



# **ASIAN LEGAL RESOURCE CENTRE**

AN NGO WITH GENERAL CONSULTATIVE STATUS WITH THE ECOSOC OF THE UN  
19 Floor, Go-Up Commercial Building, 998 Canton Road, Kowloon, Hong Kong  
Tel:+(852)2698-6339 . Fax: +(852) 2698-6367 . E-mail: alrc@alrc.net . Web: www.alrc.net

## **The United Nations Committee on the Elimination of Racial Discrimination**

### **70<sup>th</sup> Session**

### **A Supplementary Document concerning Caste Based Discrimination in India Submitted by the Asian Legal Resource Centre (ALRC)**

**For consideration by the United Nations  
Committee on the Elimination of Racial  
Discrimination, 70<sup>th</sup> Session in Geneva  
(19 February – 9 March 2007)**

---

## Table of contents

<b>1. Introduction .....</b>	<b>3</b>
<b>2. Scope of this report .....</b>	<b>3</b>
<b>3. Whether caste based discrimination is racial discrimination? .....</b>	<b>4</b>
<b>4. Part 1 of the state party's report and the ALRC's observation regarding the same .....</b>	<b>4</b>
<b>5. Elementary education for the lower caste and the tribes still a mirage.....</b>	<b>6</b>
<b>6. Local self-government (Panchayati Raj) – a failed initiative for the lower caste .....</b>	<b>7</b>
<b>7. Constitutional promises on right to work does not rule out bonded labour and forced jobs .....</b>	<b>8</b>
<b>8. Continuing caste based discrimination results in starvation deaths in India .....</b>	<b>10</b>
<b>9. Conclusion .....</b>	<b>12</b>

## **Death from starvation in India is a direct result of caste based discrimination**

*A report submitted by the Asian Legal Resource Centre, a non-governmental organisation with the General Consultative Status with the ECOSOC of The United Nations upon the state party report submitted by India to the United Nations Committee on the Elimination of Racial Discrimination for its 70th Session<sup>1</sup>*

### **1. Introduction**

1.1 On July 28, 2006 a nine-month-old child, a baby resident of Belwa village in the district of Varanasi in Uttar Pradesh state died due to malnutrition. Her name was Seema Musahar. Musahar is an untouchable community within the caste Hindu society of India. Her parents, Laxmi and Chotelal had sought help from the district administration. The best the district administration could do was to get her admitted to the Varanasi District Hospital. That was not much good. Her mother wrote to the district magistrate Mr. Rajeev Agarwal on July 11, requesting 1000 rupees [22 USD] from the magistrate's emergency assistance fund. She did not receive any reply yet. Now the child is dead. The parents may soon end up this way too, as they have no land, no income, and no food.<sup>2</sup>

1.2 Any death by starvation is a tragedy. A child's starvation death is a double tragedy. It is also a family tragedy, and an indication that many others are close to death. Where the concerned authorities have no interest in such deaths and do nothing to stop them, the tragedy is compounded many times over: it is nothing short of a disaster resulting from criminal negligence. Such negligence is faced not by a few families in India but by thousands and this report is a short but penetrating glance into their life, the life of discrimination, bondage, starvation and torture of the members of the lower caste in India.

### **2. Scope of this report**

2.1 This report may be considered as a document prepared by the Asian Legal Resource Centre [ALRC] to supplement the information provided by other NGOs in the light of the periodic report of India being examined by the CERD during its 70th Session. The ALRC is a regional NGO with the general consultative status with the ECOSOC of the UN with its registered office in Hong Kong. The contents and observations made in this report are from the experience of the ALRC and its sister concern the Asian Human Rights Commission in its involvement with human rights issues in India, particularly of issues related to the Dalits and the lower caste.

2.2 The style adopted in this report is not to give a general picture of caste and racial discrimination practiced in India, but the attempt is to contradict the state party report

---

<sup>1</sup> The Asian Legal Resource Centre is a regional non-governmental organisation based in Hong Kong with the general consultative status with the ECOSOC of the UN

<sup>2</sup> For further information please see HA-07-2006, issued by the AHRC on 28 July 2006 available at <http://www.ahrchk.net/ua/mainfile.php/2006/1884/>

by hard facts gathered through the ALRC's involvement in India. By this approach it is expected that the CERD Committee while examining the state party report will be in a better position to effectively engage the state party during the review.

