

**WRITTEN SUBMISSION TO 13TH SESSION OF
UPR WORKING GROUP**

(Geneva ,21 May-1 June 2012) FOR review of the state party –India

I) NAME OF THE ORGANISATION: **AMBEDKAR CENTER FOR
JUSTICE AND PEACE**

II) SUBMISSION: **INDIVIDUAL**

III) NAME OF REVIEWED COUNTRY: **INDIA**

IV) 13TH SESSION of UPR - 21ST MAY -1ST JUNE 2012

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v) **Main activities:** 1)Promotion and protection of human rights based on caste and descent

2)Human rights education campaign and prevention of torture

3)Improving Human Development Index through MDG implementation especially in Health, Education, Livelihood

4)Poverty reduction through empowerment

vi) **Date of Establishment:** 1) 14th April 1991(Global) 2) India Chapter:23rd Dec.2003

STAKEHOLDERS SUBMISSION TO 13TH SESSION OF UPR AT GENEVA FROM - 21ST MAY -1ST JUNE 2012

India, the largest democracy on the planet has about 1100 million populations. Out of that the most marginalized people known as Scheduled Castes (SC) also known as Untouchables WITH POPULATION OF 170+ MILLION and Scheduled Tribes (ST) or Adivasi HAVING POPULATION OF 80+ MILLION AS PER 2001 CENSUS OF India and form 25-30% of the total Indian population. They are the traditional slaves of the Hindu society.

India lives in villages and village traditions enforced by the traditional practices of Hindu religion continue to practice UNTOUCHABILITY which means Upper-Caste Hindus get polluted by the touch of another human being called Untouchable or Dalit.

By keeping them illiterate and hungry, the Hindu caste system has been perpetuated for the last 2500 years, even though Indian Constitution, written by a great thinker, Dr. B.R.Ambedkar, gives them full rights as the citizens of free India.

HOW THE HINDU CASTE SYSTEM WORKS

Consider pyramid with 5 levels, The top-level in the caste system is Brahmin priest class who is considered supreme in a caste system and has all the powers in the religion. Below it is a ruling caste (Kshatriya) which has little less power than the priest class. Power is in ascending order and contempt is in descending order. Below it is a business class (Vaisya) and Below it is the menial labor or Shudra. To serve the 3 masters below, lowest of the low, the dalits or untouchables and tribal, they are dubbed as Hindus but they are not the part of the caste system or say they are panchmas. The top 3 layers are known as Upper Caste having less than 15% of the population and control 80% of the wealth, 90% judiciary and 99% media. Rest 85% are Dalits(untouchables and tribal) and their jobs are cleaning the latrines, collecting and carrying garbage, cleaning the drainages for survival and menial and landless laborers.

United Nations current figure states that India's 45% population earns less than one dollar a day. India has acquired 134th place in the human development index which is equal to most backward countries in Africa. It has nearly 1/2 the population of the world and it has bonded labor, child labor and child prostitution called as Devdasi system in which 7-8 year old little girl are coerced to marry a stone god and at puberty she is raped by the temple priest and secretly auctioned in brothels in cities in India.

The rural literacy rate of dalits and tribal has fallen below 25% whereas the nations literacy rate is 56%. Majority of these people are landless laborers.

Though special provisions are made in the component plan for Dalits and Tribals, all the funds are not utilized for the development of their economic conditions. Majority of the Indian population has been misguided by the religious beliefs that the dalits are not supposed to own the land and made to serve Brahmin masters as per the Manusmiti, the Hindu code of ethics and practice with vengeance. This has been the principle reasons for committing atrocities against dalits by killing in cold blooded murders, rapes, beating, burning of their hamlets with no justice. for example; Every hour, 3 crimes are committed against a dalit. Every day 4 dalits women are raped. 2 dalits are murdered, 11 dalits are beaten. Every week 5 dalit homes or possessions are burnt, 6 dalits are kidnapped or abducted.

Police work in collusion with culprits and FIR are not filed. Judges play partisan role as all the 3 belongs to high caste Hindus. The caste system poison is so deep which you can see in following examples

1. A 20 year old Rohidas Tupe tied to electric pole and lynched to death in district Aurangabad on 23rd Feb 2009. His fault was he fell in love with caste Hindu girl which is just a notch above in the caste hierarchy. 2. A middle age young lady was paraded naked in the Solapur district and made to stand 4 hrs in the village square so that she should not question supremacy of the caste Hindus to sell liquors in the village. 3. On September 29, 2006, a dalit family of 4 people, one 45 years old mother and 2 sons and a young tin age daughter (Bhotmange family-Bhandara District, Maharashtra State) lynched to death. Their relatives are still waiting for justice.

