

# Status of Marginalized Children in India: Policy Gaps and Way Forward

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**Abstract:** This paper seeks to highlight the situation of marginalized children; especially the socially excluded children from Scheduled Caste (Dalits) and Scheduled Tribes (Adivasis) communities. The attempt is to analyze government policies and schemes in the backdrop of Sustainable Development Goals (SDGs) 16 and United Nations Convention on the Rights of the Child (UNCRC) to promote and protect the rights of these children. Further the paper examines the government programmes thereby proposing policy level changes to promote child centric policies and strategies to protect the rights of dalit and adivasi children.

**Keywords:** Adivasis, Caste system, Caste based discrimination and violence, Dalits, Discrimination, Equality, Equity, Fundamental rights, Indian constitution, Intersectionality, Patriarchy, Social justice, Sustainable development goals, Scheduled Castes, Scheduled Tribes, Sustainable Development Goals (SDGs) 16, Untouchability, United Nations Convention on the Rights of the Child (UNCRC).

## 1. Introduction

India is home to largest child population. As per India's census in 2011 children between the age group of 0-18, are 472 million i.e 39% of the Indian population, in which 16.45 Cr children are in the age group 0-6 years and 37.24 Cr are the age group 0-14 years which constitute 13.59% and 30.76% of the total population respectively. Among them, 48% are female in the age group 0-14 years. 74% of the children (0-6 years) live in rural areas whereas rural population constitutes 69% of total population of India.

Declaring itself a Republic on 26 January 1950, India gave itself a strong Constitution; mandated fulfillment of basic human rights of all people and foregrounded positive discrimination as a safeguarding policy to promote equity in the country for enabling social justice to discriminated communities/categories of people such as the SCs, STs, Women and the differently abled. The Indian Constitution encompasses most rights as Fundamental Rights and Directive Principles of State Policy. Through these constitutional provisions, India's children are protected with a range of rights.

Over the years special laws have been enacted due to the rise in crimes against children as well as new guidelines and protocols established for ensuring better implementation of

laws. Although on one hand there is a legal system; we see several barriers confronting children especially, from the marginalized communities.

**Contextual Analysis:** Children from marginalized communities are impacted due to their socio-economic condition which is based on caste and other identities. They are subjected to vulnerability due to rising violence, discrimination, poverty, poor health, hunger and malnutrition, denial of education, or poor quality of education. Apart from these the increasing economic divide, forced eviction<sup>1</sup>/ migration /riots /pandemic<sup>1</sup>/ disasters significantly impact children. The state in these situations of disasters do not have a child responsive mechanism. Therefore, the key gap remains in devising a child centric approach in policy making and execution.

The superficial existence of legal systems and mechanisms with no proper thought into planning and non-recognition of the socio-economic hierarchies in the society has widened the gap; majorly impacting the lives of children. Societal norms based on the hierarchy of patriarchy and caste; still continue to perpetuate unequal social relations and have pervaded the lived realities of children. These experiences impact and translates into manifold effects on their psychosomatic development. Thus, the four principles of child rights in accordance to United Nations Convention on the Rights of the Child (UNCRC) namely; (i) *survival*, (ii) *development*, (iii) *protection* and (iv) *participation* are not being taken into consideration with so many young lives (dalit, adivasi, girl children, minority children) being impacted and denied their rights and dignity. The following sections will focus analysis on the status of right to life and equal treatment, right to protection, right to health, right to education of Dalit and Adivasi children and the government response.

### A. Right Against 'Untouchability and Discrimination'

The Indian Constitution and the UNCRC upholds the rights and dignity of all children. Important legal mechanisms have been enacted that makes the practice of any form of Untouchability 'an offence'. The *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act* was enacted in 1989 to protect Dalits and Adivasis against caste-based discrimination and violence, thus recognizing the prevalence of

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social injustices in the society. Nevertheless, formulation of laws alone will not bring social transformation; as cultural aspects of caste and gender-based hierarchies are still prevalent. The government in the last CRC reporting cycle in 2011 acknowledged disparities based on caste, class and gender.

*Impact on Right to Life and Equal Treatment:* Children belonging to marginalized communities such as Dalits, Adivasis and minority groups form a vulnerable section of Indian society due to interplay of prejudices based on gender, caste, ethnicity, or religious minority identity. In a study on exclusion in schools many children reported discrimination, humiliation, violence and ill-treatment in schools due to their identity<sup>ii</sup>(Manikanta and Judith Anne 2017). Indifference, silencing, combined with authoritarian structure of schools, and stigma attached to such incidents allow violence against children in education settings to go under reported.

With the emergence of dalit rights organization and engagement in the fields cases of discrimination are now being revealed and reported- incidents wherein *dalit* and *adivasi* children have been made to clean septic tanks, not allowed to drink water from pots, made to sit separately during mid-day meals, treated with disrespect and so on.<sup>iii</sup> The Sarva Shiksha Abiyan (SSA) and the Right to Education(RTE) Framework for Implementation, 2011 identified children from diverse social groups and under difficult circumstances as victims and possible victims of discrimination in education system. Most often children (SC, ST, DNT, Muslim communities) are further discriminated in their particular context of migration, conflict situation, or are subjected to child labour making them double victims of discrimination and violence. Girl children across board are discriminated and not given equal opportunities or attention and are often the first victims based on family or school situations. Many Dalit children are treated as 'untouchable' by teachers and other students.