### **3. Whether caste based discrimination is racial discrimination?**

3.1 India ratified the CERD on 4 January 1969. Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination defines the term 'racial discrimination' as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

3.2 The practice of caste based discrimination is one based on descent. Additionally, the reservation placed by India while ratifying the convention does not include an exception of its caste system from the term 'race'. The mere fact that the term 'race' and 'caste' are separately mentioned in the Constitution of the country does not mean that they are different. Such an interpretation does not have any legal basis and is against the spirit of the convention. By taking an exclusionary stand on the Scheduled Caste and the Scheduled Tribe from the scope of the convention, India tries to sweep under its carpet millions of Indian who are currently facing generations old discrimination. Caste discrimination is discrimination coming under the scope of the treaty.

### **4. Part 1 of the state party's report and the ALRC's observation regarding the same**

4.1 In column 18 of the state party report, there is a reference to the National Human Rights Commission of India and its powers to investigate and take actions even against the armed forces in cases of human rights violation. In theory the National and State Human Rights Commissions of India has power to investigate and also to take *suo moto* actions on Human Rights Violations. However, in practice, the Commissions have to depend on the state police or the agencies provided by the armed forces to investigate cases.

4.2 For example in the case of Mr. Santhosh Patel, a human rights activist working for the Dalits in Belwa village of Varansi district in Uttar Pradesh state, the inquiring officer of the Uttar Pradesh State Human Rights Commission was in fact trying to force a compromise in the case rather than investigating the case and reporting the facts to the Commission. Mr. Patel was a petitioner in two cases initiated upon a series of incidents involving the district administration, the dalits in the district and the human rights organisation the People's Vigilance Committee of Human Rights [PVCHR]. Mr. Patel is the staff of the PVCHR.

4.3 For raising his concerns with the district magistrate Mr. Rajeev Agarwal, Patel was detained and send to police custody after registering a false case against him. During the session organised by the district magistrate to hear the complaints and concerns of the local people, Patel was trying to air his desperation regarding the complete absence of any administrative help for hundreds of dalit families in Belwa

village where Patel was working. The magistrate, an upper caste officer, not only shouted at Patel in the meeting using abusive language against Patel and the people, dalits, who had come along with him for participating in the meeting but also later ordered Patel to be detained for intervening in the proceedings. Patel at this juncture informed the officer that he was only trying to lodge a complaint in connection with Case No. 41875/24/2005-2006, which is pending before the National Human Rights Commission.

4.4 Later, regarding this incident, the Uttar Pradesh State Human Rights Commission initiated a case and deputed the Additional Superintendent of Police Mr. Vijay Kumar Dixit to investigate the incident. However this officer on 14 August 2006 summoned all concerned parties to the office of the Superintendent of Police and insisted that all cases must be settled and the district magistrate must be exempted from the charges. One of these cases which was pending before the National Human Rights Commission is an issue upon which three UN special procedure experts had written to the Government of India expressing their concern and requesting immediate action. The human rights activists protested and did not agree to the demand of the investigating officer. However, the State Human Rights Commission accepted the tainted report filed by the investigating officer and dismissed the case.<sup>3</sup>

4.5 This is the sum total of the investigative powers of the Human Rights Commissions in India. However, by this it doesn't imply that the investigative divisions of the Commissions are a pointless entity. The reality is unless the investigative divisions of the Commissions are given more support by the state and central government of India, the Commissions will have to depend upon the existing procedure of deputing investigations to the state police or other state sponsored agencies which cuts the root of impartiality in such a process. The National Human Rights Commission of India has continuously requested the Government of India to provide more support to its investigative division. However, thus far the Government of India has done nothing to pay heed to the request of the Commission. This is reflected in the Commission's 2004-2005 annual report.<sup>4</sup>

4.6 In the report by the state party in page 7 column 18 (2) there is a reference to the banned organisations under the provisions of the Unlawful Activities Prevention Act, 1967. However, the prohibition of organisations is done by the Ministry of Home Affairs. Thus far the prohibited organisations are those allegedly working against issues of national security. A list of 34 such organisations prohibited thus far by the Ministry of Home Affairs is published by the Ministry.<sup>5</sup> However, given the fact that much of the atrocities perpetuated by the Upper Caste is sponsored by the so called Hinduthva fundamentalists in the country, none of these organisations, for example like the Bajrang Dal is prohibited by the Ministry. It is known that members of this organisation are engaged in arms training and the government has initiated no action whatsoever to prevent this.<sup>6</sup>

