

briefing

India

Report on Fact-Finding Visit

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**CHRISTIAN
SOLIDARITY
WORLDWIDE**
VOICE FOR THE VOICELESS

PO Box 99, New Malden,
Surrey KT3 3YF

T: 0845 456 5464

E: admin@cswworldwide.org.uk

W: www.cswworldwide.org.uk

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‘Dalits have faced a unique discrimination in our society that is fundamentally different from the problems of minority groups in general. The only parallel to the practice of “untouchability” was apartheid in South Africa. Untouchability is not just social discrimination. It is a blot on humanity.’

Dr Manmohan Singh, Prime Minister of India

‘The plight of our 43,000,000 depressed people is not the problem of India alone. It should be international, for it affects the economic and social welfare of the entire world, and it is a case for the League of Nations just as slavery or the drug traffic is. “Untouchability” is far worse than slavery, for the latter may be abolished by statute. It will take more than a law to remove this stigma from the people of India. Nothing less than the aroused opinion of the world can do it.’

Dr B.R. Ambedkar, quoted in the New York Times, 30 November 1930

‘Caste discrimination condemns millions world-wide to a life of servitude.’

The Rt Hon. Ian McCartney, UK Foreign Office Minister

Executive Summary

The visit was undertaken by a representative of Christian Solidarity Worldwide (CSW) and Mr Stephen Crabb MP, in order to learn about current trends of caste-based discrimination as experienced by a sample of the Scheduled Caste community, self-identified as 'Dalits'. Although the primary interest of CSW lies in the area of religious freedom, religious leaders have consistently emphasised that most infringements of this freedom should be understood as part of the broader patterns of discrimination against Dalits.

The visit involved meetings with activists in Hyderabad, Nagpur and New Delhi, and site visits to the scene of a recent high-profile violent murder of a Dalit family in Khairlanji village, Maharashtra state, and several rural villages in Andhra Pradesh.

The visit to Khairlanji village was particularly significant, as the attack and its aftermath had taken on a deep significance for Dalit activists. It was being viewed increasingly as paradigmatic of inter-caste conflicts, caste-based prejudices within the judicial machinery and the near-absolute failure of the justice system to deal adequately with caste-based incidents. The delegation heard the perspectives of the only survivor of the attack, Mr Bhaiyalal Bhotmange, and of activists closely acquainted with the case, who expressed a deep dissatisfaction with the response of the police to the incident.

The visit took place in the run-up to the bicentenary celebrations of the abolition of the slave trade in the British Empire, and there was a notable readiness among Dalit activists to discuss certain dimensions of caste-based discrimination using the contextually apposite language of slavery. The delegation heard testimony from Dalit activists in Hyderabad and Nagpur, who strongly asserted that Dalits are, to an overwhelming extent, the worst victims of contemporary forms of slavery in India. This analysis extended to human trafficking, bonded labour, sexual exploitation (including the *devadasi* system of temple prostitution) and other forms of labour exploitation (including manual scavenging, or the cleaning of human excrement from dry latrines using the hands). The delegation visited a settlement near Hyderabad, known as 'pipe village', which housed a community of Dalits engaged in bonded labour at a factory manufacturing concrete pipes. The workers lived in discarded pipes, and described highly exploitative working conditions, with very few amenities available.

The Dalit activists whom the delegation met, generally welcomed the considerable body of law protecting Dalits and tribals from various forms of caste-based violence and discrimination. It was also apparent that the Indian government was committed to tackling caste-based issues, and that, to some extent, there was a growing social intolerance towards caste. However, the implementation of anti-discrimination laws was consistently described as being extremely weak, and the various commissions designed to safeguard the rights of Dalits and other disenfranchised castes were perceived to be limited in their effectiveness.

It was strongly articulated by Dalit activists and victims of violence or discrimination that caste continues to be a highly significant factor in normal social transactions in India, in both urban and rural contexts. The worst manifestation of this was the attack in Khairlanji, which was the tragic culmination of simmering grievances of higher castes against Dalits, on grounds of their relative affluence. Caste-based tensions or discrimination were also manifested in softer forms: the delegation visited a school in a village in Andhra Pradesh, where 'high' caste children refused to eat food prepared by Dalit cooks, and a Dalit PhD student in Hyderabad reported being compelled to state his caste on job application forms and unable to find employment. Caste was also described as a crucially important factor in analysing religious freedom abuses in India; a caste-based agenda was perceived to be fuelling attempts to obstruct the religious conversions of Dalits.

I. Recommendations

The following recommendations have been developed by CSW in consultation with a range of Dalit activists and Christian leaders, to reflect the concerns consistently articulated by Dalits and religious minorities, both during this visit and more generally.

1.1. To the government of India

It is recommended that the Indian government should:

1. Ensure the full and effective implementation of all laws protecting Scheduled Castes, Scheduled Tribes and religious minorities from violence, discrimination and exploitation (particularly those described under section 3 of this report), including the prosecution of the perpetrators of the attack in Khairlanji village, Maharashtra, on 29 September 2006, and fully investigate allegations of the abuse of these laws;
2. Undertake a comprehensive programme of training of the police force, prosecutors and the judiciary, particularly to ensure the implementation of the above-mentioned legal protections, including by fully implementing the recommendations of the Dharma Vira Commission and other relevant commissions;
3. Implement measures to guarantee the independence of the police force, prosecutors and the judiciary from political authorities (including by implementing a system of fixed tenures for senior police), and to increase their transparency and accountability;
4. Conduct independent reviews of the effectiveness of the various national- and state-level commissions mandated to protect the rights of Scheduled Castes, Scheduled Tribes and religious minorities, in consultation with these groups, with a view to developing their effectiveness as safeguards against discrimination;
5. Ensure that an active Commission for Human Rights, Commission for Religious and Linguistic Minorities and Commissions for Scheduled Castes and Scheduled Tribes (in the model of their national counterparts), is operational in every state, and that members of each commission are appointed by transparent and non-partisan procedures;
6. Ensure the effective implementation of its reservation policy and consider further the impact of the growth of the private sector upon Scheduled Castes, Scheduled Tribes and religious minorities, with a view to minimising the risk of exclusion for these groups;
7. Adopt and implement the recommendations of the Justice Ranganath Mishra National Commission for Religious and Linguistic Minorities, specifically that the eligibility for membership of the Scheduled Castes should not be linked to religious status;
8. Condemn and take steps towards the repeal of Freedom of Religion Acts in Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Orissa and Rajasthan states;
9. Ensure that incidents of discrimination against Dalit children in primary, secondary and tertiary education are monitored and that convictions are brought where appropriate, and foster a climate of equality at all levels of education;
10. Fully engage with the recommendations set out in the Concluding Observations of the UN Committee for the Elimination of Racial Discrimination (CERD/C/IND/CO/19), in its consideration of the fifteenth to nineteenth periodic reports submitted by India.¹

¹ <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.IND.CO.19.doc>.

