

CASTE ATROCITY IN GUNDLUPETE, CHAMRAJNAGARA KARNATAKA

FACT FINDING REPORT

Introduction

Karnataka has a history of personalities like Basavanna, who preached equality and social justice and condemned social discrimination of marginalized and downtrodden communities in the 12th century. Unfortunately, even in the 21st century, discrimination and attacks against marginalized communities are prevalent. National Crime Records Bureau statistics show that Karnataka still has rampant caste atrocities that take place, as well as low conviction rates in criminal cases under the SC/ST PoA Act. This shows that the caste system still prevails, even as society appears to be moving towards modernity.

The present case shows that caste atrocities can still take place in spite of the veneer of modernity and progress that characterizes our society today. The survivor of the atrocity comes from a well-educated, middle class family. Though he comes from monetary privilege, he was still the victim of crimes inflicted on him only based upon his caste identity. This entire fact-finding was done with the aim of understanding the landscape of caste atrocities in Gundlupete, addressing the specific needs of the survivor and his family as well as analysing awareness and compliance with relevant caste atrocity laws in the district.

Note: The name of the survivor has been withheld for confidentiality purposes.

Team and Methodology

This is a fact-finding report concerning a Dalit man who was paraded naked in Madrahalli village in Gundlupete taluk, Chamrajnagar district on 8th July 2019 for allegedly polluting a temple by entering it.

The fact-finding team consisted of representatives from the following organisations:

1. The Human Rights Law Network, Bengaluru
2. The Centre for Law & Policy Research, Bengaluru
3. Indian Social Institute, Bangalore
4. Munnade Mahila Movement
5. Maarga, Bengaluru
6. Manvathe Bandhavth Vedike Gundlupete

The methodology used by the fact-finding team included firstly meeting local Dalit activists who provided an overall idea of the circumstances surrounding the atrocity, informed the team as to what actually took place and acted as contact persons with the police department. Secondly, the team met with the local police department as well as the Social Welfare Department to obtain their accounts of the incident and action that they took in compliance with the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC/ST PoA Act'). Thereafter, the team visited the scene of the actual atrocity (the temple) and spoke to the priest, to get a clearer idea of the manner in which the atrocity took place. Finally, the team travelled to Mysuru to meet with the survivor and his family.

From this methodology, the fact-finding team aimed to get a clear timeline of the chronological events that led to the atrocity as well as actions taken thereafter by different parties. The actions taken by state authorities (the police as well as the Social Welfare Department) were analysed in comparison with their obligations under the SC/ST PoA Act, to see whether they were complying with the law. Finally, the fact-finding team met with the survivor and his family to obtain their first-hand account of the atrocity, as well as to determine their needs and wants for further assistance and action.

The team collected a copy of the First Information Report (FIR) from the police, documents relating to compensation paid to the survivor by the Social Welfare Department, media coverage on the atrocity, the actual video of the atrocity that was circulated on social media and the survivor's statement.

Background of Survivor's Family

The survivor is from a middle class family and both of his parents are government employees. The family lives in Mysuru and the survivor lives in the family home. He is about 38 years old, unmarried and a UPSC aspirant. The survivor has one brother who is a government employee and one sister who is a doctor. The survivor is very spiritual in nature and has extensively studied religious texts. He is a practicing Hindu.

The survivor completed high school in the Ramakrishna Mission School in Mysuru, after which he completed a science degree from Mysore University. He served as a Second Division Assistant (SDA) in the Karnataka State Pollution Control Board from 2005 to 2008 and resigned because he had IAS aspirations. Currently he is pursuing an MBA in Financial Management from Sikkim Manipal University.

The survivor has been diagnosed with a Bipolar Disorder. Bipolar disorders cause changes in a person's mood, energy and functionality. The Department of Psychiatry, K.R. Hospital, Mysuru has given him a certificate in which it states that he has 45% disability. He stated clearly, during

his meeting with the fact-finding team, that he controlled his mental illness using medication and it did not impair his state of mind nor his functionality.

A Narration of the Atrocity by the victims' family

According to the victim and family members statement;-

On 2nd June 2019 the survivor was scheduled to write the IAS Preliminary Exam in Mysuru, but was unable to reach the examination center on time. He left his house and went to his native place at Shyanadralli Village, Gundlupete Taluk, Chamamrajanagara District. Around midnight, he was waylaid at Raghavapura Gate, Gundlupete Taluk, where he was robbed of his gold chain, mobile phone and other valuables. He managed to escape and had to walk back to his village in the middle of the night.

Early in the morning of 3rd June 2019, the survivor reached the Madrahalli Kebbekatte Shanimahatma Temple and took refuge inside the temple compound. At around 6 AM, the priest, Shivappa asked him a number of questions and found out that he was from the Holeya caste, which is a Scheduled Caste Category in Karnataka. The priest became furious that a Dalit had entered the temple premises, and called his nephews Basavaraju, Manyaka, Satish and Murthy . They arrived at the temple, saw the survivor, stripped him naked and tied him forcibly to a tree. He was so tiered even to resist their activities .

