

# SWADHIKAR

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# CIVIL & POLITICAL RIGHTS

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## Introduction

Scheduled Castes (SCs) and Scheduled Tribes (STs) are two of the most vulnerable communities in India in terms of discrimination and violence committed against them. Some of the worst forms of violence they face have been officially recognized as atrocities covered under the SC/ST (PoA) Act, attracting higher penalties in order to deter the occurrence of such crimes. These crimes occur *on the basis of* SCs and STs' ascribed caste and ethnic identity respectively and because, inter alia, they are minorities; because they are excluded from full enjoyment of national and state level resources and power; and because the SCs in particular are considered 'untouchables' and hence denied social mobility within the caste system. Women from these two communities are particularly vulnerable to violence due to the intersections between their caste/ethnic and gender identities, and they often bear the brunt of atrocities directed at themselves, their families and/or their communities. The worsening situation prompted the Indian Parliament to consider the PCR Act 1955 and the normal provisions of the Indian Penal Code 1860 inadequate to check and deter crimes committed by dominant castes against the SCs and STs. Hence, Parliament found it necessary to enact the SCs and STs (Prevention of Atrocities) Act in 1989 and Rules in 1995.

Two decades of monitoring the implementation of the Act, however, has provided us with data regarding its low rate of benefits and high rate of failures; that is, the performance of the national and state governments is far from satisfactory. On the part of the police and other concerned government officials, proper and adequate response towards the victims and witnesses of atrocities, as per the law, has often been lacking. In the courts, the judgments in most cases have been in favour of the perpetrators either on technical grounds, or due to the public prosecutors failing to argue the cases properly and effectively. The end result has been high acquittal and low conviction rates under the PoA Act. In sum, clear evidence exists of the lack of state accountability for effective implementation of the Act to ensure security of life to Dalits and Adivasis.

The collusion of state institutions and actors with casteist forces in denying justice to the Dalit and Adivasi victim-survivors by silencing them, or suppressing the facts, or bullying them into fear and submission shows how the law and order machinery can be made to bend to the will of the dominant caste groups. But what makes matters worse for Dalits and Adivasis is the voice of the conservative forces in certain quarters who openly decry the relevance, need and importance of the PoA Act itself. In doing so, they clamour for the maintenance of the archaic caste system as against the rights-based democratic order proclaimed by the Indian Constitution

### ***In this context the Campaign emerged.***

On 25 June 2009, the National Campaign on Dalit Human Rights (NCDHR) initiated a consultation in New Delhi on the status of implementation of the SC/ST (PoA) Act through one of its core units, the National Dalit Movement for Justice (NDMJ). Adivasi, Dalit and human rights organizations and movements, activists and experts from the various states across the country who participated in the consultation formed themselves into the ***National Coalition for Strengthening the SC/ST Prevention of Atrocities Act (NCSPA)***. The Coalition decided to prepare a position paper and draft an Amendment Bill based on various recommendations given by the National and State Commissions, various civil society organizations and experts, apart from the guidelines issued by the Ministry of Social Justice and Empowerment and the Home Ministry for better enforcement of the Act. On 11 September 2009, marking 20 years since the Act received assent from the President of India, the NCSPA organized a National Convention in New Delhi to review the implementation of the Act and the accompanying Rules, and to deliberate on the amendments and strategies required to strengthen the implementation of the Act. Since then, a National Campaign has been underway to disseminate information on the proposed Amendment Bill and to mobilize support for it among Dalits, Adivasis, their solidarity partners and all those believing in equal security and empowerment for all Indian citizens. The Amendment Bill has also been presented to the Government of India, with sustained lobbying and advocacy to ensure that it is placed before, and thereafter passed by, Parliament.

### ***National Consultation***

As a further step in the process of ensuring justice and protection to Dalits and Adivasis, on 17-18 May 2012 the Coalition members held a national strategizing meeting in New Delhi in association with the Rajiv Gandhi Institute for Contemporary Studies (RGICS). In this meeting, the members arrived at a Consensus as regards the proposed PoA Act amendments. It was further decided to intensify the Campaigning with communities at the local level in order to raise political consciousness on these amendments and to build the political will among politicians, bureaucrats and the media to prevent atrocities. This would be done through a nation-wide call for the eradication of atrocities, 'untouchability' and similar discriminatory practices and casteism, starting with the amendment of the PoA Act and its effective enforcement. In the Consultation all the Coalition partners decided to organized state, district level consultations and various public actions in different part of India.



Mr. Rahul Gandhi paid a brief visit to the consultation. Different issues of discriminations and atrocities on SCs & STs were flagged off by participants. He articulated his support to the effort of the Coalition for Strengthening the Act at the policy level. Mr. Mukul Wasnik, Minister of Social Justice and Empowerment also articulated his support to the work of the Coalition.

Mr. P.S. Krishnan, former Secretary to Government of India, Advocate Bojja Tharakam, Senior Counsel, Ms. Meenakshi Natarajan, Member of Parliament, Mr. K. Raju, Joint Secretary, National Advisory Council, & Ms. Farah Naqvi, Member, National Advisory Council were among the dignitaries present at the occasion.

### *National Strategic workshop*

The Strategic workshop was attended by 70 representatives of different coalition partners. The gathering took stoke of the situation in order to strategies for the effective implementation and amendments of the PoA Act. Various experts accompanied them in the process of reflection and planning such as Mr. P.S Krishnan, Mr. Mohan Gopal to name a few. The workshop planned in detailed the upcoming National Dalit and Adivasi Sammellan. The various aspects and areas of the sammellan were discussed in detailed. The integrated approach for the mobilization among the masses was planned. Different Campaign materials were announced; also the website for the campaign was launched [www.annihilatecaste.org](http://www.annihilatecaste.org).



