

**Sexual and  
Gender-Based Violence  
Against Women & Girls in India**

Submission of information to UN Special Procedures

*Submission made to the UN Special Procedures regarding the trend of indiscriminate sexual and gender-based violence targeting women and girls in India, particularly those from marginalised communities.*

Submission Ref. #q7il98oz

**SOUTHASIA  
JUSTICE  
CAMPAIGN**

[southasiajusticecampaign.org](https://southasiajusticecampaign.org)

28 August, 2024

## Description

This submission highlights the pattern of incidents of sexual violence against women and girls across India, with perpetrators ranging from family members to persons in a position of authority. The submission also highlights problems with the investigation process and the role of the police, as well as the changed response of the authorities when a particular case becomes high profile or if there is sustained public outrage.

In the early hours of Friday, 9 August 2024, a 31-year-old trainee doctor was raped and murdered at the RG Kar Medical College and Hospital, a government-run hospital in Kolkata, West Bengal. The hospital authorities and the Kolkata police initially attempted to portray the death as a suicide, but an autopsy confirmed that the victim had been raped and murdered. There was a delay on the part of hospital authorities in reporting the incident. Moreover, the Kolkata police are also reported to have violated a number of procedural requirements, including a delay of 14 hours in recording a First Information Report (FIR), delay in securing the crime scene and collecting evidence, and not registering the death as unnatural until after the post mortem examination was conducted. As a result, and in the face of widespread public outrage, on 13 August 2024, the Kolkata High Court ordered transfer of the case from the Kolkata Police to the Central Bureau of Investigation (CBI). The court noted serious lapses on part of the hospital administration, as well as lack of progress in the police investigation and possible destruction of evidence. Reports also indicate that the alleged perpetrator is a civic police volunteer worker and had unrestricted access to the hospital building as a result.

On 18 August 2024, the Supreme Court of India took *suo motu* cognizance of the case, focusing on the need for safety laws for medical professionals and doctors. The Supreme Court, on 20 August 2024, ordered the formation of a 10-member National Task Force (NTF) to monitor safety of doctors in India, intended to prevent violence, including gender-based violence against medical professionals; and also provide an enforceable national protocol for dignified and safe working conditions for medical professionals. While the focus of the outrage and the courts was largely on security risks faced by the medical staff in India, the underlying issue of widespread violence against women has been sidelined to a large extent.

In this specific case, the public outrage, country-wide protests, and strikes by doctors across the country were instrumental in speeding up response of the authorities. However, in most cases of sexual violence, issues such as non-registration or delayed registration of FIRs, interference with the crime scene and flawed investigations are standard practice. This is particularly so in cases where the victim belongs to a marginalized community. In Annexure 1 to this submission, we have set out thirteen such cases that took place just between 19 July 2024 and 26 August 2024. The victims in many of these cases are Dalit women, and often minors. This list is merely illustrative and not exhaustive. [Please refer to Annexure 1: Information about the Incident]

**19 July 2024; Gonda, Uttar Pradesh:** On the night of Friday, 19 July 2024, two men raped a 16-year-old Dalit girl in Gonda district, Uttar Pradesh. The girl and her mother had gone

out of their house to urinate/defecate, when two men came on a motorbike, dragged the girl into a field and raped her. They later fled the scene leaving the motorbike behind, as other villagers approached, alerted by the shouts of the mother.

**31 July 2024; Uttarakhand:** A man was arrested for raping and killing a nurse who was returning home from work on the night of 31 July 2024. The nurse, who was missing for over a week, was found to have been raped and strangled, and her head was smashed with a brick.

**8 August 2024; Amethi, Uttar Pradesh:** A 13-year-old Dalit girl from a village in Amethi district in Uttar Pradesh accused her inebriated father of raping her while she was alone at home on 8 August 2024. She informed the police of the incident after the funeral of her mother, who died on 10 August 2024.

