

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

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**Questions**

- 1. Provide information about dalits.**
- 2. Why would they not be safe in India?**

**RESPONSE**

**1. Provide information about dalits.**

The term ‘dalit’ is defined by Encyclopædia Britannica Online as “the oppressed”, referring to “those at the bottom of the caste hierarchy in India, also known as “untouchables,” “outcastes,” or members of the scheduled castes”.

Because Dalit refers to all forms of social and economic oppression, its use can also be extended to other suppressed peoples of India: tribal groups, religious minorities, women, and the poor of all castes. Primarily, however, the term was popularized in protest movements of the 1970s as a positive, assertive expression of pride in the untouchable heritage. It has largely replaced the name Harijan, or “Children of God,” which was Mahatma Gandhi’s suggested substitute for untouchables but has seemed patronizing to Dalits themselves (‘Dalit’ 2009, Encyclopædia Britannica Online, 7 April <http://search.eb.com/eb/article-9391463> – Accessed 12 January 2009 – Attachment 1).

Dalits in India are often referred to as ‘untouchables’ or ‘outcastes’ as they constitute a group of people who fall outside the four distinct castes in the Hindu caste system (“the social organization of Hindus”), namely the *Brahmin*, *Kshatriya*, *Vysya* and *Sudra*. Dalits are also referred to as “*Panchamas* or people of the fifth order”. The National Campaign on Dalit Human Rights describes the hierarchy of the caste system, which places Dalits at the bottom, where they are treated as “sub-human beings or lesser human beings” and as such, “are not entitled to any individual rights i.e. civic, religious, political or economic...In addition, they are considered to be impure and polluting and therefore are physically and socially isolated and excluded from the rest of the Hindu society” (National Campaign on Dalit Human Rights,

2006, *Dismantling Descent-Based Discrimination- Report on Dalits' Access to Rights*, Indian Institute of Dalit Studies, <http://www.dalits.nl/pdf/dismantling.pdf> – Attachment 2).

A 2007 Human Rights Watch report describes discrimination against Dalits as “the practice of “untouchability”- the imposition of social disabilities on persons by reason of their birth in certain castes”.

This practice relegates Dalits, or so-called untouchables (known in Indian legal parlance as scheduled castes), to a lifetime of discrimination, exploitation and violence, including severe forms of torture perpetrated by state and private actors in violation of the rights guaranteed by the Convention [International Convention on the Elimination of All Forms of Racial Discrimination]” (Human Rights Watch 2007, *Hidden Apartheid: Caste discrimination against India's “Untouchables”*, February- <http://www.hrw.org/reports/2007/india0207/india0207web.pdf> – Attachment 3).

Discrimination against Dalits due to their exclusion from India's caste system is also described by a National Geographic News report from June 2003:

India's Untouchables are relegated to the lowest jobs, and live in constant fear of being publicly humiliated, paraded naked, beaten, and raped with impunity by upper-caste Hindus seeking to keep them in their place. Merely walking through an upper-caste neighbourhood is a life-threatening offence”. “Untouchables are literally outcasts; a fifth group that is so unworthy it doesn't fall within the caste system. Because they are considered impure from birth, Untouchables perform jobs that are traditionally considered “unclean” or exceedingly menial, and for very little pay. One million Dalits work as manual scavengers, cleaning latrines and sewers by hand and clearing away dead animals. Millions more are agricultural workers trapped in an inescapable cycle of extreme poverty, illiteracy, and oppression (Mayell, Hillary, 2003, ‘India's “Untouchables” Face Violence, Discrimination’, *National Geographic News* website, 2 June- [http://news.nationalgeographic.com/news/2003/06/0602\\_030602\\_untouchables.html](http://news.nationalgeographic.com/news/2003/06/0602_030602_untouchables.html) – Accessed 7 April 2009 – Attachment 4).

Dalit Solidarity has made similar claims regarding mistreatment and discrimination of Dalits in India. The Dalit Solidarity website lists areas in which they believe Dalits are discriminated against in India, including education, health care, housing, employment, and legal and religious freedom opportunities. The group also claims that Dalits experience “segregation in housing, schools and access to public services”; denial of access to land; abuse at the hands of upper-caste members and the police; acts of violence, including torture, caste-related killings and rapes, which are sponsored or sanctioned by the State; sexual abuse, forced prostitution and employment discrimination of Dalit women; and education discrimination and harassment of Dalit children in classrooms. According to the group, the impacts of such discriminatory practices include low literacy, high education drop-out rates, low income status and high numbers of Dalits working as agricultural or bonded labourers.

