

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Please provide a very brief description of the scheduled caste and its position in the caste system.
2. Please provide a brief survey of the current social and political attitudes to the caste distinctions / scheduled caste in Kaithal / Pada / Chandigarh.
3. Are there any political initiatives, legislation, etc to address any discrimination arising from the caste system in this area and other areas, particularly with respect to the scheduled caste?

RESPONSE

1. Please provide a very brief description of the scheduled caste and its position in the caste system.

The Indian caste system originated from the Hindu religious texts called the *Vedas*. The first of the four *Vedas* contains a hymn on the first man *Manu*, who was sacrificed by the gods to create the four castes. The idea of caste was further developed in the Brahmin text *Manu Smriti*, which provided social rules on inter caste relations. According to a report by the World Bank:

The caste system is made up of four distinct social classes (*varnas*) arranged in hierarchical order: Brahmins (priests), Kshatriyas or Thakurs (rulers and warriors), Vaishyas (traders), and Shudras (servile labourers). A fifth group, the Untouchables, were in the classical Hindu social order too lowly to be counted within the class system. This group, which is found throughout India, was traditionally relegated to occupations associated with organic waste, filth, ritual pollution, death, evil spirits, or various menial tasks (Hoff, K. & Pandey, P. 2004, 'Belief Systems and Durable Inequalities: An Experimental Investigation of Indian Caste', World Bank website, June

<http://www.worldbank.org/research/bios/khoff/belief%20systemsJune%2021.pdf> – Accessed 26 March 2007 – Attachment 1).

Lelah Dushkin writing in the *Asian Survey* argued that the term scheduled castes is a legal definition. “It was adopted in 1935 when the British listed the lowest-ranking Hindu castes in a Schedule appended to the Government of India Act for the purposes of statutory safeguards and other benefits” (Dushkin, L. 1967, ‘Scheduled Caste Policy in India: History, Problems and Prospects’, *Asian Survey*, vol. 7, no. 9, pp. 626 – 636 – Attachment 2).

Scheduled castes are low caste Hindus that fall outside the four caste classifications. In India, the scheduled caste members are also referred to as “Dalits”. According to Sanjiv Pandita:

A fifth category falls outside the four broad varna groups; people too ‘impure’ to rank as worthy beings were known as the ‘Achuts’ or Untouchables. They were (and still are) often assigned tasks like sweeping, cleaning up filth, disposing of dead animals, leather work and other ‘polluting jobs’ that were beyond the purview of the caste Hindus. Mahatma Gandhi gave them the name ‘Harijan’, meaning Children of God, and he also launched a campaign to have ‘Untouchables’ be renamed ‘Harijan’. However, nowadays the word ‘Dalit’ is the most acceptable word used to address this section of society. It is a Sanskrit word that means ‘broken, discriminated or shattered people’. Dalits are also further divided into more than 70 sub-castes.

Untouchability was abolished in India in 1950 under Article 16 of the Constitution. Interestingly, Dr B.R. Ambedkar, himself a Dalit, played a major role in drafting the Constitution. He is also known as the father of the present Dalit movement, which is questioning the whole caste structure. Even though 50 years have passed since the abolition of untouchability, the practice continues in many forms throughout the country. In many places Dalits are not permitted to draw water from common wells and hand pumps, separate utensils are used to serve them in many tea and food stalls, they are not allowed entry to the temples and Dalit children are made to sit at the back of the classroom. The situation is even worse in rural areas where the majority of the population as well as Dalits reside. In its book, ‘Broken People: Caste Violence Against India’s “Untouchables”’, the Human Rights Watch reports that most Dalits in rural areas live in segregated colonies away from the caste Hindus. In a specific case from the Villupuram district in the state of Tamil Nadu, villages have segregated Dalit colonies; basic supplies like water are also set apart and medical facilities and the better thatched houses exist exclusively in the caste Hindu colonies. Untouchability is also observed at the highest judiciary level. In July 1998 a judge from the Allahabad High Court in Uttar Pradesh had his chambers cleaned with the ‘sacred waters of the river Ganges’ as it had been earlier occupied by a Dalit judge (Pandita, S. 2004, ‘Caste Based Discrimination in India: Hidden Apartheid for Dalits’, Asian Monitor Resource Centre website, December source: Asian Labour Update, Issue No. 53 (October – December 2004) <http://www.amrc.org.hk/5304.htm> – Accessed 26 March 2007 – Attachment 3).