**11 August 2024; Muzaffarpur, Bihar:** A 14-year-old Dalit girl was murdered in in Muzaffarpur district of Bihar in the night of 11 August 2024. Sanjay Rai, a 45-year-old “upper caste” man from the same village is alleged to have kidnapped the girl and perpetrated the brutal attack along with five others. The attack appears to have followed the refusal of a marriage proposal made by the main accused. The family reported that the girl had dropped out of school due to fear after facing pressure from the main accused to marry him. The girl’s body was found in a pond near her village on 12 August 2024, her legs were tied with a rope and cut marks were found on her neck, head and arms. The police have not yet confirmed allegations made by the girl’s family that she was raped. Some of the perpetrators in this incident have now been arrested by the police.

Soon after the girl’s body was recovered, local media claimed that the girl’s breasts were cut and there were severe injuries in on her private parts, suggesting rape. These claims were amplified on social media as well, but refuted by the police.

**12 August 2024; Bulandshahr Uttar Pradesh:** Gajendra Singh, a 57-year-old government official in Bulandshahr raped a six-year-old Dalit girl and committed bestiality with a goat. Both incidents were recorded on the phone by a neighbour’s child, a boy of a similar age to the girl. The Uttar Pradesh state government has suspended the official and announced assistance of INR 825,000 to the girl's family. However, it is yet to be seen if the perpetrator will be held accountable by the criminal justice system.

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**17 August 2024; Moradabad, Uttar Pradesh:** A doctor in Moradabad district raped a 20-year-old Dalit nurse working at his hospital. Around midnight while the nurse was on night duty, another nurse and a ward boy told the survivor that the doctor had called her at his

residence inside the hospital campus. When she refused to go there, they dragged her to the room and bolted the door from outside. The perpetrator also threatened to kill the nurse if she reported the incident. The doctor and his aides have been arrested by the police.

**August 2024; Badlapur, Thane, Maharashtra:** Two minor girls aged three and four years are reported to have been repeatedly sexually abused by a male attendant over a period of 15 days at their school in Thane district, Maharashtra.

**22 August 2024; Badlapur, Thane, Maharashtra:** A 54-year-old man has been accused of repeatedly raping and beating his 16-year-old daughter, with the most recent incident occurring on 22 August 2024.

**23 or 24 August 2024; Latur, Maharashtra:** A man was arrested by the police on Monday, 26 August 2024 for reportedly raping and murdering a 70-year-old woman in his house.

**24 August 2024; Palghar, Maharashtra:** A 42-year-old man is alleged to have raped a 12-year-old girl while she was alone at her home.

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**26 August 2024; Ratnagiri, Maharashtra:** A rickshaw driver is reported to have drugged and raped a 19-year-old nursing student while she was returning home from her college.

Another factor relevant to note in the aftermath of the 9 August 2024 incident in Kolkata, as well as in some of the other cases listed above is the spread of misinformation about the nature of the crime, particularly via social media. In the case of the Kolkata incident, a Muslim man was wrongfully accused on social media, misinformation was spread about the kind of injuries and assault, and the victim's name and photographs were also shared on social media, contrary to legal requirements in India.

**[Continued under "Additional Information"]**

The problem of violence against women was most recently highlighted by the UN Human Rights Committee, in its recent Concluding Observations on India's fourth periodic review under the ICCPR, issued on 25 July 2024. The committee noted with concern the endemic violence against women and girls in India, highlighting the prevalence of gang-rapes and public humiliation of women, noting also that such violence is exacerbated when directed against women and girls inter alia from ethnic and religious minorities and lower castes.

The endemic nature of this deep-rooted problem is evident from the findings of a report by the Association for Democratic Reforms and New Election Watch, released on 21 August 2024. This report shows that a total of 151 sitting Members of Parliament and

Members of Legislative Assembly have declared cases of crimes against women, with the BJP having the highest number of such legislators among political parties. 16 of these are cases related to rape.

