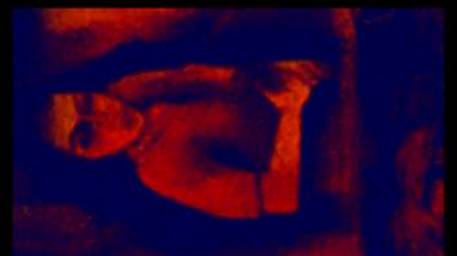


# CASTE BASED SEXUAL VIOLENCE AND STATE IMPUNITY





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Published by Dalit Human Rights Defenders Network

**CASTE BASED-  
SEXUAL  
VIOLENCE AND  
STATE IMPUNITY**

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# EXECUTIVE SUMMARY

For decades, Dalit women in India have suffered innumerable indignities and violence in many forms because of their location in specific marginalised social groups. In the recent years, there has been an increased reporting of caste-based sexual violence, and there is complete impunity displayed by the state duty-holders, especially the police and the medical personnel.

Things came to head with the infamous Hathras case, where the victim was deprived of timely medical aid and after her demise, her body was hurriedly cremated by the police without informing or including her family. Numerous unreported cases of rape against Dalit women and girls however remain mostly invisible, and victims-survivors struggle to access medical aid, counselling, justice and redressal.

This report is an outcome of a research carried out by Dalit women activists in 13 Indian states where they have been handling cases of caste-based sexual violence for several years. The report comes at a significant time when the country is reeling from the aftershocks of the COVID-19 pandemic and economic losses induced by hurried lockdown measures imposed by the Government of India nationwide.

As phases of un-lockdown set in, we look back to see how the nature, pattern and forms of violence against Dalit women has only increased despite lockdown measures. The pandemic, in fact, has further deepened the crisis in Dalit women's lives, with job losses and therefore loss of income. Poverty, landlessness and lack of economic assets only exacerbates their vulnerability and insecurity. As Dalit families strive to access better resources and services, educate themselves and seek to move out of poverty, there is a backlash from the dominant caste groups.

This report covers the states of Bihar, Chhattisgarh, Gujarat, Haryana, Kerala, Maharashtra, Madhya Pradesh, Odisha, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh and Uttarakhand. The 50 cases examined are based on incidents of sexual violence that took place over a span of seven years, between 2015 and 2021. Of these, 32 are from the last three years – between 2019 and 2021 – to ensure that recent cases have been analysed and to assess the impact of the pandemic on access to justice by Dalit women survivors of sexual violence. All the cases were purposively selected by Dalit Women Human Rights Defenders working in these 13 states.

The report is organised into specific themes, based on the patterns of violence perpetrated by men of dominant caste groups, the delays and systemic barriers in the justice system for redressal and the resultant challenges faced by victims-survivors and their families, access to support services for victims-survivors, some major efforts of the Dalit women activists to enable the justice process and recommendations to the Central and state governments.

# ABBREVIATIONS & TERMINOLOGY

|                                   |  |
|-----------------------------------|--|
| <b>NCWL</b>                       | National Council of Women Leaders  |
| <b>DHRDNet</b>                    | Dalit Human Rights Defenders Network                                       |
| <b>SC &amp; ST (PoA) Act 1989</b> | Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 |
| <b>NCRB</b>                       | National Crime Records Bureau  |
| <b>AIDMAM</b>                     | All India Dalit Mahila Adhikar Manch                                       |
| <b>NCDHR</b>                      | National Campaign for Dalit Human Rights                                   |
| <b>FIR</b>                        | First Information Report   |
| <b>CSO</b>                        | Civil Society Organisation   |
| <b>WHRDs</b>                      | Women Human Rights Defenders   |
| <b>NHRC</b>                       | National Human Rights Commission   |

**Note on Terminology:** The “survivor” and “victim” have been used in this report to refer to any person who alleges or has been subjected to sexual violence whether or not they engage with the criminal justice process, with the term “victim” being used specifically when the woman or girl subjected to sexual violence has died subsequent to the assault. Wherever possible, the inclusive term victims-survivors has been used, to recognise and acknowledge that many Dalit women and girls die as a result of sexual violence. We understand that women and girls who suffer sexual violence may identify themselves as a “victim”, “survivor” or otherwise, and the terminology used in this report is not intended to negate other terms which may be preferred by women and girls who have suffered violence.

**This report is dedicated to Late Sipra Devi a Dalit woman human rights defender, who played a vital role in protecting the rights of the victims of sexual violence.**



# ACKNOWLEDGEMENTS

National Council of Leaders (NCWL), in collaboration with Equality Now, Equality Labs and Dalit Human Rights Defenders Network (DHRDNet), undertook an online social media campaign, End Caste-based Sexual Violence, focusing on serious forms of sexual violence against Dalit women and girls.

This campaign was launched on 19th July 2021 and ended on 31st August 2021. We documented 70 cases from 15 states, of which 50 case studies from 13 states were selected and followed up by grassroots Dalit WHRDs.

A majority of these Dalit WHRDs are active members of NCWL and DHRDNet. They have been working tirelessly to ensure that victims-survivors of caste-based sexual violence get access to legal aid, compensation, police protection, counselling, moral support etc. We acknowledge their hard work and determination in preparation of this report.

They are:

1. Advocate Savita Ali – Bihar
2. Late Sipra Devi – Chhattisgarh
3. Bhavana Narkar – Gujarat
4. Neeru Chourasiya – Gujarat
5. Arvind Makwana – Gujarat
6. Preeti Vaghela – Gujarat
7. Vasudev Charupa - Gujarat
8. Advocate Manisha Mashaal – Haryana
9. Advocate Rajni Mishal – Haryana
10. Mrudula Devi – Kerala
11. Rukamini Zinzore - Madhya Pradesh
12. Prachi Salve – Maharashtra
13. Advocate Priyadarshi Telang
14. Advocate Prabhakar Sonawane
15. Sukanya Shanta
16. Swati Boudh – Odisha
17. Sandhya Devi – Odisha
18. Sarita Varma – Rajasthan
19. Dr. Sujatha Surepally – Telangana
20. Andal Gopalkrishnan – Tamil Nadu
21. Vincent Raj – Tamil Nadu
22. Jabar Singh – Uttarakhand
23. Rani Salmani – Uttar Pradesh
24. Meena Rao (NCWL) – Uttar Pradesh
25. Seema (NCWL) – Uttar Pradesh

We acknowledge the great efforts taken by Divya Srinivasan from Equality Now in documenting the cases and analysing them, Divyangi Bhargava from WAYVE Foundation who also supported documentation. We deeply appreciate the work of Dr Shewli Kumar, Associate Professor at Tata Institute for Social Sciences, Mumbai, for lending her expertise in the preparation of the report.

We are grateful to Chetana Divya Vasudev for proofreading the report, Jay Sagathia and Jigar Sagathia for creating illustrations and for designing this report and Rollie Mukherjee for the paintings on front cover and back cover .

In Solidarity

Manjula Pradeep

National Convenor and Director of Campaigns

NCWL/DHRDNet

# INTRODUCTION

## **OUR FIGHT IS AGAINST CASTE BASED SEXUAL VIOLENCE.**

**THIS IS A FIGHT FOR OUR  
RIGHTS & DIGNITY,  
AND WE WILL CONTINUE TO FIGHT  
TILL OUR WOMEN AND GIRLS GET  
THEIR DIGNITY AND RIGHTS.**

**WE FIGHT FOR  
JUSTICE.**

This report brings forth an in-depth analysis of cases of caste based sexual violence rampant across India collated by the Dalit women leaders of the National Council of Women Leaders (NCWL), with a focus on 13 states. It demonstrates how caste-based sexual violence becomes a tool to deny Dalit women their rights to education and safe livelihoods, access to quality health care, basic services – such as access to food, water and shelter – and, most of all, a life of dignity and self-respect. The Dalit WHRDs who participated in the collection of information, while rendering help to victims-survivors, arrive at a sharp analysis of discrimination and deprivation faced by the latter.

The report comes at a time when the country is reeling from the aftershocks of the COVID-19 pandemic and economic losses induced by hurried lockdown measures imposed by the Government of India nationwide. As we move forward towards the un-lockdown, we look back to see how the nature, pattern and forms of violence against Dalit women has only increased despite lockdown measures.<sup>1</sup>

Almost 16% of Scheduled Castes (known as Dalits) are in daily wage jobs, which are precarious and insecure. Many of these daily-wagers are Dalit women.<sup>2</sup> The pandemic has further worsened the crisis in Dalit women's lives with job losses, and thereby loss of income. The context of poverty, landlessness and lack of economic assets exacerbates the vulnerability and insecurity of Dalit women,

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<sup>1</sup> DHRDnet (2020). No Lockdown on Caste Atrocities, Stories of Caste Atrocities during COVID-19 Pandemic. DHRDnet Publications

<sup>2</sup> Deshpande A & Ramachandran R. (2020). Is Covid-19 "The Great Leveler"? The Critical Role of Social Identity in Lockdown-induced Job Losses. Discussion Paper DP. No. 4. Ashoka University

though this fact is usually ignored by the State and the media. As Dalit families strive to access better resources and services, educate themselves and seek to move out of poverty, there is a backlash from the dominant caste groups.

Critical to the cases is the localised nature of sexual violence, wherein the victim and the perpetrator/s live in close proximity to each other. In almost all cases, there is sustained and long-term history of intimidation and threats issued to Dalit women, girls and their families by dominant caste men. Assertions and resistance by Dalit families culminate in the ultimate exercise of power through sexual violence by dominant caste men against women and girls of Dalit families.

The Hathras case of Uttar Pradesh from 2020<sup>3</sup> and the Delhi Cantonment rape case of the nine-year-old Dalit girl from 2021<sup>4</sup> point to these domains of exploitation and sexual violence. Sexual violence is being used by those in dominant positions as a weapon to assert power and reinforce existing hierarchies. Dalit women and girls are often subjected to more severe or aggravated forms of sexual violence, such as gang rapes or rape with murder, and there is often a collective nature to these crimes, with offenders from dominant castes acting in groups to commit offences.

Extreme forms of violence, specifically sexual assaults accompanied often by brutal murders of Dalit women and girls, have been reported for decades. **Dalit women's bodies have been projected as markers of their Dalit identity and sexual violence is a tool for exercise of power and subordination of Dalit women.** This use of power and dominance flows into the criminal justice system, where impunity is rampant among the very stakeholders duty-bound to provide justice – the police, judiciary, medical functionaries and such others – as was apparent in the well-publicised Hathras case.

Victims-survivors of caste-based sexual violence struggle to obtain justice within India's legal system. As per the 2020 data from the National Crime Records Bureau (NCRB), around 10 Dalit women and girls are raped every day in the country. However, this is merely the tip of the iceberg. Many cases are not reported or under reported as a result they do not even reach the criminal justice system. Those that do manage to move through the complex and Dalit women unfriendly police and judicial systems have low conviction rates. As soon as a case is reported the perpetrators and other dominant groups activate channels of influence within the system and subvert adequate evidence gathering. Often, intimidation tactics are employed to silence victims-survivors and their families, contributing to low conviction rates in rape cases.

The Constitution of India guarantees the rights to equality and equal protection of the law and prohibits discrimination, including on the basis of sex and caste. Recognising discrimination against Scheduled Castes, it also specifically abolishes the practice of untouchability in Article 17. The Justice Verma Committee

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<sup>3</sup>Rege S & Deosthali P (2020). Hathras Rape Case: Right to Medico-Legal Care for Survivors a Long Way to Go. <https://www.theleaflet.in/hathras-rape-case-right-to-medico-legal-care-for-survivors-has-a-long-way-to-go/#> accessed 12/10/20

<sup>4</sup>Geetha V (2021). Sexual Violence against Dalits the current Conjuncture [www.TheIndiaForum.in](http://www.TheIndiaForum.in). accessed 1/10/21

report of 2013 has stated that all forms of sexual harassment and violence will be considered as violative of the fundamental right of a woman to equality as guaranteed under Articles 14 and 15 of the Constitution, as well as her right to life (including the right to live with dignity) as per Article 21 of the Constitution.<sup>5</sup> The Committee goes on to add that sexual harassment will be considered as a violation of a right to practice or to carry out any occupation, trade or business under Article 19 (1) (g) of the Constitution, which includes the right to a safe environment and free from harassment.

Further, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [SC & ST (PoA) Act] was passed in 1989, with the aim of preventing and effectively addressing caste-based atrocities. The SC & ST (PoA) Act specifies a list of prohibited atrocities. In addition, serious offences under the Indian Penal Code, including rape, committed against a person because they belong to a Scheduled Caste are also subjected to increased punishment. All cases under the SC & ST (PoA) Act must be investigated by a police officer of a rank not lower than Deputy Superintendent of Police (DSP). The law also includes provisions for protection and rehabilitation of victims.

But none of these stringent legal measures, however, are being implemented effectively as those responsible for administering justice have either little knowledge, or they behave with impunity to let the perpetrators get away. Further, there are newer patterns of sexual violence emerging in contemporary times. Men and boys of dominant castes use the lure of romantic relationships to trap young Dalit girls and rape them, often as a group, and make videos of the rape. They often use these videos as threats to prolong sexual violence over a long period of time. Technology-driven social media has become a handy weapon in the hands of dominant caste men and boys to perpetrate caste-based sexual violence against Dalit women and girls.

This report captures many such cases and is organised under various themes based on the nature and forms of caste-based sexual violence in 13 states: Bihar, Chhattisgarh, Gujarat, Haryana, Kerala, Maharashtra, Madhya Pradesh, Odisha, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh and Uttarakhand. It includes an analysis of the systemic barriers to access justice, and the determined efforts of Dalit WHRDS in these states to ensure justice for victims-survivors, as well as success stories.

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<sup>5</sup>Report of the Justice J.S. Verma Committee on Amendments to Criminal Law (2013), p. 117, [https://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](https://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf)

# METHODOLOGY & BACKGROUND

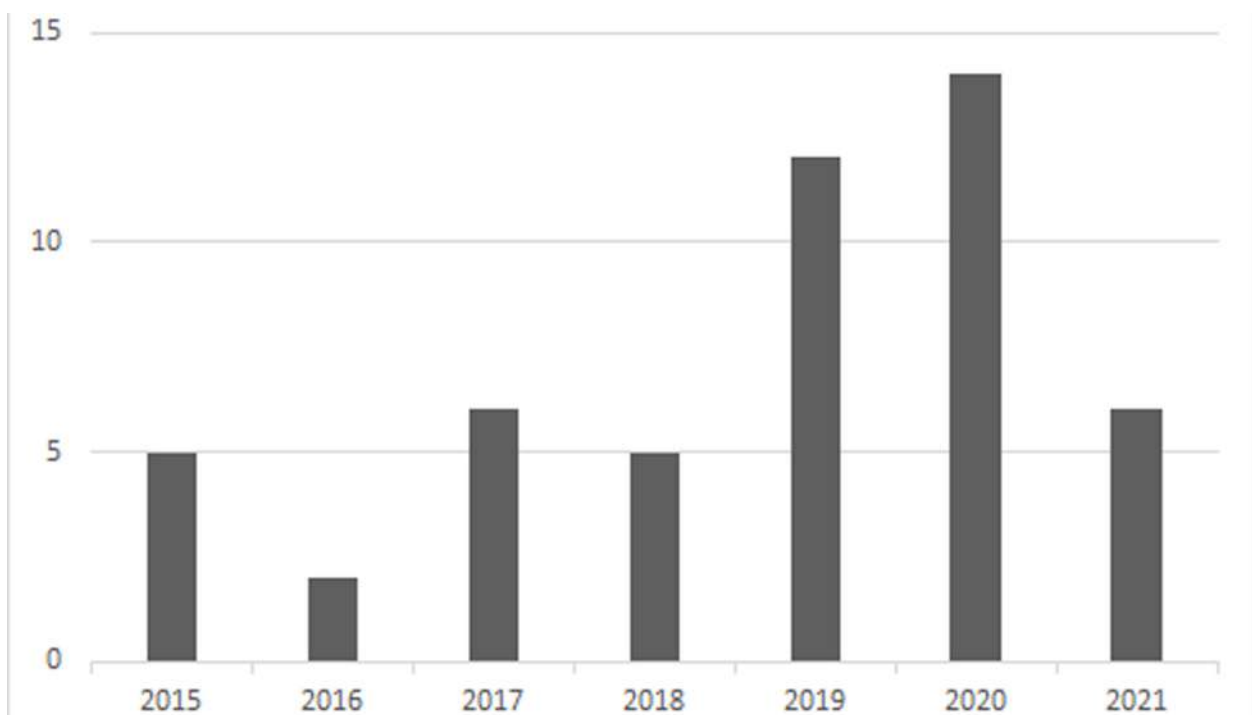
## Methodology

The National Council for Women Leaders is a collective of WHRDs from marginalised communities who have been working across these 13 states over several years. Their presence in the grassroots, proactive interventions and immediate response to the needs of survivors and victims of caste-based sexual violence provided a rich knowledge base for the study. They were conversant with details of several cases that they worked on as part of legal and counselling support. A decision was made to look into both past and new cases to arrive at an analysis and document trend patterns.