### *Advocacy and Lobbying Meetings*

#### ***Meeting with Mr. Mukul Wasnik Hon'ble Minister for Social Justice and Empowerment***

- The ministry has appointed inter Ministerial Committee with officers to draft amendment bill. Hon'ble Minister reiterated that he is aiming to introduce the bill.
- Joint Secretary of MSJE shared the feedback that they received from the state governments.
- The drafting team was given a month time to come out with a draft.

### ***Meeting with Ms. Kumari Seleja, Hon'ble Minister for Social Justice and Empowerment***

- She was apprised with the categories of amendments proposed in the Act.
- The minister reiterated her commitment to introduce the bill as soon as possible in the parliament.

### ***Inter Ministerial Committee: Ministry of Social Justice and Empowerment***

- Two rounds of the discussions with Additional Secretary of MSJE , head of the Committee on our proposed amendments
- Primarily to understand the rationale for all the amendments that we proposed.
- They also compared the feedback they received from the state governments.
- Joint Secretary and Director of MSJE were also present in the meetings.

### ***Actions across the States***

#### ***State Consultations***

14 different State level consultations were organized covering 15 states in between May to November. More than 1200 representatives, heads from more than 425 civil society organizations participated in these Consultations. These consultations were organized to extensively discuss the proposed amendments before finalization for undertaking advocacy. The Coalition has also collaborated with different Academic and Administrative Institutions such as the National Judicial Academy (Bhopal), Mumbai University Law Department (Mumbai), Dr. K.R. Narayanan Centre for Dalit & Minority Studies (Delhi) and Centre for the Study of Social Exclusion & Inclusive Policy, Ambedkar University (Lucknow) in order to garner public support among the various sections of civil society towards the proposed amendments.

#### ***District/Regional Level Consultations***

In more than 7 different states various district/regional level consultation were organized to take the campaign to the people. These consultations covered around 75 districts, reaching out to more than 5400 direct participants.

#### ***Observing PoA Act Day***

To commemorate the enactment of the PoA act 11<sup>th</sup> September is observed as the PoA act day. Many states organized huge public action on that day covering more than 75 districts.

## ***Rallies/Dharanas***

Various state level PoA campaign Rallies, State Carvan, Raj Bhavan March, Dalit Mahila Garima Yatra, Dharana, were organized covering more than 130 districts. These public actions were joined by more than 30,000 Dalit Adivasi leaders, survivors and activists.

## ***Advocacy Lobbying with The Enforcement Authorities***

Several consultations have been held with MPs, MLAs, and the National Commission for Scheduled Castes and the Parliamentary Committee on the Welfare of SCs and STs in order to garner their support and, in the case of MLAs, to sensitize them as to their roles and responsibilities in properly monitoring and implementing the Act in their respective States. As a result, MPs and MLAs have raised various questions in Parliament and in the State Assemblies, based on model questions drafted by the Coalition, and specified the amendments proposed by the Coalition.

The Authorities covered in different states were

- More than 100 Members of Parliaments
- More than 50 MLAs
- State SC/ST commissions
- 2 Governors
- State Minister of Social Justice and Empowerment
- Secretary, State Home Department
- Additional Secretaries, state MSJE
- District Magistrates, Collectors
- Superintendent of Police And DySPs

## ***Press Meet/Press Conferences and Media Coverage***

In order to ensure that public opinion is kept alive, National Coalition partners have ensured that the (mal-) implementation of the PoA Act is being covered in the media at various levels, including cover stories of major national magazines and journals. Along with that it was important *To create greater awareness among the, masses, Elected Representatives, government officials etc regarding the SCs & STs (PoA) Act and call on them to endorse the amendments to, and thereby strengthen, the Act. The Media response to the public actions of was tremendous throughout India. They covered the programmes, events, rallies, public hearings, caravan extensively.*

- More than 10 Press Meet/Conferences were organized.
- 30 different National and Vernacular News Papers carried the news and feature stories.

- 5 different News Channels aired the news related to the Campaign in different states.

### *Public Hearings/Victim, witness, survivors Conferences*

State level Conferences / Public Hearings of Victims and Witnesses, Survivors on the status of SCs and STs PoA Act 1989 were organized in different states such as Punjab and Himachal Pradesh to name a few. More than 700 people participated and around 30 testimonies were shared. In the presence of the SC/St commissions, judicial institutions and government officials the realities of the Dalit Adivasi was raised and demand for the effective enforcement of the PoA act was made. Also the demand to amend the PoA act urgently was powerfully presented.

### *Campaign Materials*

To generate awareness against atrocities and to increase the participation of the community to raise the amendments in the form of demands and to mobilize the community around this campaign, we came out of the various creative, innovative and effective campaign materials. Many states prepared and printed different materials such as Booklets on the amendment, Pamphlets, posters, missed call campaign, postcard, signatures etc. The campaign materials were used by the community, leaders, activist and Panchayats leaders around the country.

### *Missed Call Campaign*

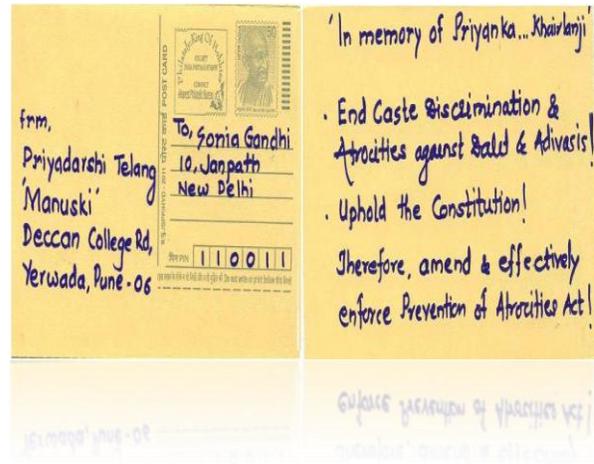
To generate massive grassroots mobilization for the National Dalit and Adivasi Sammelan at Ramlila Maidan in New Delhi (Conference) on 23 November 2012 a missed call campaign was launched in the month of the October. One of the objectives of the campaign was to connect and inform the public about the campaign and strengthens the larger participation of masse in the Call to the Nation '*No more Atrocities, Annihilate caste.*'

