



Violence Against Girls and Women from Marginalized Communities

By Arista Jhanjee

I. Introduction

Housed within the United Nations Foundation, the 3D Program for Girls and Women facilitates convergent, collaborative efforts by stakeholders to effect improvements in conditions and opportunities related to health, education, safety, and employment for girls in Maharashtra, India. As part of its work on public safety, the program aims to address violence against girls and women (VAGW) in public spaces through both research and implementation practices. As noted by the program within its published work, such violence has been documented as systemic, pervasive, and multi-faceted both globally and within India (3D Program for Girls and Women, 2018). Therefore, in the research sphere, the 3D Program focuses on accumulating, analyzing, and disseminating evidence on the forms of harassment and violence that women and girls routinely experience in public arenas; accountability for women's safety in such spaces; and best practices for enhancing women's freedom from violent crime. In the implementation sphere, the efforts of the 3D Program center on strengthening governmental, civil society, and private sector partnerships that can facilitate interventions and services aimed at preventing and providing support to survivors of violence (3D Program for Girls and Women, 2018).

The following brief seeks to contribute to the public safety work of the 3D Program by addressing violence against women belonging to marginalized social groups within India. Specifically, the report provides an overview of the ways in which structural factors render women from such communities vulnerable to violent crime and obstruct their pursuit of legal justice against perpetrators of violence. Both around the world and in India, the intersection of gender with age, physical ability, or socioeconomic background may render certain women particularly susceptible as targets of violence. The subsequent section (Section II) provides an overview of several groups that have historically faced and continue to face persistent forms of discrimination. Such treatment often perpetuates and sanctions acts of violent crime against members of these communities, including and especially women. Though Section II incorporates background information concerning the legal, social, and economic status of Scheduled Caste, Scheduled Tribe, Other Backward Class, Denotified Tribe, Nomadic Tribe, and Semi-Nomadic Tribe groups, the availability of concrete information regarding violence against women largely appears to be restricted to Scheduled Caste and Scheduled Tribe communities. Therefore, Sections III, IV, V, and VI focus specifically on women belonging to groups with the legal demarcations of Scheduled Castes or Scheduled Tribes.

II. Intersecting Vulnerabilities: Discrimination Against Members of Marginalized Social Groups

A. Legal Protections

The Constitution of India includes several provisions that aim to eliminate the pervasive discrimination that members of Scheduled Caste (SC), Scheduled Tribe (ST), and Other Backward Class (OBC) groups have historically encountered (Gopinath, 2018). Specifically, the Constitution requires the national government to advance the interests of “weaker sections” of society, referring directly to ST and SC communities (Gopinath, 2018). It also prohibits restrictions on the access of SC, ST, and OBC community members to commercial institutions, entertainment venues, and sanitation facilities; forbids caste-based discrimination in state employment processes; and enacts proportional reservations for SC, ST, and OBC group members within educational institutions and across governmental positions. Individuals from SC and ST communities are also guaranteed a proportional number of spots within local legislative bodies in both rural and urban areas, as well as a certain number of seats in the Lok Sabha, the lower house of the Indian Parliament (Gopinath, 2018). Additionally, the Constitution establishes a political body, termed the National Commission for Scheduled Castes, that wields civil and judicial powers in ensuring the legal rights of SC communities and formulating schemes for the social and economic advancement of such communities. Similar bodies, called the National Commission for Scheduled Tribes and the National Commission for Backward Classes, have been constituted to formulate updated lists and promote the interests of ST and OBC communities respectively. (Gopinath, 2018).

Several protections apply specifically to ST communities. For example, the Constitution directs the appointment of a Minister of Tribal Welfare in specific states and outlines the ways in which areas designated for the residence of ST groups in particular states are to be administered. It also creates Tribes Advisory Councils in states that do not set aside land for ST groups, stipulating that three-fourths of the individuals constituting such bodies must represent members of local ST communities. Additionally, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 seeks to protect the land rights of STs and requires that ST communities freely consent to their removal from any given area (Gopinath, 2018). The Land Acquisition Act of 2013, while not specific to ST groups, mandates that entities conduct social impact assessments and resettle evicted households in instances of land acquisition (United Nations Office of the High Commissioner for Human Rights, 2016).

The marginalization of Denotified Tribes (DNT), Nomadic Tribes (NT), and Semi-Nomadic Tribes (SNT) partly stems from inadequate classification and exclusion from the national census (Lashkar, 2013; Nair, 2018b; Sanap, n.d.). In fact, the last census that acknowledged and included specific DNT, NT, and SNT groups was conducted in 1931 (Lashkar, 2013; Nair, 2018b; Sanap, n.d.). Thus, reliable estimates of the total population of communities belonging to these three categories do not exist, though a 2008 government commission provided an approximation of 100 million individuals (Lashkar, 2013; Nair, 2018b; Sanap, n.d.). Though some DNT, NT, and SNT communities are recognized as SC, ST, or OBC groups, such classifications are not uniformly implemented (Lashkar, 2013; Sanap, n.d.). As a result, many of the former three types of groups are deprived of the benefits ascribed to the latter three:

constitutional recognition; accompanying legislative protections; and associated social, economic, and political opportunities, such as quotas (Nair, 2018b; Sanap, n.d.). Specifically, members of 94 DNT groups, 171 NT communities, and 2 SNT groups lack access to quotas due to exclusion from SC and ST lists (Nair, 2018a; Nair, 2018b). Even those communities that are registered as ST, SC, or OBC groups are often unable to avail of social welfare measures (Sanap, n.d.). The diversity of the groups encompassed by DNT, NT, and SNT categories also complicates the enactment of comprehensive legislation aimed at securing their rights (Sanap, n.d.). In fact, beginning with the Fifth Five-Year Plan (1974-1978), the national government discontinued its practice of disbursing funds allocated for the purpose of promoting the resettlement and rehabilitation of historically criminalized tribes (Lashkar, 2013).

In the past, the Government of India has made several attempts to study and address the distinctive challenges and barriers to opportunity that members of DNT, NT, and SNT communities face (The Wire Staff, 2017). However, as noted by one media source, “little seems to have changed for those for whom” prior committees and commissions issued recommendations (The Wire Staff, 2017). Government representatives have also acknowledged the inefficacy of past initiatives in promoting substantive change (Nair, 2018a). In 2015, the national government appointed and provided a three-year mandate to the National Commission for Denotified, Nomadic, and Semi-Nomadic Tribes, led by Chairperson Bhiku Ramji Idate (Ghildiyal, 2018; “Idate Commission,” 2018; Ministry of Social, 2015; Nair, 2018a; Nair, 2018b; The Wire Staff, 2017). The Idate Commission was requested to enumerate on a state-by-state-basis DNT and NT communities that had and had not been registered as SC, ST, or OBC groups by the state or national governments; support the inclusion of DNT and NT groups within existing lists of SC, ST, and OBC communities; determine areas in which large populations of DNT community members resided; report on the social and economic welfare of DNT, NT, and SNT communities; and make recommendations to the state and national governments regarding ways in which to advance opportunities available to and conditions of such groups (“Idate Commission,” 2018; Ministry of Social, 2015; Nair, 2018a; The Wire Staff, 2017). Within a press release that announced the formation of the Idate Commission, the Ministry of Social Justice and Empowerment also noted that that central government had initiated two new schemes. Such initiatives aimed to facilitate the access of members of DNT communities that had not been registered as SC, ST, or OBC groups to educational and residential programs and facilities (Ministry of Social, 2015). As of the date of publication of the press release, the states of Maharashtra and Karnataka have been awarded funds within the scope of these schemes (Ministry of Social, 2015).

The Idate Commission released its final report in 2018 (Ghildiyal, 2018; “Idate Commission,” 2018; Nair, 2018a; Nair 2018b). It references the ways in which DNT, NT, and SNT communities have been negatively impacted by the historical and more recent enactment of legislation that has promoted their criminalization, as well as threatened their land rights and ways of life (see below for details) (Ghildiyal, 2018; “Idate Commission,” 2018; Nair, 2018a). The Commission has exhorted the national government to “provide strong legal protections and constitutional safeguards” for DNT, NT, and SNT groups (“Idate Commission,” 2018). Specifically, it has recommended that the Indian Constitution, which currently acknowledges SC and ST groups within separate schedules or categories, be amended to include a third schedule or category reserved specifically for DNT, NT, and SNT communities (“Idate Commission,” 2018; Nair, 2018a; Nair, 2018b). It has also suggested that DNT, NT, and SNT communities be awarded

sub-quotas within the scope of educational and occupational reservations applicable to SC, ST, and OBC groups (Ghildiyal, 2018; Nair, 2018b). In response to such suggestions, Ramdas Athawale, India's Minister of State for Social Justice and Empowerment, has noted that "the government is seriously considering the suggestion for separate categorisation so that benefits of reservations in government jobs and education can be extended to" DNT, NT, and SNT communities (Nair, 2018a). Additionally, the Idate Commission has advised the national government to repeal the Habitual Offenders Act of 1952 for the purpose of mitigating the stigma with which DNT, NT, and SNT groups are burdened (see below for details) (Ghildiyal, 2018). In order to ensure that individual groups are recognized by a common name in all states, the Commission has also recommended the implementation of a government survey of different communities (Ghildiyal, 2018).