The cases selected are based on incidents of sexual violence which took place over seven years – between 2015 and 2021. Of these, 32 cases were taken from the last three years – between 2019 and 2021 – to ensure that enough recent cases were analysed and to assess the impact of the COVID-19 pandemic on access to justice for Dalit victims-survivors of sexual violence (see Figure 1).

The cases were purposively selected by the defenders in the 13 states. Therefore, the study does not represent the entire pattern and data regarding caste-based sexual violence in these states.

Fig:1 Number of incidents of caste-based violence from 2015-20 studied for this report



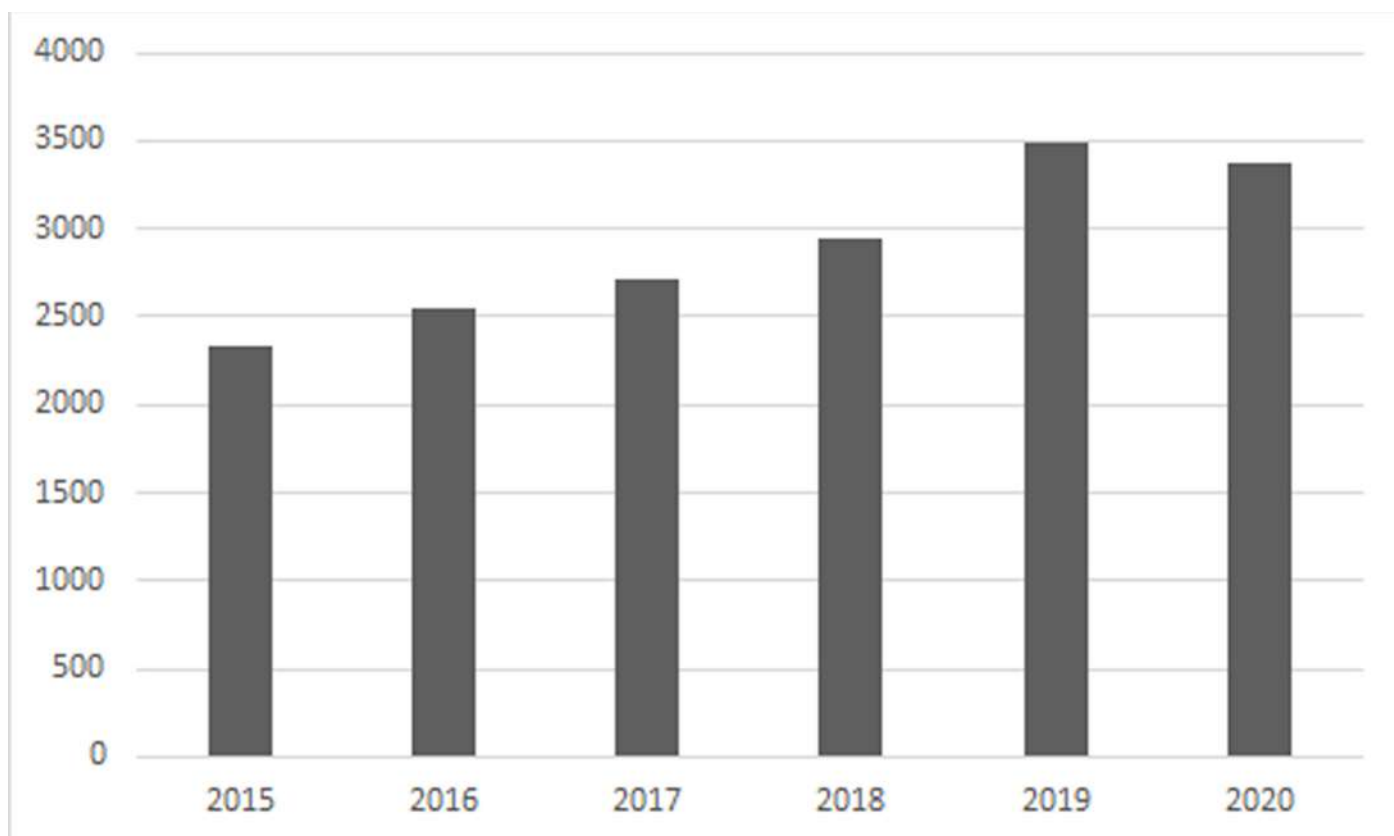
The pandemic created a new kind of coercive and challenging circumstance for gathering information and supporting victims. Most of the work of Dalit women activists was constrained due to lockdowns across different states. Besides, they could not always provide responsive and prompt support to victims, which

exacerbated the conditions of the victims and their families. Means of data collection and collation, therefore, was limited to telephonic interviews and messaging platforms like WhatsApp.

With this as the context, data has been organised thematically, bringing out the legal frameworks and their violations, various forms of caste-based sexual violence in subsequent sections of this report, some progressive examples of work by the Dalit WHRDs and recommendations for ensuring justice for victims-survivors. The names of all the victims-survivors have been changed to ensure anonymity.

## **Background on Caste-based Sexual Violence as per official NCRB Data**

Official statistics from the National Crime Records Bureau show that there were 3,486 cases of rape against Dalit women and girls registered in 2020. This means that an average of 10 Dalit women and girls are raped every day in the country. The NCRB data shows that there has been a 45% increase in the number of rape cases against Dalit women and girls registered between 2015 and 2020.<sup>6</sup>



The increase can be partly attributed to increased reporting of sexual violence cases by Dalit women and girls. However, rates of reporting cases by Dalit survivors of sexual violence still remain extremely low.

It must be noted that official data represents only cases where the victims were able to file a First Information Report (FIR) at their respective police stations. This and other studies have all brought out the fact that many victims-survivors of caste-based sexual violence are unable to register an FIR for various reasons, including resistance from and reluctance of the police to do so, and non-availability of trained

<sup>6</sup>National Crime Records Bureau, Crime in India, 2015-2020, available at <https://ncrb.gov.in/en/crime-in-india>



police personnel who have a good understanding of the SC & ST (PoA) Act.<sup>7</sup> Low rates of reporting of rape cases to the police do not mean that rates of caste-based sexual violence are low. In fact, data from the National Family Health Survey - 4 shows that rates of sexual violence are highest amongst Scheduled Tribes (7.8%) and Scheduled Castes (7.3%) women, followed by Other Backward Castes (5.7%) and Others, i.e. groups not marginalised based on caste or tribe (4.5%).<sup>8</sup> The states which reported the highest number of rape cases against Dalit women and girls in 2020 are as follows:



The curtailment of mobility caused by lockdowns ought to have reduced incidents of sexual violence against Dalit girls and women in 2020 and 2021. However, the lockdown actually seems to have provided an opportunity for dominant caste men to indulge in sexual violence with greater ease.

The 2020 report by DHRDNet<sup>9</sup> has documented several stories of caste-based atrocities, including sexual violence in seven states of the country. During the lockdowns, the police force was diverted to the function of imposition of the new norms. More often than not, the already short-staffed force would ignore initial complaints of victims and their families against perpetrators. This further emboldened the perpetrators to indulge in the barbaric forms of sexual violence. The most distressing aspect that has emerged during this period is many cases of caste-based sexual violence were perpetrated against babies and young girls.

<sup>7</sup>All India Dalit Mahila Adhikar Manch (AIDMAM)-NCDHR, Dalit Women Rise for Justice, March 2021, <http://www.ncdhr.org.in/wp-content/uploads/2021/04/Dalit-Women-Rise-For-Justice-Status-Report-2021.pdf>; Equality Now & Swabhiman Society, Justice Denied: Sexual Violence and Intersectional Discrimination - Barriers to Accessing Justice for Dalit women and girls in Haryana, India, November 2020, <https://www.equalitynow.org/justicedenied>; Venugopal A & J Parvathy, 2021, Recourse for Sexual Violence Survivors in Times of Crisis. Jan Sahas Publication.

<sup>8</sup>National Family Health Survey - 4, 2015-16, <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf>.

<sup>9</sup>DHRDNet (2020). No Lockdown on Caste Atrocities: Stories of Caste Crimes during the COVID 19 Pandemic. DHRDNet Publications

# THEMATIC ANALYSIS OF CASES OF CASTE BASED SEXUAL VIOLENCE

Caste-based sexual violence is perpetuated against Dalit women and girls in a typical and particularly violent form by men from dominant groups to assert power over bodies of victims-survivors. The social power accumulated by dominant caste groups is based on control over land, property and other economic assets, which in turn is interwoven with political, legal and administrative power through networks of kinship and influence. This makes the caste system extremely resilient and resistant to change.

Dalits and women from all marginalised sections are enmeshed in this system in a way that their identities serve as markers for dominant caste men to violate and abuse them at all points of their lives. Caste-based sexual violence is routinely used by these men as a reminder of their socio-political power.

This study has thrown up extremely disturbing patterns of such violence where younger women and girls are targeted. Some perpetrators display overt predator-like behaviours: they track Dalit women and girls in a systematic manner over time. The social relations of caste and gender are used as an exercise of power, and force and sexual violence deployed to subjugate Dalit girls and women.

Everyday humiliation in the form of abuse, violence, and intimidation and fear tactics are used to oppress and deny access to decent education, health and livelihoods in a routine manner, forcing Dalit women and girls to perform menial work. This is aggravated by a systemic denial of justice, in cases where the victim-survivor and her family pluck up courage to file a complaint.

In this report, the themes are framed to highlight the behaviour of perpetrators – a brazen display of criminality and toxic caste-based masculinity. The travails of the victims-survivors are aggravated because of the negligence and indifference of the police and the judiciary. Delays in response and redressal for the victims-survivors and their families, the lack of support and enabling environments which survivors require to heal, engagement with redress processes and move forward in their lives all combine to make them keenly aware of their caste location and ascribed inferior status in the society.



# MANY SHADES OF CASTE BASED TOXIC MASCULINITY AND SEXUAL VIOLENCE

Most perpetrators of sexual violence against Dalit women and girls belong to dominant castes. Of the 50 cases studied for this report, details of the caste of 36 perpetrators are available: eight perpetrators each were from Yadav and OBC communities; four from the Rajput community; three each from the Jat and Muslim communities; two perpetrators from the Sikh community; and one each from the Prajapati, Maratha, Brahmin, Vaniba Chettiyar, Vanniyar, Gupta, Thakur and Gujjar castes.

The study shows that these men use rape as a tool to control the sexuality of the women and girls from Dalit communities and use them to maintain caste and gender dominance and hierarchy. In most reported cases, across the 13 states, a common thread to be found is the perpetration of sexual violence by men from land-owning dominant caste families against Dalit women and girls who work as agricultural labourers in their farms and are dependent on the perpetrators for their livelihood. Earlier studies have published similar findings, too.<sup>10</sup>

Families of other victims-survivors are self-employed, with meagre sources of income. Yet, they make every effort to send their children to school or college so that they can have a better life.

An alarming finding in this study is that in over half the cases (62%) men and boys of dominant caste groups have targeted Dalit girls under the age of 18 years. The patterns of violence vary based on age, where victims-survivors live, their vulnerability and working relationship that families have with perpetrators' households. These parameters converge to create conditions wherein Dalit girls are routinely 'hunted' by sexual predators. Some major forms of caste-based sexual violence are discussed in detail in the following section.

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<sup>10</sup>AIDMAM-NCDHR (2018). Voices Against Caste Impunity, Narratives of Dalit Women in India. AIDMAM-NCDHR Publications

# STALKING AND SEXUAL ASSAULT



- Bajrang Yadav (dominant caste) harassed Rashi, a 15-year-old Dalit school girl. Rashi lived in a village in Chhattisgarh, where the perpetrator accosted her when she went to the field to defecate. He raped her multiple times, and threatened to kill her if she told anyone about it. Bajrang knew he could get away with sexual exploitation and violence as his community had power and authority in the village. Hence Rashi could not protest or talk about being raped as she thought that no one would believe her. When she got pregnant, she had to tell Bajrang about it. He forced her to get an abortion with the help of his uncle.

It was then that Rashi plucked up the courage to tell her parents, and they, with help from an organisation, filed an FIR at the local police station. Bajrang Yadav's family members continue to threaten Rashi, asking her to withdraw the complaint even though he is behind bars and an investigation is ongoing.

Bajrang has received strong familial and community support, and attempts have been made to subvert the case and absolve him of the crime. This points to the strong societal sanction to such heinous crimes on Dalit girls and systemic failures to protect them by local administration. Medical evidence gathering has already

been delayed as the FIR was filed days after the rapes and termination of pregnancy, which may impact chances of a conviction.

- Yogesh Yadav, a man from a village in Chhattisgarh, stalked Ria, a 15-year-old school-going Dalit girl. He followed Ria every day on her way to school.

One day, he kidnapped her and threatened to kill her if she protested. He took her from Chhattisgarh to Agra (Uttar Pradesh), and physically and sexually abused her for days at his home. His parents verbally abused her, throwing caste-based slurs her way.

When she came back to her village, she and her parents filed an FIR with the help of an NGO. The villagers and the people from her village tried to persuade Ria's family to enter into a compromise but they stood their ground. At present, Yogesh is in jail pending trial.

- In another case, a 46-year-old man from a dominant caste forced 16-year-old Dalit girl Rekha to come inside his shop and raped her. Rekha, who lives in a village in Haryana, had gone to buy ration. He stalked and threatened her that he would kill her and her family if she did not submit to further sexual violence. He raped her multiple times over the next six months.

Rekha's family found out about the abuse when she became pregnant. They were supported by an NGO in filing an FIR, and ensuring that the perpetrator was put behind bars. Rekha had a baby and had to give it up for adoption due to financial constraints. At present, the case is pending in court. Meanwhile Rekha and her family are continually intimidated by the village panchayat (local governance body) to withdraw the case against the perpetrator. Rekha should ideally

going to school and getting herself an education, but at 16 years, she has been subjected to sexual violence, has a baby and needs sustained support to cope with trauma and get justice, before she can to move on.

- Iniya is a young 16-year-old school-going Dalit girl from the Pariyar caste from a village in Tamil Nadu. The perpetrator belongs to a dominant caste and harassed Iniya for seven months, asking her to love him back though she refused several times. He threatened to commit suicide if she refused him, and when that did not work, made false promises to marry her, kidnapped her, and raped her outside her home near some thorn bushes.

Iniya's family were able to file an FIR after much follow up, and ensured that the perpetrator was arrested. His family has been trying to coerce Iniya's family into withdrawing the case. Help from an NGO has helped with the follow up of the case and Iniya to access counselling, thereby resuming school. The survivor and her family are hopeful that justice will be served.

These cases reveal a deep rooted caste-based toxic masculinity within the dominant caste groups and its cyclical perpetuation through sexual violence against Dalit girls. Men like Bajrang, Yogesh and others need to be called out, shamed and punished but structural caste discrimination works as a barrier for justice for girls like Rashi, Ria, Rekha and Iniya. The silence of the other households in the community is deafening and the indifference and apathy towards caste-based sexual violence is appalling.

# KIDNAPPING AND SEXUAL ASSAULT



- Shanthi, a 14-year-old Dalit school student from the Kuravar caste in Tamil Nadu, was returning home from school when she was kidnapped by a young man from a dominant caste. He took her on a two-wheeler to his friend's house. There, he and two other men verbally abused her, forced alcohol on her and then physically and sexually assaulted her. After the incident, the survivor stopped going to school for about a month. Only after receiving trauma counselling from a local CSO was the survivor able to continue studies.
- Rakhi is a 16-year-old school-going Dalit girl who lives in a village in Bihar. Dalits in her area usually work as labourers for Yadavs at their farms. Three men of the Yadav caste kidnapped the survivor, took her to a different district and raped her multiple times. Her family filed an FIR seven months after the rape – when they found out – because the accused had scared the survivor into silence. The family continues to face pressure to compromise and the accused have threatened to rape Rakhi again once they are out on bail. But the survivor and her family continue to push for justice.

# LURE OF ROMANCE, THREATS AND INTIMIDATION USED TO INDULGE IN SEXUAL VIOLENCE

- Keerthana is a 17-year-old young school going Dalit girl, from a village in Tamil Nadu. Keerthana was being continually sexually abused and forced into having sex with a man from a dominant caste several times. The perpetrator had made a false promise of marriage.