*Over 3,00,000 people used this tool of the campaign and got registered.*

The campaign was a very effective and had a huge impact in educating the masses about the PoA act and the proposed amendment. The method was simple. A number 09266638810 was selected and circulated among the people. They can call on that phone number, which would go as the missed call so that the caller doesn't need to pay. Once the missed call is registered the caller would get a message, "Thank you for joining the campaign to End Untouchability and Atrocity. Chalo Delhi: Dalit- Adivasi Sammelan on Nov.23 at Ramlila Ground. Log in to [www.annihilatecaste.org](http://www.annihilatecaste.org)"urg

## Post Card Campaign

At State level Maharashtra initiated a Post Card Campaign. With this letter we appealed all the people to send the Post card to the President, PMO office, Ms. Sonia Gandhi- UPA Chairman, Minister Social Justice, Home Minister & Chief Minister etc. regarding amendments in PoA Act. We were able to send 20000 post cards. The post were sent with the following message-



- ▶ **End Caste Discrimination and Atrocities against Dalits and Adivasis.**
  - ▶ **Uphold the Constitution**
- Therefore amend and effectively enforce Prevention of Atrocities Act**

## Signature Campaign

Coalition members in many states also initiated the Signature Campaign to support the amendments process. The memorandums on required amendments were prepared and they were sent to various enforcement authorities with the thousands of people supporting the amendments and demanding the effective implementation of the PoA Act.

**Altogether around 30,000 signatures were collected in different states.**

## Amendments 'Blue Booklet'

The National coalition with the extensive work from NDMJ came out with a comprehensive booklet on the proposed amendments. Booklets reflect on the state of the implementation in *Monitoring & Sensitizing of Enforcement Agencies and Authorities* nutshell and explaining the need of the proposed amendments. The booklet was prepared in English and translated in many languages.

This was used as the tool to strengthen the campaign; the booklets were circulated in English around 10000, Hindi 20000, Punjabi 5000, Gujarati 5000, Odiya 5000, Tamil

## Campaign Pamphlets

Campaign Pamphlets were prepared in many different languages and creatively to reach out to the people. The pamphlets invite all the people to join the call to end the

Untouchability and annihilate caste, giving all details of the horrific scenario of the atrocities against Dalit and Adivasi communities. The pamphlets were prepared in many different languages

### *National Dalit Adivasi Sammelan*

As the culmination of the efforts and the tremendous momentum generated through the country wide actions programs, rallies the National Dalit Adivasi Sammelan was an occasion to give a call to Nation to end the Untouchability, no more discrimination and demand the elected representatives, government officers and people of this nation to amend the PoA act and enforce it effectively.

The National Dalit-Adivasi Sammelan, held on 23 November 2012 at the Ramlila Grounds in Delhi, was a massive show of strength. Around 22,000 Dalits and Adivasis from 15 states of the country – Andhra Pradesh, Bihar, Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh – flocked to the grounds to raise their collective voice against continuing untouchability, caste and ethnicity based discrimination and violence.

The massive public event, while drawing crucial civil society attention on the viciousness of social discrimination, also aimed to galvanize strategic political response on the issue by making public a comprehensive charter of proposed amendments to the PoA Act, 1989. The **National Coalition for Strengthening the [Prevention of Atrocities] POA Act**, which spearheaded and organized the Sammelan along with over 500 of its member groups and activists from across the country, used the occasion to **commemorate 63 years of the Indian Constitution.**



Participation of the Hon'ble Cabinet Ministers for Social Justice and Empowerment, Kr. Selja and her colleagues Ms Krishna Tirath, Mr. Mukul Vasnik and Mr. Balram Naik in the Sammelan is seen to reflect positive alignment of the central government with the issues raised by the Coalition. Speaking on the occasion, the cabinet minister reiterated her government's commitment to bring amendments to the Act, confirming to co-opt all the states in the process so the central government can bring in the legislation in the

parliament. While endorsing the need for the amendments, Smt. Krishna Tirath highlighted the need for unified and collective campaigns like the one by the National Coalition. A high point at the event was the presence of the veteran Dalit leader, Ramvilas Paswan, amidst other honorable members, Shri P.L. Punia, Chairman, SC/ST Commission, and senior national leaders, Shri Sitaram Yechuri, Shri J.D. Seelam, Shri D. Raja and others. Shri Ramvilas Paswan especially made an immensely emotional connect with the audiences recalling the promulgation of the Act when he was the Minister in 1989, and several other historical events related to Dalit emancipation.

The enthusiasm of the participating groups and communities from over 15 states was especially visible in the overwhelming number of women participants at the event. The atmosphere, charged with colourful presentations by local folk troupes from states, reverberated the spirit and perseverance Dalits have been demonstrating in their struggle for justice. The crowd kept cheering the performances with echoes of *"Halla Bol!"*, *"Inqalab Zindabad!"* and *"Baba Saheb Amar Rahen!"*



## *Monitoring & Sensitizing of Enforcement Agencies and Authorities*

### ***Filing RTI's and Follow up***

We file and also follow up Right To Information (RTI) application as routine activity as per the monitoring calendar for better enforcement of the provisions of the SC & ST (PoA) Act, 1989 & Rules 1995. We are regularly filing RTI applications every 20<sup>th</sup>, 30<sup>th</sup> & 31<sup>st</sup> of the month as per the provision of the Act, to activate the authorities under the Act and also get information on the status of the implementation of the Act. We filed 7 (District- 3 & State level - 4) types of RTI applications covering 201 atrocity prone Distt. Of 26 states & 3 Union Territories.