---

<sup>3</sup> For further information regarding this case please see UA-138-2005 issued by the AHRC on 9 August 2005 and follow-ups issued on 19 August 2005 as UP-100-2005 and UP-166-2005. For further information please also see AHRC-OL-048-2006 issued on 15 August 2005

<sup>4</sup> For further information please see National Human Rights Commission – Annual Report 2004-2005, p. 47

<sup>5</sup> For further information please visit <[http://mha.nic.in/banned\\_org.htm](http://mha.nic.in/banned_org.htm)>

<sup>6</sup> For information regarding Bajrang Dal please visit <<http://www.hinduunity.org/bajrangdal.html>>

## 5. Elementary education for the lower caste and the tribes still a mirage

5.1 The report submitted by the state party tries to emphasize the state party's initiatives for ensuring elementary education in the country. However, the ALRC's experience is that education, elementary or professional is still a mirage to the members of the lower caste and the tribal communities in India. For example the nearest school for children of the lower caste in the dalit hamlet Tanare of Golahanpur village in Rajgarh block in Mirzapur district of Uttar Pradesh is about a few kilometers walk from their home. There is indeed a government school in Golahanpur village. However, the children of the dalit families are not allowed to sit along with the children of upper caste in that school.

5.2 The dalits houses are situated outside the Golahanpur village boundary. The boundary is set by the upper caste so that the dalits remain out of the upper caste village. Golahanpur village was declared as the model village by the president of India in 2005. The upper caste has all facilities within the village like roads, electricity and public health facilities, whereas the dalits are forced to stay outside the village boundary and their children are not allowed to mix with the upper caste children.

Ms. Jhaman, aged 45 years is from Tanare and belongs to Bindh caste which is a lower caste in the caste system. Jhaman went to the Panchayat Bhavan [village office] in August 2006. She claims that was the first time when someone from their village went to the village office with a request. At the office Jhaman met the Panchayat Secretary Mr. Krishnakumar Singh. Jhaman also met the village head Ms. Sithadevi, wife of Ramasankar Singh. Jhaman requested Krishnakumar and Sithadevi to allow her children and the children of other dalit families to be allowed to sit along with the children from the upper caste in school. She also requested them to get her children's name registered in the birth certificate kept at the village office. But she was chased away and was abused by the village head and her husband who was also present there. Jhaman claims that there is not a single latrine for the entire dalit community. The dalit families amount to about 40 houses with about 240 persons including children. Jhaman claims that all the facilities available through the government for the dalits are used up by the upper caste.

5.3 Due to the distance and acute poverty in the dalit community, the dalit children are forced to resort to cattle rearing and bonded labour by the upper caste in the village, while their own children receive education and free food at the expense of the government. It is also reported that most of the dalit families does not even exist in the government records since the census officers refuse to record their names in the register. This deprives these families all the benefits of government schemes including from the food for work programme and the free food distribution programme. There are no public health facilities in the dalit hamlet and no government officers thus far has cared to address any of the concerns of these people, in spite of repeated complaints through human rights activists to the district magistrate of Mirzapur.

## 6. Local self-government (Panchayati Raj) – a failed initiative for the lower caste

6.1 Ms. Munia Devi, aged 40 years, wife of Rambali, residing at Koirajpur village under the jurisdiction of Badegav police station in Varanasi district was elected as the village head in the local body elections held in August 2005. Munia contested in the election as a dalit representative since that constituency was reserved for a woman candidate from the lower caste community. Though in theory Munia is the custodian of the village records and the head of the village since August 2005, she was chased away by the former village head Mr. Lal Chand when she went to the village office to assume charges. Lal Chand belongs to the upper caste. No records were handed over to her. She challenged the act of the former village head asking the village secretary to collect the documents and keys from the former village head and to hand it over to her. The village secretary collected the documents and keys, but failed to hand it over to Munia claiming that she cannot work under an untouchable. Munia belongs to the Chamar community, an untouchable in India.