Dalits comprise most of the agricultural, bonded and child laborers in the country...[A] 2007 government report found 77% of all Indians live on less than \$.50 a day and most of them were Dalits (‘Dalits and Untouchability’, *Dalit Solidarity* website, <http://www.dalitsolidarity.org/untouchability.php> - Accessed 7 April 2009 – Attachment 5).

In addition, Dalit women and minors are often targeted by traffickers. “A study conducted by credible sources stated that out of the 173 identified cases of women who had become victims of the sex trade, 85 percent were minors and half were Dalits” (US Department of State 2009, *Country Reports on Human Rights Practices-India*, 25 February, Section 5 – Attachment 6).

Evidence from the US Department of State International Religious Freedom Report for 2008 indicates that a number of Dalits in India convert from Hinduism to other religions; such as Christianity, Islam, Buddhism and Sikhism; in an attempt to escape caste-based discrimination. However, it was reported that “Dalit converts continue to face discrimination, even by their new coreligionists, and that religious affiliation makes no difference in terms of the socioeconomic status of Dalits” (US Department of State 2008, *International Religious Freedom Report 2008- India*, September, Section II – Attachment 7).

The caste system is the social organization of Hindus. However the residual consequences of the caste system are also found in the communities that have converted to other religions like Buddhism, Sikhism, Christianity and Islam from Hinduism (National Campaign on Dalit Human Rights 2006, *Dismantling Descent-Based Discrimination- Report on Dalits’ Access to Rights*, Indian Institute of Dalit Studies, <http://www.dalits.nl/pdf/dismantling.pdf> – Attachment 2).

## **2. Why would they not be safe in India?**

The US Department of State 2008 Human Rights Report on India describes incidences of violence against Dalits obtained from reports produced by the UN Committee on the Elimination of Racial Discrimination, including extrajudicial killings and significant rates of sexual violence against Dalit women. Examples of such violence include an attack against a Dalit man whose eyes were pierced by upper-caste members because of his relationship with a relative; the alleged rape and torture of a Dalit child over a year long period following her disappearance from her village in 2006; and the beating of a Dalit woman and her daughter by upper-caste men in Rajasthan (US Department of State 2009, *Country Reports on Human Rights Practices – India* 25 February, Section 5 – Attachment 6).

A report on discrimination against Dalits published by Human Rights Watch in 2007 makes similar claims to those on the Dalit Solidarity website.

Dalits endure segregation in housing, schools, and access to public services. They are denied access to land, forced to work in degrading conditions, and routinely abused at the hands of the police and upper-caste community members who enjoy the state’s protection. Entrenched discrimination violates Dalits’ rights to education, health, housing, property, freedom of religion, free choice of employment, and equal treatment before the law. Dalits also suffer routine violations of their right to life and security of person through state-sponsored or -sanctioned acts of violence, including torture (Human Rights Watch 2007, *Hidden Apartheid’ of Discrimination Against Dalits, Government Fails to End Caste-Based Segregation and Attacks*, 13 February-<http://www.hrw.org/legacy/english/docs/2007/02/13/india15303.htm> – Accessed 7 April 2009 – Attachment 8).

According to the report, any attempts made by Dalits to demand their rights and challenge the caste system are met with retaliatory action, including economic

boycotts or violence. For example, in September 2006, a Dalit family who refused to allow upper-caste farmers control of their land was murdered by a group of upper-caste members. Prior to the killings, the family had been tortured, with the mother and daughter “stripped, beaten and paraded through the village”; and the brothers “brutally beaten”. The accused were finally arrested, and police and medical officers “who had failed to do their jobs” were suspended from duty, only after widespread protests at the failure of the police to take action against the perpetrators (Human Rights Watch 2007, *Hidden Apartheid’ of Discrimination Against Dalits, Government Fails to End Caste-Based Segregation and Attacks*, 13 February-<http://www.hrw.org/legacy/english/docs/2007/02/13/india15303.htm> – Accessed 7 April 2009 – Attachment 8).

Retaliation and revenge against Dalits involved in property disputes with upper-caste members has also been reported in the US Department of State 2008 Human Rights Report on India.

“Upper caste gangs used mass rape to intimidate lower castes, and gang rape was reportedly used as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes” (US Department of State 2009, *Country Reports on Human Rights Practices- India*, 25 February, Section 5 – Attachment 6).