As a result.....

1. Officials started documenting the information under the Act.
2. The State & District Officials and members became aware that they are to conduct regular meeting as per the calendar of SC/ST (PoA) Act & Rule and submit the report or minute State & Central Govt.

### ***PIL Follow up in Supreme Court and High Courts***

We are following this PIL and on dated 14/12/11, when our PIL in Mirchpur case taken up on board the court also took notice of this particular PIL stated that before considering the visibility of issuing comprehensive directions for effective implementation of the provisions of the PoA Act it would be proper to examine the desirability of giving notice to the Union of India as well as the various state Govt. and seek their response.

The court also tagged Supreme Court PIL on non implementation of PoA Act and Special Leave Petition on Madhya Pradesh PIL with Mirchpur PIL. Since the matter is clubbed with Mirchpur PIL We followed up the PIL in this reporting period on 17/07/12, 15/10/12 and 07/11/2012. On 17<sup>th</sup> October our advocate Colin Gonsalves, pressed the Court in the context of the direction sought by the petitioners for effective implementation of the provisions of the PoA Act, 1989 and the Rules framed there under. On 15 October, 2012 and 07/11/2012 these matters were partly heard by a Bench consisting of G.S. Singhvi and Sudhansu Jyoti Mukhopadhaya, JJ. Now the matter is listed again for further directions.

In PIL Writ Petition No.1019 of 2006 at Andhra Pradesh an additional affidavit was finally filed which was admitted before Justice Lokur who posted the matter to 29<sup>th</sup> December 2011, before the 3<sup>rd</sup> court holding Justice Eashwaraiah. Now the matter is posted under the listing dated 21/01/2013. Our advocate will follow the same and mention the matter in the court for further proceedings in the coming days.

There were more than 20 instances of rapes in the month of September and October committed against the women, majority of them were Dalit women in the state of Haryana. Taking a serious note of the situation we immediately approached Supreme Court and filed a Writ Petition Criminal No 184/2012 on 16.11.2011 with the prayers for directing the SIT to conduct enquiry in all the cases of rapes mentioned and also for an order directing the state of Haryana to forthwith pay Rs. 10 lakhs to the families of the other victim girls.

This revision petition was filed in the Delhi High Court aggrieved by the order on charge dated 22.3.2010 passed by the learned ASJ in Sessions Case No.1006/2009, Rohini Courts where under, the court discharged the accused for offence under Section 3(i), (x),(xi)and(xv) of the PoA Act, 1989, while remanding the case to the concerned Illaka Magistrate for consideration of charge in respect of the allegations made under the IPC. We followed the case on various hearings in High court dated 20/04/2011, 25/04/2011, 22/09/2011, 27/01/2011/ 08/08/2012, 03/09/2012 and finally on 10/12/2012. On 10/12/2012 the judgment was pronounced by the high court with the directions to Session Court, Rohini restart the proceedings and fix the charges under SCs and STs PoA Act against the accused persons.

We are in the process of filing Public Interest Litigations on the non Implementation of the SCs and STs [PoA] Act 1989 and Rules 1995 in the states of Odisha, Punjab and Rajasthan. In this regard we have identified some of the gruesome atrocities cases with different gaps in the implementation of the PoA Act and Rules.

- **Punjab**- In the state of Punjab we intend to file the Public Interest Litigations with the cases presented in the victims and witnesses' conference held on 11<sup>th</sup> September, 2012 at Jalandhar, Punjab.
- **Odisha** - In the state of Odisha we organized a consultation on Public Interest Litigation on 24-25 March 2012 and identified 25 cases of atrocities with different gaps in the implementation. We have also drafted a synopsis of the PIL for filing. We are in the process of finalizing the case briefs
- **Rajasthan** - In the state of Rajasthan with support of Centre of Dalits Rights we intend to file a PIL in future. We are in the process of identifying the cases for the same.

### ***Fact-Findings & Follow up***

#### ***State Level***

We have undertaken 6 State level fact findings in this reporting period.

- Represented the cases after the fact finding mission to the concerned authorities, commissions etc.

- In some cases the Fact Finding team immediately met the members of State SC/ST Commission, Revenue Development Officer, DySP, Inspector of Social Justice and Human Rights and Superintendent of Police
- In some of the cases immediate actions were taken by the Police Officials and concern authorities.

Apart from our regular follow up of FF cases, we also supported the victims of gruesome atrocity

- Committed on 80 Dalits in Lakshmi pet, Srikakulam District of AP in their follow up of cases with Parliamentarians and concerned Officials.

### *National Level*

We have undertaken 3 National level fact findings in this reporting period.

- In these cases we organized Fact Finding missions with support of various state level CSOs activists, retired Officials
- We immediately met the victims & witnesses and concern investigating officers, District Collector, District Welfare Officer of Social Welfare Department, SP, DySP, etc with the gaps in the implementation of PoA Act
- Presented memorandum and represented the cases after the fact finding mission to the concerned DM, SPs, CMs, NHRC & NCSC commissions, etc.

In Kushinagar Case through our intervention with District Collector proper section of SC/ST (PoA) Act was invoked.

### *Status Report/Alternate Report on Enforcement of the Act*

In this reporting period, we prepared the **“Peoples’ Report” (year 2009-2011) a Status Report of Implementation of SCs & STs (PoA) Act**, in line with the required Annual Report of MSJE under section 21(4) of the Act, which they failed to submit to the Parliament after 2008. **The former Chief Justice of India and Chairman of National Human Rights Commission, Justice K.G. Balakrishnan and Chairman of National Commission for Scheduled Castes Dr. P.L.Punia** released this Status Report on 17<sup>th</sup> May 2012. We also printed **1020** copies

This Created pressure for the Ministry of Social Justice to submit their Annual report u/s 21(4) of PoA Rules regularly. At the time of the launch of Peoples’ report the Minister for Social Justice assured to bring the Annual Reports on regular basis, giving an overview of nature and extent of atrocities and response of enforcement authorities in ensuring registration, investigation, prosecution, compensation, relief and rehabilitation in respective states.