Research conducted by K.S. Singh showed that there are as many as four hundred and seventy one listed scheduled castes in India and out of these there are seven hundred and fifty one communities. A number of scheduled castes do not recognise the *varna* system, particularly in Andhra Pradesh, Tamil Nadu, Karnataka, Kerala, Madhya Pradesh and Goa. Divisions also exist within sub groups and differentiation among the sub groups is reported at social, occupational and religious levels. There are twenty scheduled castes identified by K.S. Singh in the Indian state of Haryana and they are: Balmiki, Bangali, Banjara, Bawaria, Bazigar, Chamar, Deha, Dhanuk, Gandhila, Julaha, Khatik, Kori, Mazhabi, Od, Pasi, Perna, Sansi, Sapela, Sikligar, and Siriband. Some of the scheduled castes, like Balmiki, are also known as Valmiki, Chuhra, and Lal Begi and many are spread across Haryana, Punjab, Delhi

and Chandigarh (Singh, K.S. 1999, *The Scheduled Castes*, Oxford University Press, Delhi, pp. 1 – 14; 1325 – 1350 – Attachment 4).

Dalits are excluded from the caste system because of their occupations and ways of life brought them in contact with impurities and as a result they face discrimination and violence from upper castes. In 1989, the Government of India passed the Prevention of Atrocities Act (POA), which outlawed specific crimes against Scheduled Castes and Scheduled Tribes as “atrocities,” and provided national strategies to counter these acts. The Act attempts to control and punish violence against Dalits through three broad measures. Firstly, it identifies what acts constitute “atrocities.” These include both particular incidents of harm and humiliation such as the forced consumption of noxious substances, as well as the systemic violence still faced by many Dalits, especially in rural areas. Such systemic violence includes forced labour, denial of access to water and other public amenities, and sexual abuse of Dalit women. Secondly, the Act calls upon all the states to convert an existing Sessions Court in each district into a Special Court to try cases registered under the POA. Thirdly, the Act creates provisions for states to declare areas with high levels of caste violence to be “atrocities-prone” and to appoint qualified officers to monitor and maintain law and order. Despite the Act, violence against Dalits is prevalent throughout India. Upper caste members often carry out mass attacks against Dalit settlements. Besides threat of physical violence, Dalits also face discrimination and to address this, the Government of India has implemented affirmative action programs and established a Commission for Scheduled Castes and Scheduled Tribes. However, there is evidence that affirmative action is not applied uniformly in all Indian states. (‘The Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act 1989’ 1989, Human Rights Watch website, 11 September <http://www.hrw.org/reports/1999/india/India994-16.htm> – Accessed 3 April 2007 – Attachment 5; Also see Question 3).

Each Indian state is responsible for implementing programs in education, land reform and employment so that there are meaningful opportunities for the members of the scheduled caste within the general community. Evidence from a 2001 study showed that there are, however, regional disparities in implementing these programs. Ashwini Deshpande from the University of North Carolina studied regional variation in scheduled caste disparity in India with particular emphasis on occupation, education, landholding, assets and livestock. Deshpande found that the Indian city of Delhi had the highest share of scheduled castes in better paying clerical and sales jobs whereas in Uttar Pradesh, Karnataka and Tamil Nadu very few scheduled caste members were in such occupations. Delhi is the financial centre of India and most of India’s emerging middle class live there and are less inclined to follow Brahminical caste protocols. In Uttar Pradesh, Karnataka and Tamil Nadu caste influence over occupation remains, even though there are moves by the Government in Tamil Nadu to provide better employment opportunities for the scheduled caste. Dalits in Tamil Nadu have their own political representation in the state through their political party, the Dalit Panthers of India that won two seats in the 2006 state elections. In education, Haryana, Rajasthan, Uttar Pradesh, Bihar, Tripura and Tamil Nadu scored less than the all – India national average in providing educational opportunities for the lower castes but other states like Gujarat, Maharashtra, Kerala and Karnataka performed better. Gujarat, Maharashtra and Karnataka have *Bhartiya Janata Party* (BJP) led Governments and the Hindu nationalist community called the *Sangh Parivar* are active in these states and have started to assist Dalits in raising their educational standards by establishing Hindu schools in Dalit areas. The Hindu nationalists in the BJP controlled states (Chhattisgarh, Gujarat, Madhya Pradesh, Rajasthan, Uttarakhand, Bihar, Nagaland, Orissa, Punjab, and Karnataka) see education of Dalits as a

