



September 19, 2022

To,

Shri Vijay Sampla,
Chairman,
National Commission for Scheduled Castes,
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Subject: Seeking stringent action against those who brutally thrashed and led to the death of a 9-year-old Dalit boy in Rajasthan

Respected Sir,

We at Citizens for Justice and Peace (CJP), a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the death of a 9-year-old Dalit boy resulting from a brutal beating. The boy named Indra Meghwal hailed from Surana village, Jalore district of Rajasthan. We are aware that an offence has already been registered and are simply urging that further protection under the existing law is also provided to the victim's family.

According to details publicly available, we would like to bring to your notice that the 9-year-old Dalit boy was beaten up by a teacher on July 20, allegedly for drinking water from a pot in his school, that was only meant for "upper caste" people. The boy succumbed to his injuries on August 13 in an Ahmedabad hospital, after being taken to at least six other hospitals in the interim.

It has been alleged by the boy's father, that when he returned from school, the boy had injuries to his ears and face. Upon being asked about the injuries, the boy told his family that he was beaten up by his teacher. According to the boy's father, the brutal beating had led to haemorrhage, and the boy's limbs had stopped working. The family accused an upper caste teacher named Chail Singh who was enraged when the boy had touched a pot of water meant for the teacher. Singh has also allegedly verbally abused him with castiest slurs.

The accused teacher, Chail Singh was arrested on August 13 after the child's death and the police have taken statements of his classmates and other students present on that day. The accused teacher has been reportedly charged for murder under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Here are a few relevant sections of the law, that are applicable in the case:

Violation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view; (s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

(za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to— (A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, any public conveyance, any road, or passage;

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property [knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member], **shall be punishable with imprisonment for life and with fine;**

Indian Penal Code, 1860

300. Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

302. Punishment for murder.—Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.

There has been a rising frequency of crimes against Dalits which is nothing but a reflection of the increasing exploitation of Dalits by upper-caste Hindus. As reported by the Print, the National Crime Records Bureau (NCRB) revealed that as many as 50,900 cases of crimes against Scheduled Castes (SC) were registered in 2021 in India, an increase of 1.2 percent from 2020. It

further revealed how the State of Rajasthan where the 9-year-old Dalit was beaten until he succumbed to injuries, stands second highest in crime against Scheduled Castes.

A copy of the report dated 01.09.2022 by The Print is marked and annexed hereto as Annexure A

While some measure of space and political representation has been ensured due to the affirmative action of reservations, even decades after independence, the Dalits have not achieved total emancipation. Even today, Dalits continue to be vulnerable to such attacks which are not just violent in nature but also emerge from trivial social stigma such as entry into temples, access to cremation grounds, sporting a moustache, riding a horse and so on.

Targeted Crimes against India's SCs, a Pattern of Abuse

According to the recent report released by the NCRB, a total of 50,900 cases were registered for committing crime against India's Scheduled Castes (SCs) and 8,802 cases were registered for committing crime against India's Scheduled Tribes (STs) in the country. It shows a consistent increase in the crime rate. In comparison to the year 2020, in 2021 the rate of atrocities has increased by 6.4% in case of ST's and by 1.2% in case of SC's. The nature of cases reported include rape of women and children, attempt to rape, sexual harassment, acid attack, assault on women with intent to outrage her modesty, stalking, voyeurism, kidnaping and abduction, riots, robbery, arson, criminal intimidation, intentionally insult or intimidate with intent to humiliate, occupy/take possession of lands belonging to SCs and STs, prevent/deny or obstruct usage of public places/passages, force to leave the place of residence or social boycott and practices of untouchability.

There are a total of 70,818 cases of atrocities against SCs and 12,159 against STs pending for investigation at the end of the year 2021. A total of 2,63,512 cases of SCs and 42,512 cases of STs were placed for trial in the courts. At the end of the year, more than 96 percent of the total cases were still pending for trial. Though the charge-sheeting percentage was more than 80% but the conviction rate was below 40%. This shows the status of our criminal justice administration specially access of vulnerable victims to speedy trial and justice.

It is also being argued by social activists and researchers working on implementation of POA Act, 1989 that the reported data by the Home Department were the cases registered in different police stations of the state while there were equal number of cases that are underreported due to a number of reasons, as it is not easy to get the cases registered due to non-cooperation by police and many cases are being settled under pressure by influential people of dominant castes and by mostly those belonging to ruling parties. In many recent cases, there have been reports of the families of the Dalit victims and witnesses being harassed and coerced to take their complaints back. In July, 2019, a Dalit woman in Bhopar village of Rajasthan's Dausa district was allegedly raped by two boys, Mahendra and Jeetram, belonging to the Gujjar community. When her family members lodged an FIR, the dominant caste was so enraged that they burnt her house, thrashed her family members and even threatened to kill all of them. Petrified by the repeated threats, the victim and her family fled to Mahua town, about

10 km from their village, where they eke out a living as laborers earning only Rs 500-600 a day.