With incidents being highlighted in the media, a parliamentary panel asked Central government to organize "regular surprise inspections" in elementary schools to detect instances of untouchability and other caste biases in cooking and serving the midday meal in the areas dominated by scheduled caste (SC) and scheduled tribe (ST) communities. The panel disagreed with the HRD ministry's claim that no instances of discrimination, the panel reiterated the reality exist in the school<sup>iv</sup>. Therefore, the prevalence of discrimination based on their identity such as caste/gender/ethnic identity impacts children's Right to Life, Survival and Development.

#### *B. Right To Protection from All Harm – Discrimination and Violence*

Children from the SCs/STs Community face multiple forms of discrimination, violence, social exclusion and forced labour; the lives of children from Dalit and adivasi communities are lost to sexual violence, bonded labour<sup>v</sup>, physical violence, malnutrition and hunger in the country. Since the last decade, crimes against children particularly increased over six times from 22,500 cases recorded FY 2008 to 148,185 cases FY 2019 according to the National Crime Record Bureau (NCRB 2019). In 2020, despite pandemic and consequent lockdown the NCRB

data reported 128,531 cases of violence against children.

*Right against bondage/slavery and child labour:* The International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Economic-Social and Cultural Rights (ICESCR) outlaws' all forms of slavery and forced labour. The same is prohibited by Indian Constitution (Article 23) and practice is further criminalized by SC/ST Atrocity act of 1989 and Prohibition of Child Labour Act, Prohibition of Manual Scavenging Act. The National Policy on child Labour, 1987 contains action plan for tackling the problem. It envisaged a legislative action plan focusing and convergence of general development programmes for benefiting children wherever possible, and Project-based plan of action for launching of projects for the welfare of working children in areas of high concentration of child labour. India is believed to have around 3.3 crore child labours (Dalits and Adivasi form maximum of these numbers). However, the policy does not mention Dalit and Adivasi Children, in spite of the existing data which suggests 76.4% of the total Child Labours in the country are Dalits, Adivasi or other backward communities (ORF, 2020).

Despite these progressive laws and policies, there have been reported cases wherein dalit children are engaged in cleaning septic tanks<sup>vi</sup> in school; most of these cases the Dalit children are made to perform these tasks. Even when in the care of guardians, they are pursued as targets for bonded labour<sup>vii</sup>. Various reports and studies have identified bonded child labour in a number of occupations including agriculture, brick kilns, stone quarries, carpet weaving, bidi (cigarette) rolling. As many as 476 incidents of Child Labour were reported and 705 children rescued in the year 2020 (NCRB, 2020).

In Tamilnadu, the spinning mill owners invented Sumangali scheme primarily to secure a steady labour supply of submissive adolescent female labourers alluring them as a promising venture to save up for their marriage. About two decades ago, with the help of contractors they started targeting young Dalit girls who had completed their basic education at the age of 14 years, and school drop-outs. 60 to 70% of the young women workers are Dalit. Research carried out by NGOs namely SAVE and READ between 2013-15 data shows that 23% of all Sumangali workers were younger than 14 years of age and 26.85% of workers were between 12 and 14 years of age at the moment they were recruited, implying that a quarter of all workers are child labourers. This is in violation of, not only labour laws but also the right to free and compulsory education. During inspections, girls are hidden in closets/closed rooms/doctors are brought in to certify that they are older than 14 years of age. An extensive study on home-based garment workers in India found 99 per cent of workers toiled in conditions of forced labor under Indian law, with over 99 per cent of the workers found to be either Dalits or Muslims. The issue of sexual slavery is directly linked to caste and forced prostitution; the exploitative sexual form of Devadasi and Jogini systems are still practiced with many dalit girls being sexually abused.

*Enactment of Child Protection Law and incoherence of laws:* In the Year 2012, the Indian State enacted Protection of

Children from Sexual Offences (POCSO) Act, 2012 to deal with offences of sexual assault, sexual harassment and pornography on children. It requires special provisions, such as setting-up of special courts, appointment of special public prosecutors. The law is progressive, given the gender-neutral aspect of the law and the recognition of violence faced by male children.

In 2018, POCSO Act has been further amended; which extended the punishment period in specific forms of violations. The Act has been amended to try children above 16 years of age accused of sexual offence as adults. The treatment of children in conflict with law creates further divide in the various legal provisions and criminalizes children as the new act would try those above 16 as per the adult norms. Some state governments have introduced death penalty for the perpetrators of child sexual abuse and murder. Thus, the recommendation by the Committee on CRC for harmonization of laws is not followed. In cases of violence against Dalit and Adivasi children the POA act has to be invoked according to the nature of crime in addition to IPC and POCSO section as per the crime committed.