The four nephews of Shivappa the priest physically assaulted the survivor with their hands as well as a large, sharp-edged stone. They hurt the survivor's back by hitting him repeatedly with a rope and upon tying him to a coconut tree, kicked and beat him and abused him using caste slurs. The survivor recounted that they even spat on him, hit his private parts and kept insulting him and his family on ground of their caste. They stated that he had polluted the temple by entering it and that his community members were only fit to clean toilets and eat human excreta. Thereafter, they tied the survivor's hands with a rope and paraded him naked down the road for 4-5 kilometers. The priest strongly instructed and complied Puttuswamy, who is a Dalit to lead the survivor naked down the road holding the rope.

Thereafter, the police arrived at the scene and instead of immediately protecting the survivor and arresting the offenders, they arrested the survivor upon accusations that he was 'insane' and had broken temple idols. One of the police constables (unidentified) kicked the survivor and hit him on the head.

Aftermath

Once the survivor's family members were told about the incident, they wanted to file a case against the temple priest as well as the other accused who assaulted and abused the survivor. They approached the police station, but the police refused to register an FIR. The police instead stated that the survivor had destroyed temple idols and threatened to file a counter-case against him. Only when his cousin showed the police the WhatsApp videos of the atrocity, were the police forced to register the FIR on 11th June 2019 (Cr. No. 0267/2019).

The survivor was admitted to K.R. Hospital in Mysuru after the atrocity and spent a month in St. Mary's Hospital, thereafter (from 4th June 2019 onwards). His family members spent around sixty thousand rupees on his medical expenses, and his father received threatening calls from friends of the perpetrators demanding that they withdraw the case. The survivor's family intimidated the police about the threats, but the police took no action against the perpetrators and made no efforts to protect the survivor or his family.

At the time of the atrocity, the accused Satisha and Murthy recorded the same on a mobile phone and shared it on social media. The video soon went viral, and as stated earlier, only after the survivor's cousin showed the police the video did they register the case. In fact, it is unlikely that any action would have been taken without the extensive publicity received pursuant to the video. A list of links to different websites where the atrocity has been covered is at **Appendix – I** to this report.

The Social Welfare Department, after the incident, paid the survivor a compensation sum of Rs. 25,000/- (Rupees Twenty-Five Thousand only), as mandated under the SC/ST PoA Rules. When asked about the other actions taken, they stated that they had no budget for awareness programmes and that they have not undertaken any preventive measures as mandated under the Act and Rules.

Relevant Legal Provisions and Status of Compliance

The police registered an FIR under various sections of the Indian Penal Code, 1860 ('IPC') including Section 143 (unlawful assembly), 147 (rioting), 149 (offence committed in prosecution of common object), 323 (voluntarily causing hurt), 324 (causing hurt by dangerous weapons or means), 342 (wrongful confinement), 355 (assault or criminal force with intent to dishonor person), 395 (dacoity) and 504 (intentional insult with intent to provoke breach of peace). They also registered the FIR under the SC/ST PoA Act, specifically with respect to 3(1)(d)¹, 3(1)(r)²,

¹ Garlands with footwear or parades naked or semi-naked a member of a SC or a ST

² Intentionally insults or intimidates with intent to humiliate a member of a SC or a ST in any place within public view

3(1)(s)³, 3(2)⁴ and 3(2)(va). Section 67A⁵ of the Information Technology Act, 2000 was also included.

A copy of the FIR is included at **Appendix – II**.

The PoA Act contains several provisions regarding the rights and protections to be accorded to victims and witnesses of atrocities. Section 15A in particular, outlines several obligations of the State.

Firstly, Section 15A(1) gives the state the responsibility of making arrangements for the protection of victims, dependents and witnesses against any kind of intimidation, coercion, inducement, violence or threats of violence. This has not been complied with in the present case, since the survivor's family experienced threatening calls in June 2019, but the police failed to take any action.

Section 15A (6) states that the Special Court or the Exclusive Special Court trying a case shall provide to a victim, his dependent, informant or witnesses complete protection to secure the ends of justice; all travel and maintenance expenses during investigation, inquiry and trial; social-economic rehabilitation during investigation, inquiry and trial; and relocation. Again, this has not been complied with, since the no expenses have been provided to the survivor nor his family. Further, it is noteworthy that the **case is not even being tried in an Exclusive Special Court**.

Section 15A(9) imposes a duty on the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost. Here, the FIR was registered only after the police was made aware of the viral video of the atrocity on social media. Further, they did not take any action whatsoever after the survivor's family received threats over the phone.

Section 15A (11) outlines the state obligation to specify an appropriate scheme to ensure implementation of a number of rights and entitlements of victims and witnesses in accessing justice. Some of these include providing necessary protection to atrocity victims or dependents and witnesses, providing relief in respect of death or injury or damage to property, arranging food, water, clothing, shelter, medical aid or transport facilities or daily allowances to victims, providing maintenance expenses, protecting victims, dependents and witnesses from intimidation and harassment, and to keep them updated and included at every stage of the process.