6.2 In February 2006 Munia was assaulted by Lal Chand and his men. Her jacket was torn apart in public and she was thrown to the ground and physically and verbally abused. She gathered courage and went to the Badegav police station to register a complaint. The police officers chased her away saying that a dalit has no right to complain against an upper caste person. It took relentless work of a local human rights group for about one year and an urgent appeal by the AHRC for the local police to register a case in this incident.<sup>7</sup> As of today, the local police have not investigated the case any further and within a short time, the case will be written off. For Munia Devi, she does not believe that she could ever assume charges as the

**Dr Lenin of the PVCHR, a local organisation based in Varanasi has been working in Belwa village, largely to provide education to children from the dalit and backward class who have been denied this right by the upper castes. The state government has not provided schooling for this community despite their long-standing demand.**

**The backward classes and the dalits have also been denied the right to vote. Belwa village and its surrounding areas are known for booth capturing and election related fraud. During the February 2002 election, people from these communities were brutally assaulted when they went to vote. Mr. Giri, Dr Lenin's associate filed a nomination for the election that was held on 17 August 2005.**

**On August 5, one Mr. Rama Sharay Singh, a hit man of Mr. Rajendar Thiwari - the village head, called Dr Lenin on his mobile phone (No: 9415810955) and demanded that Mr. Giri withdraw his nomination. Around the same time, Mr. Giri also received death threats in the village where he was working. Once again, on August 7, Mr. Singh called up Dr. Lenin and said that if the nomination was not withdrawn, Mr. Giri and his family would be shot dead.**

**Dr. Lenin recorded the conversation, made copies of it and met the Senior Superintendent of Police, Mr. Brij Bushan and the District Magistrate, Mr. Gokaran to lodge his complaint. Dr. Lenin also faxed a complaint to the Chief Minister of the state regarding the incident. Later a complaint was filed at the National Human Rights Commission of India. This case is still pending. However, in the election Mr. Rajendar Thiwari won the election. In India, threatening a rival candidate is an offense in law, disqualifying the candidature of a contesting candidate. As of today Rajendar Thiwari continues as the village head and the dalits in Belwa village continue of being deprived of all amenities in life. In the past three years several persons of the dalit community died out of hunger in Belwa village.**

<sup>7</sup> For further information please see UA-400-2006 issued by the AHRC on 14 December 2006 available at <<http://www.ahrchk.net/ua/mainfile.php/2006/2128/>>

elected village head of her village.

6.3 The 73rd amendment of the Indian Constitution did bring drastic changes in theory to bring local self governance to the villages. However, in practice it was a step to bring more authority to the feudal landlords. What Munia faces in Koirajpur village is a crime under the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. According to Section 3 (x) of the Act, a person who is not a member of the Scheduled Caste or Scheduled Tribe if intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years with a fine. Physical assault is also a crime under the Indian Penal Code, 1860.

6.4 This case is also an example of how development activities fail to percolate into the rural villages in India. Munia being the village head and also a representative of her community is not consulted of anything in the daily functioning of the village. This also implies that in the absence of Munia's signature and authorization no development activities should be implemented in the village until her term is over in 2010. The upper caste community, being already privileged of all the amenities for their life, will not be affected by this stalling of the development programme. However, the lower caste community will not at all benefit during this period, which is an indirect way of keeping the members of this community in the village under the control of the upper caste.

6.5 With the above two examples the ALRC wish to expose the state party's submission in reference to Article 5 of the convention and its reference to local self governance in page 10 Column 28 of the state party report. The ALRC further wishes to bring to the CERD the following facts:

1. Thousands of people belonging to the dalit community do not exist in the electoral roll maintained by the Election Commission of India. The Census officers do not even care to visit dalit hamlets. The effect is disastrous as regard to every right of such persons, not only those related to the rights prescribed in Article 5 (c) of the convention.
2. The state party must reflect in its report how many cases its agencies have initiated against those who prevent persons from the dalit communities from participating in the electoral process. The Committee may request the state party to reflect upon what action its agencies have taken regarding the complaint it has received from the Asian Human Rights Commission on 9 August 2005 upon the case in Belwa filed with the office of the Senior Superintendent of Police Varanasi, India.

## **7. Constitutional promises on right to work does not rule out bonded labour and forced jobs**

7.1 The Musahar [those who eat rat] hamlet in Damahi village of Jungle Mahal in Mirzapur district of Uttar Pradesh houses about 75 families from the Musahar community. The hamlet is isolated in all aspects and is cutoff from the district administration due to their neglect. The primary school is about 3 kilometers away and there is no public health centre in the village. The entire Musahar community lives



in fear from threat to their life if they complained to anyone regarding their situation. Every one is forced to work in the stone quarry managed by the local feudal Mr. Rakesh Singh. Each family is given 12 to 14 rupees [0.31USD] for a day's work. Every member of the Musahar family is expected to report for work daily. If anyone gets sick, the person is not allowed to leave the work place and they are often flogged in public. Rakesh Singh does not have license to excavate granite from the government land. But the police and the district administration is with Mr. Singh to help him to exploit the dalits and the natural resources. None of the Musahars are allowed to leave their village or to travel to the city. The village is guarded by Singh's people.

