

# Preliminary Report: National Tribunal - Violence Against Dalit Women

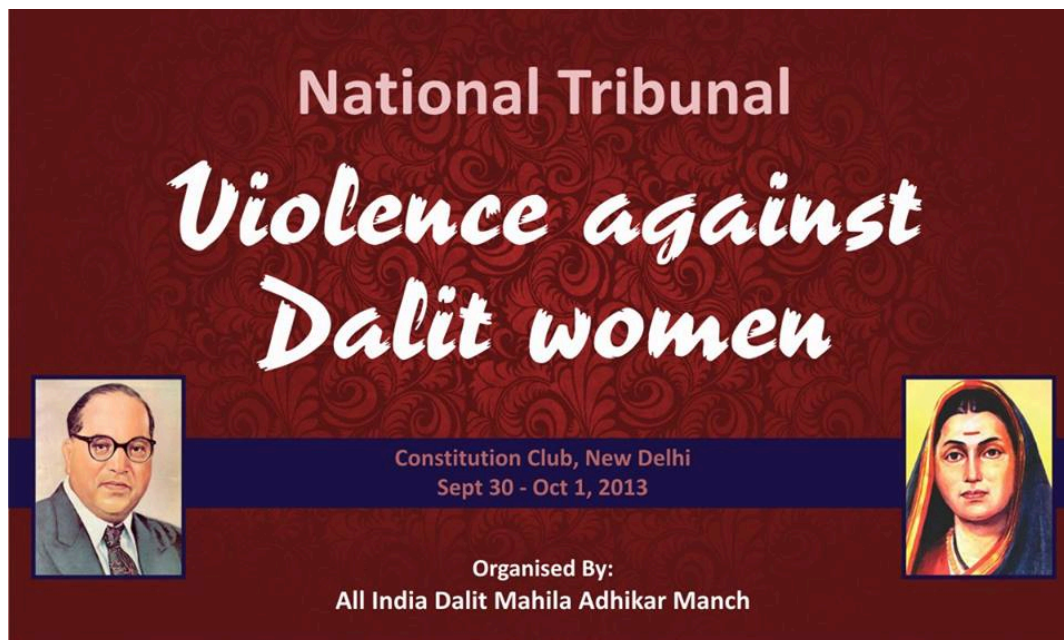
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## National Tribunal – Violence Against Dalit Women

### Introduction

*"Hindu Society as such does not exist. It is only a collection of castes. Each caste is conscious of its existence. Its survival is the be-all and end-all of its existence."* **Babasaheb Ambedkar**, *Annihilation of Caste*, 1937.

A caste society is inherently violent in nature and this violence is most brutal and horrific towards Dalit women. However, debates on gender and violence in India have always located the privileged, upper caste women as its central subject. In such a scenario, the systematic, systemic and unrelenting violence against Dalit women is seldom highlighted in most mainstream discourses. More importantly violence against women is often seen in terms of patriarchy alone as though our society is homogeneous for all women, with all of them having similar privileges and vulnerabilities. This is a blatantly false and extremely problematic discourse in a caste society. Here, the intersectionality of gender, caste and class, which is so important to understand the violence against Dalit women, goes totally unseen. In fact, the prevailing structure of caste and the secondary status of women in society are largely responsible for the violation of the human rights of Dalit women. To understand the root cause of this situation, it is essential to examine the basic factors that contribute to their vulnerability, in other words, we need to analyse how patriarchy feeds from caste and vice-versa.



The human rights of Dalit women are violated in peculiar and extreme forms. Strip-ping, naked parading, caste abuses, pulling out nails and hair, sexual slavery & bondage are some of the few forms that are often employed in the violence against Dalit women. Further Dalit women have been subjected to various kinds of sexual violence such as 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 4 Dalit women are raped every day in India. We are convinced that this is a grossly under reported figure since hundreds of cases of rape of Dalit women are not even registered. The truth is that the question of conviction is a distant dream for many.