1.2. To states and regional actors

It is recommended that states and regional actors should:

1. Openly recognise that caste-based discrimination constitutes a major social injustice worthy of significant international attention;
2. Encourage the Indian government to implement the recommendations given in section 1.1 above;
3. Particularly encourage the Indian government to engage with the recommendations of the UN CERD;
4. Recognise the need for a caste-based analysis of human rights and social exclusion themes in India, and raise forms of caste-based discrimination during all bilateral and multilateral discussions with India on human rights issues;
5. Recognise the need to prioritise the social exclusion of Dalits as part of development policies on India, particularly with regard to education;
6. Consider means of sharing best practice on combating entrenched forms of discrimination with the Indian government;
7. Take measures to encourage domestic companies investing in India to take up the recommendations under section 1.3 below;
8. Provide platforms for Dalit human rights activists to present their concerns to decision-makers and political leaders in third-party states, and consider the development of special schemes to provide opportunities for Dalits to undertake higher education.

1.3. To foreign investors in India

It is recommended that foreign investors in India should:

1. Undertake a comprehensive survey of employees, to ascertain whether Scheduled Castes, Scheduled Tribes and religious minorities are fairly represented;
2. Adopt measures to preclude discrimination, particularly caste-based discrimination against Dalits, in supply chains and employment processes, with reference to the Ambedkar Principles developed by the International Dalit Solidarity Network;
3. Regularly review whether their operations meet international best practice affecting non-discrimination, such as those enshrined in the UN Norms on the Responsibility of Transnational Corporations and other Business Enterprises with Regard to Human Rights and OECD guidelines;
4. Consider joining the UN Global Compact on companies and human rights.

1.4. To the international media

It is recommended that institutions of the international media should:

1. Recognise the importance of analysing caste factors when covering social, political, economic and cultural events in India, and ensure that these factors are given full consideration in all reporting on India;
2. Take measures to ensure that reports are not biased towards the interest of dominant caste groups.

1.5. To the UN Special Rapporteur on Freedom of Religion or Belief

It is recommended that the UN Special Rapporteur on Freedom of Religion or Belief should:

1. Visit a range of states in India in which Freedom of Religion Acts have been passed, particularly those with a high rate of violence against Dalit converts, to assess the impact of these laws upon the climate of religious intolerance;
2. Raise with the Indian government the issues of state-level Freedom of Religion Acts, religious discrimination in the eligibility for membership of the Scheduled Castes and the regular incitement of religious violence to obstruct the religious freedom of Dalits.

2. Introduction

The visit was undertaken by a representative of Christian Solidarity Worldwide (CSW) with Mr Stephen Crabb MP, and was arranged by the All India Christian Council (aicc). Its chief objective was to survey the recent trends of discrimination and persecution experienced by a sample of the Scheduled Caste, or Dalit, community in India (representing approximately 16% of the population, or 167 million, according to official 2001 census data), with additional reference to the experiences of the tribal community (approximately 8%, or 84 million).

Although the primary interest of CSW lies in the area of religious freedom, it has been consistently emphasised by religious leaders that this should be considered within the broader context of caste-based discrimination; religious freedom obstructions constitute a means of preventing Dalits from escaping the identity imposed upon them by caste. With particular reference to Christians, the worst victims of religious freedom infringements in India are either those of Dalit background, or those undertaking charitable, educational or evangelistic work among Dalit communities. Nevertheless, caste is not confined to any single religious group; although primarily associated with Hinduism, it is practised to some extent within every religious community in India.²

The extent and depth of the survey was limited by the parameters of the visit, which included visits to several rural villages near Hyderabad and to the village of Khairlanji in north-east Maharashtra (the scene of a massacre of a Dalit family in September 2006), and meetings with Dalit and religious minority community leaders, activists and journalists in Hyderabad, Nagpur and Delhi.

Several indicators point to a growing intolerance of the caste system within India. The visit coincided with the release of a BBC poll, which indicated that 55% of Indians considered the caste system to be a 'barrier to social harmony'.³ In an address on 27 December 2006, Prime Minister Dr Manmohan Singh described untouchability, one manifestation of the caste system, as 'a blot on humanity' and drew a parallel with the apartheid system in South Africa.⁴

Caste-based discrimination has also attracted increasing international attention. In its Concluding Observations following the consideration of the fifteenth to nineteenth periodic reports submitted by India in a single document, the UN Committee for the Elimination of Racial Discrimination (CERD) upheld its opinion 'that discrimination based upon "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights', and developed an extensive set of recommendations to the state party.⁵

While acknowledging the clear interest and incentives on the part of the Indian government to address caste-based discrimination within India, the majority of Dalit activists expressed their view that clear global attention to the issue was required in order to propel their campaign for equality and emancipation.

The findings of the visit are arranged thematically, with selected case studies to highlight the core issues of concern.

² Cf. the report of the National Commission for Religious and Linguistic Minorities (21 May 2007), which concluded that 'caste is in fact a social phenomenon shared by almost all Indian communities, irrespective of their religious persuasions'.

³ 'Caste clouds India's high hopes': http://news.bbc.co.uk/1/hi/world/south_asia/6320413.stm.

⁴ For a full transcript of this speech, see <http://pmindia.nic.in/speech/content.asp?id=482>.