means of enhancing Hindu nationalist values but Hindu religious schools also ensures that caste protocols are reinforced in the scheduled caste community. The state of Kerala has a strong Communist movement and the government has initiated reforms to assist members of the lower caste in accessing educational institutions. In Haryana, Rajasthan, Uttar Pradesh, Bihar and Tripura caste influence remains strong and in these states, there have been reports of violent caste clashes in the past. Landholdings by the scheduled castes were poor throughout the Indian states with the notable exceptions of Kerala and West Bengal, where Communist Parties are leading agrarian reform. The Communists gained popular support in Kerala and West Bengal in the 2006 state elections after declining investment in agriculture and introduction of corporate farming caused enormous social and economic problems for the lower caste. Despande's research also demonstrated that very little assets are owned by the lower caste and that almost all did not own any livestock, especially in the rural areas. Overall the socio economic status of Dalits have not improved except for less caste prejudice and better economic mobility in big cities like Delhi, agrarian reforms in Kerala and West Bengal are relatively recent and their impact on schedule caste may not be known for some time, and specific commitments by the Government of Tamil Nadu have provided some optimism for the scheduled caste. In other Indian states, Dalits continue to face discrimination and violence and at times they are used by Hindu nationalists for their own political agenda of a Hindu nation (Despande, A. 2001, 'Caste at Birth? Redefining Disparity in India', *Review of Development Economics*, vol. 5, no. 1, pp. 130 – 144 – Attachment 6; 'Economic boom blurs lines among India's caste' 2006, *USA Today* website, 22 November http://www.usatoday.com/news/world/2006-11-21-india-dalit_x.htm – Accessed 3 April 2007 – Attachment 7; For Tamil Nadu ruling party election manifesto see Question 5 of RRT Country Research 2006, RRT *Research Response IND30817*, 3 November – Attachment 8; For recent state elections in India see: Sahgal, P. 2007, 'State Assembly Elections', *India Today International*, 12 March – Attachment 9; For information on left parties performance in state elections see the Communist Party of India (Marxist) publication: Faizee, S. 2006, 'India's State Elections Strengthen Left Parties', Political Affairs website, 17 May <http://www.politicalaffairs.net/article/view/3448/1/186> – Accessed 3 April 2007 – Attachment 10; 'Achievements of Governments in BJP-Ruled States' (undated), BJP Election Manifesto website <http://www.bjp.org/manifes/chap18.htm> – Accessed 4 April 2007 – Attachment 11; For information on the activities of Hindu nationalist organisations in BJP controlled states see Question 1 of RRT Country Research Response 2007, RRT *Research Response IND31442*, 12 March – Attachment 12).

2. Please provide a brief survey of the current social and political attitudes to the caste distinctions / unscheduled caste in Kaithal / Pada / Chandigarth.

Haryana

According to the 2001 Census, more than four million or 19 per cent of the total population of twenty one million in the Indian state of Haryana are members of scheduled caste. Between 1991 and 2001, the scheduled caste grew by an average 25.8 per cent compared to the state average of 28.4 per cent. The Census report provided information on the scheduled caste population size and distribution across the state.

Of the 37 SCs {Scheduled Castes}, Chamar, Balmiki and Dhanak together constitute 81.6 per cent of the SC population of the state. Chamar are numerically the largest SCs with a population of 2,079,132, constituting 50.8 per cent of the state's SC population. They are followed by Balmiki 786,961 (19.2 per cent) and Dhanak 471,287 (11.5 per cent). Among the districts, Fatehabad has registered the highest proportion of SCs 27.4 per cent, followed by

Sirsa (26.6 per cent) and Ambala (25.1 per cent). Gurgaon district has the lowest 11.3 per cent of SC population in its total population. 4. A majority of the SC population (78.5 per cent) of the state is residing in rural areas. Among the major SCs, Chamar have the highest (82.6 per cent) rural population, followed by Dhanak (78.5 per cent) and Balmiki (73.1 per cent) ('Haryana – Data Highlights: Scheduled Castes' 2001, Census of India 2001 website http://www.censusindia.net/scstmain/dh_sc_haryana.pdf – Accessed 23 March 2007 – Attachment 13).

Kaithal

The following is general information on Kaithal. Haryana Online website states that Kaithal (<http://kaithal.nic.in/>) became a new district of Haryana on 1 November 1989. The district headquarters is located in Kaithal town and there are other smaller towns in the district including Guhla, Pundri and Cheeka. The total area of Kaithal district is two thousand three hundred and eighty nine square kilometres with a population of eight hundred and twenty thousand. Kaithal has a large farming community, which cultivates rice and wheat ('Kaithal' (undated), Haryana Online website <http://www.haryana-online.com/Districts/kaithal.htm> – Accessed 26 March 2007 – Attachment 14).

Map of Kaithal



(Source: 'Kaithal' (undated), Haryana Online website <http://www.haryana-online.com/Districts/kaithal.htm> – Accessed 26 March 2007 – Attachment 14).

