

**JOINT SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE,
ADOPTION OF LIST OF ISSUES**

126TH SESSION, (01 to 26 July 2019)

JOINTLY SUBMITTED BY NATIONAL DALIT MOVEMENT FOR JUSTICE-NDMJ (NCDHR)
INTERNATIONAL DALIT SOLIDARITY NETWORK-IDSN

STATE PARTY: INDIA

Introduction:

National Dalit Movement for Justice (NDMJ)-NCDHR¹ & International Dalit Solidarity Network (IDSN) provide the below information to the United Nations (UN) Human Rights Committee (the Committee) ahead of the adoption of the list of issues for the 126th session for the state party - INDIA. This submission sets out some of key concerns about violations of the International Covenant on Civil and Political Rights (the Covenant) vis-à-vis the Constitution of India with regard to one of the most vulnerable communities i.e, Dalit's and Adivasis, officially termed as "Scheduled Castes" and "Scheduled Tribes"².

Prohibition of Traffic in Human Beings and Forced Labour: Article 8(3) ICCPR

Multiple studies have found that Dalits in India have a significantly increased risk of ending in modern slavery including in forced and bonded labour and child labour. In Tamil Nadu, the majority of the textile and garment workforce is women and children. Almost 60% of the Sumangali workers³ belong to the so-called 'Scheduled Castes'. Among them, women workers are about 65% mostly unskilled workers.⁴ There are

¹ National Dalit Movement for Justice-NCDHR having its presence in 22 states of India is committed to the elimination of discrimination based on work and descent (caste) and work towards protection and promotion of human rights of Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis) across India. NDMJ works towards the realization of all civil, cultural, economic, political and social human rights of Dalits and Adivasis in the country and towards holding the Indian government accountable to its national and international human rights obligations.

² Scheduled Castes and Scheduled Tribes are known to be "Untouchables" and subjected to so-called "Untouchability practices" in both public and private spheres. Due to exclusion practiced by both state and non-state actors, they have limited access to resources, services and development, keeping most Dalits and Adivasis in severe poverty. Despite constitutional safeguards and special legislation for the protection of 'Scheduled Castes', violations of their fundamental human rights continue on a massive scale. Key issues include access to justice and rising violence, multiple discrimination against Dalit women, slavery and child labour, discrimination in education, untouchability and access to basic services including humanitarian aid, social and economic rights.

³ Under Sumangali, young women are hired on contract for up to five years. During their contract they earn minimal wages and at the end are given a lump sum to pay for a dowry. Terms like 'Sumangali' and 'camp labour' are often used interchangeably when describing forced labour in the Tamil Nadu textile mills.

⁴ Documentary series of issues faced by the victims of the scheme in the form of snap shot stories, R. Karuppusamy, READ

various indications that girls under the age of 14 are recruited to work in the factories. An academic estimate says that 10 to 20% of Sumangali workers are child labourers, aged between 11 and 14. Following abuses came to light: Withholding wages and paying below minimum wage levels. Daily wages generally starts at around 60 Rupees (€0.88) per day during the first six months, with a gradual increase of 10 rupees every six months, up to a maximum of Rs. 110 on average. Costs for food and boarding, approximately 15 Rupees a day, are deducted from the daily wages.⁵ Poor living conditions in hostels lock them up in company-controlled hostels. Nearly all Dalit girl children are forced to work and face verbal and physical abuse⁶. Each dormitory is shared by an average of 12-15 girls at a time and is reused by different girls after each shift. The walls of these factories are barricaded and it is impossible for anybody without permission to enter or exit this walled complex and leave is restricted to a few days a year when the girls are allowed to visit their families.⁷ In March 2009, 24 girls working at the Sathyamangalam unit were admitted to the hospital for food poisoning. Three girls later died.⁸ Many clothing companies do not remit employers' and employees' contributions to the Employees' State Insurance (ESI) Scheme, and workers are denied the benefits of the scheme.⁹ The majority of the workers were reported on verbal abuse, shouting and verbal lashing by the employers. On a regular basis, women work 12 hours per day, to complete one and a half shifts.¹⁰ According to the AHRF study, 61% of the girls had a stressful living environment thereby experiencing a psychological tension during their period of employment in textile industries. Further, 10% of the girl labourers had skin problems. More than 1/3rd of the girls had gynecological issues and most was anemic.¹¹

A report documents¹² widespread slavery in India's brick making industry and finds that the majority of workers are Dalits. 100% of brick moulders were from a minority group; all were from traditionally

⁵ Documentary series of issues faced by the victims of the scheme in the form of snap shot stories, R. Karuppusamy, READ

⁶ Captured by Cotton, Exploited Dalit girls produce garments in India for European and US markets, SOMO - Centre for Research on Multinational Corporations ICN - India Committee of the Netherlands.