*Unsafe Surroundings And Violence In Educational Institutions*<sup>ix</sup>: Violence is perpetuated in multiple forms, "physical or mental violence, injury and abuse, neglect, maltreatment or exploitation, including sexual abuse." In recent times, there's an increase in cases of violence and sexual assault faced by children in neighbourhoods, homes, schools, hostels, on the way to schools and in detention centres. Teachers and staff, as well as senior students, have been found to abuse their authority over children in the form of sexual coercion. In many state run schools and hostels, cases of gross violation of a child's rights have been reported; assault, neglect and death of children in state run schools and hostels especially run for the marginalized children has been alarming. Incidents in Bihar and Uttar Pradesh shelter homes unravel the existence of organized trafficking; wherein children and young adults from the marginalized community are pushed into trafficking and sexual slavery. In Odisha, government run residential schools reported 155 deaths. Recently on 14th August, 2022 it was reported from Jalore district of Rajasthan from a private school a 9-year-old Dalit student was beaten for drinking water from the pot of the head master. He was severely beaten leading to the death of the child.

*Form of violence*: In India, violence against children remains constant unnerving issue. Despite, the Pandemic and lockdown in the year 2020 a total of 128, 531 cases of atrocities on children have been reported. Since 2013 to 2019; there is an unprecedented surge in cases of Kidnapping and abduction, rape of children, and murder of children. 47,335 cases registered under POCSO and 97, 285 crimes under IPC crimes in the year 2019. According to 2019 - 2020 NCRB data

analysis, 9 to 10 dalit women and girls are raped every day in the country. In most of the cases there have been high pendency rate<sup>x</sup>.

5 states in India accounted for 51% of reported crimes; with highest cases reported in Uttar Pradesh, followed by Madhya Pradesh, Maharashtra, Delhi & Bihar. According to NCRB data 109 children are sexually abused every day in India, and Rape on children amounted to 18% of all crimes against children. As per an analysis of NCRB data there has been an increase in India's Missing Children every year; during the year 2016 a total of 63,407 children went missing and in the year 2019 the missing cases reported cases of 69,075 and a majority of missing children were mainly from Madhya Pradesh, West Bengal, Delhi, Bihar and Tamil Nadu.

### C. Right to Education

*Statistics at a Glance*: The Overall literacy rate of India is 73%; for Dalits (SCs) it is 66.1% and for Adivasi (ST) at 59%. And the literacy rate among children (7-18 years) stands at 88.3% and the gender gap observed for this age group is 3% in 2011. According to UNICEF Survey, around 51% of the dalit children have dropped out of from the elementary schools (IDSN, 2014), as opposed to 37% children from non-Dalit communities. In 2016-2017, more than 85 lakh students belonging to Dalit and Adivasi communities are awaiting scholarships that have been delayed for over one year. As a result, many students are either forced to drop out from their courses or are facing a bleak future (DABA-NCDHR, 2017). And more than 12% of rural households did not have secondary schools in the 5 km radius (Education Statistics Report, GOI, 2018).

The SC enrollment in 2018-19 fell short of mandated quota of 15%, & ST by (7.5% of required quota) (All India Survey of Higher Education (AISHE) 2018-19). There are gaps between revised estimates and expenditure in the case of pre-matriculation (Classes 9 and 10) scholarships for Scheduled Caste students as well.

*Inaccessible entitlements*: The scholarship is one of the equity measures to support education among SC, ST and other socially oppressed children to access education and reduce education inequalities. However, in many cases children are not receiving entitlements on time. On the pretext of delay of funds children have been subjected to humiliation and hence no financial support was possessed by the children to continue their education.

A closer analysis of budgetary allocation under specific schemes for children belonging to SCs and STs the allocation is way too minimal. Thus, revealing the lack of targeted focus on the socially marginalized sections of the society. A close look at the specific 14 schemes under different ministries for SC children (students) the allocation is 5781.44 crore (6.3

Table 1  
Nature of Violence

Year	Kidnapping & Abduction (IPC)	Rape of Children (IPC/POCSO)	Girls u/s POCSO 4 & 6	Boys u/s POCSO 4 & 6	SC Children (POCSO & SCs and STs POA)	ST Children (POCSO & SCs and STs POA)	Rape and Murder
2017	63,349	17557	17382	179	656	387	139
2018	67, 134	21605	21401	204	869	399	139
2019	69,075	26192	25934	258	1117	396	129
2020	54785	47221	28058	269	1391	91	115

percent of the total Budget for children), whereas for ST students is 2784.84 (3 percent of the total Budget for children) and children from the minority communities under the Ministry of Minority Affairs received a total of 2.7 per cent of the Child Budget. The strategy of Tribal Sub Plan (TSP) has been in force since 1974, to ensure adequate flow of plan resources for the development of Scheduled Tribes, while the strategy of Scheduled Castes Sub Plan (SCSP) (earlier known as the Special Component Plan for Scheduled Castes) has been in force since 1979-80, to ensure proportionate flow of plan resources for the development of Scheduled Castes (SCSP\_TSP report, MHRD).

