

# CUSTODIAL ABUSE AND TORTURE OF DALIT IN DALIT MOVEMENT IN MAHARASHTRA

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## ABSTRACT

Indian institution of inequality has been carefully built in the shape of a caste system from ancient times. Traditionally, the Dalits are lower caste people considered untouchable and socially, economically and politically discriminated against. About a sixth of the population in India is made up of Dalits. They are protected by the 1989 'Scheduled Castes and Scheduled Tribes' Act, however due to the occurrence of numerous cases of atrocities, there are in doubt an effective execution of this specific Act. This essay thus tries to explain the process of creating a social environment to avoid atrocities against Dalits with special reference to the Ganda caste. Custodial torture and death in India are widespread and estimates show that during 2016-2018, an average of 1800 persons perished each year in police custody. Failure to adequately raise awareness and educate police officers in the area of human rights, the severe lack of policies and laws to incriminate custodial police officers, prejudices and discrimination along caste, clan and social class lines contribute significantly to the diseased nature of custodial torture. Police torture does not take place in isolation, but because the structural reform has failed to hold government agencies responsible and inform them of their fundamental responsibilities as civil employees. Torture prevention was one of the major advances in the past decade in respect of human rights. The problem has gained significance, given India's significant involvement in seating the Security Council.

**Keywords:** Caste, Dalit women, custodial abuse, Intersectionality, Torture.

## INTRODUCTION

Everywhere in the globe, social inequality is. However, Indian inequality institution in caste systems, in existence since ancients, is extremely carefully built. In this nation, there are hundreds of castes and sub-castes. High rankers are more wealthy, whereas lower ranks of the caste system are impoverished and disadvantaged because of their low economic position. India's caste system is more than 3000 years old (Bagde, 2013). Traditionally, the Dalits are lower caste people considered untouchable and socially, economically and politically discriminated against. Dalits are the castes, the scheduled tribes and the backward classes recognised in India. Therefore, the shudras or the slave are traditionally known.

The flagrant abuse of laws and powers by the police is not a curious subject, since the police are usually expected to use violent acts to counter crimes, as there is an outrageous presumption of police agents bound to use counter violence as in capacitors to prevent more harm to innocent citizens.

The system of castes is founded on the division into social groups (or castes), which determine or ascertain civil, cultural, and economic rights of each caste by way of birth; the assignment of rights between castes is unfair and hierarchical, and it provides an enforcement mechanism for social and economic organisation through the instruments of the Caste system (or social and economic penalties). The unreplaceables at the base of caste hierarchy have been stripped of all rights under the old caste system, and they are situated below the level of the social and economic hierarchy. The high-caste Hindus are the most vulnerable to an anti-social mentality and violence. 3 The rights to land, education and civic and cultural rights and the so-called polluting and physical labour were rejected. They were also denied. Furthermore, the non-touchables also have the distinct concept of 'untouching.' 4 Due to this particular stigma of intouchability, untouchables have suffered from physical and social seclusion and isolation and are thought to be unclean and contaminating. This isolation and

segregation resulted in the abolition of their independence and limitations on physical and social mobility and in a lack of equitable access to society, culture and the economy in many areas.

Dalits are discriminated against, access to land is denied, pushed into deplorable circumstances and regularly mistreated by the police and higher-caste groups protected by the State. Entire communities in several Indian states remain entirely divided by caste in what is termed India's hidden apartheid. National laws and constitutional safeguards simply conceal the social reality of prejudice and violence facing people below the pollution line.

Although the Indian Constitution outlawed "untouchability" in 195, a relatively high proportion of rural India maintains "untouchability" - social disability imposed on individuals by virtue of their birth in a particular castes. "Untouchables" cannot cross the boundary between their village portion and that of higher castes. The same wells cannot be used, shrines must be visited, cups at a tea stand should be drunk, or property legally belonging to them must be claimed. Dalit youngsters sometimes wait behind classrooms and whole communities conduct rituals of degradation on behalf of the caste.