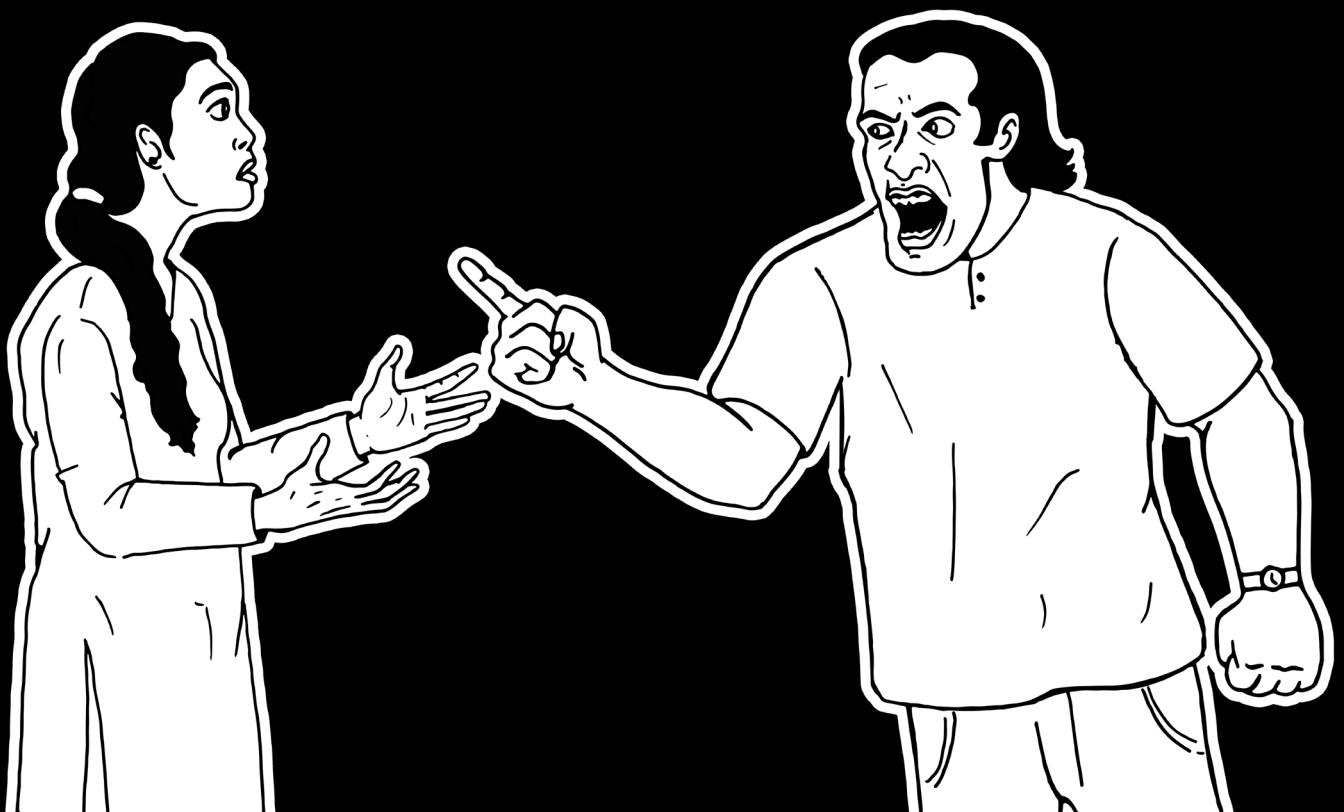
When Keerthana became pregnant, he tried convincing her to abort the baby. He also made a threat: “If you tell anyone about the incident, I will not marry you.”

The abuse came to light only after the victim was found to be pregnant at a hospital. Keerthana’s family faces constant intimidation from that of the accused, even though he is in prison.

- Nithya is a 26-year-old college-going Dalit student in a city of Tamil Nadu. She is from the Valluvar caste. Nithya was in a romantic relationship with a boy from the dominant Kuyavar caste for some years. They had sexual intercourse once the boy promised that he would marry her. After Nithya was coerced into having sex several times, he refused to marry her, instead marrying a girl from his caste.

Nithya, with support from an NGO, ran from pillar to post to file an FIR against the perpetrator. She is undergoing counselling to overcome her trauma while following up on the case she has filed. The perpetrator’s family has been intimidating her, to force her to compromise, adding to Nithya’s challenges in accessing justice.

- Suhanthi, a 27-year-old Dalit school teacher. was in an intimate relationship with





a fellow teacher from Vaniba Chettiyar caste, a dominant caste from Tamil Nadu. Her boyfriend raped her with a false promise of marriage. He also took money from her monthly salary and valuable jewellery. He then refused to marry her and verbally abused Suhanthi: "My caste and family's purity will be destroyed (if I marry you)." He married a woman from his community.

The police delayed registering the FIR for three months, and even tried to arrange for her to be married to the accused rather than filing the FIR. Suhanthi is continually harassed by the accused and his family, as well as pressured by her family, to settle the case. The mother of the accused allegedly abused the survivor, using her caste: "You lower caste prostitute. What community do you belong to and what community do we belong to? Do you need my son to marry you? We will not accept you, run away from here."

While the perpetrator has been arrested, no action has been taken against members of his family who used such casteist slurs, threatened Suhanthi and hit her with an asbestos sheet after she decided to go to the police. Suhanthi believes that justice will be served and continues to fight the case.

- Reena, a 16-year-old Dalit school student from a city of Madhya Pradesh, was in a romantic relationship with Sagar, a boy from a dominant caste. One evening, around 10.30, Sagar called Reena and asked her to come to his house to meet him. She told a friend and went to his house.

When she got there, she found five boys besides Sagar. She told him that she was uncomfortable with their presence so he asked them to leave. After a while, he took her inside a room

and forced himself upon her. When she resisted, he hit her on the head and she fell unconscious.

She recalls waking in a state of paralysis at the hospital. Her family had found her unconscious in their backyard and taken her to the hospital for treatment. After 22 days at the hospital, Reena told her family what had happened.

After much pressure from Reena's family and an NGO, the police relented and registered an FIR. The survivor and her family continue to face intimidation and pressure from the perpetrator's older brother to compromise and withdraw the FIR.

- Mansi Shende belongs to the Dalit community and lives in a city in Maharashtra. She is a 25-year-old college-going student.

She was in a romantic relationship with a man from a dominant caste for some years. He had initially agreed to marry Mansi. Once she started insisting on marriage, however, he became evasive. He finally refused to marry her on the basis of her caste. He even tried to force her to consume poison.

A few months later, when she refused to meet him or continue the relationship, he began blackmailing her using photographs he had taken when they were together. Mansi then went to the police. The police were not willing to register the complaint because the accused was from a dominant caste family. However, the survivor and some NGOs pushed them to do so.

# USE OF TECHNOLOGY AS A TOOL FOR CASTE BASED SEXUAL VIOLENCE



The study has shown how social media and technology is being used by the dominant caste men and boys to assault Dalit women and girls: videos of the assaults become threats to shame and name survivors in public. Social media tools like WhatsApp, Facebook and Twitter are effective in keeping people informed and aware of events around them. While they empower some – often the already privileged – they could easily become shackles for vulnerable sections of the population who have been oppressed for generations. Dalit girls and women, whom these tools are also meant to emancipate, educate and enable them to be heard, are instead having their voices muted by these double-edged swords.

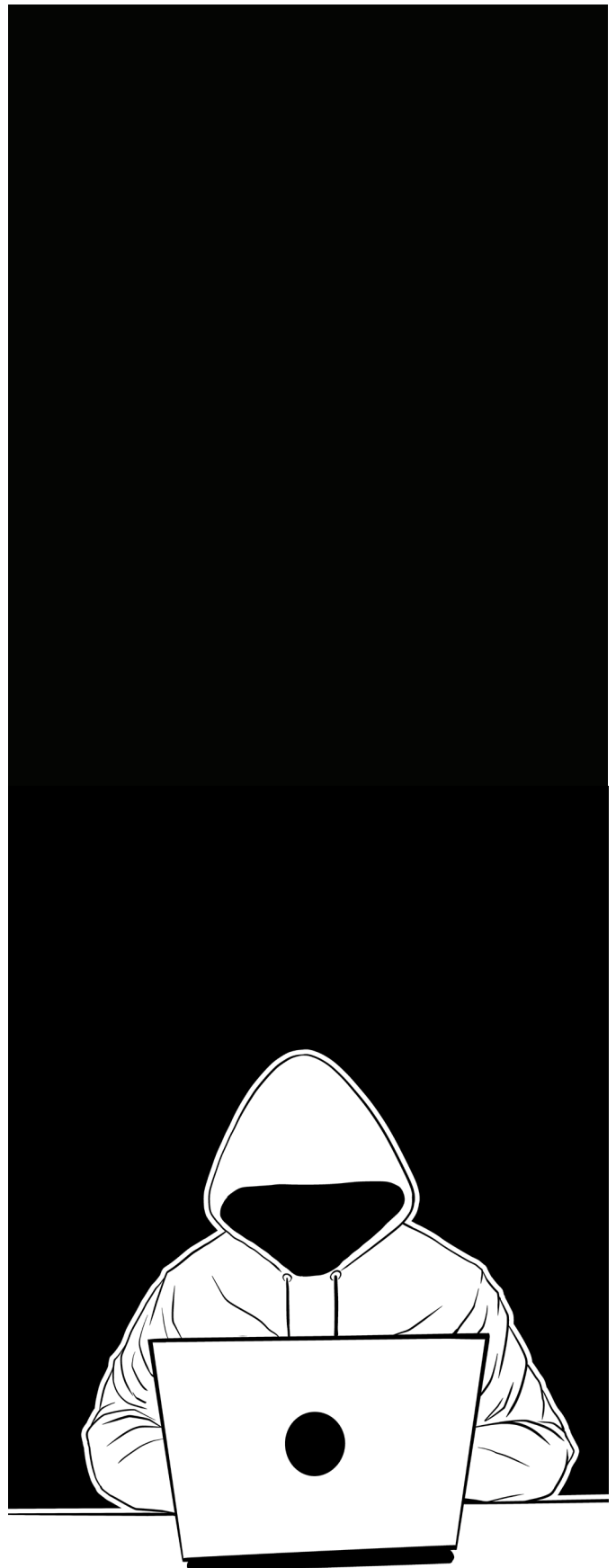
Technology and social media could be used to spread misinformation, depending on the users – in this case, dominant-caste violent men, who use mobile phones to record assaults they perpetuate as a means to silence all protests from the victims. It makes younger girls and women more vulnerable and often too fearful to share their trauma with people they can trust – family, friends, and organisations or networks – who could stand by them.

- Sisters Hema (16), Karuna (17) and Geeta (14) are Dalit girls who live in a village in Gujarat. Their mother works in fields owned by the perpetrators. The four perpetrators are from OBC castes. They raped the three girls for one and a half years in the village library and other places close to the school. In the first instance, they recorded the assault on their phones, threatened the survivors into keeping quiet about it. An NGO that works with Dalits enabled them, with support from their family, to file an FIR. Three separate FIRs were registered, even though the family wanted to file a single FIR against all four accused. At present, the main accused in the case has absconded on parole, two have been nabbed by the police and the search for the other is on.

- Sharmila is from an urban area in Uttarakhand. She is a 16-year-old Dalit student and is actively working on social issues. Kamal, a Rajput boy and once friend, asked her to come to a secluded spot on the pretext of introducing her to his friend Pooja. When they reached the spot, he wanted to take pornographic videos of Sharmila, and when she refused, he tore her clothes, threatened to sexually assault her, and beat her up. All the while, Pooja watched.

When Sharmila passed out, Kamal and Pooja pushed her amid some bushes, leaving her for dead. Later in the day, a passer-by spotted the survivor and called the police, who got her an ambulance.

She talked about what happened after regaining consciousness the next day. There was tremendous pressure on Sharmila and her family to accept a compromise and money was offered.





# SEXUAL VIOLENCE BASED ON CASTE AND RELIGION

- Salma, 14 years old, belonged to the Muslim Dalit community. She was a school-going girl and was one day kidnapped by five men from the dominant community of the Yadav caste. She was taken to another city and raped for two days and died because of the violence of the rape. Her body was dumped in fields near her house, where her family found her.

Her parents, with the help of an NGO, were able to file an FIR after much difficulty and now the accused are all in jail. The parents are being pressured to withdraw the case by the accused as well as by other Hindu dominant caste families in the village. However, the family has not given in to the pressure. Salma's identity as a Muslim girl is linked to sexual violence she was subjected to, in a region where the Hindu-Muslim conflict is all-pervasive.

- Rehana, a 10-year-old school-going Muslim Dalit, was on her way to buy medicines for her grandmother when two Hindu Yadav men told her that her father was calling her back home. When she stopped, they kidnapped her and took her to a secluded plot.

While one perpetrator raped her, the other beat her. Finally, they took out a blade and slit her neck. Due to the blood loss, Rehana fell unconscious. Thinking her dead, the perpetrators dragged her into a copse of bushes and left her there.



## EVEN LITTLE GIRLS AND BABIES ARE NOT SPARED



- Sayeli is a six-year-old school-going Dalit who lives in a village in Uttar Pradesh. She belongs to the Gond community. Sayeli was abducted by three boys from a nearby village from outside her house. They took her to a nearby bridge, and raped her.

She was found around midnight walking homeward, crying and covered in blood. When the survivor was taken to the district hospital, they referred her to another hospital without examining her. Upon the intervention of an MLA, she was admitted and treated at the second hospital.

The family is in distress because the perpetrators have not yet been arrested and brought to justice.

- Gudiya was a 5-year-old Dalit baby from the Sapera caste. Her parents are migrant workers in a village in Haryana. Gudiya's mother woke up one morning to her baby missing.

A neighbour helped search for her, and the mother found the body. Gudiya had been raped and murdered.

The perpetrator is a neighbour from a dominant caste. For five days after the body was recovered, the authorities failed to inform the grieving family about where their baby's body had been taken. They received no support from the police or any other government institution. No arrests were made, until an NGO intervened to ensure that an FIR was filed under the SC & ST (PoA) Act, and a copy was given to the family.

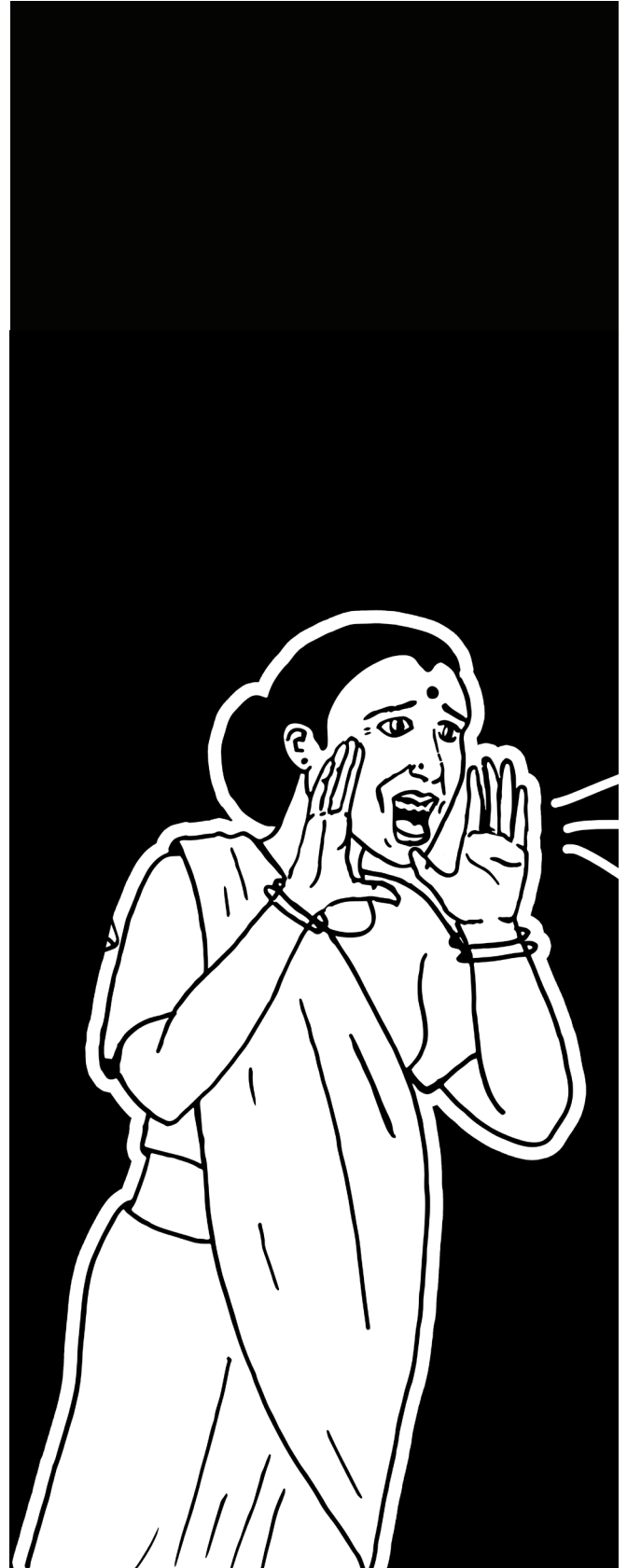
Meanwhile, the Panchayat pressured them to compromise because they are migrants and the accused are from the village. However, within nine months, the perpetrator was found guilty by the court and sentenced to 20 years of rigorous imprisonment. Despite the judgement and action, Gudiya's family faced such severe backlash from members of the dominant caste community for seeking a conviction that they were forced to move from the village.