Yet, the allocation lacks coherence in proportion to the population of the children from the community. For the FY 2022-23 budget, the GOI has merged the scholarships of children, whose parents are engaged in cleaning occupations and prone to health hazardous under the Pre-Matric Scholarships with others. This merger will not provide the data of children receiving their scholarships under the previous category and neither has the meager amount being revised. Therefore, the overall inadequate budgetary allocation and further cuts in budget by Central Government in Education Sector are major concerns impacting a majority of girls, dalit, adivasi and children from disadvantaged communities who are dependent on public schooling. Parliamentary Panel on Education identified shortfalls in the Budgetary funding and utilization in the critical infrastructure requirement such as power supply and play grounds.

Secondly, report on the 2020-2021 demand for grants for school education submitted to the Rajya Sabha, the Parliamentary Standing Committee on Human Resource Development (HRD) expressed concern that budgetary allocations saw a 27% cut from proposals made by the School Education department. Despite proposals for ₹82,570 crore, only ₹59,845 crore was allocated. Noting similar 27% reductions for the Central and Centrally Sponsored Schemes as well, the panel recommended that these core schemes get additional funds at the revised estimates stage.

Participation of children and keeping in mind the difference in regions and within areas is something that is missing in the processes of policy formulation and implementation. A good practice that the government can adopt to is hold consultation with CSOs working with Dalit, Adivasi children having consultation on matters affecting them is the most important. The centralization of control is the biggest drawback which the NEP aims to do. Decentralization of initiatives, budget planning, execution should be left to the states.

#### D. Right to Health

India was Ranked 94th out of 102 countries in Global Hunger Index. Mainly due to poverty children from the Dalit and Adivasi communities are severely affected. This is because the parents do not have enough income to provide for nutritious food; leading the Children from the dalit and adivasi communities severely stunted and wasted. Over 150 children died in Bihar of acute encephalopathy in May and June 2019; they were poor and malnourished; and majority were from

Scheduled Caste, and extremely backward castes, - Mallah, Sahni, Chammar, and Paswan communities and Muslim families. Due to abject poverty most of the children slept hungry- In 2014, the Union Minister for Health and Family Welfare Harsh Wardhan had announced 100-bed government hospital in addition to the SKMCH and Sadar District Hospital in Muzzafarpur. But nothing has happened according to Dr. Sunil Kumar Shahi (Director –SKMCH, Muzzafarpur), (Public Health, Frontline, 2019). In another incident as reported by NDTV news channel from in Chuha Pahar village, Sahibganj district, Jharkhand, “Adivasi students were consuming rats and rabbits as they did not have enough to eat” and on investigation it was also learnt the teachers were mostly absent due to which children did not have access to mid-day meals.

*Lower Nutrition Levels:* Dalit Adivasi children have lower nutritional levels. The socio-economic differences in access to adequate and diversified diets are also reflected in differential nutritional outcomes. Out of the estimate 1.27 billion population, a total of 77% are considered poor and vulnerable, and 70% are Dalit out of this poor, and they fail to get two square meals a day, (Das, 2016). Dalits and Adivasi children are most deprived of proper food, nutrition and basic health facilities. These children suffer from under nutrition, indicating they are at the bottom end of receiving development and welfare policies being implemented in the last 77 years of independent rule. The NHFS 4 (2015) found that only about 9.6 per cent of the children in 6-23 months age group were fed the minimum acceptable diet. Vulnerability - the CAG (2017) report stated that the Tribal Groups are more vulnerable to disease and malnutrition than the rest of the population. Tribals in remote areas have to cover a distance of five to 80 km to reach a community or district health centre. Across India, people have to cover an average distance of 13.55 km to reach a community health centre. Though nutrition and health outcomes of scheduled tribes have improved over the past three decades, they still perform poorly when compared to the rest of the population. Tribals constitute 8% of India’s total population, but, in 2015, they accounted for 30% of all cases of malaria, including brain malaria, and 50% of deaths because of malaria. This has an economic burden of Rs 6,000 crore, according to the 2018 tribal health report by the Ministry of Health and Family Welfare.

*Chronic Malnutrition:* According to the Comprehensive National Nutritional Survey<sup>xi</sup> (CNNS- 2016-18) found Dalits and Adivasis have least access to foods such as milk, milk products and fruits (Frontline, November 2019). The findings reveal that government focus is on “eating right and behavior pattern” but are Oblivious to the fact that both are the function of “access to food and socio-economic entitlements of the community”. These are majorly the cover ups of the government to be non-answerable to the welfare approach it had adopted. CNNS further indicates chronic malnutrition and stunting of children under 5 declined only by 1/3 between 1992 and 2016. ‘Stunting’, remains alarmingly high at 38.4 %. And more than half of women in reproductive age are found to be anemic. More than 60% of all anemic cases had to do with poor nutrition and iron deficiency. Nationally, 35 per cent children

under five are stunted, 17 per cent wasted, 33 per cent under weight and 11 per cent acutely malnourished (Frontline, November 2019).