TABLE OF ATROCITY CASES REGISTERED DURING 2006 to 2008 AT ALL INDIA LEVEL UNDER Protection of civil Rights Act-1955 and The Scheduled Caste and Scheduled Tribes(Prevention of Atrocities)Act-1989

S.No.	Item	2006	2007	2008
1.	Number of cases registered with Police during the year	32407	35352	38943
2.	Percentage of cases pending in Court	79.5	78.9	79.4
3.	Percentage of decided cases ending in conviction(Conviction)	28.0	31.0	31.4

The National Human Rights Commission concerned with the growing atrocities on SCs/STs had commented, "...the atrocities against persons belonging to these groups and the frequency with which they occur is a cause for disquiet. The humiliation to which persons belonging to the scheduled castes suffer even today, more than half a century after India proclaimed itself to be a Republic is a matter of shame". Untouchability is not an ancient cultural artifact, but a day-to-day living experience for SC/ST communities. These are reported in the news, recorded by the state and also a subject of study by academicians, NGOs and others even though for every one recorded nine go unrecorded.

The extent, magnitude and nature of various crimes committed against the SCs/STs are mimetic of the incivility and violent character of the caste system. The regular reportage of cases of atrocities against the SCs/STs is indicative of the fact that discrimination and untouchability are still being practiced and the traditional mechanisms of its enforcement are still in vogue. The predicament of the SC/ST community is such that even the provision of equal citizenship as guaranteed by the Constitution has become a farce in several spheres, if not in all. A cursory look at the data presented below reveals that despite the presence of elaborate Constitutional legislations such as the POA Act 89 and POA RULES 95 and PCR Act 55 etc., the incidences of civil rights violation and atrocities perpetuated against SCs/STs are growing at a rapid space..

SOME OF THE PROVISIONS IN POA ACT TO PREVENT ATROCITIES & TORTURE ON UNTOUCHABLES & TRIBALS

The SC/ST (PREVENTION OF ATROCITIES) Act -1989

In order to curb severe nature of crimes and atrocities committed against SC/ST community, the Central Govt. enacted the SC/ST (Prevention of Atrocities) Act -1989 which came in to force on 30th January 1990.

Section 21 of the Act casts certain duties on Central and State Governments to ensure effective implementation of the Act, and reads as follows:-

“ 21. Duty of Government to ensure effective implementation of the Act:-

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,-

(i) the provision for adequate facilities, including legal aid to the persons subjected to atrocities to enable them to avail themselves of justice;

(ii) the provision for traveling and maintenance expenses to witness-es, including the victims of atrocities, during investigation and trial of offences under this Act;

(iii) the provision for the economic and social rehabilitation of the victims of the atrocities;

(iv) the appointment of officers for initiating or exercising supervision over Prosecutions for the contravention of the provisions of this Act;

(v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;

(vi) Provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act;

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

(3) The Central Government shall take such steps as may be necessary to co-ordinate

the measures taken by the State Governments under sub-section (1)

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

In order to effectively implement the POA Act 1989, POA Rules were formed as per the provisions of the act.

THE SC/ST (PREVENTION OF ATROCITIES)RULES-1995

Salient provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 notified under the POA Act are as under: -

(i) Precautionary and Preventive Measures to be taken by the State Governments regarding offences of atrocities (Rule 3).

(ii) Investigation of offences under the Act to be done by a DSP level Officer (Rule 7 (1)).

(iii) Investigation to be completed within 30 days and report forwarded to Director General of Police of the State (Rule 7 (2)).

(iv) Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell at State headquarters under the charge of Director General of Police/IG Police (Rule 8).

(v) Nomination of (a) a Nodal Officer at the State level (not below the rank of a Secretary to the State Government), and (b) a Special Officer at the district level (not below the rank of an Additional District Magistrate) for districts with identified atrocity prone areas to co-ordinate the functioning of DMs, SPs and other concerned officers, at the State and District levels, respectively. (Rule 9 and 10).

(vi) Provision of immediate relief in cash or kind to victims of atrocities as per prescribed norms. (Rule 12 (4) and Schedule).

(vii) State Level Vigilance and Monitoring Committee under the Chief Minister to meet at least twice a year (Rule 16).

(viii) District Level Vigilance and Monitoring Committees under the District Magistrate to meet at least once every quarter (Rule 17).

RECOMMENDATIONS

- 1 federal government should assume the full responsibility for implementation of Protection of Civil Rights and The SC/ST Prevention of Atrocity Act (PoA)-1989 and the Rules 1995 with the help of National Commission for Scheduled Caste and National Commission for Scheduled Tribes with full powers assigned to them and also through NHRC and district level police and legal machinery.**
 - 2 All the child labor needs to be released rehabilitated and reeducated and made into contributing citizens**
 - 3 Nearly 250 to 300 million people below poverty line needs to lead the life with dignity through socio economic development. India should develop macro industries on government waste lands in every state.**
 - 4 Wherever less than 5 -10 % dalits live in any village, they should be rehabilitated in a cluster along with other dalit population with provision for economic survival and schools/colleges for their children.**
 - 5 During 1996 CERD report on India , CERD referred in Art 31 “India should start a continuous campaign to educate the Indian population on human rights in line with the Constitution of India and with Universal Human Rights Instruments including the International Convention on the Elimination of All Forms of Racial Discrimination. This should be aimed at eliminating the institutionalized thinking of the high caste and low caste mentality” (refer UN document no CERD/C304/ADD.13.....17/09/96.) (even after 15 years, India has not adopted recommendations fully)**
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