- Devi was a 7-year-old Dalit girl who lived in a city in Tamil Nadu. A local flower seller from a dominant caste took advantage of the fact that Devi's father was an alcoholic. While Devi was playing outside her house and her family was attending to relatives inside, he took her away and sexually assaulted her.

When Devi's parents noticed that she was not playing outside, they assumed she might have strayed elsewhere in the neighbourhood and waited for her to return home. When there was no sign of her after several hours, they started to worry. They filed a complaint at around 8'o clock the next morning at the local police station.

A few hours of search led to a horrific discovery. Devi's body was found in a

swamp in the neighbourhood. Ants and insects were beginning to eat away at it. Her parents filed an FIR after they found out about the perpetrator's actions. The family of the accused continues to threaten the victim's family and has asked them to withdraw the case.



# WHEN PROTECTORS BECOME ASSAULTERS: NOT SAFE AT HOME OR IN AN ORPHANAGE

GIRLS  
HOSTEL



- Sheela is a 15-year-old school-going Dalit who lives in a village in Uttar Pradesh. As neither of her parents were alive, she lived with her uncle, cooked for him and did household chores.

The uncle sexually assaulted her for one and a half years, threatening her with violence if she spoke up. She eventually became pregnant and her grandmother and other villagers found out about the assaults, after which these were reported to the police.

The perpetrator is in jail, but the grandparents want his release as he is their sole breadwinner.

- Bhuvaneshwari was a 12-year-old Dalit orphan, staying in an Ashram in Odisha. She was found hanging at the orphanage and the relatives believe that she was raped and murdered, although authorities are treating it as a suicide. They fear that the perpetrator was the Brahmin chief of the orphanage. So far, the case has made little headway in the justice system.

# EXPLOITATION ON THE BASIS OF WORK AND CASTE BASED SEXUAL VIOLENCE

- Reena (22) and Roshani (25) are Dalit women who live in a village in Haryana. They worked as agricultural labourers in the fields owned by a family from the dominant Sikh community.

They had gone to collect firewood along with six other girls. They were confronted by two men from the Sikh community, one of whom was the landowner. He began to molest a young girl with the group, grabbing her and rubbing himself against her. She shouted in protest, and Reena, Roshani and the other women rushed to her aid.

The attacker made phone calls, asking others to come by. Soon a gang of four men arrived with sticks and began to beat the women and girls. Some managed to escape and went in search of help, but Reena and Roshani were trapped by the assailants. They were gang-raped by five men and beaten. By the time help arrived, the women were unconscious.

Though an FIR was immediately filed with the help of an NGO, the case was compromised as the DNA test prescribed for the perpetrators had been illegally tampered with, so the evidence is diluted. Reena, Roshani and their families face intimidation and threats of violence from the local Sikh community. The women were warned that if they persisted in pursuing a complaint against the





perpetrators, they would be forced to leave the village. Finally, confronted with overwhelming opposition and struggling with poverty, Reena and Roshani were eventually forced into a compromise. As a result, the case was dismissed by the trial court.

- Renu Paswan is a 35-year-old Dalit domestic worker. In Renu's village, Yadavs are a majority and Dalits work as labourers in their farms.

A man of the Yadav caste came to Renu's house one day, physically abused her, tore her clothes, and attempted to rape her. On hearing the noise made by the survivor, neighbours came and freed her.

When Renu filed an FIR, the police refused to include attempt to rape, only recording physical assault. The accused, out on bail, lives near the survivor. He continually pressures Renu to withdraw the case, threatening to kill her father if she fails to comply.

- Garima Devi is a 25-year-old Dalit woman from a village in Rajasthan. She had gone to a Jat household to collect spare buttermilk. She was gang-raped by three members of the family. A bottle was inserted into her vagina. Garima was found unconscious on the road by her family and taken to the

hospital, where she was admitted and treated.

All these cases reveal various forms of caste-based sexual violence and are evidence of deep rooted caste-based toxic masculinity. The sanction and continuation of these forms of sexual violence come from the powerful kinship networks, beginning with the families of dominant caste groups. These networks extend to the local governance, as well as the police and legal systems.

All the girls and women have been denied almost all their fundamental rights, including the right to life, liberty, education, expression, and movement because they are Dalit, girls and are from poor and powerless families, living in peripheries of villages and cities. All critical stakeholders who are duty bound to ensure these rights to them as children and as citizens of the country have failed in their responsibilities.

The presence of strong NGOs and Dalit WHRDs, some empathetic lawyers, and some members of the judiciary who have tried to ensure a semblance of justice for some victims are tiny rays of hope amid such pervasive everyday sexual violence.



**SYSTEMIC BARRIERS TO  
ACCESSING JUSTICE**

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# INSTITUTIONALISED CASTEISM AND PATRIARCHY



A study titled Dalit Women Speak Out was conducted in 2006 by the National Campaign for Dalit Human Rights (NCDHR). This covered 500 Dalit women's experiences of violence across four Indian states. Shockingly, there were convictions in only three cases, i.e. less than 1% of the total instances of violence. In the remaining cases, Dalit women were unable to access remedies for the violence due to a variety of reasons, including the prevailing culture of silence and stigma attached to rape, which prevented them from reporting cases, actions of the perpetrators and their supporters, and the community at large (including violence and threats, pressure to compromise and intervention by panchayats), and attempts to get justice being blocked by the police (through neglecting to take action, pressuring the survivor to compromise, accepting bribes etc).<sup>11</sup>

Fifteen years after this seminal study, the legal and policy environment governing cases of caste-based sexual violence has gone through dramatic changes. Widespread public protests against the epidemic of rape resulted in a slew of changes to the penal laws on rape, including an expansion of the definition of rape, the introduction of more stringent penalties, and amendments to the evidentiary

<sup>11</sup>National Campaign on Dalit Human Rights, Dalit Women Speak Out: Violence Against Dalit Women in India (2006), available at [https://idsn.org/uploads/media/Violence\\_against\\_Dalit\\_Woment.pdf](https://idsn.org/uploads/media/Violence_against_Dalit_Woment.pdf)



and procedural laws aimed at improving access to justice for victims.<sup>12</sup>

The Nirbhaya Fund was established with the aim of increased resourcing for the prevention and redressal of sexual violence; and national schemes for compensation, and victim and witness protection were approved by the Supreme Court.

With respect to Dalit women and girls specifically, the National Crime Records Bureau, in 2014, started publishing disaggregated data on some offences against Dalit women and girls. The SC & ST (PoA) Act was amended in 2015 to include an expanded list of caste-based atrocities, which includes sexual harassment and assault against a Scheduled Caste woman committed with the knowledge of her caste identity. The 2015 Amendment Act also requires state governments to set up Exclusive Special Courts for the trial of offences under the SC & ST (PoA) Act.

The Hathras gangrape case in 2020 and the Delhi Cantonment rape case in 2021, both caste-based crimes of sexual violence, also drew widespread public attention and brought the issue of caste-based sexual violence into the national spotlight.

Despite the progress, it is striking that many of the issues identified in the 2006 Dalit Women Speak Out report which impeded access to justice are still being reported by survivors and Dalit WHRDs today, including those in the 50 cases analysed for this report.

The caste-based nature of these atrocities continues to be invisibilised by the public, government authorities and courts now, as it was before.<sup>13</sup>

The systemic casteism and patriarchy inherent in the criminal justice system is also not adequately acknowledged and addressed. Caste-based attitudes and discrimination from the community, police, medical officials, prosecutors and judges all contribute towards impeding access to justice for Dalit women and girls.

The failure to address these structural issues means that the progress in legal and procedural reforms has not always translated into a real impact in protecting Dalit women and girls from caste-based sexual violence and ensuring justice for victims-survivors.

The systemic casteism and patriarchy in India's justice system is exacerbated by an acute lack of caste and gender diversity within the justice system. Nationally, on an average, only 10% of the police force is made up of women.<sup>14</sup> Bihar and Himachal Pradesh have the highest ratio of female police officers (25.3% and 19.2% respectively). With respect to caste diversity, all states and union territories have a reserved quota in the police force for Scheduled Caste candidates. However, only eight states and UTs meet or exceed their SC constable quota.<sup>15</sup> Of the thirteen states this report covers, Madhya Pradesh and Uttar Pradesh are doing the worst, having filled only 56% and 59% of reserved posts respectively.<sup>16</sup>

<sup>12</sup>See Criminal Law (Amendment) Act, 2013; Criminal Law (Amendment) Act, 2018

<sup>13</sup>See Also National Council of Women Leaders, Landmark Cases of Caste-based Sexual Violence from 1985 - 2020, 14 September 2021, <https://www.ncwl.org.in/campaigns/end-caste-based-sexual-violence/landmark-cases-of-caste-based-sexual-violence-in-india/>

<sup>14</sup>Tata Trusts, India Justice Report: Ranking states on police, judiciary, prisons and legal aid, January 2021, p. 30. <https://www.tatatrusts.org/insights/survey-reports/india-justice-report>

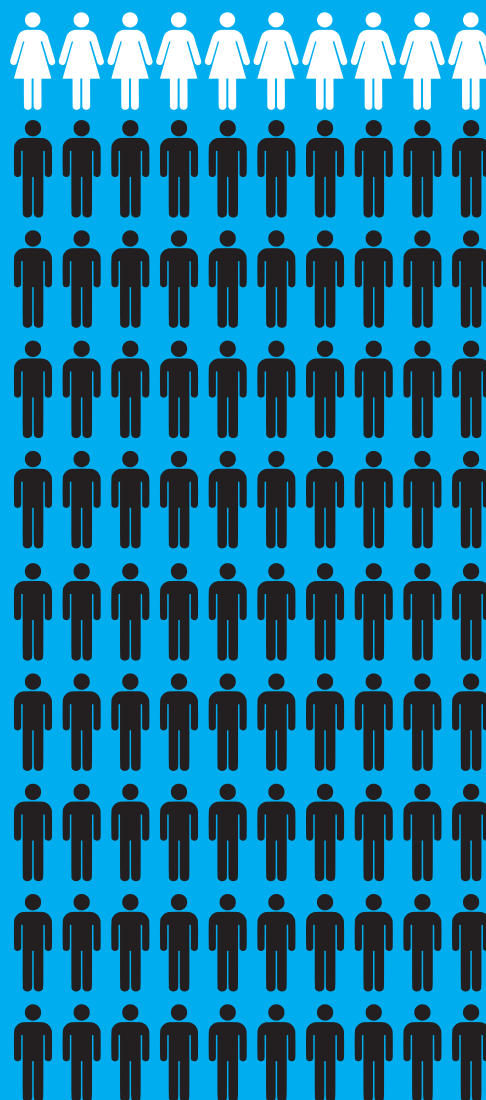
<sup>15</sup>Daman & Diu, Dadra & Nagar Haveli, Karnataka, Gujarat, Manipur, Chhattisgarh, Himachal Pradesh, Andhra Pradesh

<sup>16</sup>Tata Trusts, India Justice Report: Ranking states on police, judiciary, prisons and legal aid, January 2021, <https://www.tatatrusts.org/insights/survey-reports/india-justice-report>

With respect to the judiciary, only 13% of judges in the High Courts across the country are women, while only 30% of judges in subordinate courts are women.<sup>17</sup> Since Independence, there have been only six Dalit Judges appointed to the Supreme Court, with only one Dalit having held the office of Chief Justice thus far.<sup>18</sup> Though no data is publicly available on the representation of Dalit Judges in High Courts and the lower judiciary, Parliamentary committees, commissions and high-level government officials have acknowledged that the issue of acute lack of caste diversity in the justice system needs to be immediately addressed.

This lack of caste and gender diversity in the judicial system and the institutional and entrenched forms of casteism and patriarchy prevailing in the attitudes of justice system officials as well as in applicable procedures contribute to the effective denial of justice for Dalit victims-survivors of sexual violence. The specific barriers to accessing justice faced by the victims-survivors in the 50 cases studied are highlighted below.

**ONLY 10%  
OF THE  
POLICE  
IS MADE  
UP OF  
WOMEN**



<sup>17</sup>Ibid.

<sup>18</sup>American Bar Association, Challenges for Dalits in South Asia's Legal Community, Chapter III: Dalit Justice Defenders in India, October 2021,

# DIFFICULTIES FACED DURING REPORTING AND POLICE INVESTIGATION



The difficulties faced by victims-survivors of sexual violence or their families in getting the police to file the First Information Report (FIR) in rape cases has been widely documented, particularly for Dalit victims-survivors of sexual violence.<sup>19</sup> The widespread nature of this issue prompted the Indian government to amend the law in 2013, specifically including a criminal penalty for police officers who fail to file an FIR in rape cases.<sup>20</sup> However, despite this amendment, the police still fail to file an FIR in many rape cases or delay doing so.

Some issues faced by Dalit victims-survivors or their families during the reporting and investigation process and discussed below.

## **Refusal to File FIR or to Register FIR for Rape**

In one case out of the 50 cases studied, no FIR was filed due to constant pressure and threats from the accused and his family, including the Sarpanch (an uncle of the accused). The police failed to support the victim's family who suspect that the

<sup>19</sup>All India Dalit Mahila Adhikar Manch (AIDMAM)-NCDHR, Dalit Women Rise for Justice, March 2021, <http://www.ncdhr.org.in/wp-content/uploads/2021/04/Dalit-Women-Rise-For-Justice-Status-Report-2021.pdf>; Equality Now & Swabhiman Society, Justice Denied: Sexual Violence and Intersectional Discrimination - Barriers to Accessing Justice for Dalit women and girls in Haryana, India, November 2020, <https://www.equalitynow.org/justicedenied>.

<sup>20</sup>Section 166-A, Indian Penal Code, as introduced by the Criminal Law (Amendment) Act, 2013.

police colluded with the accused to ensure that no FIR was filed.

In another seven more cases (14% of cases studied), despite an FIR being registered, it did not include the offence of rape or attempt to rape, despite the survivor's insistence; or in cases where the victim is dead, despite the family's belief that a rape had taken place based on injuries to the genital areas of the victim indicating rape.

**Case Study:** Shazia, a 17-year-old girl from the Dalit Muslim community in Uttar Pradesh, was abducted, gang-raped and held for nearly four days before she was rescued. One of the rapists was identified by the survivor as a policeman. As a result, despite having provided all the information, police officers put pressure on her to change her statement and she was beaten up by a female police officer.

The police forced the survivor into signing a blank piece of paper and registered an FIR only for kidnapping, which states that the survivor eloped with the main accused (the name of the officer who raped the survivor was omitted).

When the survivor was taken for medical examination, she was told by the police that internal vaginal examination was not necessary and forced to sign a paper saying that she refused the examination. As a result, the medical examination report states "internal examination refused" and does not confirm rape. No FIR has been filed for rape so far.

### **Difficulties in Registering Cases under the SC & ST (PoA) Act**

The police failed to include provisions

of the SC & ST (PoA) Act in the FIR in 15% of cases (7 out of 46) for which the Act was applicable, based on information available. Even in most cases for which an FIR was registered under the SC & ST (PoA) Act, this was done only based on the request of the victim-survivor or her family; or due to pressure by Dalit WHRDs and CSOs. In many cases, the FIR was later amended to include sections of the SC & ST (PoA) Act, following sustained advocacy by Dalit WHRDs and the victim-survivor or her family.

In some cases, the police appeared to be unaware of these provisions, particularly of the 2015 amendments which strengthened the Act. It was also noted that in some states, like Chhattisgarh and Odisha, police officers are more reluctant to register FIRs under the SC & ST (PoA) Act than in others.

Failure to register an FIR under the appropriate sections of the Act is also punishable under the SC & ST (PoA) Act.<sup>21</sup> However, implementation of these provisions leaves a lot to be desired.