Status report is being used by various CSOs, activists as an advocacy document for strengthening the implementation of PoA Act both at state and national level with policy makers as well as parliamentarians.

We also prepared and released a State level **“Himachal Pradesh Status Report on the Implementation of SCs and STs (PoA) Act 1989 and Rules 1995”**. Around 81 *Social activists, representatives of social organizations*, from different districts of Himachal Pradesh along with *Mr. A.K Prashar* (Registrar, National Human Rights Commission, New Delhi,), *Prof. K.S. Dhir* (Founder Chairman ,Peoples Campaign For Socio-Economic Equity in Himalayas), *Dr. Sirivella Prasad* (NDMJ Delhi), *Mr. S.P. Kaushal* (Retired IG) and *Adv. Dalip Singh*, Ex MLA Himachal Pradesh, *Miss. Archana Phull* (Bureau chief, Daily Post India) and *Mr. Lal Chand Dhisha* (Retired Civil Servant) were present in the conference. The purpose of this report is to discuss and review the status of the performance of the Government of Himachal Pradesh in implementing the various provisions of the PoA Act for the protection of the rights of Dalits and Adivasis. The report aims at the following:-

- *Give an overview of nature and extent of atrocities and response of enforcement authorities in ensuring proper registration, investigation and prosecution of atrocity cases in Himachal Pradesh.*
- *Document atrocity cases against Dalits such as attempted murder, rape, sexual harassment, social boycott, mass attack, torture, caste abuse, assault, destroying properties, looting, practicing untouchability, etc.*
- *Indicate the lacunas in the implementation of the Act and also the changing nature of discrimination and atrocities, as well as the status of implementation of the various accountability mechanisms.*

*Analyse the functioning of the DVMCs in 9 districts of the state on the basis of the information received through RTIs, as well as the functioning of other monitoring mechanisms involved in the effective implementation of the PoA Act and Rules.*

### ***National NDMJ Secretariat Monthly Review Meetings***

We as team of NDMJ organized 6 Review Meetings in the National Secretariat. Apart from this we also had several planning meetings on different activities including Sc & ST (PoA) Act Campaign

- We as a team reviewed the ongoing processes at National and State level activities and also planned for the future interventions
- Learnt from each other’s experience and sharing Had feedbacks on the activities carried out by us

### *Strengthening the Role of Civil Society in South Asia*

We organized 2 days planning meeting with the organizations from Nepal and Bangladesh along with Christian Aid at YWCA of India, New Delhi. A total of 14 participants attended this meeting.

- Had discussion on history and situation and violence of Dalits and the implementation of legal standards in India, Nepal and Bangladesh.
- Came up with the Action points and strategies to carry forward the project activities

### *Asian Consortium for Human Rights-Based Access to Justice*

HRBA2J-Asia and Kathmandu School of Law, in partnership with National Judicial Academy, Nepal (NJA), National Dalit Movement for Justice (NDMJ) India, Lawyers for Human Rights and Legal Aid (LHRLA) Pakistan, BRAC-HRLS, Bangladesh, Center for Legal Research and Resource Development (CeLRRd) Nepal and Forum for Protection of People's Right Nepal (PPRN) organized a two day sub regional workshop on 22<sup>nd</sup> and 23<sup>rd</sup> of December, 2012 at the Everest Hotel in New Baneshwor, Kathmandu, Nepal on the theme of **"Equal Access to Justice through Human Rights Based Approach: Strengthening the Capacity of Justice Sector"**.

50 participants (over two days) including the consortium members from Nepal, India in Nepal, including members from government and non-governmental institutions, academicians, members of the civil society and students attended the workshop. The organizations that were represented in the consortium are: NHRC Nepal, NJA Nepal, KSL (including students of Masters in Human Rights and Democratization, i.e. MHRD), Office of the Attorney General (OAG) Nepal, UNDP Nepal, Ministry of Law and Justice (MoLJ) Nepal, LHRLA Pakistan, NDMJ India, Manuski Trust India, Navneet Foundation India, Forum for Protection of People's Right Nepal (PPRN), CeLRRd Nepal, Ministry of Defense (MoD) Nepal, Swatantra Adhiyan Nepal, Search for Common Ground Nepal, Lalitpur District Court (Nepal), National Women Commission Nepal, National Society of Nepalese Jurists (NSNJ) Nepal, Nepal Police and INHURED International

### *National Monitoring committee for (STs) and Education of Scheduled Castes (SCs) and Scheduled Tribes Persons with Disabilities (PwDs)*

Ministry of HRD which has taken an important step by constituting a "National Monitoring committee for Education of Scheduled Castes (SCs) and Scheduled Tribes (STs) and Persons with Disabilities (PwDs)". The task of the Committee is to review the present

policies, suggest the measure to improve the implementation and monitor the progress and advise the MHRD on policy matter and progress. In order to carry out the objectives of the National Monitoring Committee a Standing Committee was constituted with Prof. Sukhdeo Thorat as the Chairperson. We are engaged as the members of the two Sub-Committees of National Committee namely -

1. Sub-Committee for drafting the guidelines for implementation of the SCSP (Scheduled Castes Sub Plan) and TSP (Tribal Sub Plan) – Higher Education.
2. Sub-Committee for drafting the guidelines for implementation of the SCSP (Scheduled Castes Sub Plan) and TSP (Tribal Sub Plan) – School Education.