Table 2

Caste-wise malnourishment percentages among children under five years

Category	Stunted (%)	Wasted (%)	Underweight (%)
Schedule Caste	42.8	21.2	39.1
Schedule Tribe	43.8	27.4	45.3
Other Backward Class	38.7	20.5	35.5
Other (General)	31.2	19.0	28.8

Source: National Family Health Survey (2015-2016)

The survey finds out the persistent Gender Disparity in the nutritional status of girl children and poor nutritional indicators among SCs and STs. Two things stand out in the survey: the first is the link between the nutritional status of children and the nutritional status of the mother; and second is the link between nutritional status of the children and the household wealth (income). The findings, therefore reveals the importance of social determinants of malnutrition such as caste, location, income and access by the family to be able to provide for the children. The daily intake of nutrients by tribal groups is below the recommended daily level and has reduced over the years, indicating rising food insecurity among the tribal populations, according to the ministry of health's 2018 report. Particularly vulnerable tribal groups are identified as the most susceptible to malnutrition, according to a 2008 government report.

## 2. Implementation of the Programmes

India has the largest food related programmes in the world, and about two-thirds of the population is covered under the public distribution system (PDS), and more than 8 crore children at least on papers receive mid-day meals in schools. This provides a potential for children to receive the diet requirements. However, these programmes are hamstrung by the Centre and the mechanical system which does not provide any community participation, or flexibility of dietary choices and low budget; this hardly allows dietary diversity; and in many states the issue of having eggs served in school became an issue of tussle within the administration.

Integrated Child Development Scheme and Mid-Day Meal are two major schemes, if administered properly may lead to proper development of Dalits and Adivasi. The schemes are not only targeted to Dalits, but they are food and nutrition programmes with universal, pro-poor, pro-rural, pro-agrarian provisions, would de-facto reach Dalits and Adivasi if implemented properly at the grass roots. Mid-Day Meal also shared many exclusionary stories in media from all over the country. The monitoring agency of the Human and Resource Development Ministry has observed that there have been incidents of caste-based discrimination in this flagship programme/scheme.

ICDS Scheme represents one of the world's largest programmes for early childhood development. It is the response to the challenge of providing pre-school education on one hand and breaking the vicious cycle of malnutrition, morbidity, reduced learning capacity and mortality, on the other. With flexible norms for Dalit and tribal Anganwadi centres and

provision for additional Anganwadi worker and the mandate for upgrading some Anganwadi Centres to Anganwadi Centre-cum-creche, a lot could be done for making ICDS responsive and impactful for the Dalit children. Study by Harsh Mander (Special Commissioner on the Right to Food to the Supreme Court) and M Kumaran in their study in 2006 revealed, how affirmative actions can come a cropper in the face of insidious exclusion. Their study in 14 villages across four states (Andhra Pradesh, Chhattisgarh, Jharkhand and Uttar Pradesh) concludes, "It is not a mere accident that in none of the surveyed mixed-caste villages was the AWC located in the Dalit or Adivasi hamlet. The decision to locate not just the AWC, but also other valued institutions and services, in the upper caste so-called 'main' village is influenced by the upper caste and class [sic] and politically powerful groups in the village." They claim that in addition to the locational factor, a large number of eligible children from impoverished and food deprived households did not have access to ICDS services, including supplementary nutrition for infant and small children and the denial of these services is not random or accidental but is the outcome of active social discrimination, based on caste, gender and disability. Maternity Benefit Plan, 2017 is highly exclusionary in nature as the benefits are only limited to the first child. It excludes the women belonging to the vulnerable groups. It is also known that women belonging to SC and ST communities are excluded more than others, because of higher fertility rates. This is itself linked to lack of access to healthcare and contraceptive services. Institutional delivery, medical check-ups and full immunizations are few conditions which can exclude the Dalit and Adivasi Women from health services.

*Low level of Allocation and Misallocated funds:* There is a dedicated fund for the welfare of tribals linked to their proportion in the population that cannot be allocated elsewhere. Under the National Democratic Alliance government headed by the Bharatiya Janata Party, tribal sub-plan expenditure dropped from Rs 32,387 crore in 2014-'15 to Rs 20,000 crore in 2015-'16 and to Rs 24,005 crore in 2016-'17, as India Spend reported in April. The allocation increased to Rs 31,920 crore in 2017-'18, but the government allocated money to non-targeted generic/administrative expenditure – such as grants towards infrastructure maintenance, farm loan waivers, Good Governance Fund, Sports Authority of India allocations – which do not go towards the scheduled tribe population. Budget analysis by the Dalit Arthik Adhikar Andolon showed in 2019-'20, a total of Rs 52,885 crore was allocated by the central government for the tribal population. But less than half – 40.9% – was for schemes targeting the tribal population, (Dalit Adivasi Budget Analysis).

