



## HUMAN RIGHTS ON DALIT ATROCITIES AND INTERVENTIONS

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### **Introduction**

As many as 3000 years of caste oppression have left the Dalit community socially, economically and psychologically marginalized. Dalits are constantly subjected to outrageous violence, dehumanizing labor (such as manual scavenging), and a pervasive system of social exclusion. Though protections exist in Indian law, they are seldom enforced as caste hierarchy is mirrored in the bureaucratic, police and court systems.

Acts of atrocity against Dalits, particularly when they begin to assert their rights are commonplace. Practices of untouchability are rampant, both between non Dalits and Dalits, and amongst Dalit sub castes. The poor rarely unite due to caste and community divisions, making the achievement of laborer unity, and therefore the implementation of minimum wages, extremely challenging. Land redistribution laws have been passed, but the government and the dominant caste landlords fight unceasingly to prevent Dalits from actually gaining control over land that is legally theirs. Caste practices are even replicated within the education system, preventing Dalit children from full participation in their classrooms, thereby barring them from accessing the most important tool for social mobility. Moreover, violence against women is on the rise and patriarchal attitudes toward the role of women prevail.

Violence is frequently what describes best the nature of interactions between the Dalits and the non Dalits in India. Untouchability, for a fact, is such an acute expression of psychological violence that right from childhood, a Dalit is made to feel that he or she is an inferior being, a person of low intelligence and a person whose life is worth only the service and the betterment of the dominant caste men and women.

Physical violence and atrocities unleashed on the Dalits are the logical and cruel outcome of the caste system. The magnitude and depth of these atrocities are horrifying. Between 1990 and 1993, over 4,300 cases of atrocities committed against Dalits were reported in Gujarat, and this is only 14 Districts. During that same period, atrocities increased by an astonishing 90%. This increase is, nevertheless, indicative of the Dalits' assertion and exaction to injustice. While traditional caste based practices still constitute the major cause of atrocities, a growing number of atrocities are triggered by the protest and the political organizing of the Dalits. Refusing to accept any challenge to their hegemony, non Dalits engage in violent repressive measures to silence any form of dissent among the Dalits. These measures range from brutal murderers, such as burning individuals alive or stabbing them to death to gang rape, arson, and grievous injuries. Significantly it is not upper castes alone who abuse the Dalits, but the Other backward castes(OBC'S) too engage in oppression and physical violence. On a sample of 3083 offences in 13 Districts of Gujarat, it came out that Patels (Patidar and Koli Patels) were the accused in 34% of the cases, the Kshatriyas in 32%, and the Brahmins only in 7% of the cases.

Violence is further aggravated as a guilty person are rarely immediately arrested, and by the time they are punished people generally have forgotten the crime. The unbearably slow legal procedures and the lengthy and costly processes only add insult to injury; victims and their relatives often live in proximity to the culprits, who often threaten them further. Despite the 1989 Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, which provides for appointments of Special Courts and Government Prosecutors for expediting proceedings, these situations have not changed. In practice the Act is often not properly implemented by the police. in 11 surveyed Districts of Gujarat, it was found that the percentage of application of the Atrocity Act by the police was only slightly more than 60%. Moreover, because the police often "prefer" certain sections of the Act to others, and because, at other times, only a very vague preference to the Act is made, there has been a growing general impression that Dalits have been

abusing this Act. The truth is that the police constables are generally not familiar with the provisions of the Atrocity Act, and are also susceptible to both caste allegiance and Bribery.

## **Atrocities against Dalits**

The term "atrocities" is a legal one. Atrocity cases against Dalit's in Severity and form, including the following:

1. Causing injury, insult, or annoyance to a Dalit;
2. Assaulting, raping, or using force of any kind against a Dalit woman or a Dalit girl;
3. Physically injuring or murdering a Dalit;
4. Occupying or cultivating any land owned by an allotted to a Dalit;
5. Forcing a Dalit to leave his/her house, village, or other place of residence;
6. Interfering with Dalit's legal rights to land, premises, or water;
7. Compelling or enticing a Dalit to do 'forced Labour' or similar forms of forced or bonded labor;
8. Intentionally insulting or intimidating a Dalit with the intent to humiliate him.