Caste Relations

Violence between upper caste members and Dalits has been ongoing in Kaithal and the neighbouring district of Karnal. On 4 March 2007, clashes broke out at Faral village in Kaithal between upper caste youths and Dalits over an alleged attack on a high caste youth. According to the *Indian Express* website:

With Dalits in Salwan yet to come out of the shock of being victims to caste violence, a similar incident was averted at Faral village in Kaithal today. Agitated over the attack on an upper caste youth Abhimanyu by two Dalits over a dispute, a group of upper caste youths attacked the houses of Dalits.

Kaithal superintendent of police Navdeep Singh Virk, told The Sunday Express that a clash had broken out between Dalits and upper caste youths today over a minor dispute. "Both the parties had reached an agreement and the situation is under control. We have registered cases from both the sides and have arrested four persons but as part of the agreement there will not be any more arrests," said Virk. There were reports that some anti-Dalit pamphlets were also distributed in the area leading to tension between the two communities (Bhardwaj, M. 2007, 'Post-Salwan, police step in to avert caste clash at Kaithal', *Indian Express* website, 4 March <http://www.indianexpress.com/sunday/story/24782.html> – Accessed 23 March 2007 – Attachment 15).

On 27 February 2007 in the village of Salwan in the neighbouring district of Karnal, Dalit youths fought with an upper caste landowner, Mahipal Singh for grazing goat on his land. It is alleged that Mr. Singh sustained injuries from the fight and later died. On 1 March, upper caste youths went on a rampage and According to the *Frontline*:

On March 1, Rajput youth destroyed 73 Dalit establishments, including four houses, in the village. One of the shops was set on fire. For the record, Saalwan, with around 5,000 households, is the latest in the long list of places where atrocities against Dalits have been reported in Haryana since the lynching of five Dalits in Jhajjar in October 2002. "This was another Gohana," said S.N. Solanki, State vice-president of the Kisan Sabha, referring to the torching of 50 Dalit homes in Gohana village of Sonapat district in 2005.

The flare-up began as a scuffle between a group of inebriated Valmiki (Dalit) youth and Mahipal Singh, a Rajput who was tending his one-and-a-half-acre wheat crop, on February 26. Mahipal objected to the youth letting their goats graze in his field, where the crop would be ready for harvest in a few weeks. In the brawl Mahipal was injured and he died subsequently. The police rounded up some of the accused, but failed to take steps to prevent untoward incidents despite open threats to Dalit families.

The Dalits' worst fears came true on March 1 when organised groups of armed upper-caste youth attacked their homes around noon. The assailants walked freely into the lanes and smashed and looted property in the Dalit houses, in particular television sets and gas stoves, which were seen as symbols of prosperity. There were no human casualties as, anticipating trouble, the women and children had moved out the previous day. Some of the men hid in the fields, while others watched helplessly from their rooftops (Rajalakshmi, T.K. 2007, 'Village terror', 24 March – 6 April <http://www.hinduonnet.com/fline/stories/20070406002403900.htm> – Accessed 30 March

2007 – Attachment 16; Also see: Subrahmaniam, V. 2007, 'A system against Dalits', *The Hindu* website, 14 March <http://www.hindu.com/2007/03/14/stories/2007031402091100.htm> – Accessed 30 March 2007 – Attachment 17).

A Communist Party of India (Marxist) (CPI – M) delegation went to the village of Salwan on a fact finding mission on 3 March and found that between two hundred and two hundred and fifty members of the upper caste planned and carried out attacks against the Dalits. The delegation noted that the police administration did not anticipate an attack even though there was information of growing tension between the two communities following the death of the upper caste member. Only a few policemen were present at the Salwan village when the Dalit settlement was attacked. According to the CPI – M, "the police force reached the spot only about three hours after the said attack and arson" (Kumar, N. 2007, 'HARYANA CPI(M) Condemns Anti-Dalit Attack In A Karnal Village', Communist Party of India (Marxist) website, 11 March http://pd.cpim.org/2007/0311/03112007_haryana.htm – Accessed 30 March 2007 – Attachment 18).

In February 2006 in the district of Karnal, the police refused Dalits from taking their religious procession through upper caste areas and on the advice of the upper caste village head, upper caste youths attacked the lower castes at Mahmadpur. According to the *Hindu* website:

IN FEBRUARY this year [2006], Dalits in Mahmadpur — a small village near Kunjpura in Karnal district, Haryana — were attacked by members of the land-owning Rode community. Over 30 Dalits were seriously injured. The immediate provocation for the incident was a procession the Dalits were planning on the occasion of Ravidas Jayanthi. The police, on the advice of the village sarpanch (who belongs to the Rode community), refused to allow the procession to be taken past the "upper caste" area in the village. When the Dalits attempted to take out their procession, the police stopped them. The next day, in blatant violation of the law, the sarpanch allegedly instigated upper caste youth to attack the Dalits with hatchets and sickles by making announcements on a loudspeaker from the local temple. The attackers did not spare even women and children.