In India Dalits suffer many limitations on freedom of thought, conscience and religion. The notion that Dalits must live separated lives and do lowly professions as a result of being born in a caste outside the Hindu is frequently given theological sanctions for caste-based abuses of human rights, like the topic of this article.

By turning in masse towards Buddhism, Christendom, and historically Islam, Dalits have reacted to ill-treatment by the Hindus upper-cast. However, the loss of constitutional rights when they are converted is a grave obstacle to their ability to choose their faith. Furthermore, in the end most Dalits cannot escape their status as 'untouchable' irrespective of their faith.

The concept of "torture" is still very diverse because many actions, behaviours or occurrences may under some conditions be seen as torture while in others they cannot be seen as such. Because the article uses the idea of "torture" as an instrument in understanding and analysing the nature in Dalit women of violence and discrimination, it would be useful to provide the word in a wider meaning.

Any action involving severe pain or suffering, either physical or mental, in a person, is deliberately committed for such purposes as the acquisition from him or from a third person of information or a confessor as the internationally recognised legal definition of torture in accordance with Article 1 of the United Nations Convention against Torture or Other Cruel, Inhumane Treatment or Punishment.

Custodial violence, including torture and murder in lockouts, blows down the rule of law that calls for the executive to draw its powers not only from legislation but also for law to restrict those authority. There is a worry of custodial violence. The fact that people are to be the guardians of the citizenry is exacerbating it. It is under the protection of the uniform and authority, and it is completely powerless under four walls of a police station or lock-up. Protecting a person from torture and misuse is a subject of great concern in a free society for the police and other law enforcement officials."

## LITERATURE REVIEW

Devi Prasad and S. S. Bibhar (2020) About a sixth of the population in India is made up of Dalits. They are protected by the 1989 'Scheduled Castes and Scheduled Tribes' Act, however due to the occurrence of numerous cases of atrocities, there are in doubt an effective execution of this specific Act. This essay thus tries to explain the process of creating a social environment to avoid atrocities against Dalits with special reference to the Ganda caste. The main data were gathered through the survivors' personal stories and group talks with the Lathor people in the Odisha district in Balangir. Subsequent sources, such as Indian censuses, media, websites and different clauses on the Constitution were also referenced for a full knowledge of the horrors perpetrated against this marginal group.

YeasmeenNargis (2015) Violence against women is an expression of the historically uneven relations of power that has led to dominance and discrimination against males and to the obstruction of women's full development. The acid assault is more officially called vitriol age and is an act of interpersonal terrorism including the planned throwing onto another with the primary aim of disfigurement of sulfuric, nitric or hydrochloric acid. The primary purpose of these acids is to make them accessible at an affordable price.

MubikaBukaliya Richard Augustine Kudakwashe (2015) This document was intended to identify the causes and impacts of armed conflicts on women. The research analysed 40 instances of armed conflicts across the globe. The study analysed 40 publications on the web/internet in different ways. In all, the research found five areas and problem spots. Eight armed conflicts were discovered and analysed in each of these areas under the headings: ethnic differences, unequal resources sharing, restricted access to land, religious divisions and undemocratic government. The impacts of armed wars on women were analysed by additional 8 studies in each area. The study shows that, wherever they occur, the bulk of violent conflicts are the result of unequal distribution of resources, restricted people' access to land and undemocratically administration. The most important consequences were the pain and stigmatization of the raped women, and the relocation of women and women. The research advises that the international community make significant efforts to stop war at all costs and prevent conflicts that may lead to unimaginable misery for women.

Satvinder Kaur (2014) discusses rape events and different rape causes in India from 2001 to 2010, and emphasises how young women are more vulnerable to rape and how to overcome these issues. Although the majority of women are mostly female, their situation in society is pitiful, which shows that society has little regard for women. In today's society, women are not all safe. The worst and worst type of human rights violations and the greatest social issue in a significant number of countries is the widespread sex-related crimes in society. The effect of rape not only injures women but also makes the most esteemed property of women more permanently scarous, that is, their dignity, honour, reputation, and not least their virginity.