⁷ Documentary series of issues faced by the victims of the scheme in the form of snap shot stories, R. Karuppusamy, READ

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¹² <<<https://www.antislavery.org/wp-content/uploads/2017/09/Slavery-In-Indias-Brick-Kilns-The-Payment-System.pdf>>> Female workers do not receive wages, workers are hired as a family unit, and wages are exclusively paid to the male head of the household unit. 65 to 80% of children between the ages of 5 to 14 that live in the brick kilns, are working between 7-9 hours a day. Most children living at the brick kilns are not going to primary school or early childhood services. 100% of children between the ages of 14 to 18 reported working at the kiln, on average 12 hours a day in summer months and 10 hours a day during the winter months. 96% of adult males interviewed reported taking an advance (loan) before starting work in the kiln. 33% of workers reported being paid less than the minimum piece rate wage for 1000 bricks. 100% of workers had their wages withheld until the end of the brick-making season, which is approximately 8-10 months long. Workers also have other deductions taken from their wages, many of which are illegal. 84% of workers were paid a lower rate than what had been agreed/promised at the beginning of the season.

marginalised/excluded castes. Indian Railways is an institution where dry latrines exist in great numbers and a large number of Dalit individuals are engaged in manual scavenging. Despite 11 million passengers travelling by trains every day, at present there are only nine trains with 436 coaches fitted with bio-toilets, while 4,000 coaches are produced annually which could be fitted with new bio-toilets¹³. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 does not have concrete measures for rehabilitation and a clear plan for implementation. It is still not clear who will formulate the schemes and how they will be implemented¹⁴.

Recommended question: What targeted policies has the State party taken in order to address the many allegations of forced labour affecting disproportionately the Dalits and Adivasis in industries such as brick and garmet, but more specifically on manual scavenging? Has the State party produced any statistical data to assess the dimension of the resources needed to address this issue?

Right to Liberty and Security & Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment & Arbitrary Arrest/Detention- Art. 7, 9(1) ICCPR)

The National Human Rights Commission characterized law enforcement machinery as the greatest violator of Dalits' human rights. The police subject entire Dalit communities to violent search and seizure operations¹⁵. Dalits are often subjected to falsified charges¹⁶, and physical abuse and torture following arrest. Often illegally detained and held in custody for long periods of time, subjected to caste based verbal abuse and

¹³ Analysis and Recommendations in the Context of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill. Bhopal: Rashtriya Garima Abhiyan, pp. 10-11(2012).

¹⁴ Wilson, B., Safai Karamchari Andolan, quoted in Jitendra. (2013, 10 Sep). 'Manual Scavenging Prohibition Bill: How Effective', Down to Earth

¹⁵ In July, 2018 police in Ahmedabad city raided an area, home to 20,000 members of the vulnerable and marginalized Chhara Tribe, a denotified tribe. According to residents, police allegedly brutally beat up scores of people, damaged property, and filed false cases against many of them. <<<https://www.hrw.org/world-report/2019/country-chapters/india>>>

¹⁶ On 10, Feb 2019 a Dalit was on the way to meet one of his customers at Konanur, when he noticed a group of youths fighting among themselves. As he stopped his bike, two constables caught him and wanted to know where he was from. The moment he said he was from Ambedkar Colony in Konanur, they scolded him taking his caste and referred to him a cow-eater. The police took him to the police station, where he was tortured throughout the night. <<<https://www.thehindu.com/news/national/karnataka/dalit-youth-alleges-torture-at-police-station-in-arkalgud-taluk/article26518660.ece>>>

humiliation, severe beatings¹⁷ and inhuman torture¹⁸, forced bribery for their release¹⁹, sexual abuses^{20 &21}, and demeaning acts. Children are arrested on falsified charges and tortured²². Custodial torture and killing of Dalits²³, by the police are condoned, or at best ignored. Exclusion of Dalit's and Adivasis is painfully evident in matters of serving hygienic food, beddings, wages, medical attention, restrictions on visiting time, while they are inside the prisons as undertrials.²⁴

An independent report by a committee²⁵ constituted by National Commission for Scheduled Castes based on the rising number of complaints by the Kuruvan community²⁶ on Police atrocities found that even

¹⁷ In Aug 2017 few Dalit's from Rajanna Siricilla district of Telangana were arrested on the charges of burning sand-laden trucks. The police subjected Dalit's with third-degree torture – beating them indiscriminately, pouring hot water on private parts, gave electric shocks and administered sedatives and threatened to kill in encounters. <<<https://www.hindustantimes.com/india-news/telangana-alleged-torture-of-dalits-sc-sts-in-police-custody-kicks-up-political-row/story-GzalbJeKddRg1tCVVtd1ZN.html>>>