Violence and discriminatory action against Dalits in India has been reported in various news articles, some recent examples of which are included below.

On 10 February 2009, *The Times of India* reported that nearly 450 Dalit families from Tiloli village in Bhilwara district who wished to participate in a seven-day “sthapana yagna” ritual were allegedly asked to drink cow urine as part of a purification ceremony prior to being permitted to participate in the ritual. The article reports that upper caste men refused to include Dalits in the ritual unless they were prepared to drink cow urine with dung. Pamphlets were allegedly published stating that Dalits were banned from the ritual. After a group of Dalits approached a district leader, an agreement was reached whereby Dalits were permitted to witness the ritual, however at the ceremony, they were seen sitting almost 400 meters away (‘Dalits banned from yagna’, 2009, *The Times of India*, 10 February – Attachment 9).

Another article in *The Times of India* from 22 February 2009 reports that despite a recent case of Dalit students being allowed to enter an Indian temple, Dalits are often excluded from entering temples and are punished if they do so. In such instances, police intervention is rare, as shown by the following example.

When India’s richest temple, Tirupati, threw open the doors of its Vedic school to Dalits students earlier this month, it was seen as yet another attempt by the Tirumala Tirupati Devasthanam (TTD) to break down the barriers of caste.

...This, when Hindu temples across India generally prohibit the entry of people from the backward castes...But it is a different story in many parts of the country. Most temples still don’t allow backward caste people to enter. Dalits who disobey may receive harsh punishment as happened four years ago when young Dalit girls were publicly humiliated for trying to enter the Jagannath temple in Puri. The police rarely intervene; when they do, it makes headlines as happened when they protected a group of Dalits entering a village temple in Tamil Nadu earlier this year (‘Caste no bar,

some temples open their doors to all', 2009, *The Times of India*, 22 February – Attachment 10).

On 4 February 2009, it was reported by *The Statesman* that Dalit children in a government-run primary school were allegedly prohibited by the head of the school from participating in a religious ceremony and “offering puja to Goddess Saraswati”. According to *The Statesman*, despite the district administration ordering an inquiry into the purported incident, “the local authorities turned a deaf ear to their complaint. Finally the district magistrate and collector was petitioned on the arbitrary behaviour on part of head master of the school”. The article further claims that “despite grounds-well of opinions and legal sanction for abolition of the practice, caste-related discrimination is still prevalent mainly in remote rural pockets of this coastal district” (‘Saraswati puja discrimination: Probe ordered’, 2009, *The Statesman*, 4 February – Attachment 11).

In a similar report of Dalits being denied their legally prescribed rights, the *New Indian Express* claims that Dalit women “panchayat” leaders are being deprived of the political opportunities provided to them by India’s 73rd Constitutional Amendment (‘Dalit women civic chiefs face indignity’, 2009, *New Indian Express*, 30 March – Attachment 12).

India’s 73rd Constitutional Amendment is explained in a paper prepared for presentation in a conference entitled “Women Farmers: Enhancing Rights and Productivity”, organised by the Centre for Development Research in Bonn.

The 73rd Constitutional Amendment Act is a landmark in Indian political development inasmuch as it provides for decentralisation of power to the people by providing powers for panchayats at the village, intermediate and district levels. Panchayat Raj Institutions (PRIs) have been vested with powers and authority to enable them to function as institutions of self government which can take decision regarding – a) Preparation of plans for economic development and social justice. b) Decision making powers relating to the wide ranging subjects as listed in the Eleventh Schedule of the Constitution. These include subjects like Agriculture, Land Improvement, Minor Irrigation, Fisheries, Social Forestry, Rural Industries, Drinking water, Health and Sanitation etc.

...The 73rd Constitutional Amendment Act is also a landmark because in addition to devolving powers and authority to people at the grassroot levels, it also tries to ensure that the elected bodies of the PRIs are truly representative of people from all stratas and not just a reflection of the prevailing power centres. In India, the rural community is characterised by power structures based on caste and economic standing, and in case of open election the same power structures would have dominated the PRIs since the weaker section have neither money nor influence to compete with the prevailing centres of authority. Therefore in order to make the composition of the PRIs truly democratic the Parliament provided for positive discrimination through reservation of seats for women and the weaker sections. One third of the total seats of members and chairpersons have been reserved for women, and in the case of members of the Scheduled Castes, and Scheduled Tribes reservation of seats in membership and chairpersons has been done proportionate to the population (Das, A. 1999, *Experience with the Panchayat Law: The 73rd Constitutional Amendment Act and Rights of Women*, Centre for Development Research, University of Bonn – Attachment 13).