Another example of the open disregard by elected officials is also evident from recorded statements that have surfaced which are allegedly made by the chief minister of Manipur in connection with the incidents of sexual assault against Kuki women in May 2024, among large scale anti-Kuki violence in that state, which drew global attention and outrage. A voice purportedly belonging to chief minister Biren Singh can be heard making light of the crime and claiming that Meitei civil society groups should have asserted that they were the ones who saved the women, clothed them and sent them home. He was dismissive of the allegations of sexual violence and cast doubts on the testimony of the survivors. As highlighted above, proceedings in these cases remain pending, with investigations not completed or trials yet to begin. Another trend to highlight is of threats and further violence meant to target and intimidate survivors of sexual violence and their family members. A few examples of cases are set out below, involving brutal violence and gang rape of women and girls belonging to marginalized communities, where police and perpetrators have threatened the survivor and her family members to force them to drop the case or enter a “compromise” with the accused perpetrator:

- In September 2020, a 19-year-old Dalit girl was gang-raped and brutally assaulted near her home in Hathras, Uttar Pradesh. She died in the hospital two weeks later and was forcibly cremated by the Uttar Pradesh police without conducting a proper post mortem examination or collecting evidence. Consequently, three of the accused perpetrators have been acquitted and have returned to the village, living as neighbours of the family, with the family’s own movements being restricted for their own safety. The family has not yet been relocated or given a job as they had been directed by the court in July 2022.
- In June 2017, former BJP MLA Kuldeep Singh Sengar along with his driver and other unnamed men raped a 17-year-old Dalit girl in Unnao, Uttar Pradesh. The miscarriage of justice in this case has been unabashed and blatant. The police initially conspired with the perpetrator Kuldeep Singh Sengar, a former BJP MLA, to falsely arrest the girl’s father who was killed while in custody. Thereafter, a truck collision in 2019 led to the survivor and her lawyer being seriously injured and two of her relatives being killed. These were only some of the threats and attacks that the survivor and her family members faced. In this case as well, there were a number of public protests at various stages of the case, leading to eventual intervention by the Supreme Court and transfer of associated pending cases to courts in Delhi.
- In a separate case in Unnao, Uttar Pradesh, after being released on bail in July 2024, two persons accused of committing rape killed the rape survivor’s mother and attacked and injured the survivor herself as well as three of her family members.

□  
**Reference:** q7il98oz

**Date:** Wednesday, August 28, 2024

**Type:** Human rights violation

**Original:** English

**Consent:** The nature of the allegation is such that consent cannot be obtained, e.g. the victim(s) is/are dead or has/have been subject to an enforced disappearance

### Related mandates

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- minority issues
- racism
- executions
- torture
- violence against women and girls

### Victims

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**Name:** Women in India, particularly women belonging to marginalized communities

**Type:** Group

**Description of the group/community (including, if relevant, number of members; number of women, men, girls and boys; indicate the group/community leader(s); other facts):**

Women in India continue to face a number of gender-based rights violations including harmful practices, sexual violence and discriminatory stereotypes. A disproportionately high number of cases of violence and sexual violence target women from Dalit, Adivasi and religious minority communities. The National Family Health Survey-5 (2019-2021) shows higher rates of sexual violence targeting Dalit (Scheduled Caste) women (7.2%), Adivasi (Scheduled Tribe) women (6.5%) and Muslim women (6.5%), as compared to rates of sexual violence faced by women not marginalised based on caste/tribe or religion (5.6%). National Crime Records Bureau data from 2022 indicates that more than 11 Dalit women and minor girls get raped every day, a significant increase from the already unacceptable number of 6 in 2016. These reported numbers are high despite extreme underreporting of sexual violence targeting Dalit and Adivasi women and girls, and failure to register reported offences under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (SC & ST (POA) Act). Special courts under the SC & ST (POA) Act meant to enable speedy trials completed within two months have not been established in a majority of states; identification of atrocity-prone districts to improve safety is also similarly lacking.

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### Submitted by

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**Name:** South Asia Justice Campaign (SAJC)

**Type:** Group

**Email:** southasiajusticecampaign@protonmail.com

**Describe the activities of the group/community, civil society or other entity:**

SAJC is a platform of individuals and groups committed to furthering justice, peace and harmony in South Asia. SAJC raises issues concerning justice and the rights of vulnerable groups, and works to bring South Asian communities together to foster peace, understanding and wellbeing.

### Disclosure

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**Does the alleged victim(s) or group/community agree to have their name(s) disclosed in a letter that may be sent to the Government, or others, such as intergovernmental organisations including United Nations entities, businesses, military or security companies?**

No - This submission intends to highlight the trend of indiscriminate sexual and gender-based violence targeting women and girls in India, particularly those from marginalised communities. While no consent has been obtained from any individual victim, the submission concerns women and girls in India as a whole. The information presented in this submission has been collated using publicly available media reports and does not name any of the victims.