Tension between Dalits and the dominant castes in Mahmadpur had been simmering for a while. The Dalits had not supported the sarpanch during the panchayat elections, leading to resentment among his supporters. The sarpanch had cancelled a grant of land for a Ravidas ashram in the village made by his predecessor, and filed a case in the Punjab and Haryana High Court challenging the decision. Added to this, a Brahmin girl from the village had eloped with a Dalit boy around four months before the incident. They got married recently.

The events that followed the February incident were shocking. Instead of arresting those who attacked the Dalits, the police arrested 15 Dalits on false charges ranging from "dacoity" to "attempt to murder." Instead of framing charges against the sarpanch for allegedly instigating the violence, the police tried to pressure the injured Dalits into forming a 10-member "peace committee," with equal representation from both communities, and suggested that they reach a settlement (Narain, S. 2006, 'Justice for Dalits still a dream', *The Hindu* website, 11 May <http://www.hinduonnet.com/2006/05/11/stories/2006051105731100.htm> – Accessed 28 March 2007 – Attachment 19).

In Badhram village in Pulwal district of Haryana, Dalit villagers on 20 July 2005 were ostracized and confined by the landlords after they prayed at the village temple in violation of a ban by higher castes. Asian Centre for Human Rights documented that the Dalits were prevented from buying essential commodities from the village shops as a result.

Many were beaten up and the moustache of one 65-year-old Bhajan Lal was forcibly shaved off on 10 August 2005. On 11 August 2005, the National Commission for Scheduled Castes

asked the Inspector-General of Police (Gurgaon range) to provide security to the Dalit villagers and submit an action-taken report within 10 days. On 12 August 2005, a Deputy Superintendent of Police visited Badhram village but atrocities reportedly continued to take place ('SAARC Human Rights Report: India' 2006, Asian Centre for Human Rights website, 13 December <http://www.achrweb.org/reports/saarcar2006/india.htm> – Accessed 27 March 2007 – Attachment 20).

In a local township of Gohana in the Sonapat District of Haryana, a Dalit had a fight with an upper caste member, who died during the scuffle. The upper caste members were offended by the death and went on a rampage against the Dalits from 27 August to 30 August 2005, burning some fifty five to sixty Dalit homes. Before the end of the violence, two thousand Dalits fled their homes to safety in neighbouring districts. According to *Outlook India*:

A violent mob of about 1500 to 2000 Jats [upper caste members] armed with spears, batons, petrol and kerosene oil went on a maddening spree burning down houses belonging to a particular Dalit caste 'Balmikis', who are otherwise called 'Bhangis', the manual scavengers.

In the mayhem which lasted for about four hours, the rampaging masses of people were ably assisted by the local police. The police claims to have fired 12 rounds in the air to disperse the mob. They did not take any credible action to stop the mass of 1500 – 2000 from burning and looting Dalit homes ('The Shame of Haryana' 2005, *Outlook India*, 5 September – Attachment 21).

On 16 October 2003 in the Jhajjar district of Haryana, five Dalit youths were lynched by a mob, reportedly led by upper caste members of the Hindu nationalist *Vishwa Hindu Parishad* (VHP) in the presence of local police officials, following false rumours that Dalits had killed a cow which is regarded sacred by the Hindus. Human Rights Watch noted that:

Nearly a month later five people were arrested, prompting a backlash by villagers who pelted police with stones and blocked off roads for nearly a week. The VHP reportedly also forced shops, businesses, and schools to close in protest of the arrests. A local leader of the VHP was widely quoted in stating that he had no regrets over the incident and that the life of a cow was worth more than that of five Dalits (Human Rights Watch 2007, 'Hidden Apartheid: Caste discrimination against India's Untouchables', 14 February – Attachment 22).

On 12 October 2003, Karan Singh, a Dalit leader of Pehrawar village in Rohtak district in Haryana mysteriously disappeared. According to the village residents, Singh was under pressure for a long time from a Brahmin organisation to provide twenty acres of agricultural land. According to the *Frontline* website:

What was most shocking was the reluctance of the administration even to take cognisance of the fact that the sarpanch [Head of the village administration system] was missing. On October 16, after making several enquiries regarding the whereabouts of her husband, Bharpai Devi went to the police to file a First Information Report. The Station House Officer (SHO) allegedly refused to register it. She named the persons who had taken away her husband but the SHO appeared uninterested. He reportedly told her that the villagers had assured him that the sarpanch would return. Bharpai Devi, who is a Class IV employee in the State government approached political parties and Dalit groups. On October 17, she met the District Commissioner along with members of the Ravidas Samaj Mahasabha, where the officer gave "strict instructions" to the Superintendent of Police and the SHO to take immediate action. But no action followed. Incidentally, SHO Vijender Sharma had reportedly suggested that she use "Tantrik Vidya" [powers to summon spirits] to locate her husband (Rajalakshmi, T.K. 2004, 'Dalit anger in Haryana', *Frontline* website, 1 – 3 January

<http://www.hinduonnet.com/fline/fl2101/stories/20040116002703700.htm> – Accessed 23 March 2007 – Attachment 23).