According to the 2014 Xaxa Committee report (2019), "weakening of the delivery institutions in the tribal areas have created a self-perpetuating cycle of poor performance, low financial allocations, which in turn, result in low expenditure under centrally sponsored schemes and poor delivery of goods and services, leading to lower subsequent allocations." In 2014, Rs 56.17 lakh was released by the women and child development department to the scheduled castes and scheduled tribes department of Odisha to address special health and

nutritional needs of vulnerable tribes. But the department did not use this money because of a shortage of manpower, and it was refunded to the women and child ministry in April 2015, found a 2017 CAG report. Of the Rs 4.28 crore budgeted in 2014 for conducting health camps for vulnerable tribal groups, only Rs 6.25 lakh was used, the report found.

During disaster children are often overlooked; Children from the marginalized section are the most vulnerable. India witnesses' series of disasters every year which showcase the systematic exclusion of the Dalit children from relief and rehabilitation efforts. Caste exists in a very structured manner in India, and discrimination in disaster response happens by default. The National Dalit Watch (NDW), conducted a survey in a systematic manner to study the scenario of exclusion of Dalit communities during disasters. The survey revealed rampant caste discrimination during the Cyclone Fani in Odisha.

The issue at hand remains that during disaster response most often children are clubbed with women and their basic needs are not looked into. Of the 1268 respondents, 58% reported the loss of schoolbooks and other educational materials of their children in the cyclone. The highest losses were suffered by children from the ST (83%), SC (62%) communities. Comparatively lesser losses in this aspect were reported from among the general category (46%) children. It is important to maintain a child-friendly atmosphere in the relief camps during disaster but in most cases in India, it has been observed that the camps are not at all equipped for children.

*Pandemic COVID-19 and the Lockdown:* COVID19 pandemic induced severe damage in society and was way harsher on children. World Health Organization and UNICEF are indicating broader impacts on children because of COVID. Indian Association for Child and Adolescent Mental Health and National Institute of Mental Health and Neuroscience in India also speculating the severe impact of COVID Pandemic on the children. The risk of COVID-19 crisis on children is not limited to health, and its repercussions are enormous ranging from psychological, social and cultural. According to various international reports, approximately 91 per cent of the world's students are out of school, due to school closures in at least 188 countries. For a large section of children in India COVID-19 crisis resulted in limited or no education at all. The crisis exposed a vast disparity that exists in countries like India, with lack of emergency preparedness, access to teaching methods, no or limited access to internet or resources for children, and lack of availability of learning materials. COVID19 Pandemic also added stress in the family because of job loss, isolation, excessive confinement, and anxieties over health and finances. All this heightened the risk of violence in homes, between partners and by caregivers against children. The United Nations secretary-general has reported a "horrifying" global surge in domestic-based violence linked to COVID-19.

*Educational Digital Divide:* According to UNICEF report, on the impact of lockdown in schools being shut in India, around 247 million children who were enrolled in elementary and secondary education, 28 million children who attend the pre-school in Anganwadi centres have been affected. Only 24%

of Indian households have access to the internet. Many school, as well as families in India, did not have access to internet neither have access to laptops, and smartphones. According to UNESCO 32crores of learners will be affected in India, in which 15.8crores are females, and 16crores are male students, this includes from primary to higher education.

### 3. The Way Forward

In India, the paradox remains of progressive constitutional provisions and legal framework on one hand and on the other biggest challenge remains is the weak implementation of laws, lack of vision in policy formulation and the paucity in budgetary allocation in all sectors. Thus, the socio-economic, cultural as well as civil rights of children from Dalits, and Adivasi and other marginalized groups like (NT/DNT) are at stake and are being compromised.

Low budgetary allocation, poor or non-implementation of the legal mechanisms (SC/ST Prevention of Atrocity Act, Protection of Children from Sexual Offence Act, Prohibition of Child Labour Act and Right of children to free and compulsory Education act), policies, schemes, plans and programmes are the major reasons for the denial of rights, entitlements and protection of children from these marginalized communities.

The solution remains in the political commitment to take forward the cause of protecting and promoting the rights and dignity of all children by evolving child centric approach in policy development and execution. Therefore, the strategy for policy makers and implementors is to devise a robust system to monitor the implementation of legal framework for the prevention of violence to promote and protect the rights of children.

Secondly, to undertake a revision of all Legislation related to children, to ensure the coherence of the legislative framework on children's rights in legislations such as Protection of Children from Sexual Offences Act (2012)/Right of Children to Free and Compulsory Education (2009)/Prohibition of Child Marriage Act (2006) /Juvenile Justice (Care and Protection of Children) Act (2015), Child Labour Prohibition and Regulation (1986) to protect and prevent violence against children.

Thirdly, a committed situational mapping of the children in the most remote areas to make entitlements (pertaining to education and health) accessible to all children especially from the marginalized communities. This situational mapping requires to build a responsive mechanism to the needs of the communities especially children from the marginalized communities. This comprehensive system should be jointly developed by the government at all levels roping in the education department, non-governmental organizations, child rights experts with the community's involvement and children's participation. This strategy should be the focus of the government at all levels to have a holistic development of children in families and in schools.