### **Delays in Filing FIR**

In as much as 44% of the cases studied (22 out of 50), the survivor or the family of the victim have reported a delay or difficulties caused by the police in registering the FIR even after a complaint was made. Such delays ranged from half a day to three months. The most common length of delay found was between two and five days. In many cases, the FIR was registered only after being pressured by WHRDs, lawyers or NGOs who supported the survivor or family of the victim.

<sup>21</sup>Section 4, Punishment for Neglect of Duties, Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 as amended in 2015.

This delay on the part of police can have a severe impact on chances of a conviction because the medical examination is not usually conducted until the FIR has been filed. The delay in the examination reduces the possibility of obtaining physical evidence of the rape, and evidence against the perpetrator. Meanwhile, Indian courts continue to place a disproportionate reliance on medical evidence in rape cases. <sup>22</sup>

**Case Study:** Ritu, a 13-year-old Dalit, in Rajasthan was gang-raped by two men from the Yadav community. When she and her parents went to the police station to report the rape, the police did not take any interest because they were poor and from the Dalit community.

No FIR was registered for days after the complaint was received. Six days on and after pressure from civil society organisations who appealed to the Superintendent of Police, the FIR was filed. Due to the delay in registering the FIR, all the evidence of the rape could not be collected during the medical examination, which may impact the chances for conviction (the case is currently pending before the trial court).

## Failure of Police to Take Action

In a number of cases, the police have also failed to take action when the victim was first reported missing (and her body was later found, after rape and murder); or when the victim-survivor reported harassment by the accused (which later escalated to rape). The failure of the police to take these complaints seriously, effectively investigate them, and protect the

victim-survivor make Dalit women and girls more vulnerable to violence.

**Case Study:** In Nathiya's case, her parents reported her missing to the Tamil Nadu police. Nathiya, an 18-year-old Dalit girl had been harassed and intimidated by the main accused, Gopi, for some months prior. Nathiya's family suspected that Gopi had done something to Nathiya.

However, the police did not file an FIR for six days. They arrested Gopi and interrogated him, but released him shortly without making any progress in locating Nathiya. They were lethargic in taking any other action to rescue Nathiya or discover her whereabouts. Nathiya's body was found by villagers 17 days later, after which it was found that Gopi and his friends had gang-raped and murdered Nathiya.

**Case Study:** In a case from Maharashtra, the accused had been harassing Shital, a Dalit woman, for years, threatening her and using casteist slurs. She tried to obtain the help of the police, filing an FIR for harassment and even registering a complaint with the State Women's Commission. No action was taken by the police to protect Shital and her harassment case was quashed.

Three months after the complaint, the accused abducted Shital, forced her to 'marry' him and subjected her to sexual assault. She finally managed to escape after four months.

Shital did not attempt to go back to the police after her earlier disastrous attempt, but filed a complaint about the forced marriage with the Women and Child Department, who counselled her to adjust and return to her married

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<sup>22</sup>CEHAT, Role of Medico-legal Evidence in Rape Trials: A Review of Judgments at the Sessions Court in Mumbai, 2020, <http://www.cehat.org/uploads/files/A%20Rape%20Review%20Report%20Final.pdf>



life.

With no protection or help from the authorities, Shital was staying with her mother and hiding from the accused.

Seven months later, the accused tracked her down again, and when her mother refused to let him into the house, he shot Shital's mother dead.

This case demonstrates the complete failure of the state machinery in protecting women and preventing violence, eventually resulting in both a rape and a murder which could potentially have been avoided had prompt action been taken by the police on the initial complaints of harassment.

### **Threats, Corruption, and Intimidation by the Police**

In a number of cases, survivors and families of victims have also reported that the police actively impeding access to justice for rape. Survivors or families of victims report:

- being yelled at or abused by the police when they go to report cases
- facing threats or pressure from the police to withdraw the complaint or to compromise the case
- apparent corruption within the police, with the police allegedly accepting bribes from the accused in exchange for ensuring that the FIR, medical examination report or the charge sheet omit certain details of the rape or one of the accused <sup>23</sup>
- being forced to cremate the body

of the victim at night or before they are ready (similar to the forcible cremation that took place in the Hathras case in 2020) <sup>24</sup>

**Case Study:** Sneha, a 15-year-old Dalit girl, was allegedly gang-raped by four suspected security personnel in Kunduli, Odisha. She was in a serious medical condition after the rape and had to be admitted to the hospital, where the police arrived to take her statement.

Sneha claimed that she was continuously threatened and harassed by the police to say that she had not been raped by security personnel but by other local persons. They offered her money to withdraw the allegations.

The police kept Sneha in the hospital even after she recovered, and refused to allow her to meet her family. When the police were unable to convince Sneha to change her statement, the medical examination of the victim was re-done to show no evidence of rape (she was never provided with a copy of the original medical report, where the doctor verbally confirmed the rape).<sup>25</sup> After three months of such continual harassment, the Sneha committed suicide. In her suicide note, she wrote that she was raped.

### **Delays in Police Investigation**

The Code of Criminal Procedure mandates a time limit of two months for the completion of police investigation of rape cases.<sup>26</sup> Despite this, delays in completion of the

<sup>23</sup>See generally Transparency International, Global Corruption Index 2020, which shows that 42% of people in India who interacted with the police in 2020 had used bribes. <https://www.transparency.org/en/gcb/asia/asia-2020/results/ind>

<sup>24</sup>Also see Bismee Taskin & Tanushree Pandey, Hathras was No Exception, at least 4 'rape' victims were forcibly cremated by the police, The Print, 2 October 2021, <https://theprint.in/india/hathras-was-no-exception-at-least-4-rape-victims-were-forcibly-cremated-by-police/743817/>

<sup>25</sup>See Report of Public Hearing on "Alleged Rape Cases and Status of Rape Victims in Odisha" [Kunduli Rape Victim], 21 January 2018, for more details. <https://odishasoochana.blogspot.com/2018/01/report-of-public-hearing-on-alleged.html>

<sup>26</sup>Section 173, Code of Criminal Procedure, 1973

investigation and filing of the chargesheet are common. Out of the 23 cases for which information on this is available, it was found that:

- In 12 cases (52%), the charge sheet was filed after two months, or is yet to be filed due to a delay in investigation. The delay in filing the charge sheet in these cases ranges from half a month to six years beyond the two-month limit provided by law.

- In 11 cases (48%), the charge sheet was filed within two months.

The delays in investigation as noted in the findings from the cases for this report is also reflected in nation-wide data from the NCRB. At the end of 2020, the pendency percentage in cases of rape against Dalit women and girls was 25.5%. This means that more than one-fourth of reported cases were pending police investigation at the end of 2020, despite the two-month limit to complete the investigation and file the charge sheet.<sup>27</sup>

**Case Study:** In a case from Odisha, the naked body of Haripriya, a young Dalit girl was found at the spot she used to bathe. Her body bore severe injuries around her genitals and acid burns on her face and body. The accused in this case were identified and arrested.

Despite the serious and brutal nature of this case, the police failed to make progress in their investigations. After pressure from WHRDs, the case was transferred to the Crime Branch, but a charge sheet has not been filed to date.

As the chargesheet was not filed within the stipulated time, the

accused were released on bail after two months of their arrest. They kidnapped Haripriya's two younger sisters to intimidate the family. The failure of the police to complete the investigation six years after the rape and murder, despite having identified the perpetrators, demonstrates the apathy of government authorities to ensure justice for Dalit victims.

### Cases being Designated as False by the Police

As per nation-wide NCRB data, around 8.51% of cases in 2020 of atrocities against Scheduled Castes were ended by the police as 'false'. However, in the states of Haryana and Rajasthan, 37.2% and 36.9% of cases of atrocities against Scheduled Castes, respectively, were designated false by the police.<sup>28</sup>

These figures show that in Haryana and Rajasthan, a large number of reported cases are dropping out during the police process, often due to pressure on the victims-survivors to enter into extra-legal settlements or compromises.

### Lack of Caste and Gender Sensitivity Shown by the Police

Survivors and families of victims report a lack of gender and caste sensitivity on part of police officials when Dalit women and girls attempt to report rape. They also note the influence of caste and class in determining how seriously their complaints and cases are taken, particularly when the accused are from a powerful or dominant-caste community.

In cases when girls went missing,

<sup>27</sup>Section 173, Code of Criminal Procedure, 1973 as amended by the Criminal Law (Amendment) Act, 2018. [https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct\\_14082018\\_2.pdf](https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct_14082018_2.pdf)

<sup>28</sup>National Crime Records Bureau, Crime in India - 2020, <https://ncrb.gov.in/en/Crime-in-India-2020>

police officials have sometimes made sexist remarks and assumed that the girl has eloped, and failed to investigate the case.

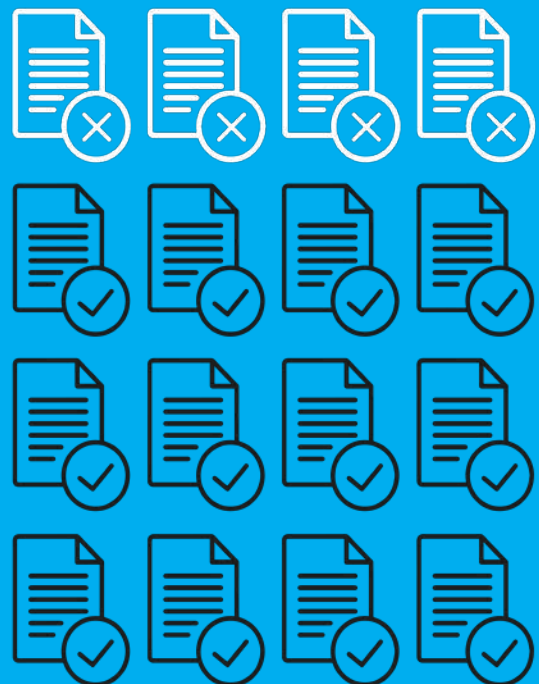
**Case Study:** Shivani, a 9-year-old Dalit, was raped in Uttarakhand. Once the case was reported, the police got the victim discharged early from the hospital and took the victim and her mother in a private vehicle to get their statement recorded by the Magistrate. The police refused to take the victim's father, citing lack of space in the vehicle, instead taking the accused from the police station in the same vehicle.

Over the 100 km journey, the accused intimidated the survivor and her mother. As a result, they were too scared to record an accurate statement when with the Magistrate.

Further, Shivani's health, upon returning, had deteriorated due to the long journey undertaken without benefiting from sufficient medical treatment.

In a 2014 report to the Human Rights Council, the United Nations Special Rapporteur on Violence against Women highlighted the violence and “multiple and intersecting forms of discrimination” faced by Dalit and Adivasi women. The Special Rapporteur noted that there are numerous complaints of “de facto caste-based discrimination, perpetrated by police officers, public representatives, and community members, with regard to access to services”.<sup>29</sup>

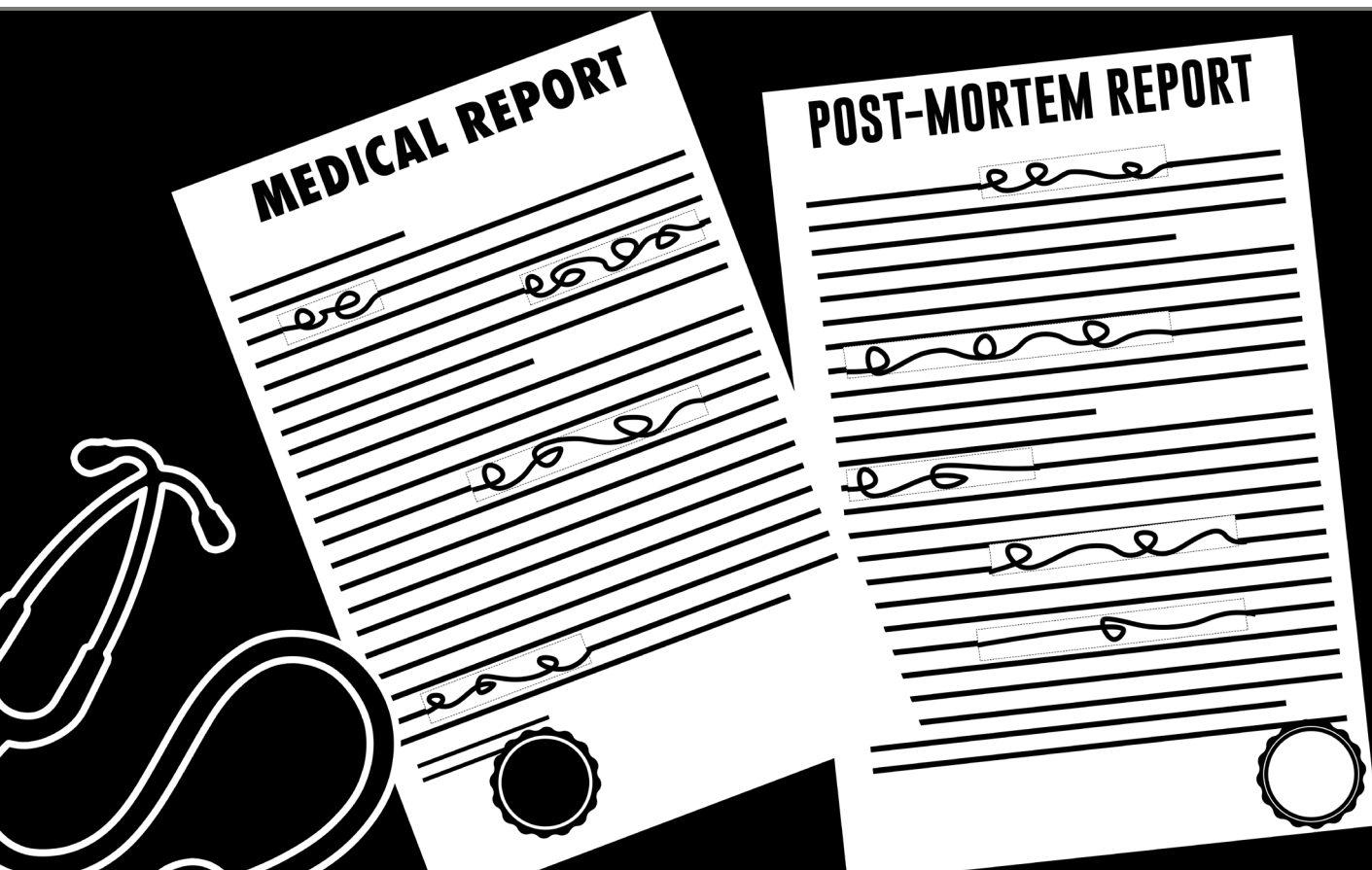
**MORE THAN  
ONE-FOURTH  
OF REPORTED  
CASES WERE  
PENDING  
POLICE  
INVESTIGATION  
AT THE END OF  
2020**



<sup>29</sup>Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Mission to India, Human Rights Council, 26th session, April 2014



# PROBLEMS WITH MEDICAL EXAMINATION AND TREATMENT



Survivors of rape report a number of issues faced during the medical examination. In several cases, the survivors highlighted that they were not provided with a copy of the medical examination report. In cases involving murder, the family of the victim was often not provided with a copy of the post-mortem report.

The lack of access to medical reports means rape survivors are often blindsided during trial, particularly if the medical examination report notes that rape could not be proven. There are also reports of doctors untrained on court processes performing medical examinations and being unable to provide accurate evidence during trial. Additionally, survivors and WHRDs, in some cases, believe that the medical, forensic, and post-mortem reports are manipulated by state authorities to show lack of evidence of rape.

Some survivors have noted that they were coerced into signing consent forms or medical examination reports, without being informed of details of their content. Survivors also report lack of gender and caste sensitivity by medical professionals, who dismiss survivors complaining of rape and make comments based on rape myths and stereotypes, adding to their trauma.

**Case Study:** For instance, in one case from Uttar Pradesh, Renu, a 21-year-old Dalit woman, was being constantly harassed by Pankaj, a man from the Thakur caste whose

uncle was the head of the village. Pankaj had taken photographs of her and morphed them into vulgar images, which he threatened to make public to shame Renu.

Renu had had confided with her mother that she was afraid that Pankaj would kill her. She often did not step out, fearing for personal safety.

One day Renu went missing. The day after she was reported missing, Pankaj come to Renu's house, and hurled filthy abuses against Renu and her family. He made threats: he would make sure that Renu could not go anywhere and no one would marry her. He also threatened to rape Renu, her sisters and her mother. Two days later, Renu's body was found in a pond.