In February 2003, Dalit youths fought with upper caste youngsters and as a result, upper caste members went on a rampage and some two hundred and fifty Dalit families fled the village and took refuge in the nearby town of Kaithal. After spending more than a year living in shanty towns, Haryana authorities were unable to guarantee safe passage for the displaced Dalits. According to the *Hindu*:

Over 500 Dalits of Harsola in Haryana are bent on expressing their anger through the ballot box in the forthcoming Lok Sabha elections. But the district administration, which has so far been unable to ensure them a safe return to their hearth and home, has failed them on this count too by not making arrangements to enable them to exercise their franchise.....

The displaced Dalits, who earlier took refuge in 'Geeta Bhawan', a religious place, have now shifted to rented shanty houses and rooms on the outskirts of the town and are doing odd jobs to eke out a living. A majority of them are unskilled farm labourers.

They seemed resigned to their fate. One of them, Satvir, said: "We have not received any financial and other support from the administration while Kashmiri migrants in Delhi have been given all residential and financial facilities besides monthly doles from the Jammu and Kashmir government."

This part of Haryana has a bitter history of upper caste repression. About 15 years ago, the late Deputy Prime Minister, Devi Lal, had to set up a separate village -- christened 'Devi Garh Punia' -- to rehabilitate Dalit families but they were, forced to leave their homes. Similarly, the Dalit families of Kiodic and Kolekhan villages fled their native place eight years back and have since been unable to return to their hearth and home.

Representatives of Dalit organisations, assembled to celebrate the birth anniversary of Baba Saheb Ambedkar here last week, said they were striving to mobilise the downtrodden for their due share in state power as political parties were "paying only lip sympathy to them and are driven by the vote-bank considerations" ('Displaced Dalits have no place to vote' 2004, *The Hindu* website, 23 April <http://www.hindu.com/2004/04/23/stories/2004042302510300.htm> – Accessed 23 March 2007 – Attachment 24).

In a report to the United Nations Committee on the Elimination of Racial Discrimination (CERD) in February 2007, the National Network for Human Rights Treaty Monitoring in India noted that violent attacks on Dalits by upper castes were widespread in India and the authorities often were not serious about prosecuting the offenders. The report provided details on massacres against the Dalit community in the Indian state of Bihar.

In the **Laxmanpur Bathe massacre** on the intervening night of 1 and 2 December 1997, Ranvir Sena cadres massacred 59 Dalits of which 26 were women and 19 were children under the age of 10. Pursuant to the First Information Report No. 126/97, the trial court started filing of charge sheets in February 1999. The charges have not been framed against the 24 accused. Except two, the rest have been released on bail. During the framing of charges all the accused must be present physically in the court. For the past 20 hearings, all the accused never appeared. On 10 July 2004, Buxar Jail officials informed the court about a Home Department "administrative decision" not to produce accused Pramod Singh, the main accused, in any court. Earlier there were reports that informant Vinod Paswan was being threatened by Birendra Singh, one of the main accused. Neither Paswan nor Singh could be traced in the village.

In the **Shanker Bigha massacre** in Jehanabad, 23 Dalits were killed by suspected Ranvir Senas on 25 January 1999. An FIR was lodged at Mehandia police station (case no. 5/99). There are 24 accused and 76 witnesses. Two charge sheets have so far been filed – 37/03 on 15 August 2003 and 67/2000 on 26 February 2000. On 2 November 2003, the case was transferred from the chief judicial magistrate to the sub-divisional judicial magistrate, Jehanabad, for framing of charges. However, charges could not be framed because all the accused must be present in court on the same day for framing of charges. This has not happened. Two accused, Parmeshwar Singh and Kamlesh Bhat, are in jail and the rest have been released on bail.

In the **Nayaranpur massacre** in Jehanabad on 10 February 1999 in which 12 Dalits were massacred, an FIR No. 17/99 was filed and a case was registered (State vs Sidhan Singh & others 5/2001) against 12 identified persons and 32-35 unnamed accused. The trial commenced on 22 February 2002; but the case has been collapsing as the witnesses have been turning hostile under duress.

The Court can only deliver justice if the government is serious about prosecution ('Dimensions of Discrimination in India' 2007, National Network for Human Rights Treaty Monitoring in India, 19 February <http://www.achrweb.org/reports/INDIA-CERD-SHADOWREPORT2007.pdf> – Accessed 26 March 2007 – Attachment 25).

