate of rape is higher for minority women in Bangladesh because they are considered “double infidels” for being women and also for being part of a religious minority.¹⁷ They are also commonly victims of <i>salish/fatwa</i>-related violence.</p>
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