### *Developing Regulation related to Caste based Discrimination in Higher Education*

In the month of April, 2012 Ministry of Human Resource Development sought suggestions from Pr. Sukhdeo Thorat , former Chairman U.G.C on developing " (Prevention of caste based Discrimination/Harassment/Victimization and Promotion of Equality in Higher Educational Institutions) Regulations, 2012. We along with Prof. Sukhdeo Thorat drafted a regulation which was later submitted to the Minister Mr. Kapil Sibal, Ministry of Human Resource Development for consideration. In the minutes of the 484th meeting of the University of Grants Commission held on 27th April , 2012, the Commission approved the UGC (Prevention of caste based Discrimination/Harassment/Victimization and Promotion of Equality in Higher Educational Institutions) Regulations, 2012 and decided to send it to the MHRD.

# WOMEN EMPOWERMENT

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## Joint Programming initiative on violence against Women

The women's desk (AIDMAM) is now a part of the two years Joint Programm in Initiative on Violence against women, under the International NGOs Partnership

The Agreement Programme - Through this programme, all the stakeholders would be focusing on the justice for marginalized women facing multiple exclusions based on identities related to Gender and Caste. The larger objective being the mainstreaming of violence against Dalit women in the larger discourse around violence against women and making the government and appropriate authorities accountable to address violence against Dalit women. As a part of this new initiative, AIDMAM organized **one day write workshop** wherein the participants gave their concrete inputs and added value to the process of building the design and draft framework of the module on understanding the intersections of caste and patriarchy which would be used for the trainings.



## Reframing Budgets - by Dalit women

AIDMAM in partnership with UN Women is currently exploring the critical components of Economic Rights & entitlements of Dalit Women with emphasis on Gender Budgets from Dalit women perspective and intersectionality between Gender responsive Budgeting and Special component Plan. The initiative includes a path breaking research study in Bihar to conduct a need assessment of Dalit girls in Bihar, and investigate as well as track the budgetary allocations for education schemes through Gender Responsive Budgeting and Special Component Plan. The national research team has facilitated research methodology discussions with UN Women and other institutions experienced in budget Tracking. AIDMAM has represented the case of Dalit women and their economic entitlements during the Monitoring & Evaluation workshop organized by UN women on 23 May in New Delhi. This workshop included all partners of UN Women across Asia.

## Dalit Mahila Garima Yatra

Disturbed over the series of sexual violence against Dalit women in Haryana, and followed by the spate of media reports on the same, several dalit organizations came together to express solidarity with the rape survivors and outrage against the institutionalized sexual violence on dalit women, by holding a State level 'Karwan' in Haryana to build pressure on authorities to enforce the law and protect Dalit women. The 'karwan' covered nine districts across the state from 1st to 9th November. Village meetings, rally, candle vigils, cultural programmes, press conference, survivors conference, pamphlet distribution were the few of the planned activities. Petition was submitted to the District Collector in each district. Read the Karwan report: [Dalit Mahila Garima Yatra](#)

## Haryana Fact Finding

The Fact finding mission was organized to probe into one such particular case of rape of a 16 year old dalit girl, who was gang raped by high caste youth in Hissar, in Haryana, on 9th September. The growing incidence of violence on dalit women and girls is irrefutable proof of the colossal failure of the state to protect them report of the Fact-finding Committee. The fact finding report was released to the media in the capital on 5 October



NCDHR-AIDMAM, constituted a high level fact finding team for the purpose. The Fact-Finding team comprised Advocate Seema Misra, Multiple Action Research Group (MARG); Advocate Ambalika; Dr. Ajitha, Women Against Sexual Harassment and State Repression (WSS); Ms. Pradnya Deshpande, People's Union for Civil Liberties (PUCL); Ms. Sunitha Thakore, Jagori; Mr. Sanjeev Kumar, Delhi Forum; Ms. Asha Kowtal, General Secretary of AIDMAM; Ms. Sumati, JNU; Ms. Abirami, NDMJ; Ms. Savitha, State Secretary, AIDMAM-Haryana; Mr. Rajesh, State Secretary, NDMJ-Haryana.

Read report- [Fact Finding report-Gang rape of Dalit girl by dominant caste youth, Hisar, Haryana, Oct 2012](#)

## Submission on Violence Against Dalit women to UN Special Rapporteur

The submission was made by AIDMAM in response to an official call for submissions sounded out by the UN Special Rapporteur on Violence against Women, in October 2012.

It was during this time that AIDMAM was involved in fact finding mission to Rape case of Dalit girl in Haryana, and had organised the Karwan to mount pressure on the administration. Read the submission:

[Violence Against Dalit \(Scheduled Caste\) Women in India-Submission to the UN Special Rapporteur on violence against women](#)

### **Nari Ka Chaupal**

**AIDMAM** in association with **National Mission on Empowerment of Women** (NMEW) organized a series of events with a focus on Dalit women elected representatives (DWERs). The objective was to enable an interactive dialogue between the DWERs and the ministries responsible for facilitating their effective participation in local governance. On **18<sup>th</sup> November**, a conclave of 40 dalit women representatives converged from across India to discuss the issues faced by them for being DWERs or dalit woman Sarpanch. Read the report: [Dalit women elected representatives-series of events](#)



### **Training programme on National Rural Health Mission and technical Information, June 25 to 27, Bhopal, Madhya Pradesh**

NCDHR organized a staff training program on National Rural Health Mission and technical Information, from. Participants from PACS network partners attended the training wherein CHSJ was the facilitator.

### **SC/ST Shiksha Vikas Adhikar (SVADHIK)**

A new joint initiative of NCDHR and IIDS (Indian Institute of Dalit Studies), called Dalit Adivasi Shiksha Vikas Adhikar is introduced in July 2012. SVADHIK aims to ensure Dalit and Adivasi student's access to educational entitlements through innovative schemes free from discrimination or exclusion in all forms of school and higher education- elementary, higher secondary, university, vocational, technical and professional. The programme advocates for a comprehensive entitlement policy for educational development rights of Dalit and Adivasi students at the national level as well as focused intervention in states of Bihar, Gujarat and Jharkhand in partnership with Centre of Social Equity and Inclusion (CSEI), Behavioral Science Centre (BSC), and SAMVAD.