7.2 Ms. Amaravati and Ms. Krishnavati Kol from Damahi village allege that if they ever dare to complain or protest about the low wages they are earning they are immediately accused of being supporters of prohibited Naxalite groups. They are threatened that if this were to happen, the local police would arrest them and keep them in custody for days without even registering a case against them. They are also told that while in custody they would be kept in cells along with other male detainees and that the police would beat them up and use foul language against them. They would then, it is threatened, be only freed after an indefinite period of custody and then handed over to the landlords who would force them to work in captivity without pay or food.

7.3 Ms. Ramdulari belongs to the Chamar community.

Ramdulari alleges that her agricultural land was in the name of her mother. However, Ramdulari was evicted from her land by Mr. Lallan

Patel who destroyed the standing cultivation of Parval (a local vegetable) causing Ramdulari a 10,000 rupee loss. Ramdulari alleges that she complained to the local police about the land grabbing and the destruction of the cultivation against which the

**Mr. Ramachander belongs to a family of five and is from Damahi village. He collects firewood from the local forest and sells it at the nearby market, which earns them 40 – 50 rupees (approximately USD 1) on alternate days. However, since he has been prevented from entering the forest, owing to the strict implementation of forest laws, he find it increasingly difficult to collect firewood and to find food.**

**Ramachander stated that the upper caste Hindus in the locality, who own vast agricultural lands and quarries, employ them but take advantage of their situation. Ramachander works for a quarry run by Mr. Rakesh Patel. Ramachander alleges that he is paid only 10 rupees per day (42 rupee is USD 1). Finding it difficult to meet the expenses of the treatment of his handicapped brother and ailing mother, Ramachander had to borrow 10,000 rupees (USD 238) from Patel. However, Ramachander's mother died on her way to the hospital and as of today Ramachander is trying hard to pay back the money borrowed from his employer.**

**Patel collects 5 rupees from Ramchader's daily pay as penal interest for the sum borrowed. This has reduced Ramchander's daily pay to 5 rupee. Ramchander alleges that if he fails to turn up for work, due to any reason, Patel or his men will beat him up the next day when he reports for work. Ramachander was, however, bold enough to complain to the police against this abuse. However, the police refused to accept his complaint and threatened him that if he ever dared complain against Patel again they will beat him themselves. Ramachander was then beaten by Patel and his men for attempting to make the complaint with the police.**

**Ramachander alleges that the local police connive with the upper caste landowners like Patel and the police only serve them and not the people who are in real need of police help.**

local police did not take any action and chased her away from the station saying that the Chamars and other lower caste have no right to complain at police stations.

7.4 Mr. Ramshakal Mushar alleges that he works for the quarry run by Mr. Krishna Kumar from whom Ramshakal has borrowed a sum of 8,000 rupees. Ramshakal alleges that he is paid 10 rupees a day from which Kumar deducts five rupees daily as penal interest. Ramshakal alleges that if he were to complain about this to anyone Kumar would immediately know about this and would beat him.

7.5 The ALRC could narrate dozens of similar cases from various parts of India. With the above examples the ALRC wish to bring to the notice of the Committee that the submissions made by the state party vide its reference to 'right to work' in column 35 of its report and in part 2 with reference to Article 2 and 4 of the convention, are nothing but theory which has failed miserably in practice. Domestic legislations like the Minimum wages Act, which provides for a minimum wage to be paid to labourers, and the Bonded Labour (Prohibition) Act, which prohibits bonded labour in the country, have no meaning in many parts of India since the local administration, particularly the local police do not care to implement the law and are conniving with those who exploit the lower caste community.

7.6 Bonded labour and slavery is prohibited by law in India. The Bonded Labour (Prohibition) Act 1976 and Sections 371 (on slavery) and 374 (on compulsory labour) of the Indian Penal Code, if enforced, would prevent such practices. Given that the victims of bonded labour are members of scheduled castes and scheduled tribes, the above cases are also offences under the Section 3 (1) 7 of the Scheduled Caste, Scheduled Tribe (Prevention of Atrocities) Act 1989. However, the implementation of these laws depends completely upon the policing system in India.