Finally, increase in budgetary allocation for the overall development of children in all sectors including neonatal, post-natal, early childhood and care, education, and health and access to scholarships in proportion to their population. These measures would enhance the quality of life of children to their

adulthood; paving their way to contribute in nation building.

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## Endnotes:

<sup>i</sup> The COVID 19 Pandemic and subsequent Lockdown impacted those at the lowest strata the most. With the sudden announcement of nation-wide lockdown in India on 24<sup>th</sup> March 2020 led to millions of migrant labourers wanting to leave. They were with families and their children on the streets, unemployed, clueless; large population chose to walk from the metro urban cities to their native villages. Families, carrying their bare minimum essentials along with small children, started their journey. Many could not even reach their destination and lost their life mid-way. These lives were lost because of hunger and ill management of the Central Government and State governments. "The Minister of Central government Minister Santosh Kumar Gangwar informed the Lok Sabha that the Ministry does not have data of those who died or lost their jobs during the Lockdown. <https://www.thehindu.com/news/national/govt-has-no-data-of-migrant-workers-death-loss-of-job/article32600637.ece>

<sup>ii</sup> NDMJ-NCDHR conducted a study, identified various forms of discrimination being practiced in education; these may be categorized along two major dimensions: -i) discrimination to accessing education ii) discrimination within education. As part of the initiative of identifying 'identity' based discrimination and violence in schools NDMJ-NCDHR along with many other Dalit and Adivasi CSOs intervened and conducted fact findings in cases of caste based violence and discrimination. A National Public hearing was conducted; in order to build evidence and visualize the prevailing situation of children from Dalit, adivasi, nomadic tribes, and minority backgrounds, in schools and hostels. - Consultations were also held at national and state levels with Children, parents, and teachers. These initiatives revealed the nature of violence and discrimination against children due to their systemic social exclusion because of their caste and gender; resulting in verbal abuse and taunts, mental harassment, sexual abuse, and physical assaults and educational neglect.

<sup>iii</sup> **Study on Discriminatory practices in Schools** - A study by NDMJ brought out layered as well as poignant discriminatory practices in schools and hostels which are relational as well as reflect institutional prejudices towards students from Dalit, Adivasi, Other caste and religious minority communities. Differences in seating arrangement, serving dalit kids mid-day meals towards the end, making dalit and adivasi girls and boys to clean toilets, and other spaces in schools, scholarships delayed and scholarships scams, children abused and humiliated in caste name, insensitive teachers to caste oppression and identity just to name a few.

**Untouchability practiced in schools** - Cases related to untouchability are clearly reflective of caste mindset - Dalit students not allowed to drink water from common tap; SC student made to pick up carcass of dog, Cook in govt. school humiliated a dalit girl for taking chapatis from the box.

**Children Forced to eat in marked plates** - From being forced to eat mid-day meals in marked out plates to being asked to sit in the back rows of their classrooms, Dalit school children across rural Madhya Pradesh face dozens of grim abuses.

**Dalit Students made to clean Septic Tanks in Rameswaran Government School** - Dalit students fell ill after being made to clean a septic tank in a government school in Tamil Nadu's Rameswaran in Mandapam. 4 of them inhaled the toxic gas and began to puke. They were immediately rushed to a government hospital

**Discrimination in educational institutes** - Sixty Dalit students threaten to commit suicide after Bihar government stopped paying their stipend which the Bihar government was supposed to under the Dalit Student stipend scheme to Rajdhani Engineering College in Bhuvaneshwar, Odisha.

<sup>iv</sup> <http://www.deccanherald.com/content/625559/midday-meal-ministry-told-look.html>

<sup>v</sup> Two dalit minors were raped and murdered for demanding an increase in wages, found hanging in Badaun, Uttar Pradesh-2014. Similar incident happened with 2 Adivasi girls, who were found hanging in Simdega, Jharkhand in 2019. The police have been accused of wrapping up the case by allegedly calling it a suicide case.

<sup>vi</sup> In the district of Ramaswaram in Tamil Nadu children from Dalit community in the school were made to clean septic tank. <https://www.indiatoday.in/india/story/tamil-nadu-government-school-rameswaram-dalit-students-septic-tank-cleaning-mandapam-1027794-2017-08-03>

<sup>vii</sup> In another case female inmates of an orphanage were made to clean septic tank <https://ahmedabadmirror.com/hyderabad-orphanage-makes-eight-girls-clean-septic-tank/58318423.html>

<sup>viii</sup> There have been many cases of forced or bonded labour with children being the targets. <https://indianexpress.com/article/india/bonded-child-labour-law-poverty-7434769/> &

<https://www.thehindu.com/news/national/karnataka/child-labourers-rescued-in-north-karnataka/article38352971.ece>

<sup>ix</sup> “Incidents Of Violence & Sexual Abuse On Dalit And Adivasi Minors In Educational Institutions” -

Minor Dalit Boy Sexually Harassed by Hostel Warden in Bihar:- The incident is of Govt. Ambedkar Residential High School, Bihar where children belonging to SC/ST Community study. On 21-09-2014, Boys Hostel Superintendent sexually abused a 16 year old. The case was reported to the School Principal but no action was taken by him. Incident was then reported to the concerned district officials and NDMJ (Bihar Team).