V. K. Madan, R. K. (2013) Rape has occurred across civilizations since prehistoric times. It has been neglected and misrepresented far too frequently. Rape is a complicated and large-scale problem. It is one of the most contentious questions and a challenge for modern thought. Violation is most likely the most unreported crime in culture. Despite strong laws to penalise the guilty person, conduct and proceedings in the investigation, significant media attention, and assistance for the victims, the crime of rape has been growing dramatically. Only a few offenders are brought to punishment, however, and the victims are frequently accused. It is much more difficult to deal with rape than most other offences.

### **The Origins of Caste and Untouchability**

In the ancient history of India the roots of castes and untouchability lay deeply and proof of these beginnings is at best circumstantial, given by the existing archaeological and literary sources. Consequently, historians have been compelled to speculate considerably in their attempts to rebuild the history of untouchability of the past. What we have today are not tough and obvious facts, but many competing hypotheses, all of which have been hard to convincingly establish.

Untouchability is the penalty of miscegenation between a member of a high caste and someone of a small caste or an outcast according to Manu, the ancient Indian law-giver. The offspring of such an unequal couple become untouchable, and the larger the social difference between the two parents, the more their children become untouchable. If the mother is from the higher caste the repercussions are even more severe. Thus the descendants of a Brahmin father and the Shudra mother are named Nishada. The descendants of the father of Shudra and of the mother of Brahmin are called Chandala; they are among the lowest. To Manu, degrading work is not caused by untouchability, rather by unstatement a person is condemned to a poor and unclean job. The racial mixing was subsequently included as an impurity element. The number of lower castes individuals belonging to many ethnicities and civilizations throughout the time following Manu. In the years after A.D.200 Chandala was not only for a tribal group, but all those Aryans regarded themselves to be on the absolute bottom of society, the practise of untouchability was strengthened and extended to additional groups. It is North India that what has been mentioned thus far. Southern India literature indicate that the people captured by the Aryans were Dravidians, who then went to the south and subjugated the indigenous. Only later, as the influences of Aryans extended southward, did the varna system and its untouchability appear.

### **Status of Scheduled Castes in Maharashtra**

According to the 2001 Census, the total population of Maharashtra is 96,878,627. Of them, the Scheduled Castes are 9881,656 (10.2 per cent) (SCs). The SC population is 5.9% of the SC population of the nation. The Scheduled Castes and Scheduled Tribe Orders (Amendment) Act 1976 in Maharashtra notified fifty-nine (59) SCs. In the state with a zone limitation just one SC, Kaikadi has been notified. 2. In the decade 1991-2001, the SC population growth rate was much lower at 12.8 percent compared to the state's total rate of increase of 22.7

percent. The greatest growth rate was 21.2% among the numerically important SCs, followed by Bhambi (16.1%) and Mahar (10.9 per cent). At the 2001 census, Bhangi had the lowest growth rate (6.2%).

### Literacy and educational level in Maharashtra

Alphabetisation and education level are two key markers of a group/society degree of development. In addition to helping to enhance general health, cleanliness and other social circumstances, literature leads to greater awareness. According to the 2001 Census, 71.9% of the literate population (who read and write with a degree of comprehension) aged 7 years and over is below 76.9% for the state population as a whole. This is below 76.9%. The literacy statistics indicate that over the 1991-2001 decade the state's SC population improved significantly in literacy. In 2001, the literacy rate, which was at 56.5% in 1991, rose by 15.4 points.

### Provisions in the Indian Constitution

According to Art 14 of the Constitution, "State must, prior to the legislation, not deny equal rights to any individual." Article 15 says, "Notwithstanding religion, race, caste, sex, birth location or one of them will any person be discriminated against."