Acts of Atrocity against Dalits continue to occur at alarming rates in Gujarat. In 1998, Gujarat ranked second highest among all Indian states in the volume of crimes committed against the Scheduled Castes, at 62 cases per one lakh of population. While this is high, it is important to note that underreporting is very common; thus this number conceals the extent to which these atrocities occur. A recent study conducted by Navsarjan demonstrated that all of the atrocity cases that occurred across four districts in Gujarat, 36.6% were not registered under the Atrocity Act and that of the cases where the Act was applied, 84.4% were registered under the wrong provisions, thus concealing the intensity of the violence in the cases.

The police and the legal system are also often very slow in responding to cases filed under the SC/ST (Prevention of Atrocities) Act:1989. In 2000, in Gujarat, there were 13,293 cases registered in courts under the SC/ST (Prevention of Atrocities) Act:1989, all of which

remained pending at the courts at the end of the year, none of them ended in convictions or in acquittals. In terms of police response to registered cases, in cases of murder, an average of 121.2 hours lapsed between the registration of the case and police action, while for cases of rape, the gap was at 532.9 hours.

### **The Practice of Untouchability**

The practice of untouchability is also very common in Gujarat. The following are some of the forms in which untouchability is practiced:

1. In rural areas, Dalits are often not allowed to engage in cultural and social activities with the rest of the community, including entering temples, sitting in the main spaces of villages, taking part in religious programs, and eating with the rest of the community during village ceremonies.
2. Dalits are also not allowed to use the same items as non Dalits in the communities; they are not allowed to rent or even enter homes of non Dalits, use the same wells, eat and drink from the same dishes.
3. In schools, Dalit children are often forced to sit separately from the rest of the students during the midday meal and are the only ones asked to clean latrines in the schools.
4. As a result of this caste based discrimination in schools. Dalits are often less educated than the rest of the community.
5. Due to these low levels of education, the majority (78%) of Dalits are Labour workers. They have limited opportunities for upward mobility and remain economically backward.
6. Attempts to set up stores in villages by Dalits are often unsuccessful. Due to untouchability practices, the rest of the villagers refuse to purchase things from their shops.
7. Dalits are forced to do some of the dirtiest jobs in Gujarat. For instance, manual scavenging is still widely practiced almost entirely by women belonging to the Valmiki sub caste, even though the government denies its existence.
8. Government authorities often deny basic needs such as electricity, and water to Dalit families, while they provide them for non Dalits. When Dalits petition the Government to provide these facilities, their requests are often ignored.

9. When Dalits do try to stand up for their legal rights, members of the dominant castes often assault them and/or practice social boycotts against the community.

10. The SC/ST (Prevention of Atrocities) Act:1989 is often not implemented properly (i.e., cases are either not registered under the Act when they should be, or are not registered under the relevant provisions) due to discriminatory practices by government officials.

11. Dalits are often landless, as non Dalits often own the majority of land in the villages, and government officials often do not enforce laws and policies to allocate land for the Dalits. In those cases, where the government does allocate land for the Dalits, they are often denied access to that land because of the practice of caste based discrimination in the villages.

### **Dalit Rights Initiative**

The Dalit Rights Initiative of the Human Rights Law focuses on providing legal aid to members of the Dalit community on the following issues among others:

- . Untouchability and Discrimination
- . Atrocities faced by Dalit women
- . Reservation
- . Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act
- . Scavenging

Amongst other groups, HRLN has worked closely with the National Campaign for Dalit Rights and Sakshi, Andhra Pradesh to build its own understanding of issues as well as to contribute towards the law related aspects of programmes aimed at empowering Dalits.

### **Legal aid and Public Interest Litigation**

To ensure access to justice for Dalits and for legal enforcement of their rights to respect and dignity, HRLN members have fought a series of cases enforcing the Constitutional rights of Dalits with respect to reservation in public employment and education. Several unions and individuals have benefitted from these legal interventions. On behalf of individual Dalit victims of rights violations as well the community, the unit does routine litigation and public

interest litigations in the High Courts and the Supreme Court. At the magistrates' courts legal aid for Dalits in the criminal justice system is necessary from the point of arrest at the police station. At this level legal aid is also required for affirmative actions by the Dalit community as for example in prosecutions under the SC & ST Atrocities Act. Assistance is required for the instituting of proceedings, the opposing of bail and the prosecution of the accused.