¹⁸ In July, 2017, a Dalit boy (17 yrs.) was nabbed in a false case and he was subjected to custodial torture by police officers at Pavaratty police station in Thrissur, Kerala. He committed suicide on July 18 after he was released from police custody, a day after he was allegedly nabbed in a false case. <<<https://www.thenewsminute.com/article/kerala-dalit-teen-alleged-torture-police-custody-crime-branch-submit-report-soon-69626>>>

¹⁹ December 26, 2018 a 30-year-old Dalit man, Balkishan Jatav had died in police custody in Amroha district of western UP. His family members had alleged that they had to sell their jewellery to pay the bribe demanded by policemen for Balkishan's release. <<<https://www.newsclick.in/three-custodial-deaths-three-months-best-law-and-order>>>

²⁰ In January, four Adivasi women in Dhar, Madhya Pradesh, said they had been gang-raped by police personnel. In March, Adivasi villagers in Sukma, Chhattisgarh, accused security force personnel of gang-raping a 14-year-old Adivasi girl.

²¹ In September, two paramilitary personnel were arrested on suspicion of killing a woman and raping and throwing acid on her friend in Mizoram in July. <<<https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>>>

²² A Dalit family including three small children were also stripped and put in jail for allegedly encroaching on the land of dominant castes.

<https://www.hindustantimes.com/noida/police-behaved-inhumanly-with-dalit-family-says-sc-st-panel/story-FT4K2QdCQmy9z3I7ofe2DP.html>

²³ Also in October 2015, a young Dalit boy died while in police custody, police torture is blamed. His crime, allegedly stealing two pigeons from dominant castes <https://scroll.in/article/764492/dead-over-a-stolen-pigeon-family-of-14-year-old-dalit-boy-accuses-haryana-police-of-torture>

²⁴ One Dalit, who was incarcerated at the Palayamkottai Central Jail in Thirunelveli, revealed that prisoners are beaten up for no reason by members of the jail staff who were Thevars. The food served was scarcely edible. His visiting time for relatives who came calling was curtailed. He had to work, but was not paid. Deprived of medical attention. There are eight blocks with 30-35 cells each. The fourth block, far from the main building, is for Dalits; Thevars, Nadars and Muslims are all in different blocks. While Thevar prisoners are free to use mobile phones, Dalits are not. While Thevars do not have too many restrictions on visitors, Dalits are given a separate place where officers often interfere with warnings that 'the meeting time is up. Dalit women visitors have to endure long waits, even gross insults. The exclusion of Dalits is painfully evident in matters medical. Dalits have no access to the prison hospital. If a Dalit prisoner is seriously ill, he is taken to the nearby government hospital, but not the prison hospital. Doctors visit inmates every week, but they hardly step into the blocks reserved for Dalits. <<<http://www.openthemagazine.com/article/india/caste-in-prison-stone>, Chandrashekar, chief of the Pallar Cultural Development Forum, which ran a campaign against anti-Dalit atrocities, was incarcerated at the Palayamkottai Central Jail in Thirunelveli, one of the districts worst hit by caste violence.>>

²⁵ A Study Report on Alleged cases of Police Atrocities against Kuruvan Community in the state of Tamil Nadu – 15 December 2014 to 13 January 2015.

²⁶ "Kuruvan" Community is one of the sub-castes of the scheduled caste community, who lives in Tamil Nadu, state of India. According to an estimate, "Kuruvan" population in the state is 10 lakhs. They have been notified as "Habitual Offenders" and as notified community by the British during the year 1871 and it is extended to British regime in the year 1911. These

after 6 decades of political independence in India, the community is subjected to physical torture by the Tamil Nadu police on falsified charges. The members of the community, including men, women and children, are subjected to systematic, continuing, ruthless treatment in the hands of the police. It has become handy for the police to catch hold of the "Kuravans" and foist false cases on them and kept under illegal detention and they undergone inhuman treatment and brutal forms of torture to extract "false confession statements" regarding crimes, which they had not committed.

Recommended question: Has the administration of the State party demonstrable efforts to engage with the justice system in order to address specific instances of torture and cruel, inhuman or degrading treatment against minorities such as the Dalits and the Adivasis, (training and awareness raising on the compliance with Articles 7 and 26 of the Covenant)?

Right to Life: Article 6(1) ICCPR

The caste and religious profile of individuals whose death sentences have been confirmed shows that a disproportionate section come from Dalit community and religious minority families. According to the Death Penalty India Report²⁷, NLS, 76% (279 prisoners) of prisoners sentenced to death in India belong to backward classes and religious minorities, with all 12 female prisoners belonging to backward classes and religious minorities. While the proportion of Scheduled Castes/Scheduled Tribes amongst all prisoners sentenced to death in India was 24.5%, that proportion was significantly higher in Maharashtra (50%), Karnataka (36.4%), Madhya Pradesh (36%), Bihar (31.4%) and Jharkhand (30.8%), amongst states with 10 or more prisoners sentenced to death. Of the Scheduled Castes/Scheduled Tribes prisoners, 85.4% were also economically vulnerable. For religious minorities, this proportion was 76%, compared to 64.4% for the general category. This intersectionality mirrors contemporary society, and meant that the experiences of certain categories of death row prisoners and their families were also different.