Though Pankaj was arrested when the body was found, he was released after constant pressure from his family. Out on bail, he threatened to kill Renu's family if they continued fighting the case. When Renu's body was taken for a post-mortem examination, the doctor was changed three times before an examination was conducted. The post-mortem report concluded that Renu had died by drowning, and found no evidence of either rape or suspicious death. No FIR was registered due to this, despite the history of harassment and threats of rape and murder.

### **Failure to Follow Protocols and Continued Use of the “Two-finger Test”**

In 2014, the Ministry of Health and Family Welfare issued the guidelines and protocols on Medico-Legal Care for Survivors or Victims of Sexual Violence. These guidelines require healthcare

providers who carry out forensic examinations to provide psychosocial support to women and girls who disclose an incident of sexual violence or to refer them to a healthcare provider for such services. They also include protocols for conduct of the forensic examination of the survivor to ensure that the privacy, dignity and autonomy of the survivor is respected.

These protocols are poorly implemented in many states across the country.<sup>30</sup> Medical professionals are also not given adequate training on the protocols and the information that ought to be included in the medical examination report for rape survivors.

For instance, the guidelines state that the status of the hymen is irrelevant as “an intact hymen does not rule out sexual violence, and a torn hymen does not prove previous sexual intercourse”. It notes that only findings relevant to that particular episode of sexual assault, such as fresh tears to the hymen must be recorded.<sup>31</sup> However, the medical examination report of an adult rape survivor from Maharashtra in 2019, which was studied for this report, notes that “vagina – admits one finger without tenderness” and that there is an “old rupture of hymen”. These observations, though irrelevant to proving rape in that instance, can be potentially used by defense lawyers and the courts to focus on the past sexual history of the survivor.

There is also evidence that the unscientific and intrusive “two-finger test” is still conducted by hospitals in some states as part of the medico-legal examination of rape survivors. This test involves a medical practitioner inserting two fingers into the vagina in an attempt

<sup>30</sup>See Also Centre for Enquiry into Health and Allied Themes, Understanding Dynamics of Sexual Violence : Study of case records, 2018.

<sup>31</sup>Ministry of Health & Family Welfare, Government of India, Guidelines & Protocols: Medico-legal care for survivors/ victims of Sexual Violence, 2014, <https://main.mohfw.gov.in/sites/default/files/953522324.pdf>

to determine if the hymen is broken and to test laxity. The test is often used to declare sexual assault survivors as “habituated to sex”. Unscientific, traumatic, and a human rights violation, the “test” was banned by the Supreme Court in 2013.<sup>32</sup> The 2014 guidelines released by the Ministry of Health also clarify that this illegal procedure has no bearing on cases of sexual violence.

Of the cases studied for the report, 11 survivors from the states of Bihar, Haryana, Madhya Pradesh, and Tamil Nadu confirmed that they had undergone the two-finger test during the medical examination. In many other cases, this information was not available or was inapplicable (such as in cases involving murder; or if no FIR was filed). Thus, it is not possible to determine whether this practice is prevalent in the remaining states.

In Tamil Nadu, of the nine rape cases studied, two cases were of rape and murder. In six of the remaining seven, the survivor complained of being subjected to the two-finger test. The continued use of the two-finger test in Tamil Nadu is also borne out by the allegations of the IAF officer in September 2021 – her case received widespread media coverage after she said she had been subjected to the two-finger test in a military hospital, after she was raped.<sup>33</sup>

From a human rights perspective, conducting a medical test on survivors that has no probative value is a violation of their personal integrity and could lead to further trauma.

## Failure to Provide Adequate Medical Treatment

Further, survivors report that often,

though they were sent for medical examination in accordance with the provisions of the law, they did not receive sufficient medical treatment for the injuries or, in some cases, pregnancy caused by the sexual assault. The failure to provide medical treatment is a violation of section 357-C of the Criminal Procedure Code which provides that all hospitals, public and private, are required to immediately provide first aid and medical treatment free of cost to survivors.

**Case Study:** The failure to provide immediate medical treatment to victims-survivors can have deadly consequences. In a case from Telangana, Aanya, a 14-year-old Dalit, was repeatedly raped in the orphanage where she was staying. Her relatives found out about the rape when Aanya came to stay with them during the lockdown, and approached the police on 1st August.

Though an FIR for rape was filed, Aanya was not provided medical treatment. She was handed over to the District Child Welfare Commission (CWC) on 3rd August, in the hope that she would be provided with medical help and that the other girls in the orphanage would be rescued. But the CWC merely kept Aanya in an Observation Home, taking no other action.

Aanya was taken to the hospital only on 8 August after she collapsed due to haemorrhage from internal wounds caused by the repeated assaults. The injuries had gone undetected for over a week after the case was reported to the authorities. Aanya was finally rushed to Hyderabad’s Niloufer Hospital, where she breathed her last on the 12 August.

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<sup>32</sup>Lillu v State of Haryana (2013)14 SCC 643

<sup>33</sup>The New Indian Express, Doctors performed two-finger test to prove I was raped: Woman IAF officer, 30 September 2021, <https://www.newindianexpress.com/states/tamil-nadu/2021/sep/30/doctors-performed-two-finger-test-to-prove-i-was-raped-woman-iaf-officer-2365584.html>

# BARRIERS IN THE JUDICIAL PROCESS



Of the 50 cases studied for this report, an FIR was not registered in one case. As many as 43 cases remain pending, either pre-trial or during police investigations. There were convictions in two cases, while four were closed, following a compromise.

The two cases in which conviction was achieved were cases of rape and murder which involved very young victims, who were 5 and 7 years old respectively. In these cases, the trial took six and nine months respectively.

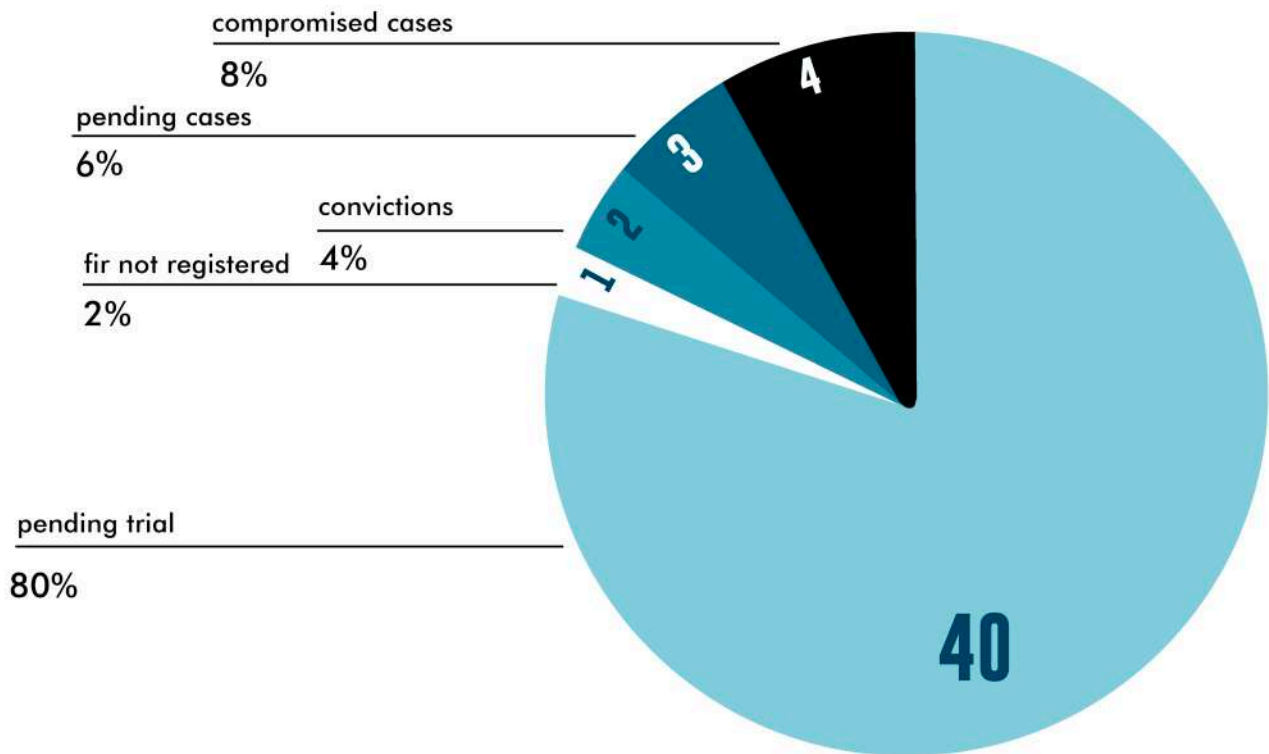
## Long Delays in the Trial Process

In all 40 cases which have not been closed yet, the trial has been pending for more than two months – the stipulated time according to law for the completion of rape trials.<sup>34</sup> The trials in three cases have been pending for over six years, and for over three years in seven others.

Nationally, too, a large number of cases remain pending trial. NCRB data shows 1,59,660 cases of rape pending trial at the end of 2020. The pendency for cases of rape against Dalit women and girls (cases pending before courts at the end of the year) was 96.3%.

<sup>34</sup>Section 309, Code of Criminal Procedure, 1973

# CURRENT STATUS OF SEXUAL VIOLENCE CASES



The impact of the COVID-19 pandemic, lockdowns and other associated measures to contain it have caused further delays in trials: pendency percentage rose from 91.4% in 2019 to 96.3% in 2020. Almost all cases in which the trial started in 2019 or later, of the ones studied, remain pending before courts.

## Conviction Rate

As per NCRB data, the conviction rate (number of convictions in the cases in which the trial was completed) for rape cases against Dalit women and girls in 2020 was 42.5%. This is an improvement over the 32.2% conviction rate in recorded in 2019, and in fact 2020 saw the highest conviction rate

for cases of rape against Dalit women and girls in five years.

## Retaliation by the Accused after being Released on Bail

One of the impacts of the delays in police investigations and rape trials is that the accused is often released on bail. In many cases, the accused fails to comply with the conditions of the bail bond; and threatens and harasses the survivor or the family of the victim.

In one case from Odisha, the accused persons even kidnapped the sisters of the deceased victim after being released on bail in an attempt to intimidate the family. In a case from Bihar, the accused, once out on bail,



threatened to rape the survivor again in an attempt to make her compromise the case.

The failure of the system to ensure that the accused comply with the bail conditions as well as to provide adequate protection to victims-survivors and witnesses often contributes to further trauma of repeated threats, retaliation and harassment to survivors and families of victims. In some cases, this leads to compromises due to fear of retaliation by the accused.

### Issues with the Trial Process

The most common complaint from rape victim-survivors and their families regarding the trial process was regarding the public prosecutors, who were either not taking the case seriously, did not believe the survivor was raped, or failed to keep them informed about the status of the case and dates of hearings. In some cases, survivors and families of victims noted that the public prosecutor asked for additional money, even though they are paid by the State and should provide services free of charge to rape victims-survivors. In a number of cases, the lack of trust in the public prosecutor or the failure of the prosecutor to carry out duties resulted in the survivor or the family of the victim appointing private lawyers (often at high cost). Public prosecutors are also often unaware of provisions of the SC & ST (PoA) Act or are unwilling to comply with them due to their caste biases.

The distance to the court for victims-survivors from rural areas creates an additional financial burden on the victim-survivor or her family, and exacerbated when public prosecutors

seek adjournments even when the victims and witnesses are present at court. The SC & ST (PoA) Act requires Special and Exclusive Special Courts set up to try offences under the Act to provide travelling and maintenance expenses during the investigation and trial.<sup>35</sup> However in practice, these expenses are hardly ever provided to victims-survivors, who are unaware of their rights.

Survivors also noted facing offensive, insensitive and hostile questions from defense lawyers during the trial process.



<sup>35</sup>Section 15A, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended in 2015

# FAILURE TO EFFECTIVELY IMPLEMENT PROVISIONS OF SC & ST(POA) ACT

The 2015 amendment to the SC & ST (PoA) Act requires the state government to set up Exclusive Special Courts for the trial of offences under the SC & ST (PoA) Act.<sup>36</sup> These special courts are meant to provide speedy trials, to be completed within two months. The state government is also required to appoint Special Public Prosecutors for the prosecution of offences before these courts. However, only 13 states across the country have set up Exclusive Special Courts to try offences under the SC & ST (PoA) Act.<sup>37</sup>

The SC & ST (PoA) Act also requires state governments to identify atrocity-prone districts so that measures can be taken in these areas to prevent atrocities and improve safety, including through the appointment of a special officer to monitor implementation of the Act. However, of the 36 states and union territories in the country, only 12 states have identified atrocity-prone areas.<sup>38</sup>

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<sup>36</sup>Section 14, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as amended in 2015

<sup>37</sup>Ministry of Social Justice and Empowerment, Annual Report 2020-21, [https://socialjustice.nic.in/writereaddata/UploadFile/ANNUAL\\_REPORT\\_2021\\_ENG.pdf](https://socialjustice.nic.in/writereaddata/UploadFile/ANNUAL_REPORT_2021_ENG.pdf)

<sup>38</sup>Ministry of Social Justice and Empowerment, Annual Report 2020-21, [https://socialjustice.nic.in/writereaddata/UploadFile/ANNUAL\\_REPORT\\_2021\\_ENG.pdf](https://socialjustice.nic.in/writereaddata/UploadFile/ANNUAL_REPORT_2021_ENG.pdf)





# ROLE OF COMMUNITY INTERVENTION & PRESSURE TO COMPROMISE



In 37 out of the 50 cases, or 74% of the cases, the survivors or families of victims received threats from the accused, their family or other members of the community and were pressured either not to complain or to withdraw or compromise the case.

In two other cases, survivors noted that they received indirect pressure to compromise the case from members of the community the accused belongs to, though no direct offers of money to settle or threats to drop cases were made. Of these 39 cases, five involved compromises: the survivor or family of the victim agreed to change their statement before the police or court and stop co-operating in the criminal case.

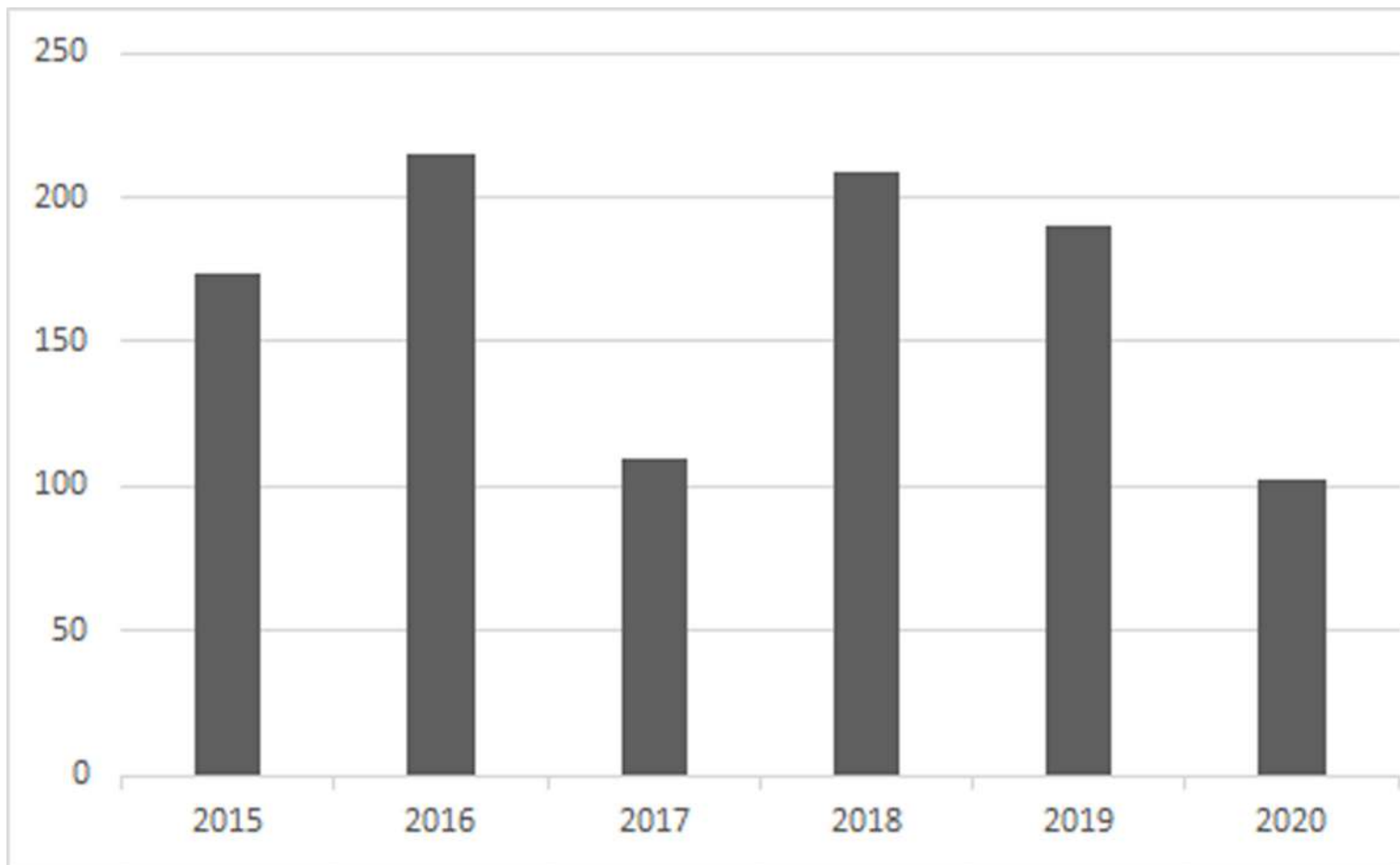
## **Compromises Officially Recognised by Courts**

Every year, a number of rape cases are compromised or compounded by the courts, despite the fact that rape is a non-compoundable offence and the Supreme Court has held that compromises in rape cases are not permissible under law.<sup>39</sup>

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<sup>39</sup>(2014) 13 SCC 218

The number of rape cases which were officially compromised or compounded by courts, as per data from the National Crime Records Bureau, is provided below:



\*This data refers to cases of rape against all women and girls compromised by court; disaggregated data with respect to Dalit women and girls is not available.