The nature of the violence against Dalit women is different from that against any other category of women. In comparison to other women, Dalit women find themselves in economically, socially and culturally vulnerable locations. This works to aggravate the impunity with which violence is inflicted on them. Often it is their very workplace and their resistance to its casteist structures that trigger violence. In fact, in the case of the Dalit women, violence is almost always associated to their caste positions and deeply connected to their behaviour within it. Often it is their resistance to or interrogation of caste hegemony that brings forth the violence. This violence is not only meant to control them as women, but is also used to strictly maintain the caste structure. Therefore, we see that Dalit women are verbally abused in extremely casteist terms even as they are beaten, stripped and sexually assaulted. Many Dalit women painfully hold that it is better to be beaten physically than to be abused in a way that kills the soul and strips her of human dignity, a situation, which they feel, is equiva-

lent to death.

In short, violence, which serves as a crucial social mechanism to maintain Dalit women's subordinate position in society, is the core outcome of caste-based inequalities that are then further intensified by their gendered locations. In fact, the experiences of Dalit women have clearly confirmed that there is a system-wide failure. All institutions meant to serve and protect them are either antagonistic or dysfunctional.

## Background

**All India Dalit Mahila Adhikar Manch | AIDMAM |** seeks to organize Dalit women with an objective of creating a just society in which she can live a life of freedom and dignity. Working closely with various associates including individuals and groups at the village and district level, AIDMAM comes face to face with the lived realities of Dalit women victims and survivors of violence. Scores of them have lost their lives, but continue to stoke the flames of resistance amongst the defenders and rights activists. Others who continue with their scarred bodies and souls never fail to inspire and are the very reason why AIDMAM moves ahead to identify new women leaders from the community to collectively move forward.

AIDMAM has often used the theme of '*Silence to Assertion | Victimhood to Power*' to symbolize both the individual and collective strength of Dalit women resistance and battles. The experience of AIDMAM working with Dalit women survivors of violence has repeatedly brought us in confrontation with a system that wilfully denies justice and a State that fails to protect and give us the basic right to life.

Working with Dalit women elected representatives in Panchayati Raj, brought us closer to the realities of aspirations and dreams marred with violent attacks. Playing the role of building blocks in a democracy that despises us, abuses us and claims to promote political participation – has remained nothing but a mockery to us.

Working with victims of heinous crimes like gang-rapes and murders, brought each of us at AIDMAM, closer to the pain and the horror of extreme suffering. The cases we were dealing with did not remain as mere case studies. Each one of them left an impact. The impact ranges from one of sheer helplessness to greater determination to put an end to this unjust system that perpetuates poverty, violence and hatred.

Working with law enforcement agencies, the judicial system and the National Hu-

man Rights Institutions brought us closer to experience the callous attitude and apathy of a system reeking with casteist and patriarchal institutions. Every step of the way, severe blockades was placed. Overcoming each one has been a challenge and demanding accountability a never ending struggle.

Now, we have reached a crossroad and we realize that there is an urgent need to take stock of the grim situation and collectively work towards a way forward. Drawing inspiration from the words of Dr. B.R Ambedkar, *"we need to find ways to put an end to these contradictions in our lives and build a life of freedom and dignity for ourselves and our community. Each small step is critical in the long journey towards a society that is free from exploitation and violence based on caste and gender"*.

A two day event is planned in Delhi on September 30 and October 1st 2013 is one small step in the long and arduous journey of Dalit women reclaiming their rights. The programme was held at Constitution Club, Rafi Marg, and New Delhi.



## Background of the cases

When AIDMAM decided to do the *National Tribunal - Violence against Dalit Women* the underlying idea was to bring together at national level, the testimonies of systemic failure of justice & legal mechanisms and hence seek a parallel course of justice for the victims of violence. The National Tribunal witnessed 45 testimonies of. These cases were divided into different categories of crimes such as discrimination,

kidnapping, murder, physical assault, sexual assault, sexual violence and murder, trafficking and witch craft.

When we started receiving the cases it was a disheartening reality that the maximum numbers of cases were of sexual violence against Dalit women. Out of 45 cases there were 17 cases of sexual violence alone. The maximum number of sexual violence cases came from Haryana followed by Rajasthan and Uttar Pradesh. There were 4 cases of sexual violence along with murder and eight cases of brutal murder of Dalit women.

Various Dalit women campaigns across the country are regularly monitoring the cases of sexual violence against Dalit women, but unfortunately they always hit a dead end; the dominant caste threats, the inadequacy of the law enforcement agencies and the collusion between the two leaves no hope of justice.