Religious minorities, for whom the all-India proportion is 20.7%, saw a disproportionate share of convicts in Gujarat, where 15 out of the 19 (79%) prisoners sentenced to death were Muslim. According to the 2011 census, 9.67% of the state is Muslim. In Kerala, 60% of death row prisoners were from religious minorities (relative to 42.25% of the population, according to the 2011 Census) – five Muslims and four Christians amongst 15 death row prisoners. Karnataka too saw a large proportion of religious minorities on death row, 31.8% of the total. This is relative to 16.01% of the state being from religious minorities.

At the lowest rung, i.e. High Court pending cases, the social profile of prisoners sentenced to death

Acts gave sweeping powers to the local governments to recommend that certain "tribes, gangs, or classes" be declared as being "addicted to the systematic commission of non-bailable offences". Although the Criminal Tribes Act was repealed across India in 1952, these communities continue to carry with them the stigma of criminality. They are mainly engaged in making bamboo baskets and coir products, pig rearing and other menial work. In search of their livelihood they also migrate from one place to the other.

²⁷ Death Penalty India Report, NLS.

more or less reflects the overall national figures. However, as we move up the hierarchy of the legal process, we see the proportion of general category prisoners falling and the proportion of SC/ STs and religious minorities increasing.

In death penalty cases pending in the Supreme Court, the proportion of general category is 15.7% while it is 26.7% in the High Court pending cases. The proportion of SC/STs rose to 27.5% in the category of Supreme Court pending cases from 20.7% at the High Court pending stage. The proportion of SC/STs further increased to 42% at the mercy stage. Religious minorities comprised 19.6% of the cases at the High Court pending stage but their proportion increased to 29.4% at the Supreme Court pending stage. The proportion of the general category at the mercy stage is 18%, which is the same as the proportion of religious minorities.

The Thoothukudi massacre or Sterlite Protest Firing took place on 22 May 2018 in Thoothukudi district, Tamil Nadu, India, when Tamil Nadu Police officers, some in civilian attire, fired into a unarmed protest of 20,000 people. The crowd marched towards the district collector's office. The protest was against the Sterlite Copper factory, which is believed to cause environmental pollution. The police resorted to lathi charges against the protesters, some of whom allegedly started throwing stones at the collectorate. Non-uniformed police started to shoot at the unarmed protesters using assault rifles, and police opened fire from over the top of Vehicles using SLR Rifles. Thirteen protesters were killed including a 17-year old school student, and dozens were injured.

Recommended question: To what reasons does the State party attribute the disproportional application of death sentencing by the Judiciary of minorities, such as Muslims, Dalits and Adivasis?

Right to Freedom of Expression and Assemble peaceably: Art. 19(1), (2) & Art. 21 ICCPR

In India, HRDs advocating against caste-based discrimination and violence against Scheduled Castes and Scheduled Tribes are at ongoing risk of attack²⁸ for defending the rights of Dalit and Adivasi communities. They are often charged of abetment, criminal conspiracy, promoting enmity between religious groups, imputations prejudicial to national interests²⁹, false charges of offence^{30&31}, threat to public servants, statements conducting

²⁸ This includes assaults in public places, torture, illegal detention, harassment, forced disappearances, extra-judicial killings, illegal imprisonment, surveillance, targeting of family members, branding as Naxalites and anti-nationals and implication in false cases.

²⁹ <https://timesofindia.indiatimes.com/city/meerut/fresh-nsa-charges-on-bhim-army-chief/articleshow/64006187.cms>

³⁰ <https://scroll.in/latest/863890/maharashtra-dalit-activists-claim-youth-leader-arrested-on-false-charges-in-nanded>

³¹ Mr. Ajinath Anand Raut, an activist from Usmanabad, Maharashtra works for the rights of Charmakar (SC) community in his area. Since he is questioning the discrimination being faced by the community, some of the dominant caste community trapped him in false offences of outraging modesty and Rape. He was beaten brutally several times, his shoe weaving shop was set on fire and was threatened to leave his village. Though he has given several complaints to the police officials against the culprits but in vein.

to public mischief, criminal intimidation under the Indian Penal Code. They face a diverse range of attacks and harassment from state and non-state actors based on their caste alike, killing, physical assault³², arbitrary detention³³, threats, judicial harassment. Police officials are often the perpetrators of violence against HRDs, which is usually carried out with impunity³⁴. Private companies also target them for work related to economic development projects and their impact on the local communities or the environment³⁵.