⁵ CERD/C/IND/CO.19 (5 May 2007): <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.IND.CO.19.doc>.

3. Legal Status of Caste System ⁶

Contrary to popular misunderstanding, the caste system and the observance thereof are not unconstitutional or illegal in India. However, Indian law contains detailed provisions to prohibit or abolish numerous manifestations of the caste system, including discrimination, exploitation and associated degrading forms of labour.

Article 15 of the Indian constitution prohibits discrimination on the basis of caste:

15. *Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.*
- (1) *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*
 - (2) *No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to:*
 - (a) *access to shops, public restaurants, hotels and places of public entertainment; or*
 - (b) *the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.*
 - (3) *Nothing in this article shall prevent the State from making any special provision for women and children.*
 - (4) *Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.*

Article 17 of the constitution abolishes 'untouchability', a specific symptom of the caste system:

17. *Abolition of Untouchability:*
"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

The Protection of Civil Rights Act, 1955, prescribes detailed punitive provisions for the practice of untouchability.

In addition, numerous laws exist to abolish various additional symptoms of the caste system, including the most degrading forms of labour associated with Dalits, as the lowest group in the caste hierarchy.

These include the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, which provides for:

... the prohibition of employment of manual scavengers as well as construction or continuance of dry latrines and for the regulation of construction and maintenance of water-seal latrines.⁷

Dalits are the main victims of labour exploitation and contemporary forms of slavery, including bonded labour. The practice of bonded labour is abolished in Article 4 of the Bonded Labour System (Abolition) Act, 1976:

⁶ This is not an exhaustive list of legislation pertaining to the protection and welfare of Scheduled Castes, Scheduled Tribes and religious minorities, but is intended to highlight an important sample of this body of legislation. The website of CSW partner organisation, the All India Christian Council (aicc), includes a repository of laws pertaining to the Scheduled Castes, Scheduled Tribes and religious minorities in India:
http://www.aiccindia.org/newsite/0804061910/resources/Laws_and_Policies.htm.

⁷ In addition, the National Commission for Safai Karamcharis Act, 1993, created a national commission whose remit included the rehabilitation of manual scavengers.

4. *Abolition of Bonded Labour System:*

- (1) *On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render, any bonded labour.*
- (2) *After the commencement of this Act, no person shall:*
 - (a) *make any advance under, or in pursuance of, the bonded labour system, or*
 - (b) *compel any person to render any bonded labour or other form of forced labour.*

The issue of caste-based violence against Dalits is addressed in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter the Prevention of Atrocities Act, 1989), which prescribes measures for dealing with the particular forms of violence, humiliation and discrimination faced by Dalits and tribals.

Several commissions have been established under Indian law, to protect the legal and constitutional rights of disenfranchised groups, including the Scheduled Castes, Backward Classes and minorities. The Protection of Human Rights Act, 1993, constituted the National Human Rights Commission (NHRC), with a remit of enquiry and limited intervention into human rights abuses. The Constitution (Sixty-Fifth) Amendment Act, 1990, established a National Commission for the Scheduled Castes and Scheduled Tribes, with a remit of monitoring the protection of these groups, enquiring into specific complaints and issuing recommendations. The Constitution (Eighty-Ninth) Amendment Act, 2003 bifurcated the Commission into the National Commission for Scheduled Castes, and a separate National Commission for Scheduled Tribes.

A National Commission for Minorities was established by an Act of Parliament in 1992, to safeguard the rights of religious minorities and to make recommendations to the central or state governments. A National Commission for Backward Classes was created by a 1993 Act, to function as an advisory body pertaining to the definition of 'backward classes' other than Scheduled Castes.

The relevant pieces of legislation also mandate the establishment of equivalent state-level commissions, but few have been established.

4. Themes of Caste-Based Discrimination and Exploitation

The caste system continues to dominate Indian society to a considerable extent, affecting particularly the social status and treatment of the 'lower' castes and Dalits in both urban and rural contexts. The negative impact of the caste system upon Dalits is manifested in numerous different ways. Dalits among India's majority rural population are particularly susceptible to caste-based violence and numerous forms of overt segregation and discrimination, described by a Dalit activist in Nagpur as "the raw face of casteism" (that is, discrimination based upon caste).

Dalits report facing discrimination not only in normal social transactions but also in their interaction with Indian officialdom; Dalits are commonly excluded from or prevented from taking up positions of influence, and there is a perception among many Dalits that discretionary authority of those in authority is often used to discriminate against them. The experiences of educated urban Dalits include subtler forms of discrimination, including in matters of employment and promotion.

Despite the existence of prohibitions of discrimination on the basis of caste, and various forms of caste-based discrimination and exploitation, the implementation of these measures remains very poor, as Dalit activists highlighted repeatedly to the delegation. The Dalit activists whom the delegation met asserted that legislative and socio-economic measures to undermine the impact of the caste system must be implemented fully, and complemented by measures to foster a changing mindset. It was also widely considered that the situation of the Dalits should become an international talking point with respect to India.

4.1. Violence against Dalits

Violent attacks against Dalits are perpetrated on a wide scale, often as acts of public retribution against their demands to exercise basic civil rights. The most recent governmental statistics showed that over 26,000 crimes against Dalits were registered in 2005, including 1172 rapes and 669 murders. 8497 cases against Dalits were registered under the Prevention of Atrocities Act, 1989, a law designed to protect Dalits and tribals from the particular forms of violence, humiliation and exploitation which they face.⁸

However, these figures are highly unlikely to represent true extent of caste-related violence against Scheduled Castes. Dalits commonly face discrimination in police stations,⁹ and police are reputed for regularly refusing or failing to register crimes committed against them. These factors, combined with pressures upon Dalits not to register cases against members of 'higher' castes, and the deep stigma associated with cases of sexual abuse, make it very likely that significant numbers of atrocities against Dalits go unreported.