**Does the alleged victim(s) agree to have their name(s) appear in a public report to the Human Rights Council?**

No - This submission intends to highlight the trend of indiscriminate sexual and gender-based violence targeting women and girls in India, particularly those from marginalised communities. While no consent has been obtained from any individual victim, the submission concerns women and girls in India as a whole. The information presented in this submission has been collated using publicly available media reports and does not name any of the victims.

### Case details

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**Country where the incident allegedly occurred/is occurring/might occur:** India

**District:** Kolkata and Nandigram in the state of West Bengal; Muzaffarpur in the state of Bihar; Gonda district, Bulandshahr, Moradabad and Amethi district in the state of Uttar Pradesh; state of Uttarakhand; Thane, Ratnagiri, Palghar districts in Maharashtra.

**Please provide a short chronological summary of the incident: what happened; when (date/time); who was involved?**

This submission highlights the pattern of incidents of sexual violence against women and girls across India, with perpetrators ranging from family members to persons in a position of authority. The submission also highlights problems with the investigation process and the role of the police, as well as the changed response of the authorities when a particular case becomes high profile or if there is sustained public outrage.

In the early hours of Friday, 9 August 2024, a 31-year-old trainee doctor was raped and murdered at the RG Kar Medical College and Hospital, a government-run hospital in Kolkata, West Bengal. The hospital authorities and the Kolkata police initially attempted to portray the death as a suicide, but an autopsy confirmed that the victim had been raped and murdered. There was a delay on the part of hospital authorities in reporting the incident. Moreover, the Kolkata police are also reported to have violated a number of procedural requirements, including a delay of 14 hours in recording a First Information Report (FIR), delay in securing the crime scene and collecting evidence, and not registering the death as unnatural until after the post mortem examination was conducted. As a result, and in the face of widespread public outrage, on 13 August 2024, the Kolkata High Court ordered transfer of the case from the Kolkata Police to the Central Bureau of Investigation (CBI). The court noted serious lapses on part of the hospital administration, as well as lack of progress in the police investigation and possible destruction of evidence. Reports also indicate that the alleged perpetrator is a civic police volunteer worker and had unrestricted access to the hospital building as a result.

On 18 August 2024, the Supreme Court of India took suo motu cognizance of the case, focusing on the need for safety laws for medical professionals and doctors. The Supreme Court, on 20 August 2024, ordered the formation of a 10-member National Task Force (NTF) to monitor safety of doctors in India, intended to prevent violence, including gender-based violence against medical professionals; and also provide an enforceable national protocol for dignified and safe working conditions for medical professionals. While the focus of the outrage and the courts was largely on security risks faced by the medical staff in India, the underlying issue of widespread violence against women has been sidelined to a large extent.

In this specific case, the public outrage, country-wide protests, and strikes by doctors across the country were instrumental in speeding up response of the authorities. However, in most cases of sexual violence, issues such as non-registration or delayed registration of FIRs, interference with the crime scene and flawed investigations are standard practice. This is particularly so in cases where the victim belongs to a marginalized community. In Annexure 1 to this submission, we have set out thirteen such cases that took place just between 19 July 2024 and 26 August 2024. The victims in many of these cases are Dalit women, and often minors. This list is merely illustrative and not exhaustive. [Please refer to Annexure 1: Information about the Incident]

Another factor relevant to note in the aftermath of the 9 August 2024 incident in Kolkata, as well as in some of the other cases listed above is the spread of misinformation about the nature of the crime, particularly via social media. In the case of the Kolkata incident, a Muslim man was wrongfully accused on social media, misinformation was spread about the kind of injuries and assault, and the victim's name and photographs were also shared on social media, contrary to legal requirements in India.