It is hoped that victims will become increasingly aware of their rights, mechanisms available for their enforcement as well as gain information of various for laws and tools that can enable them to access these rights in concrete terms. The PILs are helpful to generate public discourse through consultations and to collaborate with civil society groups throughout the country, thus making the issue one of national social concern and creating civil society partnerships and alliances in the process.

### **Training**

Accessing the justice system is not restricted to legal aid alone. Awareness of the law, the judgments of the courts and how the law can be used empowers individual and collectives. With an aim to share with Dalit rights activists knowledge of the law and discuss strategies on how to enforce it, workshops have been held in several states on the SC&ST Atrocities Act and other legal provisions. Training is also imparted on how monitoring can be done consistent with the requirements of the legal processes. The state level legal training programmes impart practical guidelines on the provisions of the Act, the procedures to be followed while prosecuting offenders, and focus on understanding of Dalit rights.

### **Judicial Colloquium**

Possibly the most successful intervention during the previous project period in the last year was the national judicial Colloquium which was attended by over 50 judges from various High Courts across the country. Activists from Dalit rights organizations had the opportunity to share their experiences with members of the judiciary and the first step was taken towards increasing sensitization and creating awareness of the issues confronting Dalits in India.

### **Publications**

As part of the training programmes and to enhance legal awareness the bringing out of Know Your Rights publication is crucial. These are in recognition of the fact that one of the fundamental problems in effective implementation of laws faced in the area of Dalit rights is the fact that a very large percentage of Dalit population are not aware of their rights, nor do they have easy access to information on the latest laws, policies and procedure, the available legal remedies. A major achievement has been the publication of the book 'Dalits and the Law'. The Dalit Rights Poster on the SC/ST (Prevention of Atrocities) Act 1989 has been successfully translated and printed in 10 vernacular languages and widely distributed across the country.

### **The SC & ST Atrocities Act And Institutional Casteism**

Although the Constitution and special acts aim to protect the rights of Dalits, the ground reality shows that much needs to be achieved. Despite the severity of the discrimination, the issue of Dalit rights is rarely litigated in courts. It is almost as if Dalits have forsaken the courts. In many instances, the upper classes and the forward castes have used the judicial system against the backward classes. Therefore, despite the harsh terrain, it is an engagement that the Dalit community cannot avoid.

When this Statute was first enacted it was fervently hoped that justice would be done to those discriminated. But this hope soon evaporated and confirmed what was well known namely, that it is not by Statute alone that society changes. Though the law came into force the legal system continued to be controlled by upper caste men who, sometimes subconsciously, but often deliberately sabotaged the working of the Act. Though the provisions were non-bailable, bail was liberally granted. An almost unbearable burden was put upon the complainant at the initial stage itself with the complaint being viewed with heavy suspicion. The complaint and evidence of the victim was disbelieved and derided. As a result, ever since it came into force there are hardly any convictions under the Act and the prosecutions have sharply declined.

Though there are Dalit organizations and NGOs organizing and struggling against discrimination, the legal community has remained far behind. As a result, though there are beneficial provisions in the Constitution of India, the Scheduled Castes and Scheduled Tribes

Atrocities Act and other similar enactments, their implementation and enforcement is very poor.

Due to what is perceived as institutional casteism in the legal system the SC/ST

Atrocities Act has seen poor enforcement with the conviction rate being less than 1%. Additionally, Dalit lawyers and activists generally have an upbringing characterized by disadvantage, find the use of the Queen's English in courts cumbersome and often find themselves in a hostile legal environment. The entire system is designed to exclude and ostracize. By withdrawing from this arena the backward classes have shown that they have no faith in the legal system. This has made matters worse. It is almost as if the Act has been repealed.

Significant component of this initiative has been to build a network of Dalit lawyers, because in the ultimate analysis it is they who most accurately feel and understand the sufferings of their people. At the same time, the Dalit lawyers who are dedicated to Dalit rights and issues should have a better understanding of the SC/ST Act and other laws. The purpose of this initiative is to equip human rights lawyers and activists to use the justice system for and on behalf of members of the Dalit community.

### **Books for References:-**

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