The roots of the violence lie primarily in inter-caste tensions. In the case of Khairlanji village, which the delegation visited (see pp.11-14), the violent murder of four members of a Dalit family in September 2006 was a tragic culmination of tensions between the Dalits and Sudra castes ('Other Backward Classes'). It was strongly suspected by the grassroots Dalit activists involved in the case that influential local 'upper' castes were actively fostering tensions between caste groups, to prevent inter-caste alliances as part of an agenda of safeguarding their political influence. Dalit activists in Nagpur reported that the proponents

⁸ National Crime Records Bureau 2005 report: <http://ncrb.nic.in/crime2005/cii-2005/CHAP7.pdf>. This report cites a 2.8% reduction in the figures for the previous year.

⁹ The recent survey by Shah, Mander, Thorat, Deshpande & Baviskar (eds) *Untouchability in Rural India* (New Delhi: ActionAid India, 2006) found that in 27.6% of villages surveyed, Dalits faced discrimination in the matter of entry into police stations. In 31.6% of villages, Dalits faced discrimination in their treatment in police stations (Table 2.9, p.104).

of the radical nationalist 'Hindutva' ideology, including particularly the Rashtriya Swayamsevak Sangh (RSS) and its affiliated groups, are regularly complicit in caste-based violence against Dalits, and in influencing the response of the police and judiciary to such attacks.

The main grievance expressed by Dalit activists concerned failures in the implementation of the law with respect to Dalits. A source close to Mr Bant Singh, the Dalit victim of a severe retributive attack on 5 January 2006, which resulted in the loss of several limbs, reported that no justice has been served against the perpetrators of the attack.

4.2. Visit to Khairlanji village, Bhandara district, Maharashtra

On 29 September 2006, four members of a Dalit family were brutally murdered in Khairlanji village, Bhandara district, north-east Maharashtra. The delegation visited the village itself, and met separately with both the lone survivor from the family, Mr Bhaiyalal Bhotmange, and the Dalit activists who had undertaken the first advocacy on this case.

The caste system was clearly built into the geography of Khairlanji village, with its Dalit population living in a separate area from the 'higher' castes, in housing of a significantly inferior quality. Dalits in the village reported that they were prevented from building anything more substantial than single-room houses from flimsy materials. The clear caste divisions within the village lay at the root of the brutal attack on the Bhotmange family by 'higher' caste villagers.

Case details

On 29 September 2006, a large mob of 'higher' caste villagers forcibly entered the home of a Dalit family, where they brutally attacked mother Surekha (41), sons Sudhir (21) and Roshan (19) and daughter Priyanka (17). The two women were stripped naked, and all four are thought to have been dragged to the central square of the village, where they were beaten to death with weapons including bicycle chains, axes and bamboo sticks. The bodies were transported by a bullock cart to a canal around 1.5 kilometres distant, where they were dumped. The only survivor from the family, Mr Bhaiyalal Bhotmange (51), witnessed the first phase of the attack from a nearby hiding place, having run from a field when he heard the cries from his home.

Anonymous reports close to the source have suggested that the two women were gang-raped during the assault, and that foreign objects may have been inserted into their vaginas. The genitals of the two men were also reportedly mutilated.



Typical Dalit housing in Khairlanji village (left), contrasted against that of the 'higher' castes in the village (right).

The attack occurred in the context of disharmonious relations between the Dalit family and the villagers of 'higher' castes, which was manifested in consistent discrimination, disinformation and harassment against the Dalits. The family owned a plot of land, which was the subject of a dispute in which Mr Bhotmange was vindicated. In order to protect his land, he subsequently restricted access through it, but villagers took exception to this measure.

Additionally, the Bhotmange family was less servile than may have been expected. Despite living in considerable poverty and cramped conditions, the children of the family were receiving an education and Priyanka was a cadet who aspired to join the armed forces. She had been frequently spat upon by other villagers, resentful of her smart uniform.

The 'higher' caste villagers reportedly attributed the perceived relative strength of the family to the support of a cousin of Surekha Bhotmange, Mr Siddhartha Gajbhiye, who lived in a nearby village, Dhusala. Following a minor dispute with a resident of Khairlanji, Mr Gajbhiye was the subject of a severe attack by the villagers on 3 September, which left him near death. The case was eventually registered as a straightforward assault.¹⁰ The attack was witnessed by Surekha and Priyanka, whose evidence led to the arrest of twelve persons. This caused further antagonism towards the Bhotmange family.

At a Khairlanji village council (*panchayat*) meeting on 28 September, villagers reportedly resolved to carry out a further attack upon Mr Gajbhiye, when his assailants were released on bail the following day. Some reports have alleged that the local Hindu nationalist Bharatiya Janata Party (BJP) Member of the Legislative Assembly (MLA) encouraged the village leader (*sarpanch*) to carry out the attack. On 29 September, a mob of men travelled to nearby Dhusala village, but failed to find Mr Gajbhiye. While the men were away, the women of the village threatened the Bhotmange family. When the men returned in the early evening, their anger was unleashed upon the family members present, namely Surekha, Sudhir, Roshan and Priyanka.¹¹

The initial response of the police authorities was extremely negligent. Thinking his family members might have escaped, Mr Bhotmange fled to Dhusala, where at 7pm he telephoned police to notify them of the suspected murder. Their initial investigation was wholly inadequate; despite their proximity to the village, police arrived at 10pm, dismissed the claim and demanded a fee of 500 rupees for coming to the village. Despite the report of missing persons, no search was undertaken; this resulted in the loss of what may have been crucial evidence, particularly of possible rape.

On the following day, officers at Andhalgaon Police Station refused to register a case, and full cognisance was only taken of the incident when the body of Priyanka was discovered. Crime no. 56/06 was registered at Andhalgaon Police Station in the evening of 30 September. The body was immediately registered as unidentified, and medical personnel undertaking the post-mortems of the bodies failed to test for rape, leading to allegations of a deliberate cover-up. After the bodies were exhumed for a second post-mortem, police continued to insist that no rape had taken place.



The central square of the village, allegedly the scene of the murders.

¹⁰ Crime no. 52/06 at Andhalgaon police station on 16 September 2006.

¹¹ The police report stated that the attackers threatened with death anybody who should give evidence about the attack.