Significantly, the Idate Commission has also called for the results of the Socio-Economic Caste Census (SECC), conducted alongside or within the scope of the broader national census of 2011, to be publicly released ("Idate Commission," 2018; Nair, 2018a; Nair, 2018b). On a related note, it has advocated for the incorporation of a comprehensive and dedicated caste-focused component within the 2021 national census (Nair, 2018b). Such suggestions stem from a recognition that the central government has provided only "symbolic reparations" to DNT, NT, and SNT group members in the past, and seek to promote the formulation of evidence-based policies concerning these communities ("Idate Commission," 2018; Nair, 2018a; Nair, 2018b). In response to a request made by the Ministry of Social Justice and Empowerment for feedback regarding the conclusions of the Idate Commission, several government ministries and agencies have endorsed the Commission's census-related recommendations and described ways in which they might seek to advance social and economic opportunities for DNT, NT, and SNT community members within the scope of their specific mandates (Nair, 2018b). The Ministry of Finance, for example, has noted that the collection of accurate census data regarding DNT, NT, and SNT groups serves as a prerequisite to the enactment of constitutional protections and sub-quotas for such communities. Additionally, the Registrar General and Census Commissioner of India have highlighted the importance of making public the results of the 2011 SECC, remarking that an emphasis within the census process on the identification of SC and ST groups may hinder the inclusion of DNT, NT, and SNT communities within the 2021 census (Nair, 2018b). As of 2018, other entities that have responded to the official request for comments include the Ministries of Health, Rural Development, Culture, Human Resource Development, and Housing and Urban Affairs; the Indian Council of Social Science Research (ICSSR); and the National Institution for Transforming India, or NITI Aayog. The national government appears to be awaiting the suggestions of additional ministries, upon receipt of which it will design formal policy measures. Bodies that have yet to provide feedback include, among others, the National Commission for Scheduled Castes, the National Commission for Scheduled Tribes, and the Ministry of Tribal Affairs (Nair, 2018b).

B. Scheduled Castes

Scheduled Castes (SC) may be defined as "sub-communities within the framework of the Hindu caste system who have historically faced deprivation, oppression, and extreme social isolation in India on account of their perceived 'low status'" (Gopinath, 2018). Historically, individuals belonging to SC groups were often ascribed the derogatory term of "Untouchables" and were not permitted to access the same facilities, rights, and services of which individuals from higher castes freely availed (Gopinath, 2018).

Despite the enactment of the above-mentioned safeguards, both structural and interpersonal discrimination against members of SC communities persists. As of 2011, 53% of SC households own a telephone, as compared with 63.2% of all households in India (Mamgain, 2013). The 2011 census also revealed that almost 25% of SC households are not able to access safe sources of drinking water, while 62.1% do not have access to a toilet facility (Mamgain, 2013). A drinking water source is present on the household premises of only 57% of SC households (National Campaign on Dalit Human Rights, 2017). The results of 2013 study in the state of Haryana corroborate the above statistics in revealing that 58% of respondents lack access to fundamental amenities that are readily available to other caste groups (Society for Participatory Research in Asia (PRIA), 2013). Additionally, after his visit to India in 2017, the United Nations (UN) Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation remarked on the disproportionate representation of SC groups among populations that live in urban slums, many of which do include adequate water and sanitation facilities (United Nations Office of the High Commissioner for Human Rights, 2017).

Marginalization is particularly visible in the sphere of education. According to statistics provided by the Ministry of Human Resource Development for the year 2007-2008, 72.2% of boys and 66.6% of girls from SC communities drop out of school between Class One and Class Ten (Mamgain, 2013). Sexual harassment by students from dominant castes contributes to relatively higher dropout rates for girls from SC groups (Society for Participatory Research in Asia (PRIA), 2013). As of 2014, the elementary school dropout rate alone is 51%. Moreover, data from 2009-2010 reveals that youth literacy rates are also low among SC groups (83.8%) relative to other social groups (96.5%). Female youth from SC communities present lower rates of literacy (77.9%) relative to male youth (89%), and the literacy rate for women from SC groups (56.6%) lags behind that of women overall (64.6%) (Mamgain, 2013; Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014). Discrimination against children from SC communities by fellow students, teachers, and administrative officials in educational facilities also remains common, and contributes to high dropout rates. For example, students from SC groups are often subject to corporal punishment by teachers, denied access to drinking water facilities, and prohibited from eating with other students. Evidence also reveals that SC community members are often made to clean school toilet facilities (International Dalit Solidarity Network, 2015). Additionally, many attend government schools that lack adequate infrastructure and resources (Society for Participatory Research in Asia (PRIA), 2013). In higher education settings, discrimination also manifests in “social exclusion and physical abuse,” as well as in a lack of educational support (International Dalit Solidarity Network, 2015).

Poor educational quality and outcomes restrict the range of employment options available to members of SC communities, who already face occupational discrimination due to their social status (Society for Participatory Research in Asia (PRIA), 2013). SC groups are also particularly vulnerable to debt-related bondage and bonded labor, which often entails harsh and unsafe working conditions. Bonded labor manifests in industries and settings ranging from granite quarries to cottonseed harvesting to vegetable seed production (International Dalit Solidarity Movement, 2015). As of 2009-2010, 51.2% of individuals from SC groups work as casual wage laborers, with the proportion rising to 60% in rural areas. In such settings, low and irregular wages are often the norm (National Campaign on Dalit Human Rights, 2017). One study reveals that discrimination in the sphere of employment affects women from SC communities

in specific ways. Those who work as landless laborers are often addressed by caste labels, cheated of adequate wages, and prevented from drinking from wells belonging to landowners. Overall, the rate of women from SC communities who live below the poverty line ranges between 50 and 60%. Women from SC groups also face higher rates of unemployment than other social groups (Society for Participatory Research in Asia (PRIA), 2013).

A 2016 analysis of National Sample Survey Organization (NSSO) data reveals that, in 2011-2012, workers from SC groups earned 15 to 18% less than those from dominant or forward castes in the private sector, and 6 to 9% less in the public sector. The analysis also finds that the proportion of the wage differential that can be explained by differences in skill was 80.6% in the public sector and 68.3% in the private sector (Singhari & Madheswaran, 2016). Such a finding indicates that structural forms of discrimination that operate prior to entry into the labor market prevent members of SC communities from developing the same educational, social, and skill endowments as members of other social groups. Additionally, occupational segregation partially accounted for employment-based discrimination, with job discrimination outweighing wage discrimination for most occupations in the public and private sectors. In light of such evidence, it is clear that reservation policies enacted by the Indian government have not been entirely effective (Singhari & Madheswaran, 2016).

In the political arena, recent figures indicate that the number of reserved seats that have remained unfilled by SC individuals amounts to 25,037 over several years, while the percentages of central government posts filled by SC community members remain well below the 15% quota (National Campaign on Dalit Human Rights, 2017). At the local level, members of SC communities, particularly women, are often prevented from voting or running in elections, and are compelled to step down if elected. In one study involving women from SC communities as participants, 90% of respondents referenced the existence of barriers that prevented them from accessing and participating in local political institutions in various capacities. Such deterrents included, among others caste-based verbal abuse, sexual harassment, and physical violence. (Society for Participatory Research in Asia (PRIA), 2013). In two of the villages included in the study, no women from SC communities had been elected to the local governing body. Moreover, leaders of the two villages refused to address the concerns of SC community members or were unable to do so due to dominant caste pressure. Additionally, two-thirds of study participants who were successfully elected were unable to act as independent political representatives or were manipulated by men from dominant castes. Female political representatives from SC communities also encountered discriminatory segregation practices, and were prevented or halted in their efforts to actively contribute to political meetings (Society for Participatory Research in Asia (PRIA), 2013).

C. Scheduled Tribes

Scheduled Tribe (ST) groups are both legally and substantively distinct from SC groups, though the two are often classified and referenced together, particularly in scholarly literature. Like SC groups, ST groups face severe and persistent discrimination and marginalization in the economic, educational, political, and social spheres. However, ST communities are subject to different or additional barriers in these and other realms “on the basis of geographical isolation.” In other words, their “marginalization...is not a result of the Hindu caste system” (Gopinath, 2018).

In spite of such provisions, the alienation and displacement of ST groups from the land on which they reside remain a common practice (Gopinath, 2018). After her visit to India in 2015, the UN Special Rapporteur on Adequate Housing remarked that legislation concerning land rights had not prevented development-related displacement from occurring, and stated that “land grabbing” of areas to which members of ST groups possessed legal rights had been taking place (United Nations Office of the High Commissioner for Human Rights, 2016). She also noted that members of both SC and ST groups continue to be “over-represented among the poor” (United Nations Office of the High Commissioner for Human Rights, 2016). Additionally, documents submitted in conjunction with India’s Universal Periodic Review by the UN directly refer to the complicity of law enforcement and governmental authorities in the displacement of ST groups by corporations. Contributors comment upon violations of constitutional provisions and mandates aimed at protecting the land and forest rights of ST groups, as well as evictions related to dam construction and non-consensual land acquisition for coal mining purposes (*Summary of Stakeholders’ Submissions*, 2017). India’s Ministry of Tribal Affairs has also carried out a detailed assessment of the historical and contemporary ways in which ST groups have been and continue to be alienated from traditional and protected areas of residence (Ministry of Tribal Affairs, 2014). In the state of Andhra Pradesh, for example, individuals from ST groups accounted for 76.1% of displaced persons in 2009 (Ministry of Tribal Affairs, 2014).

As in the case of SC groups, the literacy rate for youth from ST groups (80.46%) is significantly lower than that of youth from the general population (96.5%) as of 2009-2010. Female youth from ST communities achieve lower rates of literacy (72%) than male youth (89%) (Mamgain, 2013). 2011 statistics indicated that 34.8% of ST households own a telephone, as compared with 63.2% of all households (Mamgain, 2013). According to the 2011 census, over 33% of ST households do not have access to a safe source of drinking water (Mamgain, 2013). A drinking water source is present on the household premises of only 19.7% of ST households, and 6.2% of households retrieve drinking water from open sources subject to contamination. 77.4% of ST households do not have access to a latrine facility within their premises, with 74.7% practicing open defecation. Additionally, 37.42% of ST households do not own any amenities or assets (compared with 18.55% of households belonging all social groups), and only 40.62% live in dwellings of good condition (relative to 53.11% for all social groups) (Ministry of Tribal Affairs, 2014).

ST communities are also more vulnerable to economic marginalization and impoverishment than other social groups. The average values of the total assets, as well as of land and buildings, owned by ST groups are substantially lower than comparable figures for all social groups in both rural and urban areas. Similarly, the share of households with an asset value less than Rs. 30,000 is higher for ST groups than for all social groups in rural (23.5% versus 15.9%) and urban (32.5% versus 23.0%) regions. ST groups possess the lowest annual income, and 43% of ST communities live below the poverty line as of 2011-2012. In comparison, 22.0% of the general population lives below the poverty line (Ministry of Tribal Affairs, 2014).