Dalit women are faced by several crippling factors and interplay of caste and gender. Lack of knowledge, ignorance, poverty and illiteracy only further exacerbate her situation in a society that is ridden by patriarchal and casteist mindsets.

There were also some cases of discrimination faced by the Dalit women elected representatives. Gruesome acts of violence, prevention of franchise and nominations for elections, discrimination in office, false allegations etc. are only the tip of the iceberg of violations for most Dalit women elected representatives in Panchayat positions. The power of being an elected representative often renders her powerless and insecure, as the backlash violence due to her assertion is severe. This combined with the systemic caste and patriarchal discrimination causes acute barriers to her journey as a leader of her community and her constituency. Dalit women face severe barriers in accessing their rights. The impunity of the State is exposed in all the cases heard in the National Tribunal. There is a deafening silence from all the State and non-State actors on Violence against Dalit women. The maximum that has been achieved so far is compensation and that too is often given after a lot of pressure, demand and advocacy. Even after this most of them are not arrested and also absence of proper mechanisms for the rehabilitation of any of the survivors of violence.

### **Observations of the Jury**

This tribunal made it very clear that Dalit women are facing various kinds of extremely brutal violence and that what was represented before the jury today was only



the sexual assault on Dalit women is extremely heinous in nature and is often undertaken by dominant caste male collectives, in an extremely punitive manner and with total impunity.

We also see that in the case of violence against Dalit women, there is a collusion between the police, the medical officer, the investigative officer and all concerned authorities, which works to protect the perpetrators of the crime. Often these authorities belong to the same community as the criminals, and are also equally and violently prejudiced against Dalit women. So they harass and intimidate her in such a way that her attempt towards obtaining protection and justice is made extremely difficult. Moreover, the very same authorities that are meant to protect her, heap further violence on her, making her position even more vulnerable.

In the light of this, what is remarkable is the spirit of resistance, resilience and the undying quest for human dignity and equality that propel many Dalit women and their families to go through various hurdles in fighting their cases - even after having encountered extreme violence. The role of the Dalit woman's families (including male members) and the role of Dalit Woman Human rights defenders, in supporting their causes, is also extremely commendable.

*The Jury further observed that there were a few major issues that were coming up again and*

*again in most of the cases.*

### **1. The failure of the existing SC/ST Prevention of Atrocity Act**

In all cases even though there were strict provisions within the existing SC/ST (POA), none of them were employed or implemented towards protecting Dalit women. Even in cases that involved caste abuse along with brutal rape, the SC/ST (POA) atrocity act was not employed by the police and the judiciary. Often it was after days of protest and resistance that most of these cases were brought under the purview of the prevention of SC/ST (POA) atrocity acts. Even then the accused were not brought to justice. So in spite of the powerful provisions in this act, none of them are actually employed towards aiding Dalit women.

### **2. The failure of the various National commissions in protecting the basic human rights of Dalit women**

Similarly National Commissions which have been set up to specifically safeguard the rights of the marginalized in our society, have failed miserably in performing their responsibilities. Often, they are under various political and local pressures and are rendered useless. Even when they make recommendations, they are neither taken up nor implemented by the concerned parties. In short, the Commissions have not been able to play the important and powerful role envisaged for them. They have neither been able to withstand political pressure or work as a monitoring and guiding authority, nor have they been able to oppose the malpractices of the State, the police and the judiciary.

Moreover, it is important to recognize that Dalit women do not find a central position in both the SC/ST commission (which is in adept to address their gendered status ) and in the Women's commission (which is not capable of addressing issues of caste). Often their issues are shunted from one commission to the other and they do not find a specific space in both, given the intersectional nature of the violence against them.

### **3. The complete failure and absolute corruption of the existing criminal justice system**

The police and the judiciary are supposed to safeguard vulnerable communities, and especially the Dalit women, not only by punishing those who commit violence against them but also by preventing any kind of violence towards them. However, in

the light of the cases that were brought before the tribunal today, what is absolutely clear is that the criminal justice system has failed completely in fulfilling their assigned roles. In fact, they have become one of the most hated structures through which violence against Dalit women is being perpetuated today.