The case was taken up by the Central Bureau of Investigation (CBI), and has been the subject of intense media and political attention within India. Widespread spontaneous rioting by the Dalit community took place throughout Maharashtra in late November, in reaction against the attack and the perceived lack of justice, prompting a heavy-handed police response.

At the time of publication, no prosecutions have been secured. Further case details, including the police report, are available from CSW.

Testimony of Mr Bhaiyalal Bhotmange



Mr Bhaiyalal Bhotmange (left) was under permanent police protection at the time of the interview. When asked about his view on the judicial proceedings to date, he expressed a deep dissatisfaction, highlighting particular failures in three areas.

Firstly, only eleven of the accused were charged by the investigating authorities, with several others under investigation. Mr Bhotmange complained that his eyewitness account of the assaults in his house, on the basis of which he called police, had not been taken into consideration by the investigating authorities. In particular, he bemoaned that the village *sarpanch*, Mr Upasrao Khandate, his deputy, Mr Urkude Khurpe, and several other senior persons allegedly implicated in planning and masterminding the attack, had not been charged, and suggested this may have been a consequence of their political connections. He was also dissatisfied with the absence of punitive measures taken against negligent police, and demanded that each of them should be prosecuted under the law.

Secondly, he called for punitive measures to be applied to the entire village community, which he considered to be complicit in the attack, as provided in Article 16 of the Prevention of Atrocities Act, 1989.

Thirdly, he expressed a total lack of confidence in the impartiality of the court proceedings taking place in a provincial town. His concern was compounded by allegations that the local BJP MLA played a role in inciting the attack, and he feared further political interference in the court proceedings. He suggested that it was in the interest of local political representatives to preserve caste-based divisions, in order to protect their vote banks. To safeguard the neutrality of the judicial proceedings, he therefore requested that the hearing be transferred to a larger court in Nagpur, with immediate effect. This was dependent on the filing of a Public Interest Litigation, which was being considered by the prosecution.

Mr Bhotmange highlighted what he saw as chronic negligence on the part of the police to respond adequately to the incident. He was deeply disappointed that police officers did not arrive until several hours after being called, despite the extreme seriousness of the allegations. By this time, the bodies of the deceased had been removed. Despite seeing evidence of an attack within the home, he claimed police dismissed the allegations as rumour. On the following day, when Mr Bhotmange attempted to file a First Information Report (FIR) at Andhalgaon Police Station, he found that the inspector, Mr Rajan Pali, refused to do so. Mr Bhotmange reported being dissuaded from attempting to file a case, on the grounds that as a Dalit, he belonged to a minority caste and should not antagonise those in the majority. He reported his absolute distrust of Mr Rajan Pali, on the basis of previous experience when he had failed to intervene to prevent harassment by 'higher' caste villagers.

Mr Bhotmange saw the root of the incident as lying in the caste-based prejudice against him and his family. He was highly aggrieved at the juxtaposition between the perceived lack of seriousness with which the murder of his family members has been treated, and the heavy-handed approach taken towards the rioting of Dalits across the state in reaction against this attack, which has been widely described as creating a climate of terror for the protestors.

4.3. Exploitation and Contemporary Forms of Slavery

“...A Dalit problem.”

Dalit activist, Nagpur

Dalit activists strongly asserted that a caste-based analysis of the various contemporary forms of slavery within India, including specifically human trafficking, sexual exploitation and bonded labour, reveals to an overwhelming extent, that their chief victims are Dalits. Similarly, Dalits are victimised in related abuses, including various forms of sexual slavery and inhuman and exploitative labour.

This discussion provides a brief overview of the concerns expressed by Dalit activists engaged in the respective areas. CSW did not undertake any independent field surveys into these areas.

4.3.1. Human trafficking and sexual exploitation

Dalit women face numerous forms of sexual exploitation, including trafficking. No comprehensive nationwide caste-based analysis of the trafficking industry has been undertaken to date, but in February 2006, Bihar-based NGO Bhoomika Vihar found in a localised survey, *Bojh*, that 98% of trafficked women were Dalits, ‘low’ castes and Muslim. This statistic was roughly agreed by two activists working among trafficked women in Maharashtra, one of whom simply described human trafficking in India as ‘a Dalit problem’.

The two activists estimated that nearly all prostitutes were coerced into the trade, with only a small minority choosing it for financial reasons. Asked about the typical processes whereby women are forced into prostitution, they described several scenarios, highlighting especially the vulnerability of young girls, aged approximately 10-12, whose virginity is sold and who then become easy targets for prostitution. Another activist highlighted the issue of the sale of female babies, as a result of the dowry burden which they represent.

Several laws exist to prevent sexual exploitation, including the Immoral Traffic (Prevention) Act, 1956, which prohibits the procurement of any person for the purpose of prostitution. However, Dalit activists described the implementation of such laws as being very weak.

4.3.2. Devadasi system

A related problem is the continued exploitation of Dalit women and minors in the *devadasi* system of temple prostitution. Although traditionally considered a noble vocation by ‘higher’ castes, this is, in the experience of its victims, an exploitative and degrading practice. It was suggested to the delegation that Dalit girls continue to be sold into the *devadasi* trade for as little as 500 rupees (approximately £6/€9/\$12).

Commonly, *devadasis* are dedicated to the temple gods, often as minors, where they serve as concubines to the priests and as prostitutes for temple users. They are often sold into prostitution after serving an open-ended tenure in the temple; their children may suffer a similar fate.

4.3.3. Bonded labour and labour exploitation

Bonded labour, or debt bondage, is widely recognised as a contemporary form of slavery which affects Dalits disproportionately.¹² This view has been corroborated by numerous localised surveys. Dalits are particularly susceptible to bonded labour as a consequence of their broader disenfranchisement and their perceived association with particular forms of manual labour. Although banned under the Bonded Labour System (Abolition) Act, 1976, conviction rates have been low and rehabilitation programmes only partially successful. It is estimated that millions of Dalits continue to be engaged in bonded labour.