In the same Dausa district, five men in a car allegedly raped a minor during a wedding ceremony at her neighborhood in June 2017 in Dhigariya Kapur village. Some of the accused belonged to the upper caste. After an FIR was registered, the victim's family was threatened and told to settle the case. But when they did not, the threats increased to such an extent that the minor's family fled to the neighboring Bharatpur district.

In 2014, a dozen lower caste families had to leave Bihar's Gaya district following the murder of a Dalit youth. Arjun Manjhi. He was killed allegedly after he filed his nomination papers to contest the panchayat elections.

In the year 2015, a Dalit girl, 15, of Sobhavad village was dragged to her school library and raped. Soon, the friend of the attacker, too, raped her, threatening to expose her ordeal with the first accused. Four more joined and raped the girl, forcing her to go to various places, and the act was filmed. Later the accused blackmailed the victim's sister, also a minor, with the video of her sister and raped her repeatedly. Sometime later in May, a cousin visiting the girls on a religious occasion was also raped by the accused by threatening to expose the video of her two cousins.

Since this facing atrocities and hatred became a constant pattern for families of the Dalit victims, there have been cases in the recent past where protection has been granted to them. As a result of media outrages and consistent protests by human rights and Dalit rights defenders, police protection is given to the families of the victims.

In the year 2016, seven members of a Dalit family were assaulted by self-styled cow vigilantes. Four members were later tied to a car, and stripped, flogged and marched them half naked for about 25 km to Una village. In the year 2018, after the family registered an FIR stating that they were threatened to withdraw the case, the court ordered for security to be provided to the family, which included four armed guards.

In the case of rape of a nine-year old Dalit girl from southwest Delhi's Old Nangal village, fulltime security was being provided to the parents of the child as they belonged to the poorest sections of the of society and were illiterate, and were under the force and influence of various groups having vested interest.

The most recent instance is that of the Hathras Rape Case. In the case of the alleged gang-rape and murder of a 20-year-old woman in Hathras in Uttar Pradesh, the Supreme Court bench comprising the then Chief Justice of India S A Bobde and Justices A S Bopanna and V Ramasubramanian had asked the UP state government if witnesses in the case had been provided protection and if the family of the victim had a lawyer. In a compliance affidavit filed in the top court, the Yogi Adityanath-led government said "*in order to ensure the security of victim's family/witnesses, three-fold protection mechanism has been devised*" — armed constabulary component, civil police component comprising of guard, gunners and shadows and installation of CCTV cameras and lights.

These examples simply serve to highlight the daily struggles that many Dalit atrocity victims go through. The trauma and ignominy of the targeted crime is made worse by the hurdles in the access to justice. The struggles of many Dalit families who experience atrocities do not end

with the crime perpetrated against them, just like the family of the Hathras rape victim, who claims that Thakurs, the community to which the accused belong, are threatening them to leave the area.

The upper castes harass the Dalits so severely that many are compelled to leave their village and go somewhere else, where they struggle to make a life without assistance from the government. The political will to address such crimes is not there, and the societal structure has not altered. As a result, the government does little to stop the oppression of Dalits and other inferior castes by dominant castes.

Therefore, keeping in mind the gravity of the situation, we urge further protection be provided to the victim's family under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989:

Section 15A. Rights of victims and witnesses—

- (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence
- (3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.
- (4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.
- (5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.
- (6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses--
 - (a) the complete protection to secure the ends of justice;
 - (b) the travelling and maintenance expenses during investigation, inquiry and trial;
 - (c) the social-economic rehabilitation during investigation, inquiry and trial; and
 - (d) relocation
- (7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including--

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Act shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as--

- (a) to provide a copy of the recorded First Information Report at free of cost;
- (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;
- (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;
- (d) to provide relief in respect of death or injury or damage to property;
- (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
- (f) to provide the maintenance expenses to the atrocity victims and their dependents;
- (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;



- (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;
- (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;
- (j) to take necessary precautions at the time of medical examination;
- (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;
- (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;
- (m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;
- (n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.]

Section 21. Duty of Government to ensure effective implementation of the Act.

- (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,--
 - (i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;
 - (ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;
 - (iii) the provision for the economic and social rehabilitation of the victims of the atrocities;
 - (iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;
 - (v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;
 - (vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act;

(vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

Sir, this needs your immediate attention and rapid action. We urge the National Commission for Schedule Castes to make an example of this case, that on all appearances amounts to a targeted hate crime against one of our most vulnerable sections of society. We urge you:

- to immediately hold an investigation and inquiry into this matter with respect to the acts committed by the accused under the Indian Penal Code, the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989;
- to monitor the investigation undertaken by the Rajasthan Police and ensure that there is a fast-track trial and speedy delivery of justice;
- to ensure that the deceased victim's family receives the necessary relief;
- to ensure that data on such monitoring is made public digitally and that progress in this case is also visible and made public electronically and digitally.
- to take any other action as you may deem fit.

Yours sincerely,

Nandan Malsute, President

Teesta Setalvad, Secretary

Annexures

Annexure A- Copy of the report dated 01.09.2022 by the Print