Participating in public assembly³⁶, protesting peaceful^{37&38} and taking action collectively are important means to fight injustice and demand human rights. HRDs working in this context face a higher level of threat, both as organizers or participants including unnecessary and excessive use of force resulting in killings.³⁹ They are increasingly the targets of online hate campaigns by fundamentalist's groups.⁴⁰

Targeting journalists under sections 499 and 500 of the IPC, for defamation and for writings on Dalit issues⁴¹ and covering Dalit atrocities.⁴² Sedition charges⁴³ under IPC Section 124(A) have also been used to target freedom of expression and dissent⁴⁴.

The FCRA, 2010 regulates foreign funding for civil society organizations and has been used to reject license renewal applications from rights-based advocacy groups that questioned governmental policies.

In specific woman HRDs are often targeted with gender-specific threats by the dominant caste and police⁴⁵. There are no specific mechanisms ensured for their protection. Also those engaged against illegal land encroachments, illegal prostitution and against drug mafias, on denouncing development projects that

³² <https://www.patrika.com/jaunpur-news/attack-on-advocate-lal-chand-in-jaunpur-1-2239991/>

³³ <https://newslick.in/dalits-mp-and-rajasthan-still-remain-police-custody-bharat-bandh-protests>

³⁴ <https://idsn.org/urgent-appeal-dalit-activists-brutally-assaulted-arrested-detained-police/>

³⁵ <http://www.timesnownews.com/india/article/anti-sterlite-protests-haunting-pictures-that-define-the-horror-faced-by-tuticorin-residents-see-here/231597>

³⁶ <https://www.aljazeera.com/news/2018/01/concerns-illegal-detention-indian-dalits-180110152033805.html>

³⁷ On 02.04.18, 5 Dalit activists from NDMJ, from East Champaran, Bihar were assaulted physically by non Dalit's, when they were participating in a peaceful protest organized near Gandhi Ghawk, East Champaran, Bihar against a regressive ruling of Supreme Court diluting the spirit of SCs & STs (PoA) Act 1989. Though the FIR on behalf of Dalit HRDs has been registered same day, a false case has also been registered against the 5 HRDs.

³⁸ http://www.annihilatecaste.in/uploads/downloads/doc_180518034312_232540.pdf

³⁹ <https://www.ndtv.com/india-news/release-report-on-killing-of-dalits-in-2012-police-firing-information-commission-to-government-1455335>

⁴⁰ <https://sabrangindia.in/article/did-anti-dalit-whatsapp-messages-shared-among-savarnas-trigger-violence-during-bharat-bandh>

⁴¹ <https://www.thenewsminute.com/article/how-dalit-writer-tamil-nadu-being-ostracized-writing-against-caste-atrocities-36916>

⁴² <https://www.thequint.com/news/india/journalists-covering-dalit-protests-arrested-by-kerala-police> <https://www.thequint.com/news/india/journalists-covering-dalit-protests-arrested-by-kerala->

⁴³ <https://www.financialexpress.com/india-news/15-dalit-protesters-booked-on-sedition-charges-in-karnal/720976/>

⁴⁴ <https://thewire.in/caste/lucknow-press-club-dalit-protest>

⁴⁵ A false case was registered against one of the NDMJ activist Ramatai Ahire at Mumbai, Chembur Police Station, Maharashtra for raising voice and taking action against the illegal prostitution, illegal liquor and drugs business run by a local mafia.

threaten livelihoods of marginalized communities, Right to Information activists, HRDs working on the implementation of the legislations and policies⁴⁶, defenders working on women's and child rights, defenders seeking accountability for communal programs⁴⁷, those engaged in disaster and humanitarian work and working in conflict affected areas are often targeted.

Recommended questions:

Does the State party envisage any specific policy in order to tackle the incidents of disproportional violence against protests involving rights of Dalits and Adivasis?

What general measures has the State party taken to promote an enabling environment for civil society and the enjoyment of Articles 19 and 21 of the ICCPR, as whole?

Right to Speedy Trial: Article 9(3) ICCPR

While the reporting of crime against Dalits and Adivasis has risen over the decade, there has not been an equivalent rise in the rate of disposal of cases by the police and courts under one of the protective laws for Dalit's and Adivasis i.e, Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act 1989 and Rules 1995 as amended in 2016. As many as 422,799 crimes against Dalits or Scheduled castes (SCs) and 81,332 crimes against adivasis were reported between 2006 and 2016. The highest increases in crimes were recorded in eight states Goa, Kerala, Delhi, Gujarat, Bihar, Maharashtra, Jharkhand and Sikkim where rates rose over 10 times. Meanwhile 81,322 crimes against adivasis have been reported from 2006 to 2016, with the highest increases in crime rates recorded in Kerala, Karnataka and Bihar.