Dalits continue to be victimised in various forms of exploitative labour, including manual scavenging, a euphemistic term for the cleaning of human excrement with the hands. Although banned under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, the figures most recently cited by the Ministry of Social Justice and Empowerment suggested that nearly 700,000 people were still engaged in this occupation. The implementation of the latest law is extremely weak, and although some efforts have been made at rehabilitation programmes, the practice of manual scavenging continues, reinforced by social prejudices.

Case study: exploitative labour in 'pipe village', Hyderabad



The delegation visited 'pipe village' near Hyderabad (left), which is populated entirely by the workforce of an adjacent factory, producing concrete pipes. Workers live in discarded concrete pipes, some of which stand at under one metre in diameter. Around half the workforce is effectively enslaved in debt bondage to the employer, while the other half is employed in daily waged labour.

The typical working conditions are severe: labourers described their experiences of alternate twelve-hour day and night shifts for a daily wage in the region of 70 rupees (approximately £0.90/€1.30/\$1.70). The workers are not granted their annual entitlement of leave. Working conditions were considered to be extremely poor, with few safety precautions. The village is isolated, with no education available for the children and very few facilities. Although water is provided, the villagers reported that their electricity supply, mediated by the factory, was cut off in 2006, on the ground that it was intended only for lighting and that it had been 'misused' by the workers to operate kettles and televisions.

Some of the inhabitants of 'pipe village' stated that they were satisfied with their living conditions, on the basis that alternative options open to them would be worse.

Local activists indicated a belief that the conditions at 'pipe village' highlighted both a deficiency in the labour laws in India, and the failures in the implementation of such protections as exist under Indian law.

¹² No precise figures exist for the number of bonded labourers in India, partly as a consequence of the difficulties in defining 'bonded labour' and the challenges in collecting data. The 2005 International Labour Organisation (ILO) report, 'A Global Alliance against Forced Labour' includes detailed discussion of bonded labour in India, with particular reference to Dalits: http://www.ilo.org/dyn/declaris/DECLARATIONWEB.GLOBALREPORTDETAILS?var_language=EN&var_PublicationsID=5282&var_ReportType=Report.

4.4. Religious Discrimination against Dalits ¹³

One of the issues raised by the activists whom the delegation met was the use of religious freedom infringements to enforce the subjugation of Dalits. This is a highly contentious issue within India; there is no automatic correlation between religious conversions and freedom from caste-based identity, with caste practised to some extent in every religious community in India. However, since Dr B.R. Ambedkar led a mass conversion of Dalits to Buddhism in 1956, the freedom to adopt a religion according to choice has been perceived by many Dalits as a means of escaping a caste-based identity. Within the Christian community, the great majority is of Dalit background.

Proponents of the radical nationalist ideology of 'Hindutva' claim that Hinduism is proper to India, and religious conversions are therefore contrary to national identity. In the view of many religious minority activists, caste is a highly important factor within Hindutva, generating a fear that the religious conversions of Dalits undermine the dominance of 'upper' castes.

Religious freedom obstructions for Dalits take the forms of legislative discrimination and religiously-motivated violence, which are largely aimed at impeding evangelism or charitable work among Dalits.

4.4.1. Religious discrimination in reservation policy

It is reported that caste-based discrimination continues to be practised to some extent in all religious groupings, including among Christians, especially in parts of south India. However, Dalit Christians are currently excluded from the 'reservation' system designed to partially redress the socio-economic deprivation of Dalits. Reservation policy is currently linked to the religious status of the Scheduled Castes, and those who adopt Christianity or Islam lose their eligibility for the scheme. This configuration represents an infringement of the religious freedom of Dalits, generating substantial social and economic penalties for those embracing Christianity and Islam, as was highlighted to the delegation by both Christian and secular Dalit activists.

The legality of excluding Christians of Dalit background from the purview of the reservation system is the subject of a case in the Supreme Court (writ petition no. 180 of 2004).¹⁴ In March 2005, the government appointed the Justice Ranganath Mishra National Commission for Religious and Linguistic Minorities to undertake an investigation into this issue. In May 2007, this commission recommended that eligibility for membership of the Scheduled Castes should no longer be linked to religious status, but the government is yet to deliver its opinion to the court.

Two differing arguments are employed by opponents of the extension of reservation policy to Dalit Christians and Muslims. It is claimed by some that Dalit converts to Christianity do not suffer the levels of discrimination, deprivation and untouchability which the reservation system is designed to address, and therefore should not be eligible for its provisions. Alternatively, some proponents of Hindutva have argued that caste is practised to the same extent in non-Hindu religions, but the current challenge to the law is an unwelcome attempt on the part of religious minorities to extend the scope of their proselytism by removing disincentives to religious conversions.

¹³ For further detail on legislative restrictions on religious freedom and religiously-motivated anti-Christian violence, see the CSW report, 'Religious Discrimination and Violence against Christians (2006)'.

¹⁴ Writ petition no. 180 of 2004, filed by the Centre for Public Interest Litigation. A similar case has been brought with reference to Muslims.

4.4.2. *Anti-conversion legislation*

The religious freedom of Dalits is also threatened by the present proliferation of state-level Freedom of Religion Acts, known colloquially as 'anti-conversion laws', which are fuelled by the perception among proponents of Hindutva that non-Hindu religions represent a threat to the national integrity of India.

At the time of the visit, anti-conversion legislation was in place in seven states: Orissa (1967), Madhya Pradesh (1968, amended 2006), Chhattisgarh (which inherited the Madhya Pradesh law when it was created out of the former state in 2000; amended 2006), Arunachal Pradesh (1978), Gujarat (2003, amended 2006), Rajasthan (2006) and Himachal Pradesh (2006).

Anti-conversion legislation is subject to a number of concerns.¹⁵ Each state-level law ostensibly aims to prohibit conversions by 'force', 'fraudulent means' and 'allurement' or 'inducement', although these categories are ill-defined, and imposes legal formalities both on religious priests conducting 'ceremonies' for conversion and on would-be converts.