Educational statistics for ST groups are unfavorable relative to those pertaining to the general population. As of 2011, the literacy gap between ST groups and the overall population stands at 14.6%. According to 2009 statistics, 9.5% of ST community members between the ages of 6 and 14 remain out

of school, compared with 6.9% of the overall population. Similarly, the dropout rate for students in Classes One through Ten stands at 71% for both boys and girls from ST communities as of 2010-2011, relative to 50% for boys and 48% for girls within all social groups (Ministry of Tribal Affairs, 2014). Dropout hinders ST students' ability to acquire fundamental language and arithmetic skills, which further perpetuates dropout rates. Teacher absenteeism, as well as discrepancies between languages used in schools and those spoken by students from ST communities, also inhibits the provision of high-quality education in areas occupied by ST groups. India's Ministry of Tribal Affairs notes that prejudice and discrimination, including segregation of ST community members from other students, continues to occur within schools. Additionally, students from ST communities are often prevented from entering or treated unfairly within institutions of higher education, with professors intentionally assigning them low scores (Ministry of Tribal Affairs, 2014).

Political discrimination is more pronounced for ST than for SC groups, as the percentages of ST individuals who occupy central government posts fall short of the specified quota of 7.5% to an even greater degree than in the case of members of SC communities (National Campaign on Dalit Human Rights, 2017).

D. Other Backward Classes

Other Backward Classes (OBCs) may be defined as "communities that have been historically marginalised in India, and continue to face oppression and social, economic and educational isolation, but do not fall into the Scheduled Castes or Scheduled Tribes list" (Gopinath, 2018). Social, economic, and educational criteria for the categorization of OBC communities were first advanced in a 1980 report issued by the Mandal Commission. The latter was formed in 1978 under the direction of a constitutional article that enables the President of India to create a committee for the purpose of studying and formulating suggestions for the improvement of the living conditions of backward classes (Gopinath, 2018). OBC groups are currently included within the scope of the SC category by the National Commission for Backward Classes, but appear to be considered a distinct group within the scope of both governmental policy and academic research (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015; Desai & Dubey, 2012; Gopinath, 2018; Kishore, 2016; Thorat, n.d.). For example, 27% of slots within publicly-funded educational facilities and forms of state employment are specifically reserved for OBC community members (Gopinath, 2018).

An analysis within one study of official economic data collected between 2012 and 2014 to 2015 reveals significant inequalities between OBC and dominant caste groups for a number of different indicators (Thorat, n.d.). When interpreting the figures given below, it is important to take into consideration the fact that OBC group members account for a higher percentage of the total national population (36.2%) than do individuals from dominant castes (21.2%). As of 2012, the average monthly per capita income expenditure is 1531 rupees for OBC group members and 2413 for dominant caste community members, while poverty rates for each of these groups stand at 20% and 9% respectively. Moreover, 2011-2012 data reveals that the percentage of OBC workers who are employed in the casual labor sector (28.0%) is significantly larger than the percentage who are involved with regular, salaried occupational activities (16.1%). This trend is reversed for dominant caste groups, with a larger percentage represented in the regular, salaried sector (29.7%) than in the casual labor sector (12.4%) (Thorat, n.d.). Given that 2011-

2012 statistics demonstrate that those who engage in casual labor work earn a lower income than those involved in other types of work, the above figures provide insight into the social stratification of income levels. Additionally, dominant caste communities tend to own more physical assets than OBC groups, both overall and within specific asset categories. As of 2013, the total asset shares of dominant caste and OBC groups stand at 45.0% and 31.3%. In other words, dominant caste groups possess a disproportionately large share of total wealth relative to their population share, while OBC communities account for a disproportionately small percentage of all wealth. Asset share gaps are especially large for such categories as land (41.2% for dominant caste group members versus 35% for OBC community members), buildings (53.1% versus 23.7%), transport equipment (46.0% versus 30.5%), and financial assets (48.5% versus 26.3%) (Thorat, n.d.).

Additional findings from the above study directly demonstrate the role of discrimination in perpetuating economic inequalities between OBC groups and dominant caste communities (Thorat, n.d.). For example, the study evaluated the effects upon households engaged in casual labor activities of increasing their level of educational attainment and possession of agricultural and non-agricultural assets, as well as shifting their occupational sector to the regular, salaried category. While all three changes result in higher levels of consumption expenditure for all social groups, increases are substantially higher for dominant caste households than for OBC households in the case of all three variables. The study also found that discrimination accounts for 50% of the income level difference between OBC and dominant caste groups, with differences in such endowments as human capital, as well as physical capital and assets, accounting for the other 50% (Thorat, n.d.). Similarly, “in 2012 about 61 per cent of the wage gap between high caste and OBCS [229 rupees daily versus 163 rupees daily] is on account of endowment difference” (Thorat, n.d., 11). Therefore, caste-based discrimination accounts for the remaining 39%. Regarding overall income disparities, however, occupational discrimination serves as a larger contributor than wage discrimination (Thorat, n.d.). The former is defined as “inequality in access to certain occupations,” while the latter is defined as “unequal pay within a given occupation, given one’s educational and skill level” (Thorat, n.d., 12).

As in the case of ST and SC groups, the number of OBC community members in governmental institutions falls short of the quota of spaces allocated to such individuals by national law (Gopinath, 2018; Prabhakar, 2015). According to a 2015 report, only 12% of positions in “government ministries, statutory bodies, and departments,” or approximately 9,040 of more than 79,483 such slots, are filled by OBC group members (Gopinath, 2018; Prabhakar, 2015). Within the social development sphere, the percentages of children aged five and below who are underweight stand at 29% for dominant caste groups and 36% for OBC groups as of 2015-2016 (Thorat, n.d.). Moreover, according to 2014 statistics, higher secondary level enrollment rates for OBC and dominant caste groups are 80.6% and 96.9% respectively, while the respective enrollments rates for higher education are 28.7% and 43.5% (Thorat, n.d.) Additionally, data from the 2005 India Human Development Survey (IHDS), while somewhat outdated, provides further insight into educational and other disadvantages that OBC group members face relative to individuals from dominant caste groups (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015; Desai & Dubey, 2012). 41,554 households across India participated in the survey (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015). Analysis of survey results reveals that while men from

dominant caste communities complete 8.18 years of education on average, men from OBC groups finish approximately 6.68 years of schooling (Desai & Dubey, 2012).

In another study that drew upon 2005 IHDS data, “the indicator of a household’s educational achievement was taken as the highest educational level of an adult in the household” (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015, 32). A numerical value between 0 (lowest, or no education) and 15 (highest, or graduate) was assigned to this educational level, resulting in average values of 7.7 for OBC households and 10.2 for dominant caste households. The scope of educational achievement disparities between OBC and dominant caste households is similar in rural (6.8 versus 8.9) and urban (9.5 versus 11.7) areas (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015). The same study also calculated households’ educational achievement rate, or “the percentage distance, which a household has travelled in fulfilling its ‘educational potential’” (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015, 33). In doing so, it produced two different estimates: one that took into account inter-household differences within social groups and another that denoted average educational achievement for each social group. The analysis yielded respective values of 38.5% and 49.9% for OBC households, as well as 60.4% and 67.5% for dominant caste households. Finally, the study measured life expectancy for different social groups by calculating average ages of death for households in which a family member had passed away in the year leading up to the survey (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015). On average, members of dominant caste households live four years longer than individuals from OBC households across India, with the difference widening to 10 years in urban areas. In rural areas, the average ages of death for dominant caste and OBC households are comparable at 53 and 54 years respectively (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015).

It is important to note that data and findings from several of the above studies and sources demonstrate that, generally speaking, the social and economic disadvantages that members of OBC groups continue to face are less severe in scope and depth than those encountered by ST and SC community members (Borooah, Sabarwal, Diwakar, Mishra, & Naik, 2015; Desai & Dubey, 2012; Kishore, 2016; Thorat, n.d.). Drawing upon statistics from the 2013 economic census and data published in 2011-2012 by India’s National Sample Survey office (NSSO), an article published by the newspaper Mint addresses this gradation of marginalization in the economic sphere (Kishore, 2016). Specifically, in dividing the number of enterprises that particular social groups own by the contribution of such groups to the labor force, the media analysis calculates each community’s relative ownership share. The results of such calculations demonstrate that the share for OBC groups, though proportionate at approximately 0.93 to 0.94, is smaller than that of other, non-ST and SC social groups (1.56 to 1.57). In other words, the ownership share of the latter exceeds their share of representation in the workforce (Kishore, 2016). At the same time, however, the OBC groups’ ownership share is significantly higher than that of ST (approximately 0.51 to 0.52) and SC (approximately 0.59 to 0.6) groups, whose members are underrepresented in firm ownership relative to their rate of workforce participation (Kishore, 2016).

Furthermore, the media analysis uses similar methods to calculate the relative share that each social group possesses in different types of employment categories (Kishore, 2016). Findings reveal that the rate of representation for OBC group members is greater than their share in the workforce within the self-employed category (1.1) and proportionate to workforce share in the casual labor category (1).

Comparable, category-specific figures for SC community members stand at 0.7 and 1.6, while comparable statistics for ST group members are 1 and 1.3 (Kishore, 2016). Such numbers indicate that, relative to OBC community members, individuals from both ST and SC groups are less likely to fall within a category of occupations (self-employed) that encompasses leadership of business ventures. SC community members in particular are underrepresented within the self-employed category. On the other hand, the shares of SC and ST group members who work in casual labor, which tends to be associated with low wages, are greater than their overall shares in the workforce (Kishore, 2016).