7.8 There are rulings by the Supreme Court of India on how to prevent slave-like practices and bonded labour. However, owing to the near to complete failure of policing in India, the implementation of these laws has failed miserably, at the expense of the illiterate poor of India, which form 70% of India's population. This is exploited by feudal lords, mostly upper caste Hindus. The police not only collect bribes from the industrialists who engage in bonded labour and slave practices, but will also collect money from those who dare to complain. The police often work for these industrialists to force their workers to continue working without complaint or possibility of escape. In spite of the fact that many such cases have been brought to the notice of the Indian authorities, nothing has been done as yet to bring about any change in the situation.

## **8. Continuing caste based discrimination results in starvation deaths in India**

8.1 The result of continuing caste based discrimination is acute poverty and resultant starvation and death of the members from the lower caste. All the domestic legislations depend upon the local policing for its effective implementation. However the policing in India have failed owing to lack of a mechanism that prevents impunity which the police in India currently enjoy. The police in India are often seen as a criminal in uniform by the ordinary Indians.

8.2 Any violation of human rights in India could be challenged at a domestic court. However, the court itself depends upon the local police to investigate and execute its orders.<sup>8</sup> There are umpteen examples to how the court orders have failed in preventing further violation of rights and also in delivering the intended result.<sup>9</sup> The Supreme Court of India has formed a Commission to look into the implementation of its interim orders regarding the right to food on a public interest litigation filed by an NGO in the Supreme Court of India.<sup>10</sup> However, thus far various orders of the Supreme Court regarding implementation of its orders have failed to be implemented.<sup>11</sup>

8.3 A case of death from starvation is a direct result of the failure in policing in India. The only mechanism available in India to guarantee food – subsidised or free – to a needy person is the public distribution system. This system is known in India as the ‘PDS’ and functions under by the Civil Supplies Department of various state governments.

8.4 The department issues licenses to individuals and organisations to run ration shops. Any dealing with the rationed article in a manner to defeat the intended purpose is a crime in India.<sup>12</sup> The subsidised priced and free food grains intended to be distributed for the poor is often sold in the black-market.

8.5 Any action to be taken against these corrupt licensees can only be executed through the local police. But in most cases the police officers connive with the ration shop licensees and never register cases against the defaulting shopkeepers. In Belwa too there is a similar ration shop run by an aide of Thiwari. There are hundreds of complaints against this person filed at the Executive Magistrate’s office. Most of these complaints were not registered. Those registered are not acted upon. This provoked the human rights activists working in Belwa to bring this issue to the notice of the executive magistrate in a public function.

8.6 The executive magistrate regularly convenes monthly meetings where the public is offered an opportunity to lodge petitions and complaints. Mr. Santhosh Patel, a staff attached with the PVCHR tried to lodge such a complaint with the Magistrate on 10

---

<sup>8</sup> INDIA: What can be done when the chain goes mad? - How police impunity is killing the rule of law in West Bengal and beyond : Statement by the AHRC dated 7 September 2006 <<http://www.ahrchk.net/statements/mainfile.php/2006statements/725/>>

<sup>9</sup> The sister concern of the ALRC – the AHRC – has documented at least few hundred cases of direct breach of Supreme Court directions regarding policing in the past few years.

<sup>10</sup> In May 2001, the People’s Union for Civil Liberties (PUCL), filed a public interest litigation (PIL) with the Indian Supreme Court, arguing that several federal institutions and local state governments should, *inter alia*, be responsible for mass malnutrition among the people living in the states concerned. In one of its interim orders relating to the case, the Supreme Court affirmed that where people are unable to feed themselves adequately, Governments have an obligation to provide for them, ensuring, at the very least, that they are not exposed to malnourishment, starvation and other related problems.

<sup>11</sup> On 28 November 2001, the court passed an interim order that provides for the conversion of eight food security schemes into entitlements (rights) of the poor. These include the Antyodaya Anna Yojna, the National Old-Age Pension Scheme, the Integrated Child Development Services (ICDS) programme, the National Mid-day Meals Programme (NMMP), the Annapurna scheme and several employment schemes providing food for work. Of the eight schemes, the most significant is the order directing all state governments to provide cooked mid-day meals in all government schools by January 2002. A closer look however reveals the blatant flouting of the Supreme Court Order.