The slightly lower number of compromised cases in 2020 must be viewed in light of the fact that far fewer rape cases were disposed of by courts than as compared to previous years due to pandemic-related court closures. In fact, the percentage of rape cases officially compromised by courts has, on an average, remained around 1% of the cases disposed of by courts between 2016 and 2020.<sup>40</sup>

It must be noted, however, that many more rape cases are compromised

out of court each year, and are not statistically recorded as such extra-legal or out of court compromises usually lead to either the police closing the case (including by designating it 'false') or the accused being acquitted since the victim or witnesses stop co-operating in the criminal justice process.

### **Compromises in Cases of Caste-based Sexual Violence**

The role of the community in impeding access to justice for cases of sexual violence is often particularly acute in cases of caste-based sexual violence, with perpetrators from dominant caste families. The accused and their families use their casteist influences, and political, social and economic clout and influence to threaten or

<sup>40</sup>National Crime Records Bureau, Crime in India, 2016-2020, available at <https://ncrb.gov.in/en/crime-in-india> <https://ncrb.gov.in/en/Crime-in-India-2020>

pressure survivors and their families. This is often done with the support of officials within the criminal justice system. They also file false counter-cases against the victim-survivor or her family to intimidate them into compromising the rape case.

**Case Study:** Tanisha, a 19-year-old Dalit, from Gujarat was found hanging from a tree five days after she was kidnapped. The accused was a wealthy man from the OBC community who abducted Tanisha and told her sister to keep quiet about the kidnapping.

When Tanisha's family went to the police to complain that their daughter was missing, the police had told them that Tanisha had eloped and promised them that she was safe. The post mortem report, however, showed signs of gang rape and sodomy.

However, the main accused was from a powerful financial family and used his connections with local political leaders to influence the police, as well as to threaten Tanisha's family and offer them money. Following pressure from all sides and the refusal of the police to act, Tanisha's family changed their statement to the police and compromised. The police then classified the case as suicide and closed it.

In addition to pressure from the accused and his family, dominant caste Hindus and members of other communities often support the accused and threaten them to withdraw the case. In many instances, when the perpetrator is from a dominant caste, members of his community, who are often landowners or employers of Dalits, use financial pressure and the threat of job loss, too.

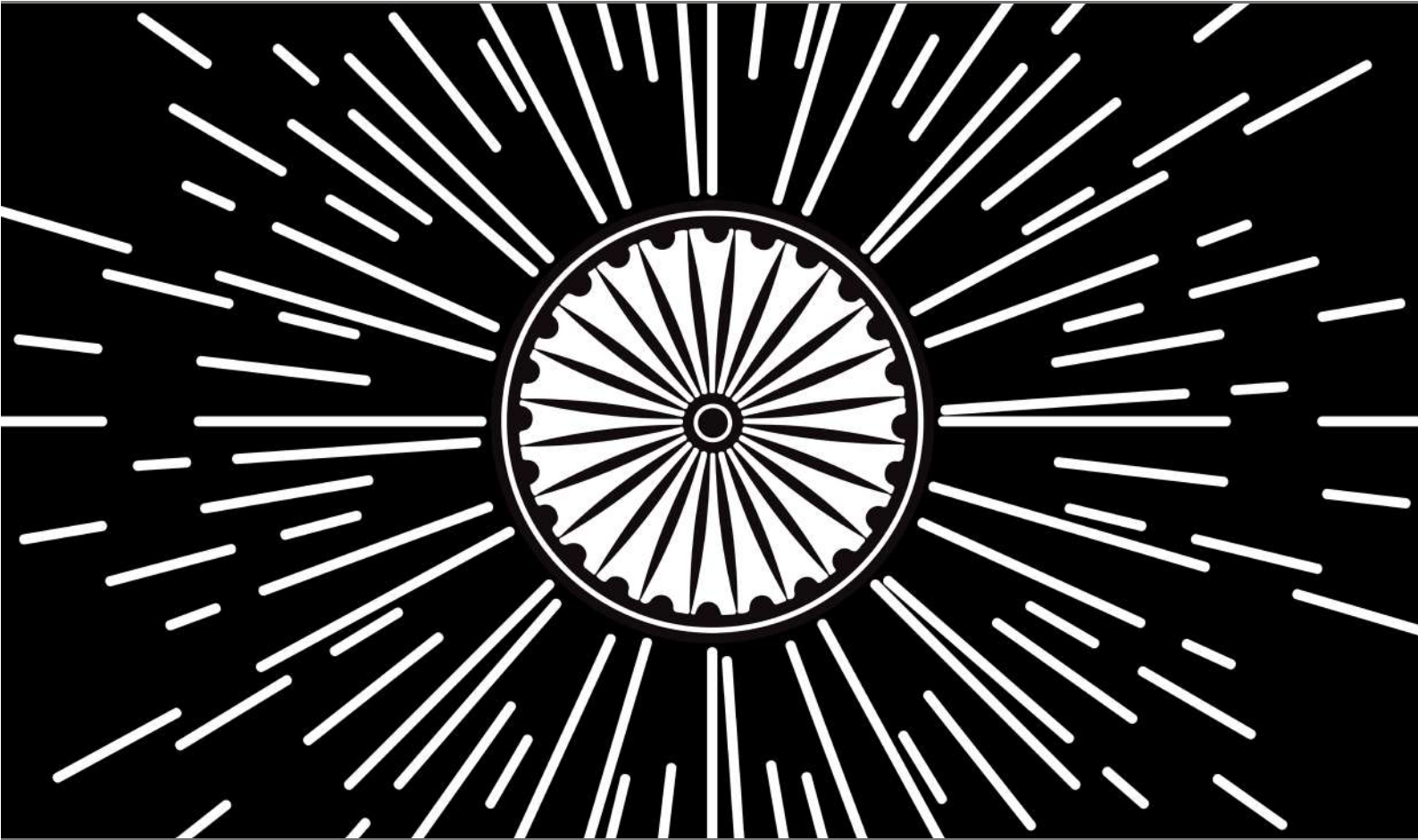
The role of panchayats (or unofficial

village councils) in pressuring Dalit survivors of sexual violence is also notable. Since panchayats are usually made up of persons from the dominant caste of the village, they often support the dominant-caste perpetrator. The enormous social and political power wielded by these khap panchayats allows them to pressure survivors and their families to compromise the case – using threats of economic and physical retaliation, social boycott, banishment from the village – as well as to intimidate or bribe police officers investigating the case.

**Case Study:** In the case of the rape of Pankti, a 9-year-old Dalit from Uttarakhand, by a 43-year-old Rajput man, as soon as the case came to light, the upper-castes called a panchayat. Pankti's parents were called. Members of the panchayat asked them to "show pride" in living in the village and society, and they were warned not to complain. Pankti's father was quiet and her mother was not allowed to speak in the panchayat. Pankti's father was pressured into compromising the case for Rs 2,00,000.

However, with support from a local CSO, Pankti's parents went to the police station the next day and registered an FIR. On the way to the station, Pankti and her mother were chased by upper-caste youths on bikes who threatened them: "Nothing will happen if you go to the police. Keep your agreement with the Panchayat."

## FAINT RAYS OF HOPE!



In the case of Devi, the 7-year-old Dalit from Tamil Nadu, the accused was convicted by the Mahila Court in Pudukottai and sentenced to death. Government authorities assisted the victim's family as the case drew attention in that district and the media highlighted it in state news.

Within three months of the start of the trial, the court arrived at a judgment according to the POCSO Act in the state. The court also awarded compensation of Rs 5,00,000 to the victim's mother. Full compensation of Rs 8,50,000 was given to the deceased family by the local administration, after the judgment. The victim's family feels that justice has been done.

**ACCESS TO SUPPORT SERVICES  
FOR VICTIMS/SURVIVORS**

# USAGE OF NIRBHAYA FUND



The “Nirbhaya Fund” has been set up by the Government of India for the implementation of initiatives aimed at enhancing the safety and security of women in the country. These funds are allocated to state governments for various purposes, including setting up of one-stop service centres, safe city shelter projects, funding of the Central Victim Compensation Fund and the like. However, only 46.21% of the total money allocated to the Nirbhaya Fund until July 2021 has been spent. <sup>41</sup>

Under the fund, the One Stop Centre (OSC) Scheme,- implemented across the country since 2015, aims to facilitate women affected by violence with a range of integrated services under one roof. As per data released by Union Minister for Women and Child Development, in a written reply in the Lok Sabha in August 2021, around Rs 445.63 crore has been released to states from 2018 to 2021 for setting up centres across the country. However, only Rs 89.79 crore have been utilised by states so far – around 20% of the released funds. <sup>42</sup>

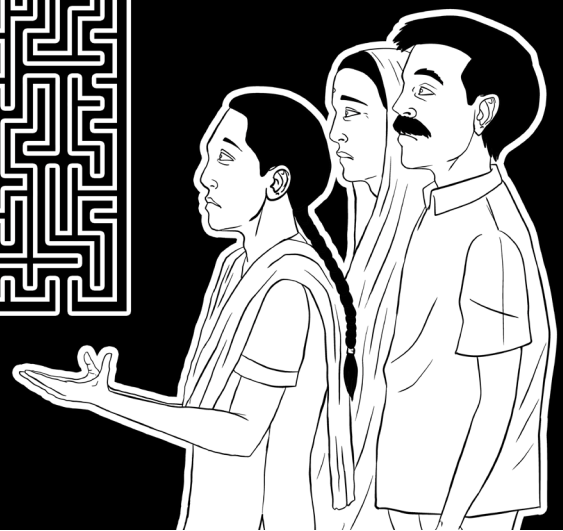
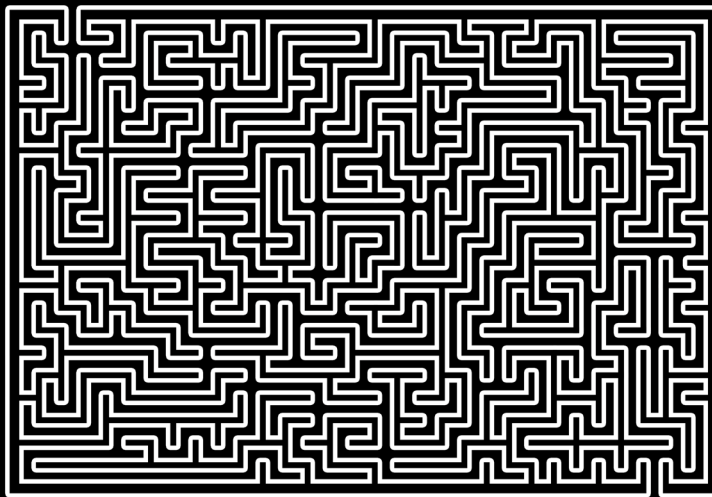
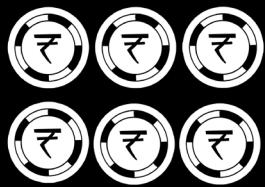
Bihar has only used 0.48% of these funds, while a few states have failed to utilise any of it. For instance, though West Bengal has been allocated Rs 2.94 crores, the state has not used any of this money and is yet to set up a single centre.

<sup>41</sup>Ministry of Women and Child Development, Utilisation of Nirbhaya Fund, Press Information Bureau, 22 July 2021, <https://pib.gov.in/PressReleasePage.aspx?PRID=1737773>.

<sup>42</sup>Press Information Bureau, Nirbhaya Scheme, 6 August 2021, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1743231>



# DIFFICULTIES IN ACCESSING COMPENSATION



Victims-survivors of sexual violence or their families have the right to compensation, both for the offence of rape as well as for offences registered under the SC & ST (PoA) Act.<sup>43</sup> The SC & ST (PoA) Rules decree a minimum compensation of Rs 5,00,000 to victims-survivors of rape and Rs 8,25,000 to victims-survivors of gang rape, of which 50% is payable after medical examination and confirmatory medical report, 25% after filing of a charge sheet, and 25% upon conclusion of the trial by a lower court.<sup>44</sup>

A number of survivors and WHRDs have noted the importance of the interim compensation, since most of the money is often used to pay private lawyers to support the prosecution and to cover costs of travel for the victim or her family to attend court proceedings. In some instances, the money has been used to pay for the medical treatment of the survivor.

However, despite its importance and legal entitlement, compensation was not

<sup>43</sup>See National Legal Services Authority, Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes - 2018, <https://nalsa.gov.in/services/victim-compensation/nalsa-s-compensation-scheme-for-women-victims-survivors-of-sexual-assault-other-crimes---2018>

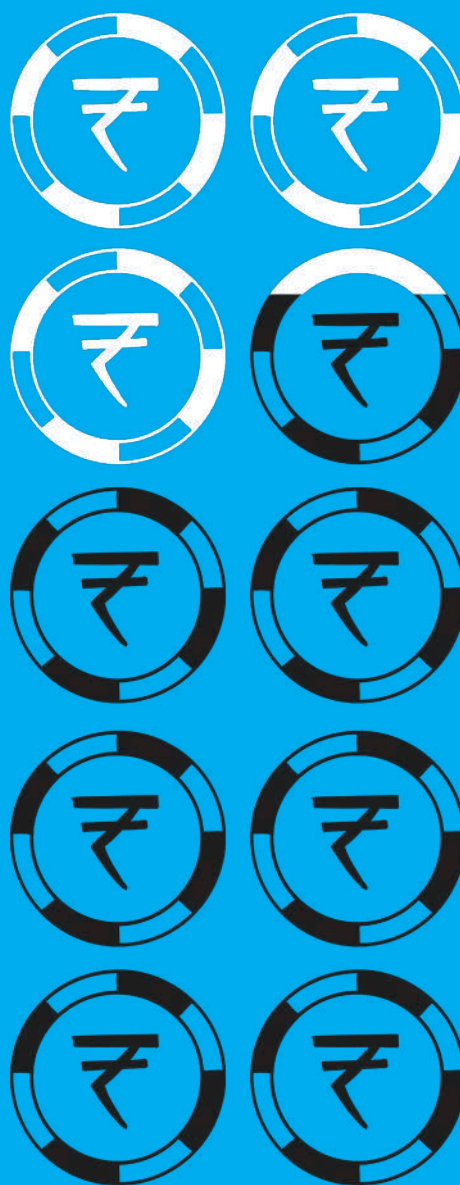
<sup>44</sup>The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules 1995 (as amended in 2016), Annexure 1; <http://ncsc.nic.in/files/PoA%20Amendment%20Rules,%202016.pdf>

received in 31% of cases for which the information is available (14 out of 44). In a few others, compensation was not paid due to the lack of registration of an FIR, or only a part of it was received due to failure of the police to file a charge sheet.

Even in the cases where compensation was received, it required repeated follow-up with government authorities from Dalit WHRDs and CSOs supporting the survivor. Where there is no support from WHRDs, survivors are often unaware of the entitlement to compensation or relief and the steps to do so.