According to a study on “Dalit women’s right to political participation in rural panchayati raj” cited in the *New Indian Express*, government officials and police have failed to respond to cases of obstruction, discrimination and violence against Dalit women who have been elected as political representatives in their district.

In the interviews conducted as part of the study a group of Dalit women elected representatives in Tirunelveli district said: “Unlike our male counterparts, other members of the panchayat do not respect us because we are born Dalit and women and they will go to any extent to work against us. The dominant caste men do not let a Dalit woman function because they believe that women cannot be involved in public life and if they do so, they are immoral. They do such things precisely because they cannot bear the sight of a Dalit woman occupying a higher position of governance.

Dalit women in panchayat offices claim that despite the introduction of the 73rd Constitutional Amendment, they continue to experience “untouchability practices such as not being allowed to wear sandals, two-tumbler system and denial of chairs to sit on”. One Dalit female panchayat president is quoted as saying that upper-caste members will only support her in an election “on the condition that she promised not to wear sandals inside the panchayat office” (‘Dalit women civic chiefs face indignity’, 2009, *New Indian Express*, 30 March – Attachment 12).

### **State involvement in discrimination**

A 2008 report on human rights in India produced by the Asian Centre for Human Rights describes caste-based violence and discrimination against Dalits in a number of Indian states. The report finds that the rights of marginalised groups in India, including Dalits, are being violated by upper caste groups and also the State. The report also claims that the State is complicit in crimes committed against Dalits and other vulnerable minorities and groups by more powerful, upper caste groups. For example, a rise in atrocities against Dalits, (“Scheduled Castes (SCs)” or “Scheduled Tribes (STs)”), was reported in the state of Bihar, with 1932 cases reported in 2007, against 1729 registered in 2006. However, the report claims that these official figures could be misleading, with many more cases going unreported due to either a fear of retaliation, or a lack of registration of complaints by the police.

A total of 1932 cases of atrocities against SCs and STs were registered during 2007 against 1729 in 2006. Out of the cases registered during 2007, one related to murder, 11 to rape, 8 arson, and 67 under the SC/ST Atrocities Prevention Act of 1989 and the Indian Penal Code. However, the official figures did not reflect the actual figure. Many cases go unreported due to fear of reprisal and in many cases police did not registers the complaints (Asian Centre for Human Rights 2008, *India Human Rights Report 2008*, ACHR website, December <http://www.achrweb.org/reports/india/AR08/AR2008.pdf> – Accessed 11 December 2008 – Attachment 14).

Similar evidence was found in the US Department of State 2008 Human Rights Report on India, which states that “Dalits who asserted their rights were often attacked, especially in rural areas” and that “crimes committed by upper caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute such cases or because the crimes were unreported by victims fearing retaliation” (US Department of State 2009, *Country Reports on Human Rights Practices – India*, 25 February, Section 5 – Attachment 6).



Police and politician involvement in discrimination against Dalits has also been described in the Asian Centre for Human Rights report referred to above. In August 2007, two Dalit girls aged 10 and 8 drowned and died after allegedly being thrown into floodwater by a local Military Police constable as punishment for collecting firewood from his property. In November 2007, alleged crimes against Dalits at the hand of a police inspector were investigated by the National Human Rights Commission (NHRC) after reports that the police inspector had “picked up 18 Dalits from Bannarpur village and severely beaten and forced them to lick spit after being kept in the lockup for about 24 hours. Later, he called their wives to the station and asked to beat them with their slippers which they refused”. In addition, according to the report, the state Agricultural Minister Narendra Singh allegedly assaulted a widow in June 2007 for approaching him regarding employment for her son (Asian Centre for Human Rights 2008, *India Human Rights Report 2008*, ACHR website, December <http://www.achrweb.org/reports/india/AR08/AR2008.pdf> – Accessed 11 December 2008 – Attachment 14).

The US Department of State 2008 Human Rights Report on India claims that although “the law provides that the practice of untouchability, which discriminated against Dalits and others defined as SCs, is a punishable offense...such discrimination remained ubiquitous”. Furthermore, disadvantaged groups such as Dalits are entitled to special quotas and affirmative action in employment and training programs; however in practice, Dalits continue to face severe discrimination in areas such as “access to services such as health care and education, attending temples, and marriage” (US Department of State 2009, *Country Reports on Human Rights Practices*, – India, 25 February, Section 5 – Attachment 6).