The Mint analysis also cites secondary source analyses that further demonstrate the disparities between OBC groups and SC or ST groups in the economic sphere (Kishore, 2016). An interpretation of data from the second round of the India Human Development Survey (2011 to 2012) reveals that a greater percentage of skilled, white collar jobs is occupied by individuals from OBC groups than by either ST or SC community members. Conversely, ST and SC community members possess the largest shares of jobs within the unskilled employment category. The article notes that, in general, “the nature of jobs SCs (and STs) are engaged in is qualitatively different” from the nature of the occupations pursued by individuals from OBC groups (Kishore, 2016). Additionally, according to 2011-2012 NSSO results taken from the Indian Labor and Employment Report (2014), the respective percentages of ST, SC, and OBC community members that fall within the two lowest consumption expenditure quintiles are roughly 60%, approximately 50%, and around 40%. Meanwhile, relative to ST and SC group members, a significantly greater percentage of individuals from OBC groups falls within the two highest quintiles. Such figures reveal that poverty rates are higher among individuals from SC and ST communities than among OBC group members (Kishore, 2016).

Further, certain figures imply that indicators for SC groups are less favorable than those corresponding to OBC groups because caste-based social discrimination is more severe for the former than the latter in at least some economic circumstances or sectors (Kishore, 2016). Specifically, statistics from the fourth round of the Micro, Small, and Medium Enterprises Survey (2005-2006) show that the percentages of food-related businesses owned by individuals from SC groups and OBC groups stand at just above 10% and approximately 18% respectively. Urban areas evince a larger gap than rural areas: approximately 7% and 13 to 14% of food-related firms are respectively owned by SC and OBC community members in the former, while individuals from SC and OBC groups respectively own roughly 13 to 14% and 22 to 23% of such businesses in the latter. Such figures suggest that the concept of “untouchability,” which was historically used to relegate SC community members to certain occupations and bar them from such sectors as the food industry, still plays a role in perpetuating caste-based discrimination (Gopinath, 2018; Kishore, 2016). As noted above, “untouchability” applies specifically to individuals from SC groups and, for the most part, does not affect members of dominant or relatively privileged classes (Gopinath, 2018).

E. Denotified, Nomadic, and Semi-Nomadic Tribes

Though Denotified, Nomadic, and Semi-Nomadic Tribes are often grouped together in discourse and analysis, each category is distinct in its definition and characteristics. Denotified Tribes (DNT) are those that were legally criminalized under British colonial laws, including the 1871 Criminal Tribes Act (Sanap,

n.d.). The latter, under which DNT community members were considered criminals at birth, was implemented in various forms until the colonial period ended in 1947 (Bhandalkar, 2014; Sanap, n.d.). Some sources suggest that criminal classification during the colonial era resulted from the efforts of tribal community members to resist commercial activities that threatened their land and livelihood, as well as their participation in acts of political resistance (Dhaka, 2017). During colonial rule, DNT community members were often assigned to large settlements, where they were supervised by law enforcement authorities and compelled to engage in manual labor (Sanap, n.d.). Though community members who lived in such settlements were able to access occupational and educational opportunities that were unavailable to those who lived outside of these areas, they faced segregation, stigmatization, and surveillance (Bhandalkar, 2014; Dhaka, 2017; Lashkar, 2013; Sanap, n.d.). The Criminal Tribes Act was repealed in 1949, and DNT tribes were denotified in 1952, after India had achieved independence (Dhaka, 2017; Sanap, n.d.). However, the colonial law was replaced with the Habitual Offenders Act of 1952, which ensured that members of the groups included within the scope of such legislation continued to be treated as criminals (Dhaka, 2017; Lashkar, 2013). Several aspects of the Criminal Tribes Act have effectively been reinstated by the Habitual Offenders Act, which continues to perpetuate such practices as discriminatory registration and restrictions on movement and place of residence (Lashkar, 2013).

Nomadic Tribes (NT) refer to those groups that have historically moved and continue to travel from location to location in search of livelihood opportunities. Such communities encompass both those that practice hunting and gathering activities, as well as those comprised of artisans, traders, or specialists with expertise in specific crafts or entertainment activities. Due to a variety of factors, the traditional occupations and livelihood activities of NT community members have increasingly come under threat in recent years. Such factors include animal protection laws that limit entertainment activities involving animals, as well as technological and economic development processes that have rendered traditional crafts and occupations less relevant (Sanap, n.d.). Pastoral or Semi-Nomadic Tribes (SNT) include those that engage in seasonal migration for the purpose of raising and selling different types of livestock. As in the case of NT communities, the lifestyles of SNT groups have been challenged by several trends: environmental and natural resource degradation; environmental protection laws that limit grazing rights; urbanization; infrastructure and industrial development processes that usurp the land upon which SNT communities have traditionally relied; and population movement and growth (Sanap, n.d.).

As one source notes, the “Denotified, nomadic and semi-nomadic communities of India together form perhaps the most marginalized, neglected and deprived section of Indian society today” (Sanap, n.d.). The above-mentioned Idate Commission affirmed such an observation in its 2018 report (Ghildiyal, 2018; "Idate Commission," 2018; Nair, 2018a; Nair, 2018b). Such marginalization both includes and extends beyond the caste-based discrimination to which ST, SC, and OBC groups as a whole are subjected (Sanap, n.d.). Due to their inability to access official documents – including proof of residence or land ownership, caste certificates, and citizenship cards – DNT, NT, and SNT community members are often excluded from public welfare schemes and denied permanent land allocations. Moreover, the national government has refrained from effectively enforcing laws and policies that could provide substantive protection for the land rights of DNT, NT, and SNT groups (Sanap, n.d.). In 2008, a governmental commission approximated the rate of landlessness to stand at 89% and 98% among DNT

and NT community members respectively (Nair, 2018a). Though several communities have initiated empowerment-oriented movements over the past several decades, DNT, NT, and SNT group members often remain unaware of their rights and lack the social and political cohesion and leadership to demand fundamental entitlements (Lashkar, 2013; Sanap, n.d.).

Additionally, DNT communities continue to be negatively impacted by the stigma of criminalization, as is evident in their marginalization and mistreatment by members of privileged social groups and law enforcement authorities (Bhandalkar, 2014; Dhaka, 2017; Lashkar, 2013; Sanap, n.d.). Such discriminatory practices are fueled by the failure of the central government to repeal the Habitual Offenders Act of 1952, which remains in force (Lashkar, 2013). Participant responses from one qualitative study, which drew upon interviews with members of the historically criminalized Ramoshi group in Maharashtra, reveal that legacies of exclusion shape and restrict the modes of occupation that they are able to pursue (Bhandalkar, 2014). Upon leaving the residential settlements to which they had been assigned after national independence, members of Ramoshi communities were often recruited by dominant caste groups to engage in criminal activities in exchange for food materials. Some Ramoshi group members continue to work in an agricultural capacity for dominant caste communities or pursue illegal activities to this day. The study also indicates that Ramoshi community members are forced to take up residence outside of village boundaries, are unable to participate in local political institutions and activities, and often face arbitrary arrest due to prejudice (Bhandalkar, 2014).

Another study, which focused on the experiences of DNT communities in the state of Madhya Pradesh, discloses similar forms of legal and social discrimination. Specifically, it exposes the extent to which law enforcement authorities regard DNT community members as inherent criminals (Dhaka, 2017). DNT community members are often unjustly accused or suspected of committing crimes; arrested under false pretenses; physically beaten and mistreated by police officials; and compelled to recount their activities to police officers under threat of punishment. Many are prohibited from leaving assigned areas of residence, while others voluntarily restrict their mobility and comply with arbitrary demands made by law enforcement officers in order to avoid police retribution. Due to the prejudice that police officials harbor toward DNT community members, the latter are unable to access justice when subjected to incidents of crime. Members of DNT groups also face various forms of social oppression, including denial of access to essential resources and village facilities; mistreatment within educational institutions; exclusion from official population estimates and associated governmental schemes; restrictions imposed by local political bodies and governmental departments on the use and occupation of land; and bonded labor and other forms of labor exploitation. Regarding the latter, many community members are cheated of fair wages and barred from employment if they complain of unjust labor practices (Dhaka, 2017).

Indicators pertaining to the social and economic experiences of DNT and NT groups in the state of Maharashtra further reveal the extent and forms of marginalization that affect members of such communities (*Socio-economic Status*, 2017). Maharashtra serves as an interesting case study, as it “is one of very few states in India to have a separate social category of DNT (more specifically VJNT – Vimukta Jaati and Nomadic Tribes) for quota in education, employment, welfare, and politics” (*Socio-economic Status*, 2017). However, in spite of the enactment of such provisions, the living conditions of

DNT communities, which constitute 11% of the state's population, remain far from ideal in many cases. The statistics that follow are taken from a study that incorporated surveys, interviews, and workshops with 11 communities spread across 25 districts within Maharashtra. Groups belonging to two different DNT categories collectively accounted for 77.7% of the 1,944 households included in the study, while communities within the NT category accounted for 22.3%. Unless specified, the indicators below pertain to all participating households and do not distinguish between the three sub-categories created by the authors of the study (DNT1, DNT2, and NT) (*Socio-economic Status*, 2017). Data reveals that few DNT and NT community members are involved with traditional forms of employment, likely because such occupations are associated with lower earnings than other forms of work. While 58.3% of workers engage in agricultural and non-agricultural wage occupations, only 1.8% pursue traditional work. Meanwhile, 10.8% of workers are involved in trade and business activities, while only 9.6% are cultivators. The latter could be linked to the fact that just 23.8% of households own agricultural land, with the majority of these (88.3%) possessing plots of a limited one to five acres in size (*Socio-economic Status*, 2017).

Social and development-related indicators also manifest the effects of marginalization (*Socio-economic Status*, 2017). The majority of household respondents (68.8%) stated that they live among members of their own social group rather than among those belonging to other communities. This suggests that one form of marginalization consists of geographical segregation. Though 90.3% of families own their houses, only 29.5% of such dwellings are identified by respondents as being in good condition, with the rest of all dwellings falling into the decent, poor, and temporary housing categories. Additionally, less than half of all households have access to toilet facilities, while 62.2% of families possessing electricity in the neighborhood areas in which they live (*Socio-economic Status*, 2017). In terms of household goods, 1.6% of households own four-wheel vehicles; 60% possess kitchen appliances specifically; 62.9% own tables and chairs; and less than 30% possess other assorted appliances. Moreover, while 83.1% of households own a mobile phone, less than 10% have a computer. Regarding access to essential services and schemes, indicators appear to be more favorable. For example, the rates of access to public health centers and Anganwadis, or village-level health facilities, stand at approximately 85% each. Additionally, 75% of heads of all households possess one or more identity cards, which are often critical in ensuring eligibility for governmental programs. Ownership percentages are similarly high for voter identity cards and caste certificates but decrease for health insurance and National Rural Employment Guarantee (NREGA) cards (*Socio-economic Status*, 2017).