Cases of crimes against Scheduled Castes pending police investigation have nearly doubled (99%), from 8,380 cases in 2006 to 16,654 cases in 2016. In the case of crime against Scheduled Tribes, pendency of investigation has risen 55% from 1,679 cases in 2006 to 2,602 cases by the end of 2016.

In courts, crimes against Scheduled Castes pending trial have risen by 50% over the decade from 85,264 to 129,831 as of 2016. In 2016 alone, 40,801 new crimes against Dalit's were registered under the Prevention of Atrocities Act and less than 15,000 cases completed trial that year. The number of trials completed in court has dropped by 28% from 20,495 in 2006 to 14,615 in 2016. For Scheduled Tribes, trials completed in a year has nearly halved (by 49%) since 2006 from 2,895 to 4,317 in 2016. While those pending trial has risen by 28%.

Conviction rate remains less than 30% over a decade. Among the crimes that do get disposed of in court, about a quarter lead to convictions in crimes against Dalits. As of 2016, this conviction rate calculated by

⁴⁶ One of the activists of NDMJ, Rameshwar Paswan went for a Fact Finding in a case of land dispute in Aurangabad, Bihar in the month of April, 2018 . Immediately after the Fact Finding the HRD started supporting victims helped them in registering the FIR. But same day the perpetrators registered a Counter case against the HRD.

⁴⁷ <http://www.thehindu.com/news/cities/Kochi/caste-wall-row-escalates-police-arrest-dalit-activists/article22487114.ece>

dividing the number of convictions in a year by number of cases completing trial in a year stood at 26%, a 2 % point decline from the rate a decade ago (28%). Accused persons in the rest 74% of cases completing trial in 2016 were acquitted, which again is a rise from 2006 when 72% of cases led to acquittals.

The conviction rate in cases of crime against Scheduled Tribes, at 21% in 2016, is even worse, showing a 7-percentage-point decline from 2006 (28%) with the rest 79% acquitted.

Recommended question: Could the State party explain the discrepancy between the rise of crimes against Scheduled Castes and the low rates of conviction of these crimes, despite the enactment of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act 1989?

Right to Human Dignity and Equal Protection before Law: Article 10(1) & Article 26 ICCPR

As many as 422,799 crimes against Dalits and 81,332 crimes against Adivasis were reported between 2006 and 2016⁴⁸. Over the decade to 2016, crime rate against Dalit's rose by 25%; from 16.3 crimes per 100,000 Dalits reported in 2006, to 20.3 crimes in 2016. Cases pending police investigation for both marginalised groups has risen by 99% and 55% respectively, while the pendency in courts has risen by 50% and 28%, respectively. The conviction rates for crime against SCs and STs have fallen by 2% points and 7% points, respectively, to 26% and 21%, from 2006 to 2016.

The recent gruesome report of the beheading of a Dalit minor girl in Tamil Nadu⁴⁹ for rejecting the advances of an upper caste male once again throws the issue of caste discrimination into sharp focus. Women from Scheduled Castes (SCs) and Scheduled Tribes (STs) are particularly vulnerable to discrimination and violence due to the intersection of caste and gender. In 2016, nearly 16% of the total atrocities against SCs constituted offences against SC women. This figure was double, almost 30%, with respect to ST women. Of the four Southern States, the proportion of crimes against SC (29.8%) and ST (60.9%) women in the overall crimes was highest in Kerala, against the national average of 15.9% and 41.7% respectively. The proportion of offences against ST women is half the total number of offences in Kerala which has consistently recorded extremely high incidence of crimes against ST women, in keeping with the overall large number of offences against STs. Tamil Nadu has reported the lowest proportion of offences against SC and ST women, between 5-8% among the four States between 2014 and 2016. While Andhra Pradesh also reported similar numbers as Tamil Nadu in 2014 and 2015, the crimes against SC (19%) and ST (20.4%) women as a proportion of overall crimes spiked in 2016. If we consider the registered cases of rape alone, out of a total of 36,657 registered offences of rape committed against women in 2016 and registered under the IPC, 2,536 registered cases of rape were committed against SC

⁴⁸ National Crime Record Bureau, Crime in India Reports from 2006 to 2016

⁴⁹ <https://thewire.in/caste/tamil-nadu-dalit-girl-beheaded>

women (6.9%) and 972 registered cases of rape were committed against ST women (2.6%). Kerala has consistently recorded the highest number of registered cases of rape against ST women, clocking crime rates of 8.7, 9.7 and 9.7 in 2014, 2015 and 2016 respectively. Tamil Nadu, on the other hand, has recorded, with a total of 319 registered cases of rape against women in 2016, of which 40 cases were offences of rape committed against SC women and 1 case of rape against an ST woman.