According to the *Press Trust of India*, there were eighty seven thousand six hundred and forty seven cases of atrocities against scheduled castes still pending by the end of 2005. The same report stated that:

There were 109,072 cases of atrocities against scheduled castes registered during 2005. Of the total, 87,647 cases are still pending while merely 6,145 were convicted and 14,495 acquitted ('Committee formed to help curb atrocities against Dalits' 2007, *Press Trust of India*, 15 February – Attachment 26).

Question 1 of RRT Country Research Response IND30604 looked at the scheduled caste community in India and in particular the ongoing discrimination and violence against the community by members of the higher caste. According to the response, there is significant information to suggest that the scheduled caste community continue to experience severe discrimination and violence throughout India (RRT Country Research Response 2006, *Research Response IND30604*, 15 September – Attachment 27).

3. Are there any political initiatives, legislation, etc to address any discrimination arising from the caste system in this area and other areas, particularly with respect to the scheduled caste?

The Constitution of India prohibits discrimination on the grounds of caste and provides specific representation for scheduled castes through the reservation of seats in state and federal governments as well as preferential access to public sector jobs. According to Harish Jain and Venkata Ratnam:

Under Article 338 of the Constitution, the President of India appoints a special officer known as the Commission for SC and ST to investigate all matters relating to the safeguards provided for the SC and ST under the various provision of the Constitution. The special officers reports and recommendations are discussed in the Parliament and in several state legislatures/assemblies. A parliamentary committee on the welfare of SC and ST also oversees, in parallel, without exercising any supervisory authority on the commissioner for SC and ST, related matters. Considering the significance and magnitude of the work, the federal Home Ministry, through a resolution, set up a National Commission for Scheduled Castes and Scheduled Tribes in 1978, with the special officer for SC and ST as the Member

Secretary. In 1990, through the sixty- fifth amendment to the Constitution (Article 338) the special officer was replaced by a National Commission for SC and ST with the powers of a civil court to summon persons, files, etc. for securing evidence on oath. The new National Commission on SC and ST has a vigorous statutory mandate and the powers of a civil court (Jain, H.C. & Ratnam, C.S. Venkata. 1994, 'Affirmative action in employment for the scheduled castes and scheduled tribes in India', *International Journal of Manpower*, vol. 15, no. 7, pp. 1 – 8 – Attachment 28).

Despite the constitutional safeguard for the schedule castes against discrimination, the United Nations Committee on the Elimination of Racial Discrimination (CERD) made the following observations in February 2007:

The Committee notes with concern that, despite the formal abolition of “untouchability” by Article 17 of the Indian Constitution, de facto segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places.

The Committee is concerned about reports of arbitrary arrest, torture and extrajudicial killings of members of scheduled castes and scheduled tribes by the police, and about the frequent failure to protect these groups against acts of communal violence.

The Committee notes with concern that caste bias as well as racial and ethnic prejudice and stereotypes are still deeply entrenched in the minds of wide segments of Indian society, particularly in rural areas ('Consideration of Reports submitted by states parties under Article 9 of the Convention' 2007, Office of the United Nations High Commissioner for Human Rights, 19 February – 9 March – Attachment 29).

There are political initiatives from the Government of India to address caste discrimination and violence. In February 2007, the Government of India appointed a high-level committee to address atrocities against Dalits. According to the *Press Trust of India*:

The government is keen to handle atrocity cases under the Prevention of Crime Act, 1955, and the SCs/STs [Scheduled Castes and Scheduled Tribes] (Prevention of Atrocities) Act at the highest level of the Ministry of Social Justice and Empowerment and has held several meetings with representatives from different states to finalise an action plan in this regard.

The committee, which already has three meetings, observed that a responsive police administration was essential to take care of its subjects and in the present context and that it was essential for prevention of atrocities that are inflicted upon the SCs/STs by “unscrupulous elements from the dominant sections of the society” (Committee formed to help curb atrocities against Dalits' 2007, *Press Trust of India*, 15 February – Attachment 26).

The affirmative action programs for the scheduled caste were placed in doubt after the federal court ruled in November 2006 that lower castes, who acquired economic affluence should be exempted from affirmative action. Immediately following the judgment, Dalit and tribal groups protested over the federal court's view. In response, the Attorney General of India assured members of the Dalit community that affirmative action for the schedule castes and tribes would not be affected by the court ruling ('No creamy layer for SCs, STs, says A-G' 2006, *Times of India* website, 21 November http://timesofindia.indiatimes.com/NEWS/India/No_creamy_layer_for_SCs_STs_says_A-G/articleshow/498587.cms – Accessed 28 March 2007 – Attachment 30; Vyas, N. 2006, 'No creamy layer curbs for SC/ST: Centre', *The Hindu* website, 22 November

<http://www.hindu.com/2006/11/22/stories/2006112216650100.htm> – Accessed 28 March 2007 – Attachment – Attachment 31).