<sup>12</sup> The Essential Commodities Act, 1955

May 2006. However, instead of accepting the complaint, the Magistrate ordered arrest of Mr. Patel alleging that he was trying to disturb the meeting raising issues of starving untouchables. The officer who made such a derogatory remark against a community in public, which is a crime in India, still holds the same post.<sup>13</sup> As of today, Thiwari continues his reign as the head of Belwa, Rajiv Agarwal remains the district magistrate in Varanasi and Musahar in Belwa continues to starve.

## 9. Conclusion

9.1 The caste structure and the injunctions attached to it control the social life and define the role of an individual in India. One is born into it and dies with it. If born a member of a lower caste or an untouchable, you die the same. There is no way out. The concept of the caste system brings in stratification of society based on duties. It is a defining tool to cast obligatory duties on people as the result of birth, which cannot be taken away. On the surface, it seems to paint a picture of societal obligation and duty. In reality, it is used as an instrument of exploitation by the upper castes against the lower castes.

9.2 Caste discrimination is worse than slavery. A person is born into the caste, whereas slavery is slightly different. A person may become a slave due to numerous circumstances. However, a slave may earn his or her freedom, whereas in the caste system there is no escape, because the only defining factor is birth or descent. Once born as an untouchable one remains an untouchable. Ambedkar stated that untouchability based on caste is worse than slavery.<sup>14</sup> 'Neither slavery nor untouchability is a free social order. But if a distinction is made there is no doubt that there is distinction between the two'. 'The test is whether education, virtue, happiness, culture and wealth is possible within slavery or within untouchability. Judged by this test it is beyond controversy that slavery is hundred times better than untouchability. In slavery there is room for education, virtue, happiness, culture or wealth. In untouchability there is none,' he said.

9.3 The avenues for those who are born into the lower caste are many in theory, however, in practice, none of these mechanisms work, especially if the person is poor.<sup>15</sup> A direct consequence of this is death from starvation. Caste prejudice and the failure of the local police and the administration are the factors that lead to most starvation deaths, in addition to complete neglect by the state government. An estimated number of 55 districts in India face problems of acute starvation.<sup>16</sup> In many cases of starvation deaths, the victims are from the untouchable community. For most bureaucrats, such people are not worthy of existence. For example, in Seema's case cited in the earlier part of this report, the district magistrate never took a positive step to save Seema, other than referring her to a government hospital.

9.4 Many families from the untouchable community face similar conditions to that of Seema's family. They are forced to work for the upper caste, for which they are given near to nothing in return. Wages are below the minimum wage prescribed by the government. In several cases payment is denied even after a day's work. These

---

<sup>13</sup> For further information please see UA – 156 – 2006 available at <[www.ahrchk.net/ua](http://www.ahrchk.net/ua)>

<sup>14</sup> *Annihilation of Caste*: Dr. B. R. Ambedkar

<sup>15</sup> *Cast Away by Caste*: Bijo Francis, Human Rights Solidarity Vol.14 No.5, September 2004

<sup>16</sup> Starvation death is a slur on society: Times of India, 11 December 2005

families are allowed to stay in patches of wasteland away from the village.<sup>17</sup> This is because their presence is considered to be a pollutant for the caste Hindus. The tribal community to which Seema's family belongs is considered as being untouchable. Most often, it is these untouchable families that face the brunt of caste-based discrimination.

9.5 While intellectuals and concerned groups discuss the finite details of caste based discrimination and its consequences in India and while the Government of India tries to defy commonsense and accepted legal definitions by contesting caste based discrimination is not racial discrimination Laxmi and Chotelal is preparing for pushing on with their meager existence along with the rest of other families in Belwa village, trying hard to find a day's meal.

9.6 The positive difference that is brought into the life of Laxmi and Chotelal and thousands of others in India as a result of this report and the effort of hundreds of other activists and agencies of the UN and the Government of India is what that defines a concerned action to bring changes into the lives thousands of the under privileged living in India. The clamor of development and legal jargons does not make any sense to people like Laxmi or Chotelal, but a day's meal and the minimum guarantee that none of their other children will face a similar fate as that of Seema definitely will.

\*\*\*\*\*

---

<sup>17</sup> Contemporary forms of slavery related to and generated by discrimination: Forced and bonded labour in India, Nepal and Pakistan. United Nations Commission on Human Rights Sub-Commission on the Promotion and Protection of Human Rights Working Group on Contemporary Forms of Slavery 28th Session Geneva 16 - 20 June 2003.