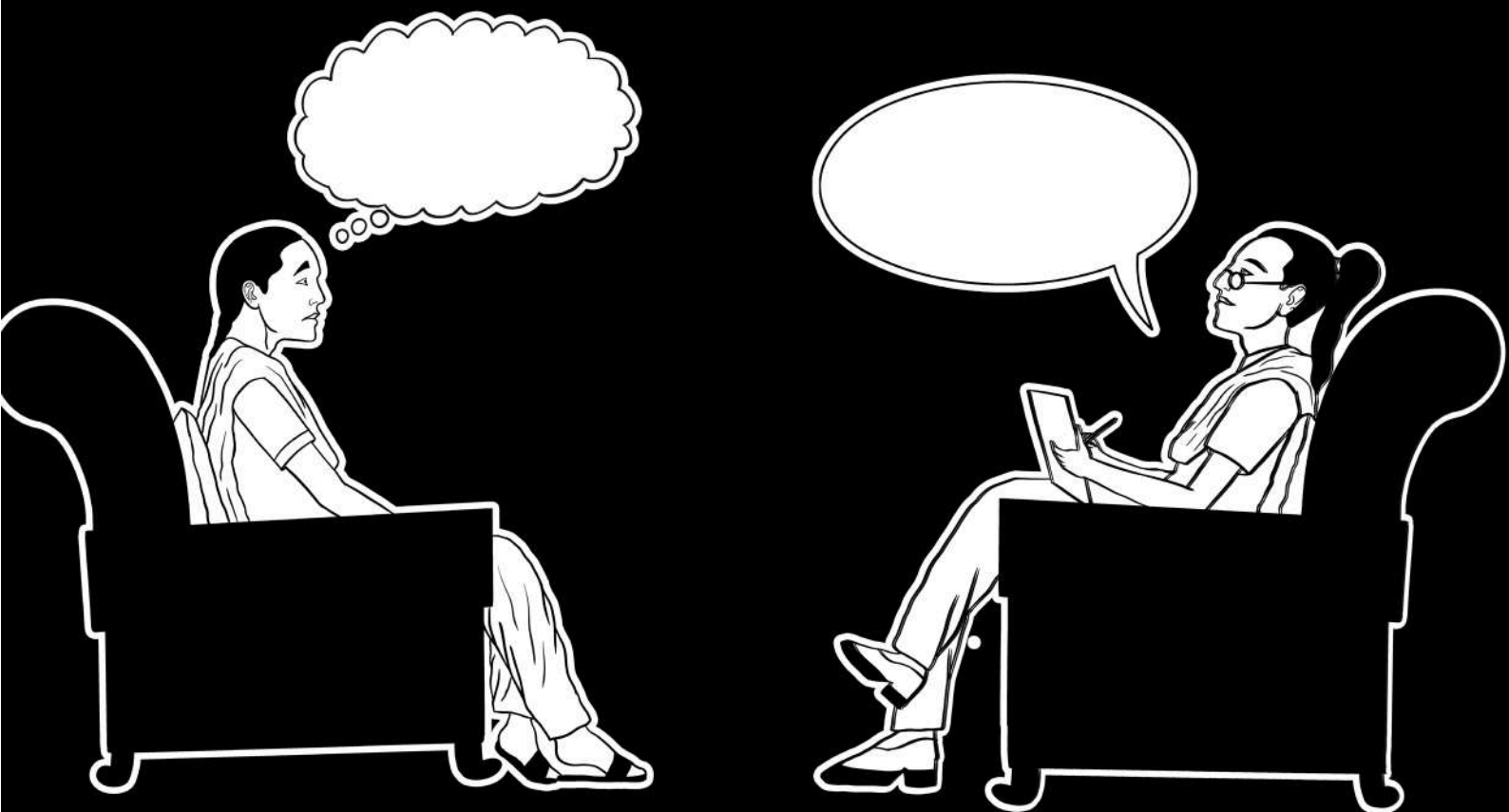
Further, despite the SC & ST (PoA) Rules mandating the provision of the relief amount within seven days<sup>45</sup>, the payment was delayed significantly in most cases. The period of delay ranged between two months and a year. Delays were more commonly reported in the payment of interim compensation (due after filing the charge sheet). In one case, it was received three years after the charge sheet was filed. These long delays in the provision of immediate and interim relief defeat their purpose, since these is meant to support essential needs of the survivor or her family after the rape.

## COMPENSATION WAS NOT RECEIVED IN 31% OF CASES



<sup>45</sup>Rule 12(4), The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Rules 1995 (as amended in 2016).

## ACCESS TO PSYCHO-SOCIAL AND OTHER SUPPORT SERVICES



The lack of provision of psycho-social support services to survivors by government authorities is prevalent. Survivors are often not offered counselling, rehabilitation or any other support from healthcare providers, who are most concerned with the conduct of the forensic examination. Even where counselling services were available, counsellors were not adequately trained on how to deal with survivors of sexual violence and trauma-informed responses.

Survivors have also talked of difficulties in accessing police protection, even when threats or intimidation from the accused, his family or his community have been reported. In some cases, even when police protection is provided, survivors do not feel any safer than before: they feel they are being monitored by officers who discourage meetings with WHRDs and NGO workers looking to support the survivor.

# ROLE OF DALIT WHRDS AND CSOS IN SUPPORTING SURVIVORS AND FAMILIES OF VICTIMS



In almost all 50 cases, some support services that the government failed to provide to victims-survivors were provided by Dalit WHRDs and CSOs. Dalit WHRDs have been unceasingly working to ensure justice for all the victims and survivors mentioned in this report – from counselling to legal support to aid in progress of the case. The role of grassroots Dalit WHRDs and CSOs support is therefore crucial in improving access to justice and ensuring that the mental, physical, emotional and legal needs of survivors and their families are met.

The support provided by Dalit WHRDs and CSOs to victims-survivors and their families take various forms, including:

- Paralegal support, such as getting an FIR registered or ensuring that it is amended to include accurate details and all applicable provisions, including under the SC & ST (PoA) Act; assistance in accessing compensation; assistance in applying for police protection
- Legal support during the trial process
- Psycho-social support and counselling services
- Support to pay medical expenses, and in ensuring access to quality medical

treatment and services as required

- Moral support and guidance, including explaining the criminal justice process to the victim-survivor or her family
- Rehabilitation for the survivor, including education support so that schooling is not stopped or significantly interrupted due to the rape; career counselling services to help the survivor find a job
- Advocacy support through interventions with government authorities, such as the police, ministries, or human rights commissions to ensure that the case is properly investigated and prosecuted and that the survivor receives legal entitlements
- Organising public campaigns, demonstrations and rallies to increase awareness and public pressure on authorities to take immediate and effective action

women's issues by other women's organisations is partial and often patronizing has also been highlighted by several Dalit WHRDs. Due to these constraints, they have been able to arrive at alternate strategies and carry out their work to enable the victims and their families to seek justice. They are determined to reach out and work with Dalit women in their areas, develop leadership skills and support the victims-survivors to access their rights and justice.

However, Dalit WHRDs face several challenges while working with victims-survivors. Some face opposition within their families, control over their mobility, lack of control and ownership of economic resources, like land and property, threats and intimidation by dominant-caste people, including threats of sexual violence and murder, and lack of support from other collectives and organisations working in the same sphere.

They also face retaliation and backlash (sometimes even in the form of false complaints or FIRs against them) and an acute lack of funding to carry out the critical work they are engaged in. The fact that the response to Dalit

# RECOMMENDATIONS



# TO THE CENTRAL GOVERNMENT

## General

- Recognise and support ongoing struggles of Dalit women to attain their rights and protect themselves against a culture of sexual violence.
- Recognise Dalit women as a distinct social group rather than subsuming them under the category of general women or Dalits, and accordingly develop and implement activities with a specific focus on Dalit women's rights within the broader framework of the national agenda for the empowerment of Dalit women and girls; mainstream an intersectional gender perspective in all government development policies and programmes.
- Commit to the abolition of caste-based discrimination and caste-based patriarchy as national goals, with the specificity of caste-, class-, and gender-based violence against Dalit women and girls being acknowledged, and that its abolition is incorporated into law and policy.

## Undertake Necessary Policy Measures

- Adopt preventive and supportive measures to ensure Dalit women and girls their right to security of life, equal protection of and equal standing before the law; and develop and implement a comprehensive strategy to address impunity; ensure access to justice for Dalit women and girls, by identifying and eliminating the barriers they face in their struggle for justice
- Amend Section 375 of the Indian Penal Code to remove Exception 2, and criminalise marital rape in all circumstances
- Reconstitute all protection mechanisms and monitoring committees for Dalits, with mandatory representation of Dalit women from Dalit and women's movements, as well as non-governmental organisations working with Dalits; enable these committees to monitor the registration of cases of atrocities under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, with 2015 amendments [SC & ST (PoA) Act] and the subsequent conduct of State and non-State actors vis-à-vis Dalit women victims-survivors, to prevent threats or pressure from perpetrators of violence and their communities on victims or survivors to withdraw or compromise police cases
- Address the violence not only as an issue of law and order, but also as a socio-

economic issue, in recognition of the fact that economic dependence and poverty is a significant reason behind Dalit women not filing police complaints against the violence they face from dominant castes; ensure interventions to address violence are holistic, including by preparing a national perspective plan with separate funding aimed at accelerating efforts to reduce the gap in poverty levels between Dalits and the general population, with time-bound targets, and explicit short- and long-term goals for the overall development of Dalit women as well as the eradication of violence against them

- Grant powers to relevant national human rights institutions to enable them to make legally-binding recommendations and establish an independent complaint and monitoring mechanism to redress discrimination and violence against Dalit women and girls

### **Implement Awareness-Raising and Education Programmes**

- Develop and implement specialised programmes for awareness-raising and training at all levels of police officers, law students, judges and prosecutors, village council representatives and bureaucrats, with regard to the situation of Dalit women in general and violence against Dalit women in particular, as well as to eliminate casteist and sexist stereotypes; ensure the programmes focus on reasons for and purpose of enactment of special laws to protect Dalits, providing thorough knowledge of the SC & ST (PoA) Act (including the 2015 amendments), and the specific problems linked to the gender-specific nature of crimes these women face, as well as the caste-based nature of crimes
- Address attitudes and prejudices that promote discrimination based on caste, sex and gender that also lead to sexual violence and foster a culture of impunity, including through national-level public campaigns to promote equality and challenge caste-based discrimination and violence, such as through schools or the media; ensure engagement of non-Dalit communities and men during these campaigns
- Highlight the responsibility of the media in promoting non-stereotyped images of women and men, Dalit women and men in particular; encourage the media to actively include positive images of Dalit women

### **Improve Available Data and Research**

- Correlate data on violence against women, violence against Dalits and violence against Dalit women and girls separately and map out violence-prone areas for Dalit women and girls to assist with the development of targeted interventions to address this systemic problem – including preventive action and assistance for victims-survivors; disaggregate all criminal, economic, social and political data on the grounds of gender, sex and caste and present a periodic white paper in Parliament on the realisation of the rights of Dalit women and girls, basis this data

# TO STATE GOVERNMENTS

## **Protection of Dalit Women and Girls and Prevention of Sexual Violence**

- Implement, support and fund programmes to educate Dalit women and girls about their legal rights, including information about the rights under the SC & ST (POA) Act; include community-based education, legal literacy campaigns and trainings aimed at increasing knowledge and understanding of the causes, consequences, and mechanisms of violence against women in general and Dalit women in particular
- Ensure Dalit women and girls who report violence are protected from retaliation by the accused and their supporters, and from the perpetration of renewed violence against them through social boycotts and imposition of restrictions, including through the effective implementation of Victim and Witness Protection schemes in accordance with the guidelines issued by the Supreme Court in *Mahender Chawla & Ors v Union of India & Ors*
- Ensure law enforcement agencies and other state mechanisms and agents, including bureaucrats, welfare departments, medical and paramedical agencies, and local bodies, are sensitised to effectively address grievances of Dalit women and girls

## **Effective Implementation of Existing Laws**

- Bring the criminal justice system under effective monitoring on priority to ensure efficient delivery of justice for Dalit women and girls; ensure full and strict implementation of the SC & ST (PoA) Act and the Protection of Children from Sexual Offences Act, 2012, and timely investigation and disposal of cases of violence against Dalit women and girls
- Fast-track effective investigation and trial of all cases of sexual violence against Dalit women and girls, ensure judgments in these cases are pronounced within four months from the date of reporting the atrocities in accordance with applicable law
- Ensure Section 164 statements given to the Magistrate in sexual violence cases are taken in camera to protect confidentiality of the victim-survivor's identity

## **Improve Police Response and Accountability**

- Ensure criminal cases are filed against officers who tamper with evidence (including through forcible cremation of victims without consent of the family), protect the accused from due and fair process of the law, or work to support criminals or persons accused of sexual violence
- Appoint appropriately-trained and gender- and caste-sensitised women police officers as Deputy Superintendents of Police in violence-prone districts so that they can efficiently handle cases of violence against Dalit women and girls
- Make provisions to sensitise all police officers on the SC & ST (PoA) Act and the specific barriers to accessing justice faced by Dalit women and girls due to intersectional forms of discrimination based on caste and sex in all aspects of police training imparted in the Police Academy
- Create a separate cell to be headed by Scheduled Caste and Scheduled Tribe officials for dealing with atrocity cases under the SC & ST (PoA) Act
- Establish Dalit women and child protection units with adequate representation of Dalit women, and in partnership with the police, ministries dealing with Scheduled Caste protection, development and social justice, and non-governmental organisations and movements

## **Provide Holistic Support to Victims-Survivors**

- Adopt and implement the 2014 Guidelines for Medico-legal Care for Survivors and Victims of Sexual Violence, issued by the Ministry of Health and Family Welfare, Government of India; ensure healthcare providers (medical students, too) are trained in the guidelines as well as how to provide gender-sensitive support to survivors of caste-based sexual violence, including the importance of obtaining informed consent of survivors for the medical examination
- Issue state-level guidelines banning the use of the two-finger test in accordance with Supreme Court directives and take strict action against healthcare professionals who conduct the two-finger test, including through disciplinary action by the Indian Medical Association
- Provide immediate relief in conjunction with holistic and adequate rehabilitation to Dalit women victims-survivors and members of their family, including provision of counselling and psycho-social support services
- Establish special services for victims-survivors of sexual violence so that they can benefit from professional assistance of psychologists, doctors, lawyers,

marriage counsellors etc; as part of this, include special units or procedures in government hospitals and primary healthcare centres to help identify women victims-survivors of violence and provide them with counselling without discrimination

- Provide adequate support to minor Dalit girls who have survived sexual violence to ensure they continue schooling and live a dignified life
- Effectively implement existing provisions for providing suitably qualified lawyers to Dalit women and girls who are victims-survivors of sexual violence; ensure state-level authorities providing legal services offer these services to Dalit victim-survivors as required, and that the lawyer accompanies them from the very day the case is registered
- Support adult Dalit women who survive sexual violence to find secure, valued jobs and pensions as a rehabilitative measure

**TO THE NATIONAL HUMAN RIGHTS COMMISSION, THE  
NATIONAL COMMISSION FOR SCHEDULED CASTES,  
THE NATIONAL COMMISSION FOR WOMEN AND  
RESPECTIVE STATE COMMISSIONS**

- In recognition of increasing attacks and violence that women human rights defenders (WHRDs) face for trying to protect the rights of Dalit women and girls, the National Human Rights Commission (NHRC) should take up all such issues suo moto, especially cases of victimisation of Dalit women and girls
- Work together to suggest concrete measures to curb the gruesome and unrelenting violence against Dalit women and girls, as the full protection and promotion of the human rights of Dalit women can only be addressed by promoting an understanding of the intersection of caste, gender and sex discrimination, and strictly recommend the filing of cases under the SC & ST (PoA) Act by ensuring the complete adherence of all the provisions and rules
- Work actively to prevent sexual violence against Dalit women and girls, including by actively raising awareness of the SC & ST (PoA) Act, associated legal rights and available remedies







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About the **National Council of Women Leaders:**

The National Council of Women Leaders (NCWL) is a coalition of women leaders who belong to marginalised communities across India working at the grassroots to support and empower marginalised women and girls in their communities.

Facebook: NCWLIndia      Twitter: @NCWLIndia

Instagram: @NCWLIndia      Youtube: @NCWLIndia

[www.ncwl.org.in](http://www.ncwl.org.in)

About the **Dalit Human Rights Defenders Network**

Dalit Human Rights Defenders Network (DHRDNet) is a coalition of over 1000 Dalit human rights defenders from across India. The main objective of DHRDNet is to create an efficient network of leading Dalit Human Rights Defenders to combat the rights abuses and to ensure that anti-discrimination mechanisms are properly and thoroughly implemented.

About **Tata Institute of Social Sciences**

An institution of excellence in higher education that continually responds to changing social realities through the development and application of knowledge, towards creating a people-centred, ecologically sustainable and just society that promotes and protects dignity, equality, social justice and human rights for all.

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March 2022