But despite all the constitutional protections and Indian Penal Code and criminal proceedings, the powerful effect of Bhanwari Devi's caste and the many laws intended to promote women's honour and dignity. It is a classic instance of the rape of a lower caste lady in order to punish the right activists and quiet them. When the rape took place, Bhanwari was informed that she was too old to attract men, and no one wanted to rape her. When the fury was there, the trial judge found that they couldn't have entered her because all of the tiny mid-aged accused people had been. Nor would any higher caste guy degrade himself by raping a lower caste lady.

### India's Position in CERD and Other UN Bodies on Caste Based Discrimination

In the context of the assessment of its performance on human rights treaties to which the Government of India is party, the UN human rights bodies, including Cerd, the subcommittee on promotion and protection of human rights, the Cedav and the WCAR, have been argued by the Indian government. Three major premises are based on this argument:

**Caste is not race:** The word "caste" does not relate to racial or racial grouping. In Article 1, the phrase "descending" refers to racial descent alone. Consequently, race prejudice or associated intolerance does not belong in the sphere of racism.

**Appropriately provided for constitutional and legislative mechanisms:** There have already been several constitutional provisions and regulations and governmental programmes in place inside the nation to enhance the welfare, rights and socio-economic circumstances of the Scheduled Castes. These are sufficient to prevent prejudice against Dalits and to achieve socio-economic progress.

**Use internal, not external, mechanisms:** International procedures and organisations of human rights should not be used to enforce these rules. There are enough internal mechanisms. 27.4 Change takes time: change is a long process and each country does its utmost to resolve the issue.

### National Human Rights Commission (NHRC)

While the state of India continues to take the theoretical view that "caste" is a "social group" and not a race, the National Human Rights Committee has extended support to the WCAR question, maintaining "that it is not a nomenclature that should attract our attention but the fact that it continues."

### The Dalit Movement

Dalit's strong movement emerged from 1920 to 1950. In the Constituent Assembly discussions the Dalit movement had an enormous impact on the structuring of the Indian Constitution. In 1998, under the umbrella group 'National Campaign on Dalit human rights' (NCDHR), a collection of civil society organisations and Dalit activists united to evaluate Dalits' human rights and development condition after 50 years of independence. NCDDHR has also taken the topic to the WCAR Global Forum, taking in a number of programmes in the



country to raise Dalit communities' questions and lobbying for equal chances, eliminating discriminatory practising and impassability.

## GLOBAL SCENARIO OF HUMAN RIGHTS OF DALITS

Globally, as stated by the United Nations on 12 August 2004, about 250, thousand people experience discrimination on the basis of ancestry, job and profession. Of them, between 160 million and 180,000,000 are India that accounts for 4% of the world's population, a quarter of India's population and not much behind the United States' population. 179,000,000 Dalits are found only in India, according to the 2001 census. The protection of human rights is based on international and regional institutions. International humanitarian laws and treaties, human rights principles for the treatment of human rights issues in armed conflicts also exist. Regional human rights regimes also exist to handle a broad variety of rights in a smaller and more homogeneous set of States, such as the European Human Rights Regime, the Arab Organization for Human Rights and the Inter-American Human Rights Regime. Asia, however, has not had a Charter of Rights or an Asian Charter of Rights yet.

## CONCLUSION

Police are the protection in society that retains and works its moral and foundations when growth and development go hand in hand. They are an unquestioning need for social order, but when such outfits of justice cannot themselves prevent violations of the basic rights of the public, the power granted to promote this justice is cancelled. Police torture does not take place in isolation, but because the structural reform has failed to hold government agencies responsible and inform them of their fundamental responsibilities as civil employees. Uneducated, terribly depleted and ruthlessly exploited, the Dalits struggle to provide even for their fundamental daily requirements. Dalits also have to face everyday threats to governmental and private actors' physical security. The violence of upper caste groups against Dalits has two main causes: the daily practise of "intouchability" and discrimination against upper-caste communities and the desire of upper-caste members to safeguard their own consolidated status by preventing the development of Dalits and the fulfilment of the law.

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