³ Abuses any member of a SC or ST by caste name in any place within public view

⁴ This contains provisions regarding giving or fabricating false evidence and committing mischief

⁵ Publishing or transmitting of material containing sexually explicit act, etc. in electronic form

The provisions outlined above have not been complied with in this case. Apart from receiving a paltry sum from the Social Welfare Department, the survivor and his family have not received any of their protections and entitlements under the Act.

Observations

Caste atrocities are extremely grave crimes, but the fact-finding team found that there seemed to be a lack of initiative, lack of empathy, as well as an apathetic attitude amongst the officials who were interviewed. The police were hesitant to speak to the team and immediately brought up the survivor's mental illness to allege that he was 'insane' and had broken temple idols. The Gundlupete sub-Inspector actually stated that the survivor was already naked when the accused 'found' him and that the accused had to 'restrain' the survivor to prevent him from breaking any more idols. Further, when questioned about the police constable who, on video, is seen kicking and hitting the survivor, the police immediately stated that he had been suspended and refused to reveal any more details.

Interviews with the Social Welfare Department and the priest at the temple where the atrocity took place (a different priest as the accused, Shivappa was in custody at the time) were also disappointing, as the Secretary, Social Welfare Department was clear in that there were no preventive measures nor protections being implemented in relation to caste atrocities. The Secretary seemed to think that the Department's obligations began and ended with the payment of compensation to the survivor, which was the only action taken by them after the atrocity took place. Additionally, the priest in the temple provided very vague answers to the questions posed and kept talking about how there was no casteism whatsoever in the town. The priest falsely stated that he knew the survivor's family. This was confirmed as a lie upon meeting the survivor and his family.

The survivor and his family were exceedingly aggrieved and traumatized, not only by the atrocity itself, but by the difficulties they faced in the aftermath. The police had not updated them about the status of investigation (if any), they were unaware about any legal proceedings that may have been initiated, and they were also scared and intimidated by the threatening calls that the survivor's father had been receiving, with no help from the police. They also had no access to legal aid and were not provided with a lawyer, meaning that they would be unable to represent the survivor's interest in the trial. They initially wanted to write representations to the State Human Rights Commission as well as the SC/ST Cell in the Karnataka State Government but eventually the lack of protection and help, as well as the onslaught of media attention changed their minds.

On the night before this atrocity there was a robbery on the victim but still police have not filed FIR in this case,

Recommendations; -

1. In general, for caste atrocity cases, the police should mandatorily report to survivors and their families on the status of investigation and custody of accused.
2. Immediately after a caste atrocity is registered, at least one local advocate member of the District Legal Services Authority ('DLSA') or State Legal Services Authority ('SLSA') should be put in touch with the survivor and/or family to help them understand their rights and entitlements under the SC/ST PoA Act and Rules.
3. Upon trial commencing for a caste atrocity, a DLSA/SLSA member should mandatorily act as advocate for the *de facto* complainant and represent the complainant's interests throughout the trial to ensure that prosecution is carried out effectively and strongly.
4. As soon as a caste atrocity case is registered, the District Magistrate, or local administrator who is responsible for proper implementation of the Act and Rules should contact the survivor and ensure that relevant authorities are paying compensation in a timely manner, maintenance and other expenses are paid, medical expenses or injury-related costs are taken care of and protection is provided.
5. As soon as a caste atrocity case is registered, the police should contact a Non-Governmental Organization ('NGO') or other Community Based Organization ('CBO') to ensure that a third-party is present through the process of investigation and trial to lend further support to the survivor, their dependents and family. This should be in addition to all other support provided by the State and law enforcement.
6. There should be protection help line for the SC/ST in all the villages, whenever atrocity happen the concern helpline should provide proper information to the victims.
7. Legal awerence for eradicating caste system in the villages should be done frequently.
8. Political leaders' panchayats, and other concern departments and NGO should make more responsible to stop Dalit atrocities in their jurisdictions

Conclusion; - There is the severe threat for the victims' family and the victim family is ready to compromise the case in any chance due to their from middle class family they feel their reputation and life thereat. So there is a big challenge to create justice in this case due to victims' helpless attitude and non-creation of support and confident from the concern government departments and the police.

APPENDIX – I

Media Articles

1. <https://www.facebook.com/RepublicWorld/videos/404648450390941/>
2. <https://timesofindia.indiatimes.com/city/mysuru/4-held-for-parading-dalit-man-naked-in-mysuru/articleshow/69765324.cms>
3. <https://timesofindia.indiatimes.com/city/mysuru/attack-on-dalit-youth-protests-erupt-in-gundlupet/articleshow/69762547.cms>
4. <https://citytoday.news/dalit-youth-row-sc-commission-v-p-murugan-visits-hospital/>
5. <https://www.thehindu.com/news/national/karnataka/gundlupet-attack-police-urged-to-book-suspended-policemen-under-scst-act/article28023268.ece>
6. <https://www.thehindu.com/news/national/karnataka/chamarajanagar-dc-visits-village/article27944428.ece>
7. <https://www.thehindu.com/news/national/karnataka/dalit-atrocity-case-five-held-in-gundlupet-dss-stages-protests/article27891809.ece>

APPENDIX – II

COPY OF FIRST INFORMATION REPORT