The anti-conversion laws detrimentally affect Dalits in several ways. Their ill-defined scope threatens charitable and educational institutions operated by religious minorities, whose work has often proved susceptible to accusations of attempts to illegitimately convert a set of constituents. This is to the detriment of Dalits, who are often the main beneficiaries of such institutions, and suggests that the prevention of Dalits from exposure to minority religious emancipation initiatives is a core aim of the legislation. Further, the laws impose administrative formalities on the process of religious conversions, creating significant obstacles for illiterate Dalits or those fearful of 'higher' caste authorities. The Orissa, Madhya Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh anti-conversion laws stipulate higher penal provisions for those convicted for converting Scheduled Castes and Scheduled Tribes, along with women and minors.¹⁶

4.4.3. *Religiously-motivated violence*¹⁷

Social pressures against the religious conversions of Dalits often erupt into communal violence, usually perpetrated or incited by Hindutva groups, notably the RSS and its subsidiaries. The small Christian minority in India has faced a consistent pattern of religiously-motivated violence during nearly the past decade, which is often committed with impunity and in some cases, with clear police complicity. There has been a high rate of attacks through the early part of 2007.

The main grievance of pro-caste Hindu extremists against Christians pertains to the evangelistic and social welfare initiatives undertaken by the latter among Dalits. These are perceived as attempts to convert, and attacks are commonly accompanied by accusations to this effect.

¹⁵ The CSW report, 'Religious Discrimination and Violence against Christians (2006)', outlines the main concerns surrounding anti-conversion legislation (pp.4-6).

¹⁶ In May 2007, Solicitor-General, Mr G.E. Vahanvati, stated his opinion that the 2006 amendment to the Madhya Pradesh Freedom of Religion Act was 'unreasonable'.

¹⁷ For further detail, see the CSW report, 'Religious Discrimination and Violence against Christians (2006)' and quarterly reports on anti-Christian violence.

4.5. 'Soft' Forms of Caste-Based Discrimination

“Regardless of a Dalit’s social status, he is still seen as a Dalit.”

Dalit activist, Hyderabad

Current trends of urbanisation and increasing access to education are often portrayed as contributing towards the relaxation of caste barriers. A key indicator of the veracity of this claim is the experience of well-educated urban Dalits. However, those whose testimony the delegation heard in Hyderabad, reported being victimised by ‘soft’ forms of discrimination. In their perspective, the caste system remains deeply ingrained in Indian society, and continues to be manifested in patterns of discrimination in every sphere.

The restriction of career development and promotions is a particularly common form of discrimination experienced by Dalits. A Dalit PhD student in Hyderabad described the changing nature of caste-based discrimination and untouchability, particularly the current trend of discrimination in the corporate sector. This was pertinent to his own experience: after completing an MA degree, he applied for several posts, but found that the application forms required him to state his caste. In consequence, he was denied a series of employment opportunities. On the basis of his experiences, he considered that education alone did not provide solutions to caste-based discrimination, as long as a caste-based mindset continued to prevail.

Another Dalit PhD student gave testimony of the widespread discrimination he had faced during his lifetime. He gave examples of the forms of discrimination he had continued to face as a well-educated Dalit, including refusal of entry into ‘high’ caste homes and being served tea in disposable receptacles. He reported that, as a child, he was viewed as a pollutant and faced considerable discrimination in school.

Discrimination in the lower echelons of education continues to be widely reported. In a rural context, Dalit children often face segregation and discrimination based upon their caste, reinforcing caste-based divisions.¹⁸ The delegation visited a school in Giripalli village, Medak district, Andhra Pradesh, where ‘higher’ caste children refused to eat food prepared by Dalits, indicating the prevalence of a caste-based mindset in that context.

As a consequence of their experiences of exclusion and discrimination, Dalits consistently fail to attain to higher levels of education through merit alone; this is a common contributory factor to the widespread disapprobation against the policy of ‘reservation’ in the public sector. In 2006, it was reported in the Indian media that Dalit students in the prestigious All India Institute of Medical Sciences (AIIMS) were subjected by non-Dalit students to perform humiliating tasks, including the cleaning of toilets, in a backlash against the controversial proposals to extend the scope of ‘reservation’ policy.¹⁹

¹⁸ The survey in *Untouchability in Rural India* found that Dalit students faced discrimination in 29.5% of schools (Table 2.9, p. 104).

¹⁹ Full details of the incident are oblique; The Times of India newspaper reported that the investigation committee did not receive the requisite co-operation of the AIIMS: <http://timesofindia.indiatimes.com/articleshow/433365.cms>. However, The Hindu newspaper reported that the committee accused the director, P. Venugopal, of ‘playing a provocative role’ in the incident. Cf. reports of similar incidents in other prestigious universities, including the IIT-Chennai (see http://www.tehelka.com/story_main31.asp?filename=Ne160607Dalits_not.asp).

5. Observations, Reactions and Attitudes of Dalit Activists

“The mindset of Khairlanji lurks beneath the surface.”

Dalit activist, Nagpur

The observations, reactions and attitudes of the Dalit activists whom the delegation met in Hyderabad and Nagpur provided an important indicator of the level of exclusion and disenfranchisement felt by the Dalit community as a whole.

It was generally perceived that the caste system continues to be deeply psychologically ingrained and that it remains a highly relevant factor in Indian social interactions. This has resulted in a strong sense of betrayal, exclusion and frustration among some Dalits, and an intense awareness of discrimination and persecution at the hands of ‘higher’ castes. One Dalit activist in Nagpur asserted that “the mindset of Khairlanji lurks beneath the surface”, suggesting that while raw casteism occasionally erupts in severe violence of this sort, the underlying attitude is manifested in numerous patterns of discrimination. The contextually apposite language of slavery was readily adopted by some Dalit activists, who described the forms of exploitation experienced by many in such terms.

5.1. Sense of Isolation and Betrayal

“Dalits and minorities are not at peace.”

Dalit activist, Nagpur

In particular, there was a strong sense that political authorities habitually deny the reality of casteism in Indian society, and therefore fail to adequately engage with and address the resulting problems. Surfacing regularly was a sense of severe disillusionment with the perceived pattern of impunity for those who infringe the rights of Dalits; it was widely considered that Dalits are routinely betrayed by the police and judiciary. The case of Bant Singh was given as an example by one activist close to the source (see p.11): his attackers were not brought to justice, a year after he suffered a severe caste-based attack.