## **Recommendations to the National Monitoring Committee for Education of SCs, STs and Persons with Disabilities, June 27, Vigyan Bhawan, New Delhi**

At the occasion of the first meeting of the National Monitoring Committee for Education of SCs/ STs and Persons with Disabilities, held under the Chairmanship Shri Kapil Sibal, Union Minister for Human Resource Development, DAAA presented a comprehensive analysis of all schemes implemented by MHRD from the Dalit and Adivasi perspective, along with a list of recommendations for better planning, allocation, implementation and monitoring of schemes for educational development of SCs & STs. The presentation was well received from all participants and the Hon'ble Minister responded in affirmation.

### **Some of the decisions taken after the presentation are as followed:**

- 1- National monitoring committee to constitute social group specific task forces
- 2- Each task force to have members representing different stakeholders
- 3- The task forces to submit the report to the standing committee within a period of six months

The National Monitoring Committee has been constituted for the first time by the Ministry of HRD to advise the Government on all matters pertaining to education and its pursuit for SCs, STs and PwDs. In addition, the National Monitoring Committee will review the functioning of various schemes launched by the Ministry for the purpose of promoting SCs, STs and PwDs in education.

Education Ministers of select state governments, parliamentarians, Secretary (SE&L), Secretary (Higher Education), Members of the National Monitoring Committee, distinguished academics, representatives of civil society organizations and senior officers of the Central and State Governments were present on the occasion.

## **Landmark initiative of the government of Andhra Pradesh for enactment of SCP/TSP in the State**

The Chief Minister of Andhra Pradesh has announced in the Assembly to constitute a Cabinet Sub Committee for studying the feasibility of enacting the Special Component Plan/Tribal Sub-Plan within two months time, with the support of all Dalit and Adivasi organizations to introduce the bill in the forthcoming parliamentary session.

This development is a result of the indefinite strike and struggle by All Dalit and Tribal Praja Sanghalu and political parties for the enactment of SCP/TSP under the banner of SC, ST Sub-Plan Nidhula Sadhana Ikya Karyacharana Committee, under the chairmanship of Sri Kaki Madhava Rao, IAS, Rtd, and Former Chief Secretary to Government of Andhra Pradesh, and other Retired IAS officers, K.R. Venugopal and Danam Garu.

## **Recommendations to the Parliamentary Committee on Special Comonet Sub-Plan (SCSP)**

Concerning advocacy on Union and Delhi Budgets, NCDHR submitted an advocacy note entailing a department and scheme-wise budget analysis of Union and Delhi State governments, respectively, and Recommendations for its proper planning and implementation to Shri Gobinda Chandra Naskar, the Chairman, Parliamentary Committee on the Welfare of SC/ ST, and 17 other members of the Parliament. The meeting took place on June 26.

## ECONOMIC RIGHTS

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### **Sau Mein Pachees Haq Hamara!** **A Struggle to reclaim the rightful share of Dalits and Adivasis**

Dalits & Adivasis from all over India stormed the capital demanding their share, in a protest march **“Chalo Parliament”**, on May 9. The campaign call ***Sau Mein Pachess Haq Hamara***, was given on April 24, with a mass protest at Jantar Mantar, in coordination with the re-opening day of the Parliament session. Parallel protests in six states accompanied the protest in Delhi.

Aruna Roy, NAC member, acknowledging it to be a political battle, fiercely articulated the need to demand from all political parties the inclusion of the agenda of legislating the SCP /TSP into their respective party manifestoes in order to win votes from Dalits and Adivasis. Shri Prakash Karat, expressed solidarity with the movement acknowledging violation of set guidelines for SCP and TSP, assuring support to the movement both inside and outside the Parliament. Shri Mungekar, invoking the diversion of SCP / TSP funds by the Delhi government, which is on record of the parliament, exhorted the Union and state governments to be sincere and honest to the welfare of Dalits and Adivasis. Among other members of Parliament addressing the gathering were Shri D Raja, Shri JD Seelam, Shri Arjun Meghwal, Shri Ashok Argal and Shri Ram Vilas Paswan.



### **Dalit activists mourned betrayal**

Around 100 people along with leading Dalit activists, including Paul Divakar, Prasad Sirivella, Shri. Madhava Rao, Retd Chief Secretary of Andhra Pradesh, and Shri Rajendra

Gautam, national vice-president of Samata Sainik Dal, shaved their heads in mourning to portray the bleak picture of the government and how it is 'cheating' and weaning the money belonging to SC /ST.

### **Why the campaign?**

SCP and TSP were instituted in the year 1978-79. These are the two plans which form an integral part of the SC/ST welfare fund. The government had decided that out of every 100 rupees spent by the government, Rs.16/- will be spent for Dalits and Rs.8/- spent for Adivasis every year; and that the funds would be used for such schemes that will directly benefit SC/ST individuals/households or SC/ST bastis/tolas/localities. The government has instead, very conveniently, diverted a large share of this money to general schemes, hardly benefitting the Dalits and the Adivasis. One of the examples of siphoning off the money is the diversion and misappropriation of funds for building the stadia and other such infrastructure during the common wealth games in 2010, thus weaning the rights of the Dalits and Adivasis.

Prime Minister Manmohan Singh had also remarked that SCP and TSP funds should be non-divertible and non-lapsable, with the clear objective of bridging the gap in socio-economic development of the SCs and STs within a period of 10 years. 33 years have lapsed and the government has failed to keep its promise even for once.

With this background, a coalition of organizations across the country, committed to the realization of rightful claims of Special Component Plan (SCP) and Tribal Sub Plan (TSP), came together to form SC/ST Budget Adhikar Andolan.