Caste inspired violence against Dalits and Adivasis has become increasingly common across India over the last few years and the audacity with which they are conducted suggests a complete absence of fear of consequences. These crimes range from lynching and mob violence to violence inflicted by vigilantes, sexual assault and even outright murder. Dalits and Adivasis have borne the brunt of a large chunk of this violence. The trigger is either the suspected consumption of beef or even the whiff of an interfaith or inter-caste relationship, alleged theft, or alleging petty offences. A 22-year-old Khetaram was beaten to death by a mob for allegedly having an affair with a Muslim woman in Rajasthan's Barmer. The victim succumbed to severe injuries⁵⁰. In another incident from Gujarat a Dalit man is bound by his waist with a rope looped through the handlebar of a door. Its other end is held by one of his four attackers. He howls in pain to death as two men take turns to whip him with a PVC stick⁵¹. A Dalit youth was lynched allegedly by the father and uncle of an 'upper caste' girl who he was having an affair with, in Buddayapalli village of Khajipet Mandal, Kadapa district of Andhra Pradesh.⁵² Madhu, a 30-year-old tribal man from Kerala's Attappadi region collapsed and died inside a police jeep as he was being taken to a Government Tribal Specialty Hospital at Kottathara. In Kerala, a Adivasi, Mr. Madhu had been lynched by an irate mob that had attacked him, accusing him of theft. What has shocked Kerala are photographs that emerged on social media, which were reportedly taken just before Madhu was attacked with sticks by the mob. One of the pictures show a frail man (Madhu) who is tied up using a lungi, his shirt torn. Another man is seen talking to Madhu as they stand against a rock. Unperturbed by whatever is happening, a third young man who has clicked the selfie photograph can be seen smiling at the camera⁵³.

Recommended Question: Does the State party perceive the alarming rates of violence, including sexual violence, against women belonging to minorities such as Dalits and Adivasis as a challenge in the implementation of Articles 10.1 and 26 ICCPR? If so, has the State party put in place any strategy or plan in order to reduce these rates, and also addressing the feeling of impunity in such cases?

Right to equality of opportunity in matters of public employment- ICCPR Art. 25(c) ICCPR

⁵⁰ <https://www.hindustantimes.com/jaipur/dalit-man-beaten-up-to-death-in-barmer-allegedly-over-affair/story-MgXRQdEAhZZ8VsXSEuTs4O.html>

⁵¹ <https://www.indiatoday.in/india/story/dalit-man-lynched-in-gujarat-how-india-is-grappling-with-epidemic-of-violence-1238355-2018-05-21>

⁵² <http://www.india.com/news/india/dalit-youth-lynched-for-having-an-affair-with-upper-caste-girl-2944505/>

⁵³ <https://www.thenewsminute.com/article/adivasi-man-beaten-death-kerala-selfie-taken-moments-he-died-angers-public-76887>

There is no gender-disaggregated data available to indicate the representation of SC women in government services in either central or state government posts. As on 01.01.2011, SCs were congregated in the lower classes of central government employment – 23.0% in Class D jobs (mostly sweepers) as compared with 11.5% in Class A jobs. In other words, a strongly skewed hierarchy in government employment exists wherein Dalits continue to congregate at the bottom of government jobs⁵⁴. In 2010, SC representation in government services in the states/UTs presented a similar pattern of high representation in Group D jobs. This was as high as over 30% representation in Group D jobs in states like Punjab and Andhra Pradesh. The highest Group A job representation for SCs was in Uttarakhand (23%) and Karnataka (18.6%). (National Commission for SCs. (2012). 'SCs in Services in States/UTs (2010)', *Anusuchit Jati Vani* 1(1). Despite a special recruitment drive in place since 2008, by March 2012, various government departments and state-run undertakings could fill only 17,898 of the 30,968 identified vacancies in the promotion quota, indicating a success rate of only 57.8 percent. The situation was nearly similar in direct recruitment at 59.2%, with the various government departments giving jobs to 27,540 SCs, STs and OBCs as against the identified backlog vacancies of 46,552 posts. The collective success rate was only 58.6 percent over the three-and-a-half year period⁵⁵. At the very top level of government bureaucracy, out of a total of 149 secretary-level officers, there were no SC officers as of March 2011. At the next rung of additional secretary, out of 108 officers, there is just one SC. Further down, out of 477 joint secretaries, 31 were SCs (6.5%), and out of 590 directors, 17 were SCs (2.9%)⁵⁶. In the most sought after civil services, IAS, IPS and IFS, the proportion of SC officers was below the mandated quotas. Out of 3,251 directly recruited IAS officers, SC officers made up only 13.9 percent. (Reply of Minister of State in the Prime Minister's Office, V. Narayanasamy to the Rajya Sabha question no. 3040, answered on 20-11-2012).