In most cases, the police totally ignore the desperate pleas of the women and families who approach them to prevent atrocities, or to frame the criminals involved in them. They are asked to go back, compromise, come up with a settlement outside the police station, and they are dissuaded from using the law towards their own protection and towards obtaining justice. Dalit women and their families are sent from station to station, citing various reasons, and they are not even allowed to register their cases. Often precious time is lost in such bureaucratic delays, which are deliberately done to protect the criminals and deny justice to the women.

More importantly, FIRs are wrongly written, tampered with, the names of the accused are often left out from the FIRs, women who have just been violated are made to give statements and these statements are then changed or falsely recorded. Often the police not only take money from the perpetrators but also work according to the bidding of the powerful who are behind the criminals. The police and all the officers at the Panchayath and the municipality, including government health professionals work in collusion towards providing protection to the criminals than to the Dalit women. Often many of them are from the same communities of men who have violated the Dalit women and all of them stand together to protect their caste member.

In fact, in anticipation of resistance from Dalit communities there seems to be a kind of unwritten understanding among the dominant communities to protect the criminals who are violating Dalit women. The police are fully in support of such moves and instead of safeguarding the rights of the assaulted Dalit women, they are busy helping those who have committed unthinkable atrocities against her. For this they not only tamper with evidence, but as seen in some cases, they are also employed by State Governments to suppress spontaneous and peaceful protests against the violence on Dalit women.

## **5. The collusion of the Government Health care institutions in protecting criminals.**

We also saw how government health professionals such as doctors and other certifying officers, have colluded with the police and the criminals towards tampering with



medical evidence. This is used to justice to the Dalit women, to deny medical services and to intimidate Dalit women with false evidences. Often it is such false certification provided by Government health professionals that are used to prove that there has been no assault on a woman. Even minors and corpses of Dalit women who have been gang-raped and murdered are submitted to the 'two-finger test' (often repeatedly) with which the victims are declared as being "habituated to sexual intercourse." This is then used to prove that they have not been raped or assaulted!

**6. Awareness of new legislations** that are now in place such as The Prevention of Child Sexual offenses Act, 2012 and the Criminal Law Ordinance of 2013 should be urgently used along with SC/ST (POA) Act so as to ensure quality justice to the victims of sexual violence.

7. It is important issue that we recognize that the violence against Dalit women is not confined to women from marginal and lower class locations. Even Dalit women who have become sarpanchs and who then use their office to transform society, is increasingly attacked and violated.

8. Similarly we can also see that there is an increase in the backlash violence against Dalit women human rights defenders. Many of them work in extremely undesirable situations, encountering multiple levels of corruption and crime and often they are attacked and assaulted for bringing to light the violences against Dalit women.

9. Last but not the least; it is very clear that most political parties and State governments do not have a clear understanding of the issues that plague Dalit women. They have not yet taken cognisance of the fact that atrocities against Dalit women are happening daily and that something urgent has to be done to prevent them. In fact, many State governments are colluding with criminals and are helping to perpetuate the cycle of violence against Dalit women. The mainstream media, various academic and intellectual institutions and even feminist discourses are all silent about the extreme violence that is a part of the Dalit woman's life today. Given this, most State governments do not feel pressurized to envisage any program or scheme towards preventing violence against Dalit women. None of them have any comprehensive policy or agenda towards helping them. Even those provisions that already exist are not being put to use. In short, it is absolutely true that there is no political will today, in this country, to provide even minimal justice to Dalit women. Even officials who are employed in schemes like NREGA, which is meant for marginalized women, are violent-

ly assaulting Dalit women at their workplace. In short, though there is so much talk about gender and violence today, this does not automatically extend to Dalit women who are left to suffer and resist alone, often in unthinkably difficult situations.

## **Recommendations**

### **SC Commission**

1. The N/SHRIs can play a major role by strictly recommending filing cases under SC/ST (POA) Act, 1989 and monitoring cases filed under the SC/ST POA Act by ensuring all the provisions and Rules are adhered fully.
2. The National SC commission can suspend SP/DSP in cases that show a clear violation of the rights of Dalit women. The Act provides this provision and it must be urgently used.
3. The State Human Rights Institutions have to be supported by professional legal experts.
4. The commission should also take preventive measures by spreading information about the SC/ST Act and associated legal services.
5. There should be an amendment to the SC/ST Act, to provide for the protection of the witness–victim.
6. There is also an urgent need to review the SC/ST (POA) act so as to get rid of the existing loopholes in the same such as the creation of new offences and including them within the purview of the Act as in the case of Dalit Christians.
7. Undertake a gender audit of the implementation of the SC/ST (POA) urgently so as to ensure that Dalit women are able to make use of it more effectively.
8. The existing Act does not apply to new forms of violence and discrimination in the healthcare system. This should be urgently looked into.