It was suggested to the delegation that the sense of disenfranchisement of Dalits is a contributory factor to the increased prominence of the violent Maoist, or ‘Naxalite’ movement in central India. The recruitment of Dalits to this movement, or on the smaller-scale, their susceptibility to civil disobedience, is heightened by their desperation and awareness of betrayal and isolation. One Dalit activist in Nagpur argued that some Dalits feel they have no option but to “win their rights through violence and theft”.

5.2. External Obstacles to Justice and Emancipation

Dalit leaders emphasised that the protection of Dalits from various forms of discrimination, and their prospects of emancipation, are hampered by a number of factors. Most significantly, chronic failures in the implementation of the detailed laws to protect Dalits are endemic. Contrastingly, it was considered that some laws were keenly implemented in a manner discriminatory towards Dalits. For example, Mr Bhaiyalal Bhotmange expressed grave dissatisfaction at his perception of the contrast between the lack of prosecutions for the murder of his family members, and the level of police energy expended upon calming Dalit protests against the murders.

Several interviewees attributed these trends to the pervasiveness of a caste-based mentality among the authorities responsible for the administration of justice. It was claimed that discretionary authority is often used in a manner detrimental to the interests of Dalits. A lack of trust in the National Commission for Scheduled Castes was also expressed, noting that, together with similar commissions, it possesses few real powers and displays little impetus.²⁰ The discrimination within the officialdom is facilitated by the perceived limitations of the monitoring bodies, including a lack of transparency and accountability in their systems for implementing protections for Dalits, and in the appointment of their members.

In addition, measures currently in place to support, protect and uplift Dalits were seen as no more than partially adequate. The public sector 'reservation' system, designed to address the socio-economic exclusion of Dalits, was considered by some interviewees to be important, but limited in its capacity to engender positive change: it is commonly circumvented either through outsourcing or privatisation, while the relative growth of the private sector is resulting in the decrease of its scope. Even within the public sector, quotas for Scheduled Castes are often unfilled or not properly implemented.

5.3. Ineffectiveness of Dalit Leadership

A key problem perceived within the movement for Dalit emancipation is the shortage of consensus and viable leadership among Dalits, both at a local and a national level. Dalits are commonly excluded from positions of influence through social pressures, and those in such positions are susceptible to attempts to undermine their authority.

Dalits in positions of authority were viewed with suspicion, and not as automatic guarantors of Dalit interests. At the time of the visit, Justice Konakuppakattil Gopinathan Balakrishnan had recently been appointed as the first Dalit Chief Justice of India. Although this was described as a highly significant development by the Indian media, many Dalit leaders reserved judgement, regarding the appointment as atypical rather than reflecting a general, consistent pattern of Dalit enfranchisement.

A Dalit activist in Nagpur also highlighted a lack of leadership within Dalit communities at the local level; this leaves Dalit communities, particularly those in rural areas, vulnerable to political exploitation. In some cases, caste-based divisions between Dalits and Sudra castes, or Other Backward Classes, are allegedly perpetuated by dominant castes for the sake of political gain; it was suggested by activists near Khairlanji that such a factor may have been at work behind the tensions which culminated in the murders of the four Bhotmange family members. The localised dispensation of justice through the traditional *panchayat* system, which is, in practice, undemocratic and usually dominated by 'higher' caste groups, is another area in which Dalits commonly face discrimination.

The Secretary of the Communist Party of India (Marxist), Mr D. Raja, argued the existence of a parallel problem at the national level, with the tendency among many Dalit political parties to develop inadequate programmes for government, looking little further than the needs of Dalit communities.

²⁰ The ineffectiveness of the National Commission for Scheduled Castes was explored in two articles in The Hindu newspaper in March 2007:

<http://www.hindu.com/2007/03/14/stories/2007031402091100.htm> and
<http://www.thehindu.com/2007/03/15/stories/2007031505331100.htm>.

5.4. Addressing Caste

Dalit leaders described their ultimate vision in terms of a fundamental change in the mindset of caste and casteism, particularly in the rural areas, but necessarily permeating the entirety of Indian society. The enfranchisement of Dalit women, often the worst affected victims of casteism, yet the backbones of families, was a particularly prominent aspiration. While measures such as reservation policy were seen as being of some value in addressing the symptoms of casteism, it was perceived that the overarching mentality of the caste system must be addressed.

It was recognised that this end must be achieved within Indian society by a variety of means, including education and social activism. However, there was also a perception that the domestic anti-caste lobby lacked prospects within India because of the strength of casteism throughout society, and many activists called for the plight of Dalits to become an international talking point.

The implementation of laws protecting Dalits was seen as vitally important, with the need for clear systems of accountability and transparency. Dalit activists called not only for justice to be done, but for justice to be seen to have been done, and for the punishment of police officers for practising caste-based discrimination.

The sense of exclusion among Dalits was a factor leading to calls for the extension of the scope of reservations to the private sector, in order to safeguard the effectiveness of the policy. However, increased societal participation was seen to be based on the education of Dalits in an environment free from discrimination. English-language education was perceived to be especially important for the prospects of the next generation of Dalits.

Genuine religious freedom was called for. This was envisaged to include not only the freedom of Dalits to contest the caste-based identity imposed upon them by adopting a religion according to choice, but also the freedom of minority religions to undertake charitable and educational work among disenfranchised Dalits, free from the fear of harassment and persecution by proponents of Hindutva.

Notes on Language

1. The term, 'Scheduled Castes', is the official nomenclature for the caste groups who have come to identify themselves consistently as 'Dalits'. The term, 'Scheduled Castes' is used in this report with reference to the legislation and official documentation in which it appears, and is effectively interchangeable with the term, 'Dalit'.
2. This also applies to the official term, 'Scheduled Tribes' and the corresponding informal collective noun, 'tribals'.
3. The term, 'casteism' is used in some places to describe caste-based discrimination. Its usage deliberately mirrors that of Dalit activists, who thereby create an implicit parallel with racism.