Due to concerns over the interpretation of the federal court judgment, a private member's bill to amend the constitution was moved in the Indian Parliament (*Lok Sabha*) on 8 November 2006. The Bill stated that:

In making any special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes, the State shall not apply or prescribe any criteria including economic criteria notwithstanding any judgement of any court or authority to the contrary ('The Constitution (Amendment) Bill 2006' 2006, Lok Sabha website, 8 November <http://164.100.24.208/ls/Bills/84,2006.pdf> – Accessed 28 March 2007 – Attachment 32).

As a rationale for moving the amendment, the *Lok Sabha* Member of Parliament Dr. Raman Senthil stated that:

The policy of reservation strengthens the concept of equality enshrined in the Constitution by promoting social equality in our country. The socially and educationally backward classes of citizens, the Scheduled Castes and the Scheduled Tribes were marginalized and oppressed for centuries as a result of caste system prevalent in the country. Even after independence they have not been able to attain the level of economical and educational advancement enjoyed by the upper caste. It must be realized that discrimination on the basis of caste threatens the very fabric of our nation and therefore, safeguards for reservation which is a tool for promoting social equity should find a place in our Constitution. Even after sixty years of affirmative action, the caste based discrimination and caste based distinction exist on a large scale in our society. In its present form, it has not succeeded in building capabilities and offering opportunities to those it has sought to benefit. To make matters worse, efforts are being made to dilute the reservation system by introducing economic criteria and concept of 'creamy layer'. It must be remembered that introducing economic or any criteria other than social and educational backwardness will only nullify the object of this affirmative action. The economic criterion is valid only in casteless societies. Since essence of discrimination and marginalization in the Indian society is based on caste, exclusion of backward classes from getting benefits under reservation on the basis of economic criteria or in the form of 'creamy layer' or in any other form would further marginalize the citizens belonging to these classes ('The Constitution (Amendment) Bill 2006' 2006, Lok Sabha website, 8 November <http://164.100.24.208/ls/Bills/84,2006.pdf> – Accessed 28 March 2007 – Attachment 32).

While the private member's bill did not get the support from the members in the *Lok Sabha*, another bill extending the rights of the scheduled castes by reserving places in private educational institutions was passed in the Upper House (*Rajya Sabha*) by one hundred and seventy two votes to two on 22 December 2006 ('Parliament approves 104th Constitution Amendment Bill' 2006, *Yahoo India News*, 22 December <http://in.news.yahoo.com/051222/139/61o63.html> – Accessed 28 March 2007 – Attachment 33).

Despite political initiative to assist the scheduled castes, the biggest challenge still facing the authorities is police reform. As highlighted, there are a number of instances where the police failed to provide protection to Dalits and in some cases directly participated in atrocities and refused to bring perpetrators of violence to justice. Nevertheless, the Supreme Court on 22 September 2006 ordered far reaching changes in the administration of the Indian police. The states in response appealed the order on the ground that it was unreasonable but the Supreme Court dismissed the appeal on 11 January 2007, ordering the states to comply immediately

with three of the seven directives while extending compliance on others by three months. According to Caroline Avanzo of the Commonwealth Human Rights Initiative:

The Court's directives seek to achieve two main objectives: functional autonomy for the police – through security of tenure, streamlined appointment and transfer processes, and the creation of a “buffer body” between the police and the government – and enhanced police accountability, both for organisational performance and individual misconduct. After decades of public pressure, lack of political will and continued poor policing, a police reform process is finally budding (Avanzo, C. 2007, ‘Police Reform in India: The Supreme Court Takes a Decisive Step’, Commonwealth Human Rights Initiative Newsletter, Winter 2006 – 7 http://www.humanrightsinitiative.org/publications/nl/newsletter_winter_2006-07/article11.htm – Accessed 28 March 2007 – Attachment 34).

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World Bank website www.worldbank.org

Commonwealth Human Rights Initiative www.humanrightsinitiative.org/

International News & Politics

Region Specific Links

Asian Monitor Resource Centre <http://www.amrc.org.hk/>

Indian Express website www.indianexpress.com

The Hindu website www.thehindu.com

Frontline website <http://www.hinduonnet.com/fline/>

Yahoo News India <http://in.news.yahoo.com/>

Topic Specific Links

Haryana Online www.haryana-online.com

Search Engines

Google search engine <http://www.google.com.au/>

Online Subscription Services

Library Networks

University Sites

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

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