This was also emphasised by Human Rights Watch in 2007:

The Government of India has also established several programs for the development of Dalits. According to the NHRC, however, the beneficial impact of these programs has been hindered by inadequate investment of public resources; non-utilization or diversion of funds earmarked for Dalit development; lack of programs specifically targeted to Dalit development; poor preparation of such projects; and a lack of monitoring of development programs, leading to the failure of many such programs to reach their target groups (Human Rights Watch 2007, *Hidden Apartheid: Caste discrimination against India's “Untouchables”*, February- p. 2 – Attachment 3).

The Indian government has also enacted laws which expand the definition of torture and recognise degrading and inhuman treatment, particularly highlighting “atrocities” against Scheduled Castes (Dalits), including the Prevention of Atrocities Act 1989, the Dowry Prohibition Act, and the Protection of Women from Domestic Violence Act, 2005. The definition of atrocities in Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act includes incidences where a member of a Scheduled Caste or Scheduled Tribe is forced to “drink or eat any inedible or obnoxious substance”; and prevents upper-caste members from “assault[ing] or us[ing] force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonor or outrage her modesty”; acting “with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood”, and acting “with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view”, among other things.

Despite such legal protection, it is reported that failure to implement these laws has resulted in continued violation of the rights of Dalits.

The 2005 Annual Report of the National Crime Records Bureau reported a total of 26,127 cases – 8,497 cases under the Protection of Civil Rights Act and 291 cases under the SC/ST (Prevention of Atrocities) Act of 1989 – against the Scheduled Castes. Although the average charge-sheeting rate for the crimes against the SCs was 94.1 per cent, the average conviction rate was only 29.8%. A total of 46,936 persons (82.4%) out of 57,804 persons arrested for crimes committed against Scheduled Castes were charge-sheeted but only 28.3% were convicted consisting of 12,691 persons out of 44,842 persons against whom trials were completed (Asian Centre for Human Rights 2008, *Torture in India 2008: A state of denial*, ACHR website, June- p. 57- Accessed 26 June 2008 – Attachment 15).

In addition, on 10 February 2009 the *Press Trust of India* reported an increase in acts of violence against Dalits in the last four years.

There has been a gradual rise in the number of atrocities against scheduled castes and scheduled tribes in Bihar in the last four years, police records say giving a lie to the government's claim that they have been checked.

...The data received from police headquarters states that since the year 2005, in which the the Nitish Kumar led NDA government came to power in the state, atrocities against SC/STs have seen an upward trend ('Atrocities against Dalits on rise in Bihar', 2009, *Press Trust of India (PTI)*, 10 February – Attachment 16).

Human Rights Watch stated in 2007 that discrimination and widespread prejudice against Dalits is likely to continue unless the Indian government accepts responsibility for these practices. The 2007 Human Rights Watch report on caste discrimination in India indicates that although the government cites "numerous legislations and government policies as a measure of compliance with its obligations to end caste-based discrimination, choosing to ignore its failure to implement these measures" will result in continued serious atrocities against Dalits (Human Rights Watch 2007, *Hidden Apartheid: Caste discrimination against India's "Untouchables"*, February- p. 2 – Attachment 3).

## **List of Sources Consulted**

### Internet Sources:

#### **Government Information & Reports**

US Department of State website <http://www.state.gov>

#### **Non-Government Organisations**

Amnesty International website <http://www.amnesty.org/>

Human Rights Watch (HRW) website <http://www.hrw.org/>

Center for Development Research website <http://www.zef.de/>

#### **International News & Politics**

*National Geographic* website <http://news.nationalgeographic.com>

#### **Region Specific Links**

Dalit Solidarity website <http://www.dalitsolidarity.org/>

*The Times of India* website <http://www.timesofindia.com>

*The Statesman* website <http://www.thestatesman.org/>

*New Indian Express* website <http://www.newindianexpress.com/>



Hindustan Times website <http://www.hindustantimes.com>

**Databases:**

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International,  
Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

**List of Attachments**

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11. 'Saraswati puja discrimination: Probe ordered', 2009, *The Statesman*, 4 February. (FACTIVA)

12. 'Dalit women civic chiefs face indignity', 2009, *New Indian Express*, 30 March. (FACTIVA)

13. Das, A. 1999, *Experience with the Panchayat Law: The 73rd Constitutional Amendment Act and Rights of Women*, Centre for Development Research, University of Bonn.

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