Within the educational sphere, only 27% of respondents above the age of 6 are actively pursuing educational opportunities, and 57% are not doing so because they have either dropped out of school or completed some level of schooling (*Socio-economic Status*, 2017). The majority of those who have left school did so at the secondary education level. Common reasons for dropping out include poverty (cited by almost 50% of those who have left school), discrimination, language barriers, marriage, educational performance, and poor awareness regarding the purpose of educational pursuits. Of those respondents who have obtained a certain amount of education, 48% "have completed up to primary level"; just slightly more than 25% have achieved a secondary level of schooling; and only 9% have "indicated completion at graduation and post-graduation level" (*Socio-economic Status*, 2017). Additionally, the 6%

of respondents who have never attended school name as reasons migration, geographical distance to educational facilities, economic pressure, and lack of awareness (*Socio-economic Status, 2017*).

90% of the children who are currently enrolled in school attend governmental institutions (*Socio-economic Status, 2017*). As in the case of ST and SC communities, children from DNT and NT groups face various forms of mistreatment in educational facilities: exposure to derogatory and offensive language, attitudes, and accusations; classroom segregation; teacher neglect; and denial of access to school facilities. Though each distinct type of discrimination is reported by less than 5% of households, the severity of such actions and the barriers that they pose to substantive learning render them significant within the scope of analytical consideration (*Socio-economic Status, 2017*). Additionally, it is possible that households have underreported incidents of mistreatment due to fear of retribution or other reasons that make them reluctant to speak out. Limited engagement by DNT and NT family members in the provision of educational support may also negatively impact children's learning experiences. 56% of household parents have not visited their children's schools, and over 66% of families do not assist their children with schoolwork. Additionally, few households are actively involved in educational activities: only 13.4% are knowledgeable about the work of School Management Committees (SMC), and only 27.2% of these households participate in SMC meetings. It is also important to note that girls likely face greater barriers to education than boys, as families often prioritize access to educational opportunities for the latter. Of the households who have taken out loans for educational purposes, 90.1% have done so for their sons (*Socio-economic Status, 2017*).

A final category of data, concerning criminalization and treatment by law enforcement authorities, supports the conclusions of the qualitative studies described above (*Socio-economic Status, 2017*). 11.2% of study respondents indicate that they have visited the police station, while 10.1% report that family members have done so. Accusations of theft against DNT and NT community members account for 81.7% of the former visits and 89.8% of the latter. Households that have described the impacts of mistreatment linked to theft allegations refer to increased financial burdens, negative effects on children's schooling, and greater discrimination. Additionally, of the small number of households that have requested the help of police officials (24 total), only 29.2% have actually received assistance and 25% have been asked to bribe officers. In general, study respondents have indicated that the mitigation of different forms of discrimination will depend upon several factors: improved educational and employment opportunities; greater awareness and a shift in social attitudes; access to adequate housing and land; and the ability to exercise social and economic rights (*Socio-economic Status, 2017*).

III. Overview of Legal Framework

India has passed several laws that aim to prevent and prosecute violence against individuals belonging to vulnerable populations, including women, children, and members of marginalized social groups. The Indian Penal Code (IPC) of 1860 lists assault, voyeurism, human trafficking, rape, acid attacks, disrobement of a woman, sexual harassment, and stalking as punishable crimes (3D Program for Girls and Women, 2018). The latter four crimes were added to the IPC under the Criminal Law (Amendment)

Act of 2013, which bolsters the 1973 Code of Criminal Procedure. The Act deems government approval prior to the prosecution of sexual offences against public servants unnecessary, makes more severe the penalty for gang rape, increases the minimum penalty for rape, and expands the definition of rape (3D Program for Girls and Women, 2018; Human Rights Watch, 2017).

Prohibitions against the violation of women's rights to privacy, particularly for purposes of sexual or other exploitation or intimidation, have been enacted under the Indecent Representation of Women Act of 1986 and the Information Technology Act of 2000. Women working in both the informal and formal sectors are also entitled to seek protection and redress against perpetrators of sexual harassment under the Sexual Harassment of Women at Workplace Act of 2013. The rights and safety of children of all genders are ostensibly guarded by the Protection of Children from Sexual Offences Act (POCSO) of 2012, which criminalizes sexual harassment, sexual assault, and pornography involving children. Additionally, the 1956 Immoral Traffic in Women and Girls Act bans human trafficking and commercial sexual exploitation involving women and girls (3D Program for Girls and Women, 2018).

Moreover, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 (henceforth known as the SC/ST Act) specifically seeks to prohibit violence as a form of extreme social discrimination against individuals from SC and ST communities, including women (3D Program for Girls and Women, 2018). The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act of 2015, enacted in 2016, substantially broadened the types of atrocities included within the scope of the SC/ST Act. It placed a particular emphasis on "acts which are derogatory to the dignity of members of Scheduled Castes and Scheduled Tribes" (Ministry of Law and Justice, 2015; Ministry of Social Justice and Empowerment, 2016). Sexual harassment and abuse, whether verbal or physical, against women are expressly forbidden under the Act (Ministry of Law and Justice, 2015). Significantly, DNT, NT, and SNT groups are not included within the scope of the SC/ST Act ("Idate Commission," 2018; Nair, 2018a; Nair, 2018b). In its 2018 report, the abovementioned National Commission for Denotified, Nomadic, and Semi-Nomadic Tribes recommended that the law be extended to apply to DNT, NT and SNT communities ("Idate Commission," 2018; Nair, 2018a; Nair, 2018b). Shortly afterward, India's Minister of State for Social Justice and Empowerment, Ramdas Athawale, indicated that the implementation of the recommendation remained a possibility (Nair, 2018a).

In March 2018, the Supreme Court of India ruled to reduce the stringency of the SC/ST Act by stipulating that individuals accused under the legislation could not be arrested by an investigating officer without the approval of the Senior Superintendent of Police (Anuja & Varma, 2018). Further, the filing of an FIR would not be permitted until a preliminary police inquiry had been conducted in order to assess whether the accusation held merit (Anuja & Varma, 2018; Ministry of Social Justice and Empowerment, 2018). The alteration, which sought to curb misuse of the SC/ST Act, was criticized as a dilution of the rights of marginalized groups by both political parties (including members of the ruling National Democratic Alliance) and members of ST and SC communities (Anuja & Varma, 2018; "Bill to Restore," 2018). Thus, in August of this year, both the lower and upper houses of the Indian Parliament passed a bill to restore the strength of the SC/ST Act (Ministry of Social Justice and Empowerment, 2018; Parliament of India, 2018). The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Amendment Bill, 2018, which has not yet come into force, nullifies both of the above-mentioned requirements detailed by the Supreme Court (Parliament of India, 2018).

IV. Data and Evidence

A. Quantitative Data

It is important to note, at the outset, that there exists a dearth of high-quality and comprehensive quantitative data regarding the scope of violent crime against women from SC and ST groups. While the National Crime Records Bureau (NCRB) of India provides data on the incidence of specific crimes registered under the SC/ST Act – including those that disproportionately or exclusively affect women and girls – such data is not disaggregated by gender for all types of crimes (Bhuyan, 2018; Ministry of Home Affairs, n.d.). Additionally, neither NCRB data nor other sources include a measure that incorporates aggregated figures on incidents of gender based-violence or harassment recorded under each of the several laws under which VAGW from marginalized communities may be registered (Ministry of Home, n.d.). Finally, figures that are available very likely underestimate the scope of violence crime against women from ST and SC groups, as both caste and gender-based factors often contribute to the reluctance or inability of women to report incidents.

According to the 2017 report of the NCRB, 40,801 total crimes against members of SC and ST groups occurred in 2016 (Gopinath, 2018). Additionally, 2016 data from the NCRB indicates that 18%, or nearly one-fifth, of all crimes against members of SC groups are directed at women. In fact, crimes against women constitute the majority of all crimes recorded under the SC/ST Act in three states, and least one third of all such crimes in five states, including Maharashtra (Bhuyan, 2018). NCRB statistics also reveal that an average of 9 women from SC and ST groups are raped per day (National Dalit Movement for Justice, 2018). Additionally, the number of registered rapes against women from SC communities rose by 47% between 2003 and 2013 (National Campaign on Dalit Human Rights, n.d.). More recent data, compiled by the National Commission for Scheduled Castes, demonstrates that crimes against women from SC groups also increased in at least 13 states, including Maharashtra, between 2013 and 2015 (National Commission for Scheduled Castes, n.d.) From 2012 to 2014, the incidence of rape against women from SC groups alone increased by 41.68%. Similarly, the incidence of kidnapping and abduction, which disproportionately targets women, increased by 54.08% (National Dalit Movement for Justice, n.d.).

Several sources cite a 2006 study, conducted by the National Campaign on Dalit Human Rights, that documents the experiences with violence of 500 women from SC communities across four Indian states (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014; Irudayam, Mangubhai, & Lee, 2006). Though the data was collected from 1999 to 2004 and thus does not provide recent figures, it nevertheless reveals useful insights into the types and prevalence of violence against women from marginalized communities (Irudayam, Mangubhai, & Lee, 2006). Moreover, both the updated statistics cited above and recent qualitative evidence available from multiple sources (see below) suggest that the scope and forms of violence perpetrated against women

from SC communities have likely remained relatively constant over the past two decades. According to the study, 62.3% and 54.8% of participants had respectively experienced verbal abuse and physical assault, while 46.8% and 23.3% had respectively experienced sexual harassment or assault and rape (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014; Irudayam, Mangubhai, & Lee, 2006).