Rape and Murder in Residential School in Bihar: A student of the Government Ambedkar Residential Girl’s High School in Bihar’s Vaishali district, was found murdered in January 2017. Her body was spotted in a drain outside the school. The victim’s mother, stated, “When I reached the school, I saw how her body had been mutilated; She was stabbed in her breasts and thighs. Then they threw her body in the drain running beneath the hostel wall. From the condition of her body, it is certain that something wrong was done to her.” I gave all details to the police but my statement was not recorded.

The National Human Rights Commission (NHRC) on 24th January 2017 issued a notice to the Maharashtra government over the reported suspicious deaths of 500 tribal girls in state-run ashram schools over the past decade. The schools had failed to provide any information related to 12% of the deaths and over 17% of the cases were attributed to ‘unknown causes’, 13% to ‘sudden deaths’ and 23% to ‘severe illness’ without a mention of the disease. The school authorities also maintained menstruation records of the minor girls and conducted pregnancy tests on them whenever they missed their period or returned from vacations – an unethical practice that was carried out without parental consent. The NHRC said that the reports were “indicative of violation of right to life and dignity of the girl students of the schools,” adding that it reflected the “negligence and apathy of the authorities.” The matter first came to light when a tribal girl complained of stomach pains when she returned home on vacation. The minor girl was later found to be a victim of sexual abuse at school. The commission alleged that the state government had not submitted a report over a notice issued in October asking to explain the high incidence of deaths. The rights body had even issued a reminder for the same in November. “It seems the state government has not taken any initiative to redress the grievance, which is a serious matter of concern.” According to official figures, Maharashtra has nearly 1,100 state-run or aided tribal residential schools catering to 1.6 lakh female and 2.3 lakh male students.

SCs/STs/OBC Girl Students Sexually Assaulted by KGBV Staff: About 60 students of a government-run girls’ school were harassed as their pics were clicked by the school accountant and cook. The accountant of the Kasturba Gandhi Balika Vidyalaya (KGBV) clicked the photographs when the students were on a picnic.

Sexual Assault Cases in Odisha- In five years during 2010-15, as many as 882 deaths were reported. These are figures of children who lost their lives in state run residential schools, Odisha tops the list on sexual abuse followed by

Maharashtra these kinds of happenings are occurring in state run residential schools. The cases below provide a glimpse of the magnitude of unsafe environment for children in educational institutions.

<https://economictimes.indiatimes.com/news/politics-and-nation/882-tribal-children-die-in-state-run-residential-schools-across-the-country/articleshow/51871201.cms?from=mdr>

[https://www.business-standard.com/article/current-affairs/in-odisha-s-residential-schools-for-tribal-girls-education-comes-at-a-cost-119112100182\\_1.html](https://www.business-standard.com/article/current-affairs/in-odisha-s-residential-schools-for-tribal-girls-education-comes-at-a-cost-119112100182_1.html)

<https://www.newindianexpress.com/states/odisha/2022/jul/29/odisha-class-x-student-at-govt-run-tribal-residential-school-found-dead-2481878.html>

#### Cases Of Sexual Assault In Neighbourhood During Pandemic

Increase in Cases of Sexual Violence during Pandemic and Lockdown – During the Pandemic and the Lockdown in 2020 around 4 cases of sexual assault of Dalit minor girls were reported from Lakhimpur kheri district of Uttar Pradesh within a week’s time. In another case in Balrampur a minor girl was raped and killed, as well as in Badohi a 6 year old girl was raped and killed at the brick kiln. In another incident in Delhi a 17 year old girl was found hanging who worked as domestic help. The girl was raped and hanged. In all the cases the police were covering up the case.

11 year old Dalit Girl Murdered in Hingoli - Maharashtra by a dominant caste youth (neighbour) during the pandemic and the lockdown on 21st May 2020. The police did not invoke key sections of SCs and STs POA act. Application was submitted by NDMJ for invoking the same.

<sup>x</sup> **SUPREME COURT DIRECTION** - Shocked by the high rate of pendency of child sexual assault cases, the Supreme Court on 1st May 2018, directed High Courts to set up panels of its judges to regulate and monitor trials under the Protection of Children from Sexual Offences (POCSO) Act. The Supreme Court, ordered a review of backlog under POCSO, found that States such as Uttar Pradesh have over 30,000 cases pending despite the child protection law as early as 2012.

<sup>xi</sup> CNNS – commissioned by National Democratic alliance Govt. after the National Statistical commission approved the survey design in 2016 was conducted from 2016 to 2018 led by Ministry of Health and Family Welfare and done in collaboration with United Nations Children Fund. The CNNS has findings that collaborate the result of National family health surveys with respect to data on Nutrition status and morbidity among children. <https://www.newsclick.in/nfhs-report-indicates-malnutrition-higher-among-dalit-adviasi-children>