### **Criminal Justice System**

9. The criminal justice system has to be urgently brought under some kind of monitoring so as to redress its utter failure in the case of Dalit women.
10. Criminal cases should be filed against officers who tamper with evidence, protect criminals and work to support criminals.
11. The sections of 4 in the SC/ST(POA) and 166 A should be used in the cases of negligence by the police.
12. The DySP should be a woman who deals with the case of violence against Dalit women.

13. Along with the above, right from their training in the Police academy there should be provisions to sensitize officers to the SC/ST (POA) Act and other such issues related to the Dalit community and specifically to Dalit women.

### **Legal Aid or Assistance**

14. There should be information dissemination about the SC/ST (POA) Act and the existing legal services available to Dalit women.

15. Existing provisions to provide lawyers to Dalit women has to be put into practice.

16. Respective State Legal services authorities have to be pressurized. In the case of atrocities, a lawyer has to accompany the victims from the very day of the case.

17. Legal services authorities should be appointed in every block as it has been done in some states.

18. There should be some way in which we take the new laws after December 2012 is disseminated among the Dalit community.

19. Free legal service should be made available and provided by the legal services Authority/State District/Taluk as soon as a case of sexual valences are registered in a police station

### **Medical Issues**

20. There should be strong vigilance on the medical establishments and doctors and other medical practitioners , both State and Private, should be should be made accountable

21. Medical Council of India should be involved in this monitoring

22. License to practice should be taken away in case of medical negligence, malpractice and destruction of evidence in the case of atrocities against Dalit women.

23. Interim medical assistance should be provided to the victims of atrocities.

24. With collaborative medical evidence the case can be strengthened and it should be ensured that this is effectively produced.

25. The 'two-finger test' should be strictly prevented from being used on the victims of sexual violence. Victims should also NOT be identified as "habituated to sexual intercourse" on the basis of the 'two-finger test.'

### **Rehabilitation and Relocation**

26. Ministry of Social Justice and Empowerment should come up with a rehabilitation scheme for victims of caste atrocities

27. There should be Special provisions for the rehabilitation of Dalit women, which would be different from that provided for women in general, as the problems in rehabilitating Dalit women are entirely different.

28. Short stay homes should be created for temporarily rehabilitating Dalit women who are going through the trauma of violence and fighting for justice. These Homes should fund by the State, but should be run by the State along with NGOs and other such organizations.

### **Strengthening Dalit women in local governance**

29. Panchayat Raj ministry has to be communicated with regard to the caste atrocities on Panchayat Raj members. Panchayat Raj ministry has to be involved in the responsibility of providing for the safety and security of Dalit panchayat members and sarpanches

30. Women Sarpanchs are often attacked both for being Dalit and for the role that many of them play in resisting caste structures. Therefore they need to be given special protection that will help them conduct their duty in a safe and free manner.

31. Land redistribution should be carried out to do away with the glaring inequalities between dominant and Dalit communities. There should be provisions in the Land bill to give land rights to Dalit women.

### **Supporting resistance**

32. Dalit women human rights defenders [WHRDs} are increasingly coming under attack and violence in the case of the Dalit community and especially Dalit women and the National Human Rights Commission should take up all such cases suo motu.

Finally, we also feel that, as the Human Rights of the Dalit women can only be addressed from within an understanding of the intersection of caste and gender, there should be a way in which the SC commission, the Women's commission and the Human Rights Commission should meet together and come up with concrete measures and directions concerning the constant, horrific and unrelenting violence against Dalit women and their brave attempts resist it.

*Prepared by the jury in consultation with activists.*

*Compiled by Namrata Daniel, Binish Hafees and Jenny Rowena.*

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*Images courtesy: Sanghapali Aruna Kornana.*