B. Qualitative Evidence

i. Forms of and Basis for VAGW from Scheduled Castes and Scheduled Tribes

Several sources have referenced the severity and horrific nature of the acts of violence perpetrated against women from SC groups, which may include “stripping, naked parading, caste abuses, pulling out nails and hair, sexual slavery, and bondage” (*Preliminary Report*, 2013). Women from marginalized communities are also targeted by severe forms of sexual violence, such as “rape, molestation, kidnapping, abduction, homicide, physical and mental torture, immoral traffic, and sexual abuse” (*Preliminary Report*, 2013). The results of a national tribunal on violence against women from SC communities, organization by the All India Dalit Mahila Adhikar Manch, found that 17 of the 45 participants had experienced sexual violence. The concluding report commented on the prevalence, severity, and punitive nature of sexual offences committed against women from SC communities. Violence against women from SC communities is perpetuated and exacerbated by their social and economic marginalization, and is closely linked to their social status (*Preliminary Report*, 2013).

One report directly addresses the latter conclusion in noting that “violent and inhumane treatment, such as sexual assault, rape, and naked parading, serve as a social mechanism to maintain Dalit women’s subordinate position in society. They are targeted as a way of humiliating entire Dalit communities” (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014). International bodies and stakeholders have reaffirmed the above observation by referring directly to the perpetration of violence against women from marginalized caste groups by individuals from dominant caste or social groups. In 2009, the Special Rapporteur for Violence against Women enumerated 30 cases of inter-caste, gender-based violence that targeted women from SC communities. During her time as UN Special Rapporteur on Violence against Women, Ms. Rashida Manjoo noted in 2013 that women from SC communities face various types of caste-based exclusion and discrimination, and are subject to violent acts that often go unpunished. She also listed the types of violence to which SC women are most susceptible, including verbal harassment, physical and sexual assault, and rape. Other international actors who have directly acknowledged and called for the elimination of gender-based violence against women from marginalized communities include the High Commissioner for Human Rights (2012), as well as a group of several UN Special Procedures representatives (2013) (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014).

One clear manifestation of the caste-based dimension of gender-based violence includes the verbal and physical abuse, as well as the extra-judicial killing, of women who enter into inter-caste relationships or marriages (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014; Society for Participatory Research in Asia (PRIA), 2013). Another form of violence targets women from SC communities who are elected to local political bodies under the reservation system

enacted by the Indian Constitution. Women from SC groups who attempt to play a substantive role in local decision-making processes sometimes face a violent reaction (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014). More broadly, discrimination against women from SC communities who occupy elected positions is pervasive (*Preliminary Report*, 2013). Similarly, women who attempt to resist or challenge the existing caste hierarchy or structure in any way may encounter violent retaliation (*Preliminary Report*, 2013). In fact, a 2015 research study relied upon district-level crime data between 2001 and 2010 to analyze the association between the expenditure of ST and SC groups (a proxy for standard of living) and crimes against members of ST and SC communities. The study found that higher expenditure was associated with higher rates of crime, particularly violent crime. Such findings corroborate the conclusion that attempts by SC and ST group members to achieve social and economic advancement often result in retaliation by socially dominant groups who see such efforts as threatening (Sharma, 2015; Society for Participatory Research in Asia (PRIA), 2013).

ii. Systemic Forms of Violence Against Women and Girls from Scheduled Castes and Scheduled Tribes

Practices of bonded and forced labor act as conduits for the perpetration of violent crime against women from SC groups. In her 2013 report, the UN Special Rapporteur on Violence Against Women remarked that women and girls from SC and ST groups remain particularly vulnerable to debt bondage, as well as trafficking and associated forms of violence, including sexual exploitation (International Dalit Solidarity Network, 2014). A 2013 study on violence against women from SC communities in Haryana noted that, within the context of bonded labor, women from SC groups encounter “sexual comments, eve-teasing, sexual exploitation, and rape by the dominant castes” (Society for Participatory Research in Asia (PRIA), 2013). Additionally, the employment of women from SC groups as landless laborers often leaves them vulnerable to “sexual abuse and other forms of violence against humiliation” by landlords (Society for Participatory Research in Asia (PRIA), 2013).

One form of bonded or forced labor that disproportionately affects women and girls from SC communities constitutes the Sumangali labor system, which is prevalent in the state of Tamil Nadu. As part of the system, which contributes significantly to the state’s spinning mill industry, girls are promised compensation equal to a marriage dowry in exchange for their labor in spinning mills. However, such compensation is withheld until and only received if the workers complete a three-to five-year contract with the mill, during which time they do not receive wages and are subject to harsh and exploitative working conditions. A 2015 study that interviewed 2,286 participants across 743 spinning mills in Tamil Nadu found that the Sumangali schemes was present in almost half of the included spinning mills (India Committee of the Netherlands, 2016).

80% of the female workers who operate the spinning mills of Tamil Nadu are younger than 18 years of age, while 60% belong to SC communities. Workers are frequently subjected to “harsh and abusive treatment by supervisors,” as well as sexual and physical harassment and abuse (India Committee of the Netherlands, 2016). Supervisors sometimes demand sexual favors in exchange for more comfortable working conditions, and female workers who complain are largely ignored. The above-mentioned study found that, according to media reports, sexual harassment occurs in 64% of the included mills. Direct

interviews with study participants revealed that verbal harassment occurs in all 743 of the mills (India Committee of the Netherlands, 2016). The report also noted that the media tends to document only the most extreme cases of violence and abuse, and that women are reluctant to share experiences of harassment, which may be normalized due to its prevalence. Therefore, sexual harassment is likely even more frequent than the above figures suggest. The research also noted that lengthy and irregular working hours, lack of adequate sanitation facilities, lack of adequate nutrition, and poor air quality combine to threaten the health of female mill workers. In affecting the physical well-being of workers, the above factors may also be construed as forms of violence against the female, SC community members who constitute a majority of those who operate spinning mills in Tamil Nadu (India Committee of the Netherlands, 2016).

Another form of labor that subjects women from marginalized social groups to inhumane working conditions and direct violence consists of manual scavenging, or the manual cleaning of toilet and sanitation facilities. Such work has historically been delegated to SC groups, and continues to be forced upon SC community members. According to a report published by Human Rights Watch on the practice in 2014, “women usually clean dry toilets,” while “men and women clean excrement from open defecation sites, gutters, and drains” (Human Rights Watch, 2014). Women who attempt to leave their work as manual scavengers are often threatened by the households in which they work with forms of social and economic exclusion: denial of access to community land and resources on which SC communities depend, eviction, and forcible removal from the village in question. Others face threats of physical violence upon refusing to engage in manual scavenging work. Such threats essentially trap SC community members within degrading working conditions, as lack of police protection and support due to caste prejudice leaves them with no choice but to comply with dominant caste demands (Human Rights Watch, 2014).

It is important to note that the severe rights violations and exploitation that SC community members face in their work as manual scavengers themselves constitute forms of assault. In fact, the occupation only reinforces the segregation and prejudices that compel SC group members to engage in such work in the first place. The above-mentioned Human Rights Watch report quotes Manjula Pradeep, director of the non-governmental organization Navsarjan: “Manual scavenging is itself a form of caste-based violence and needs to be understood that way. It is degrading, it is imposed upon very vulnerable people, and in order to leave manual scavenging, they have to make themselves even more vulnerable— they risk backlash, they don’t know how they will live” (Human Rights Watch, 2014). Given the economic and social conditions under which SC community members engage in manual scavenging, the practice amounts to a form of forced labor. Women who work as manual scavengers often receive in-kind compensation –such as land access, clothing, and food –rather than regular, formal wages. Often, economic constraints compel them to continue such work, as their families depend on their income or contributions. Additionally, the requirement that women clean every day restricts them from pursuing other forms of employment (Human Rights Watch, 2014).

Forced prostitution constitutes a third form of labor that exposes female SC community members to violence. The Devadasi or Jogini system, a historical practice that continues to this day, involves the religious dedication of young women or girls to deities in temples. In contemporary practice, however,

the system compels women and girls to engage in prostitution. It is widely acknowledged that the practice largely and primarily affects women from marginalized social groups, with one source referring to the system as “a form of caste-sanctioned rape” (Rao et al., n.d.). According to one study, 84.57% of Devadasis belong to SC communities. Girls may be dedicated at an early age and forced into prostitution from puberty onwards. In such circumstances, they often face rape and extreme physical violence, as well as resultant threats to their physical health and well-being. At the time of dedication, many are too young to be aware of what the work of a Devadasi entails, and are thus coerced into participating in a highly abusive practice (Rao et al., n.d.).

Structural violence both perpetuates and is reinforced by the Devadasi system. Economic constraints, lack of land ownership, and impoverishment often contribute to a family’s decision to dedicate one or more women as Devadasis. Though Devadasis receive maintenance funds from their partners, such funds are often irregular and inadequate due to the lack of any enforcement mechanism. Thus the Devadasi system does not alleviate in any meaningful way the poverty of either the women who participate or their families. Additionally, forced prostitution reduces the alternative work options available to Devadasis, who often possess limited educational experience and professional skills (Rao et al., n.d.). Many are compelled to pursue commercial sex work, agricultural work, or casual or bonded labor, particularly if and when their partners cease payment of maintenance fees. Overall, given the circumstances in which it occurs and the conditions to which it subjects women and girls from SC communities, the Devadasi system represents particularly atrocious form of forced labor. As noted in the 2015 India Exclusion Report, “involuntary induction, the excision of control over her body and labour, and her inability to escape the Devadasi identify are what make this practice degrading and exploitative” (Rao et al., n.d.)