### **Need and Demands**

- I. A Central legislation be designed for Special Component Plan and Tribal Sub Plan. This Central legislation should provide for:
  - a. Clearly setting apart a proportion of the total Plan outlays of Centre and States that is equivalent to the population proportion of SCs/STs at national and state level, for their development.
  - b. A well- designed, dedicated institutional set-up at the Central & State level, which shall allocate SCP/TSP funds to the Ministries/Departments, duly taking into consideration the developmental needs of SCs/STs. This will enable the Ministries/Departments to clearly show the schemes formulated for the development of SC/STs under a separate budget head.
  - c. Encouraging participation of community, CSOs and experts in planning as well as implementation and evaluations of schemes.
  - d. Publishing the performance/outcome budget every year, providing details about the beneficiaries and be made available to public access.
- II. The shortfall including the notional amounts of Rs. Cr. 33,756.74 of SCP and Rs. Cr. 13,275.95 of TSP in the current Union budget 2012-13 be returned, and reallocated to schemes with a clear objective of bridging socio-economic gap between SCs/STs and Non-SCs/STs with particular focus on health, education, housing, assignment/acquisition of land, employment, income generation, entrepreneurship and access to basic amenities.

## **Monitoring Exclusion in Disaster and Risk Management**

### **Ongoing efforts to ensure entitlements post Orissa 2011 floods**

In continuation to the inclusion monitoring and advocacy for realization of entitlements of the 2011 flood affected Dalit communities in the districts of Kendrapada and Jajpur in Odisha, network groups and other facilitating individuals have been meetings with officials and Members of Legislative assembly. A separate strategy has been planned by the Odisha core group comprising 10 network organizations working on the issue of flood monitoring to capacitate the newly elected panchayat leaders on the issue of inclusion and DRR post PRI election held in Feb 2012.

### **Vulnerability Mapping & Inclusion Monitoring Manual**

NDW is already in the process of developing a community friendly Vulnerability Mapping & Inclusion Monitoring Manual for capacitating the Dalit communities and organizations (both Dalit and non Dalit) keen to work for Dalit inclusion in DR-DRR, with ways and means of ensuring inclusive approach to humanitarian work. The tool is primarily aims at identifying and strengthening Dalit community volunteers in assessing their own vulnerabilities associated with caste and other factors, and thereby taking measures to approach the authorities for their entitlements, and preparedness to hazards/ disasters.

### **Orissa government resurveys after Dalit Watch advocacy**

As an outcome of ongoing inclusion monitoring and advocacy to ensure entitlements to Dalit communities affected by 2011 massive floods in the districts of Kendrapada and Jajpur, villages in Kendrapada have been re-surveyed by the officials on the basis of our findings of excluded Dalit families from the first government survey.

## **ASSERTING DALIT SPACE: CONFERENCE OF PARTIES TO THE UN CONVENTION ON BIODIVERSITY**

### **Indo-Japanese Side Event on:**

**“Sharing Traditional Knowledge of Social Minorities on Biodiversity and Ecological Sustainability”, 11 October, Hyderabad**

Organised on the margins of the side events, during the Conference of Parties (CoP) to UN Convention of Biodiversity, hosted by the Government of India, in October, NDW jointly with International Movement against All Forms of Discrimination and Racism (IMADR), Japan Civil Network for UNDB (JCNUNDB); and researchers and activists gathered around the Buraku Liberation Human Rights Center, hosted this consultation. The objective was to understand the current position of indigenous communities (Adivasis) in India, and (Ryuku and Ainu) Japan and socially excluded communities, Dalits and the people of Buraku in both

countries (sharing similar history of discrimination, in the light of CoP **Strategic Goal D: Enhance the benefits to all from biodiversity and ecosystem services, Target 1**, and **Strategic Goal E: Enhance implementation through participatory planning, knowledge management and capacity, Target 18**).

**Key recommendations comprise:**

- Including and declaring Dalits, Yanadis and people of Buraku communities in the Convention on Biological Diversity as 'local minority communities' (as opposed to 'local communities'), as the indigenous already have it declared through the UN Human Rights Council Declaration on the Rights of Indigenous Peoples;
- Revisiting the policies and legislations that are neglecting the livelihoods of biodiversity dependent communities.

Access detailed report at: [“Sharing Traditional Knowledge of Social Minorities on Biodiversity and Ecological Sustainability: In Search of an equity-based eco-development”](#)

**“Ensuring inclusion of Biodiversity-dependent communities in all Preparedness, Adaptation and Mitigation measures”, on 15 Oct, Hyderabad**

Another side event, organised with the specific objective of understanding and deliberating on the current position of Dalits in India in accordance with the National Action Plan on Climate Change *and Article 4, 1(g,h,i) and Article 6 of the United Nations Framework Convention on Climate Change*.

The consultation looked at the Dalit communities in the entire context of climate change adaptation, and the need to focus on building their adaptive capacity to combat adverse effects of climate change, particularly on biodiversity dependent livelihoods. The deliberations were motivated by the Govt. of India’s commitment under the *United Nations Framework Convention on Climate Change*, to operate on the principle of **‘Protecting the poor and vulnerable sections of society through an inclusive and sustainable development strategy, sensitive to climate change’**, among other principles.

This was probably the first time in all these years that Dalit agenda was placed in the official discourse of the CoP. The consultation observed participation of international delegates from Nepal and Japan, namely, Nepal National Dalit Social Welfare Organization and Feminist Dalit Organization, and International Movement against all form of Discrimination and Racism (IMADR), Japan, besides Indian delegates representing different sectors within the Disaster Risk Reduction (DRR)/Humanitarian sector.

Access detailed report at: [“Ensuring inclusion of Biodiversity-dependent communities in all Preparedness, Adaptation and Mitigation measures”](#)