Despite no visible change in their social or economic status as a result of conversion, Dalit Christians and Dalit Muslims are deprived of the benefits of reservation, support and development schemes formulated for their counterparts in Hindu, Sikh and Buddhist religions. This amounts to discrimination by the state on the ground of religion⁵⁷.

As far as the social representation in Judiciary is concerned again there has been a serious criticism on the representation of Schedule Castes and Scheduled Tribes in the ranks of the Higher Judiciary. In India, the representation of socially marginalized groups in both the higher and the lower judiciary remains dismal. Only about 10% of the judges in the high court are women. The percentage of women judges in the lower judiciary is

⁵⁴ Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Prime Minister's Office, Mr V. Narayanasamy. Reply to Lok Sabha Unstarred Question no. 1979, answered on 05.12.2012.

⁵⁵ Department of Personnel & Training. (2012). Note from the Department of Personnel & Training to the Cabinet, quoted in Ranjan, A. (2012, 14 Dec.). 'No SC, ST, OBC Candidates for 40 pc 'Backlog Vacancies'', The Indian Express.

⁵⁶ Reply of Minister of State in the Prime Minister's Office, V. Narayanasamy to the Rajya Sabha question no. 3040, answered on 20-11-2012.

⁵⁷ (Mishra, Ranganath. (2007). Report of the National Commission for Religious and Linguistic Minorities. New Delhi: Ministry of Minority Affairs, Government of India, p.142)

pegged at 27%. When it comes to caste representation, the numbers fall more drastically. It is estimated that other backward classes constitute just 12% of the lower judiciary, which is significantly lesser than their actual population share estimated to be close to 40%. Dalits constitute 14%, which is a bit lesser than their population share of 16.6% as per the 2011 Census. Only judges belonging to the Scheduled Tribes constitute 12% of the lower judiciary figure, which is higher than their estimated population share of 8.6%⁵⁸.

Recommended Questions: What are the main reasons for the concentration of Dalits and Adivasis at the bottom public posts, despite the State party's long-running reservation schemes? Could the State party explain how gender is dealt with in those reservation schemes?

Protection of rights of minorities: Art. 27 ICCPR

In addition to physical violence, Dalit Christians face structural violence in the form of denial of affirmative action and the institution of Freedom of Religion laws. Both violate the spirit of Article 25 of the Indian Constitution, which provides that "all persons are equally entitled to freedom of conscience and the right freely to profess, practice, and propagate religion." This also has resonance International Covenant on Civil and Political Rights (ICCPR) which provides for the "right to freedom of thought, conscience and religion," which includes the freedom "to adopt a religion or belief of his choice, and freedom ... to manifest his religion or belief in worship, observance, practice, and teaching."

The most persistent form of structural violence is the denial of rights and protections afforded to Dalit Christians, who constitute an estimated 70 percent of India's Christian population. Dalit Christians (as well as Dalit Muslims) are excluded from receiving the benefits of affirmative action from the government in the form of reserved seats in government education and employment. Further, they do not come under the protection of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989, which provides greater protection and access to justice for caste-based discrimination and violence. According to the Constitution (Scheduled Castes) Order, 1950, only Hindus would be considered as Scheduled Castes and could avail of these benefits. However, smaller-sized minorities such as Sikhs and Buddhists were included in 1956 and 1990, respectively. Muslims and Christians are the two major religious minorities who are denied these benefits.

The claim — regarding a better economic and social situation on conversion — has been consistently proven to be false by several government commissions, such as the Mandal Commission in 1980, the Sachar Commission in 2006, and most recently by the National Commission for Minorities in 2008. The Sachar Commission report stated that "by all available evidence we do find the caste system to be an all-pervading

⁵⁸ <https://thewire.in/law/annual-diversity-statistics-judiciary>

social phenomenon of India shared by almost all Indian communities irrespective of religious persuasions.” Even upon conversion to Christianity, Dalit Christians continue to face discrimination similar to other Dalits, including being prevented from using upper-caste streets, sharing sources of drinking water and other public resources, and being made to walk around with brooms tied to their waists. A recent report by the Institute for Dalit Studies⁵⁹ concluded that “discrimination, violence and atrocities being committed on Dalit Christians are mostly on caste lines and its nature and forms are same as that of the offences and atrocities” against other Dalits.

Recommended Question: Could the State Party bring forward reasons for the exclusion (by law or de facto) of Dalit Christians from the several special temporary measures implemented in the country?

59

https://www.academia.edu/6819127/Dalit_Christians_in_India_Discrimination_Development_Deficit_and_the_Question_for_Group-Specific_Policies