Allegations of witchcraft also disproportionately affect women from marginalized groups. Multiple sources cite a recent study revealing that, within the past 15 years, more than 2,500 women have been killed for ostensibly engaging in witchcraft (National Campaign on Dalit Human Rights, n.d.). As one source notes, the victims of these killings have all “been poor and most have been from marginalized SC and ST communities and either owned property or rejected the sexual advances of dominant men in the community” (National Campaign on Dalit Human Rights, 2017). Such a conclusion supports evidence that recent acts of violence against members of SC and ST communities have aimed to reinforce existing power imbalances by targeting individuals who have sought to assert their rights or achieve upward mobility in the social, economic, and cultural spheres (International Dalit Solidarity Network, 2015).

Significantly, the 2015 amendment to the SC/ST Act directly prohibits the employment of individuals from ST and SC groups within occupations related to manual scavenging or bonded labor (Ministry of Law and Justice, 2015). It also penalizes the recruitment of women from SC and ST communities to participate in the Devadasi system of forced prostitution, and criminalizes violent acts associated with allegations of witchcraft (Ministry of Law and Justice, 2015). Moreover, the Protection of Children From Sexual Offences Act of 2012 prohibits the kind of sexual exploitation to which young girls and women from SC groups are subjected as Devadasis (Rao et al., n.d.). Additionally, the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act of 2013 officially bans the practice of manual scavenging, while the Sexual Harassment of Women at Workplace Act of 2013 should theoretically

prevent and provide women from all social groups with mechanisms for addressing such forms of sexual harassment as occur in the spinning mills of Tamil Nadu (Gopinath, 2018; 3D Program for Girls and Women, 2018). The evidence provided above suggests that the effectiveness of such legislation is severely compromised.

V. Legal Barriers to Justice

A. Legal Rights of Women from Scheduled Caste and Scheduled Tribe Communities

It is important to note that the SC/ST (Amendment) Act of 2015 introduced a new chapter on the rights of witnesses and survivors of violence, and to briefly outline the entitlements included within this chapter. Specifically, it stipulates that that the State “[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” (Ministry of Law and Justice, 2015). Additionally, Special Courts are required to enact protective measures, defray expenses associated with the legal process, and arrange for social and economic support for survivors, the dependents of survivors, witnesses, and informants. The chapter also states that survivors of violence are legally entitled to the timely receipt of information concerning court proceedings and the status of the investigation in question; the recording by a law enforcement officer of their complaint; the receipt of cost-free copies of the First Information Report (FIR) filed by the officer and charge sheet associated with the complaint; cash or in-kind compensation related to the violent act; and legal aid for trial preparation activities (Ministry of Law and Justice, 2015).

Other aspects of both the SC/ST (Amendment) Act of 2015 are also relevant to an examination of the barriers that women from SC and ST groups face in accessing justice (Human Rights Watch, 2017; Ministry of Law and Justice, 2015). Law enforcement officials are required to record the statements of survivors and witnesses; file an FIR under relevant sections of the SC/ST Act; provide a copy of the FIR to the informant in question; and complete an investigation and file a charge sheet within 60 days (Ministry of Law and Justice, 2015). The SC/ST Act also directs state governments to establish an efficient number of Special Courts for the prosecution of crimes against ST and SC community members in order to ensure that trials are completed two months after a charge sheet had been filed. Trials are to be conducted on a day-to-day basis until all witnesses have been heard (Ministry of Law and Justice, 2015).

The two-month timeline and day-to-day trial procedure also apply to cases of rape under the 1973 Code of Criminal Procedure, which details the rights of all women in pursuing legal avenues of justice related to such crimes as acid attacks and sexual offences (Human Rights Watch, 2017). According to the Procedure, women's initial statements to law enforcement authorities must be filed as FIRs by female police officers in a location considered to be safe by the survivor, and must also be recorded before a magistrate (3D Program for Girls and Women, 2018; Human Rights Watch, 2017). A 2014 Supreme Court Ruling also bans law enforcement authorities from carrying out any kind of investigation prior to registering an FIR. The Code of Criminal Procedure further enacts penalties for officers who do not register rape complaints, prohibits “unnecessary delay” in police investigations, and prevents police

officers from releasing the accused on bail (Human Rights Watch, 2017). Law enforcement investigation should culminate in a court report that takes the form of a charge sheet or notice of case closure. The latter does not empower police or trial courts to settle cases, but can rather be challenged by the survivor or individual filing the complaint (Human Rights Watch, 2017).

The SC/ST (Amendment) Act of 2015 also stipulates that public servants who fail to take appropriate and required legal steps within the scope of the Act may face a term of imprisonment of up to one year in length (Ministry of Law and Justice, 2015). Similarly, the Criminal Law (Amendment) Act of 2013 penalizes public servants who do not file an FIR upon receiving a report of gender-based violence (3D Program for Girls and Women, 2018). The IPC also renders a failure by public servants to report certain crimes, including rape, punishable by up to two years of imprisonment (3D Program for Girls and Women, 2018).

All individuals, including women, are also empowered to receive free legal aid under the Legal Services Authority Act of 1987, under which such services have presumably been put in place at multiple levels of the political and justice systems (3D Program for Girls and Women, 2018). A 1994 Supreme Court ruling reinforces the right to legal aid at police stations in cases of rape, and also emphasizes that stations must retain a list of legal advocates whom survivors can contact in case they are unable to access the services of a lawyer (Human Rights Watch, 2017). Additionally, the Criminal Law (Amendment) Act of 2013 enacts requires state and private hospitals to provide free medical treatment to survivors of rape or acid attacks (3D Program for Girls and Women, 2018).

B. Evidence of Barriers to Justice

i. Quantitative Data

Statistical data from the above-mentioned 2006 report published by the National Campaign on Dalit Rights supports provides quantitative evidence of barriers to justice for women from SC communities, who constituted the respondents of the study (Irudayam, Mangubhai, & Lee, 2006). According to the study, perpetrators or community members and police respectively prevented women from achieving justice in 26.5% and 17.4% of cases of violence. Additionally, there was no attempt to seek justice against the perpetrators of 40.2% incidents of violence due to fear of reprisal, fear of stigma, insufficient knowledge of legal processes, or lack of trust in such processes (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014).

Another report summarized evidence from three separate studies carried out in the states of Maharashtra, Gujarat, and Tamil Nadu on violence perpetrated against women from SC groups by both individuals from other caste groups and individuals from SC communities. Data on incidents of violence that had occurred between December 2004 and December 2009 were requested from law enforcement authorities in selected districts within each of the three states. 44.6% of all cases of violence perpetrated by non-SC community members were grievous in nature. According to the report, there existed “delays and irregularities at every stage of the justice process in all three states,” as well as “a high number of cases which remain[ed] unresolved after many years and very low conviction rates” (Navsarjan Trust, 2011). More specifically, the filing of an FIR was delayed in 56.7% of total cases in the three states, and

15% of cases were delayed by over 30 days. Additionally, bail was granted to those accused of the murder of female SC community members in 20% of murder cases. Both FIR registration delays and ineffective bail procedures increase the likelihood that perpetrators – particularly those from dominant castes – will be able to pressure or threaten the family of the victim or survivor into dropping or informally settling a case. Further obstacles to justice became evident during the trial process for incidents of violence perpetrated by non-SC community members against women from SC groups. As of the time of data analysis in 2011, the outcome of only 26.6% of such cases had been decided, while the court pendency rate stood at 30.9% and 42.5% of cases were of unknown status. Additionally, the conviction rate for all three estates was a mere 0.79% (Navsarjan Trust, 2011).

More recent statistical data and evidence hints at the continued existence of barriers to justice. Relying upon NCRB data from 2016, one source suggests that the conviction rate for crimes against women from SC groups, as registered under the SC/ST Act, stands at 28%. In other words, well over two-thirds of crimes that are officially recorded do not end in penalties for perpetrators of violence (Bhuyan, 2018). Conviction rates may also differ substantially according to type and location of crime. For example, in 2011, the Centre for Dalit Rights in the city of Jaipur, Rajasthan reported that the conviction rate for cases of rape and sexual assault perpetrated against women from SC communities was only 2% (Nandi, 2011).

ii. Qualitative Evidence

Generally speaking, individuals from SC and ST communities are obstructed in their pursuit of justice by a range of factors. The National Campaign on Dalit Human Rights enumerates such factors as “barriers to registering complaints, delayed investigations, failure to arrest the accused, lack of understanding of rights and court processes, threats from the accused, pressure to compromise or adjourn cases prior to conclusion and humiliation during trial proceedings” (National Campaign on Dalit Human Rights, n.d.). SC and ST community members are also denied access to legal aid: as of 2011, approximately 4% of those who accessed resources provided by governmental Legal Services Authorities were members of SC communities (National Campaign on Dalit Human Rights, n.d.). A report published by the National Commission for Scheduled Castes also corroborates information provided by the National Campaign on Dalit Human Rights in noting that delayed filing of FIRs, registration of counter cases against atrocity cases, long-delayed investigations, and negligence on the part of police officers all impede access to justice for individuals from SC communities. Additionally, failure to establish sufficient numbers of Exclusive Courts for the trial of crimes against SC and ST group members facilitates delays in trials and a disproportionate number of acquittals. Compensation provided to survivors of atrocity is often delayed or insufficient. In general, judicial officials seem to lack substantive understanding of the provisions of the SC/ST Act (National Commission for Scheduled Castes, n.d.)

The above-mentioned report of the National Commission for Scheduled Castes indicates that the rate of pendency for atrocity investigations at the police level increased from 26.3% in 2012 to 29% in 2015, while the rate of conviction for such crimes decreased from 35% in 2010 to 27.6% in 2015 (National Commission for Scheduled Castes, n.d.). With reference to ST groups, other sources suggest a comparable rate of police pendency (23.7%) related to the total number of cases for investigation in 2015 and a similar conviction rate (27.6) associated with the total number of trials completed in the

same year. Moreover, the rate of pendency for all cases reported under the SC/ST Act increased from 78.7% in 2010 to 90.3% in 2015, while the overall conviction rate decreased from 35% in 2010 to 22.3% in 2015. In Maharashtra specifically, the court pendency rate for all SC/ST Act cases reached 90.7% in 2013, while the conviction rate stood at 6.3% (National Dalit Movement for Justice, n.d.).

Though such findings apply to SC and ST groups as whole rather than to women specifically, it can be inferred that the legal obstacles faced by all survivors of atrocity impact women from SC and ST communities with equal or increased frequency and severity. Moreover, studies and figures that specifically address violence against women corroborate the above evidence. During the course of its 2013 national tribunal on violence against women from SC groups, All India Dalit Mahila Adhikar Manch found that law enforcement authorities and judicial officials, who often belong to the same social groups as perpetrators of violence, frequently act to shield the latter and prevent women from SC groups from pursuing and achieving justice (*Preliminary Report*, 2013). For example, police and judicial officials fail to voluntarily apply the SC/ST Act in many instances of violence, including rape, and often only do so after significant community pressure. Additionally, police authorities attempt to convince survivors to come to an informal settlement with perpetrators rather pursue legal courses of justice, using bureaucratic means to prevent survivors from initiating the legal process. Survivors' statements and FIRs are often recorded inaccurately or deliberately altered. Findings from the tribunal note that, due to political and other pressure, the National Commission for Scheduled Castes has been ineffective in addressing violence against women from SC communities and ensuring that the legal system works in their favor (*Preliminary Report*, 2013).

A 2013 study carried out by the Society for Participatory Research in Asia remarks that women from SC communities who speak out in order to attempt to seek redress against instances of violence may even face backlash from their own families and communities. The findings of the study reveal that a dearth of adequate survivor and witness protection and rehabilitation programs discourages women from pursuing criminal complaints, as their safety may be compromised in the process. Additionally, the reliance of women from SC group on dominant caste landowners and employers for work further constrains their ability to seek legal justice. Financial constraints and lack of knowledge regarding the legal system are cited as other reasons for reluctance to seek the help of law enforcement and legal officials, who often fail to pursue cases due to pressure exerted by dominant castes (Society for Participatory Research in Asia (PRIA), 2013).

In a 2014 report, Navsarjan Trust, All India Dalit Mahila Adhikar Manch, and the International Dalit Solidarity Network present qualitative information on the types of barriers faced by women from SC communities who seek redress against perpetrators of violent crime. The report refers to the 2014 findings of the Special Rapporteur on Violence Against Women, who investigated incidents of violence perpetrated by law enforcement officials, community members, and others against women from SC groups. The Special Rapporteur found that survivors of gender-based violence face threats from police officers, as well as further physical and sexual violence, when they attempt to seek legal recourse. The Rapporteur's findings also acknowledge that perpetrators of violence are frequently released on bail without any penalty, and that conviction rates for crimes against SC women remain low (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014). In

conclusion, then, social stigma and threats to safety, along with inefficient, discriminatory, and costly legal processes, prevent survivors of violence from acting against perpetrators (Navsarjan Trust, All India Dalit Mahila Adhikar Manch, & International Dalit Solidarity Network, 2014).

A 2017 Human Rights Watch report on the experiences of sexual assault survivors in India documents even more recent evidence of the challenges that such survivors face in the legal justice system. While the report does not focus specifically on women from SC and ST communities, it nevertheless incorporates case studies of violence against SC and ST group members. The findings of the report reinforce those of the above-mentioned studies in documenting the negligence and failure of law enforcement authorities to respond promptly, impartially, and effectively to accusations of sexual assault. As acknowledged by the report, “victims from economically and socially marginalized communities are even more vulnerable to such police apathy or abuse” (Human Rights Watch 2017). In the cases that Human Rights Watch studied, police regularly failed to promptly file an FIR; pressured the families of survivors to settle cases informally; and did not arrest the accused. Overall, law enforcement authorities tend to treat sexual assault survivors with suspicion, often dismissing accusations of rape in situations in which perpetrators and survivors are known to one another (Human Rights Watch, 2017).

Systemic gaps perpetuate and permit police negligence. For example, the Human Rights Watch Report indicates that police officials neglect to provide protection to or otherwise address the concerns of survivors and families who face backlash from the accused after a complaint has been recorded. In some cases, law enforcement officials used such threats from the accused as an excuse to convince families to drop cases. Such actions contribute to a broader lack of legal provisions for witness protection, in the absence of which both witnesses and survivors are easily pressured into altering their statements or dropping cases at various points in the criminal justice process (Human Rights Watch, 2017).

Additionally, there exists no national mechanism for the establishment of legal aid services at police stations, and police generally do not refer survivors to legal aid resources. Legal aid services that are available are often of low quality, as service providers may not be aware of the specific rights and concerns of sexual assault survivors (Human Rights Watch, 2017). Survivors’ lack of access to updated information concerning the status of their cases, as documented by Human Rights Watch, further demonstrates a lack of diligence and accountability on the part of both law enforcement authorities and legal service providers. Survivors are subjected to further uncertainty and lack of support during the trial process, which is regularly impeded by procedural factors, delays in the processing of forensic evidence, and a high caseload (Human Rights Watch, 2017).

A significant pattern documented by Human Rights Watch concerns the role of Khap Panchayats, which most directly represent the caste dimensions implicated in incidents of gender-based violence. Khap Panchayats, or caste-based councils, serve as extrajudicial authorities that assign harsh punishments to women – particularly those from SC communities – in response to perceived infractions of caste rules or general, caste-based conflict. They are often responsible for issuing verdicts regarding the punishment of individuals who engage in inter-caste relationships. According to the 2017 Human Rights Watch report, Khap Panchayats often deny or refuse to acknowledge instances of rape, claiming that families frame consensual sex as rape for the purpose of extracting compensation. They also place pressure on

survivors to refrain from pursuing a criminal complaint, cause key witnesses to turn hostile, and influence law enforcement officials to further pressure survivors and families (Human Rights Watch, 2017).

Another report, published by the All India Dalit Mahila Adhikar Manch in 2018, includes anecdotal evidence of cases of violence, particularly sexual violence, that were perpetrated against women from SC groups between 2015 and 2017. The publication echoes the findings of the reports described above, and specifically points to the failure of law enforcement officials to invoke appropriate and necessary sections of the SC/ST Act and Protection of Children Against Sexual Offences Act of 2012 in either FIRs or charge sheets. Such a failure constitutes “willful negligence” under the SC/ST Act (*Voices Against Caste Impunity*, 2018). Additionally, survivors and families are frequently not informed of the progress of their cases by law enforcement officials, public prosecutors, or others. The filing of charge sheets by police officials after FIR registration is often delayed by months, and survivors faced threats to their personal safety (*Voices Against Caste Impunity*, 2018).

VI. Conclusions

Several non-governmental organizations that specifically address the rights and marginalization of SC and ST communities have published resources and reports that have served as significant sources of evidence and data for this brief. Many of these organizations regularly conduct research on the social and economic challenges faced by SC and ST groups, and carry out advocacy activities in local and international spaces. Several seek to mobilize the communities that they represent to demand justice, accountability, and inclusion in the economic, social, political, and cultural spheres. A preliminary list of organizations that frequently surfaced as sources of critical information includes the International Dalit Solidarity Movement; Navsarjan Trust; the All India Dalit Mahila Adhikar Manch; and the National Dalit Movement for Justice – National Campaign on Dalit Human Rights.

As noted above, a dearth of rigorous data documenting the scope and forms of violence against women and girls from SC and ST communities serves as a significant barrier to the implementation of both localized and national-level measures for prevention and redress. The Atrocity Tracking and Monitoring (ATM) system constitutes an innovative attempt to address this gap. The virtual platform was created by the National Dalit Movement for Justice in 2014 as a way of recording crimes reported by SC and ST community members across the country and tracking the progress of resultant legal processes (CivicTech4Democracy, n.d.; Jha, 2015). The website that houses the system also contains a compilation of reports concerning the state of violence against SC and ST communities in individual states and the effectiveness of the implementation of the SC/ST Act in response to such incidents (National Dalit Movement for Justice, National Campaign on Dalit Human Rights, n.d.).

In addition to synthesizing data, the initiative aims to increase momentum for timely and fair investigation and judicial processes under SC/ST Act (CivicTech4Democracy, n.d.; Jha, 2015). The way in which cases are recorded and monitored is as follows: survivors or informants can send an SMS message to a helpline number provided on the ATM system website in order to report an incident of violence.

The message is received by a Dalit Human Rights Defender who has been registered within the relevant state (National Dalit Movement for Justice, National Campaign on Dalit Human Rights, n.d.; National Dalit Movement for Justice, 2018). The incident is verified and recorded on the website by the Dalit Human Rights Defender, with defenders creating reports and maintaining dashboards for all the cases of which they are alerted. Dalit Human Rights Defenders can then send email or SMS messages to activists, law enforcement officials, survivors, and witnesses concerning the progression of each stage of the legal process for investigating and prosecuting a crime. Such procedures are meant to place pressure on police and judicial officials to rapidly and effectively resolve cases involving violence against ST and SC community members. (National Dalit Movement for Justice, National Campaign on Dalit Human Rights, n.d.; National Dalit Movement for Justice, 2018).

As of June 2018, 406 crimes have been entered into the ATM system since 2015. Additionally, the system has recorded 1698 emails and 2703 SMS messages since that year. As noted in an explanatory video published by the National Dalit Movement for Justice, “notifications [generated] through ATM have compelled enforcement authorities for prompt actions, such as registrations of FIR, conducting spot inspection, arresting accused, and timely submission of charge sheets” (National Dalit Movement for Justice, 2018). Specifically, FIRs have been registered for 261 of the 406 cases recorded, and survivors have been provided with a total of 12.7 million rupees in compensation as a result of the ATM (National Dalit Movement for Justice, 2018).

The importance of such efforts cannot be overstated. If impunity for crimes against women from SC and ST communities is to be ended, then initiatives aimed at ensuring the accountability of judicial and law enforcement officials are imperative. Given the multiple and mutually exacerbating barriers to justice that such women face, the success of such endeavors could both contribute substantially to a decrease in the incidence of crime against SC and ST group members and mitigate their exclusion from formal legal processes and systems. In light of the failure of existing legislation and legal structures to protect the rights of women from ST and SC communities, grassroots efforts by local and international non-governmental organizations to remedy such gaps take on added meaning.

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