**Are there witnesses to the incident?** Don't know

**Is there evidence or substantiating information concerning the incident?** Don't know

**Does the alleged victim believe she/he was targeted due to her/his** Belonging to a specific group, Race, Sex

**Has the incident been reported to the relevant authorities?** Yes

**Please include details of any complaints filed or any other action taken by the alleged victim(s) or anyone else on their behalf?**

Each of the incidents has been covered in the media and also reported to relevant authorities with varied outcomes.

**Has the Government taken action to prevent or investigate the incident, punish the perpetrators, or ensure compensation to the alleged victim(s)?** Yes

**What is the status or what has been the outcome of these proceedings?**

While authorities have initiated investigations in some of the cases, past experience shows that despite changes to strengthen the law on sexual violence against women, proceedings are often delayed and perpetrators are rarely held accountable.

A recent example is the case of Bilkis Bano, who was raped by 11 men in 2002. The men were sentenced to life imprisonment but in 2022, the Bharatiya Janata Party (BJP)-led government authorised their release, and the men were greeted with applause and garlands upon their release. The Supreme Court eventually intervened after public outcry and overruled the remission. Despite the widespread nature of violence against women, it is only a few cases that get this kind of attention, and even in those cases, investigations are flawed and judicial proceedings delayed.

Another example is that of a case from July 2023 where the Supreme Court had taken suo motu cognizance after a video was widely circulated showing two Kuki women who were paraded naked and assaulted by a mob of Meitei men in Manipur. Subsequently, the court ordered investigation into 17 cases of horrific sexual violence against women and children in Manipur. While over a year has passed, very little progress is reported to have been made in these cases despite the Supreme Court's intervention – with vital steps such as filing of chargesheets or identifying and arresting perpetrators yet to be completed. The government has also been underspending on schemes for preventing gender-based violence and supporting survivors of violence. While India has a wide range of policies and programmes that seek to address gender-based violence, there is insufficient allocation of resources and underspending of funds. It also becomes relevant to look at how the funds are used. A large part of the funds set up after the horrific gang rape in Delhi in 2013 were invested in funding technology, such as installing CCTV cameras in public places, without undertaking safety audits or ensuring data protection rights. At the same time, groups that worked with rape survivors have been defunded. Sufficient funding is not allocated to the creation of shelter homes or provision of financial support to survivors.

**Is this case under consideration by any other international or regional body?** Don't know

**executions**

**torture**

## Perpetrators

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**Please specify the number of alleged perpetrators:** 26

**Is the identity/occupation of the alleged perpetrator(s) known?** Yes

**Were the alleged perpetrators State agents or believed to be State agents?** Yes

Yes, in some cases listed above, the perpetrators were government officials or had political affiliations, being linked with the BJP.

**If the alleged perpetrators were State agents, were they acting in their official capacity?** No

## Additional information

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[Continued]

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- In June 2017, former BJP MLA Kuldeep Singh Sengar along with his driver and other unnamed men raped a 17-year-old Dalit girl in Unnao, Uttar Pradesh. The miscarriage of justice in this case has been unabashed and blatant. The police initially conspired with the perpetrator Kuldeep Singh Sengar, a former BJP MLA, to falsely arrest the girl's father who was killed while in custody. Thereafter, a truck collision in 2019 led to the survivor and her lawyer being seriously injured and two of her relatives being killed. These were only some of the threats and attacks that the survivor and her family members faced. In this case as well, there were a number of public protests at various stages of the case, leading to eventual intervention by the Supreme Court and transfer of associated pending cases to courts in Delhi.

- In a separate case in Unnao, Uttar Pradesh, after being released on bail in July 2024, two persons accused of committing rape killed the rape survivor's mother and attacked and injured the survivor herself as well as three of her family members.

## **Annexure 1: Description of the incident and additional information**

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- [26 August 2024; Ratnagiri, Maharashtra](#): A rickshaw driver is [reported](#) to have drugged and raped a 19-year-old nursing student while she was returning home from her college.

Another factor relevant to note in the aftermath of the 9 August 2024 incident in Kolkata, as well as in some of the other cases listed above is the spread of misinformation about the nature of the crime, particularly via social media. In the case of the Kolkata incident, a Muslim man was wrongfully accused on social media, misinformation was spread about the kind of injuries and assault, and the victim's name and photographs were also shared on social media, contrary to legal requirements in India.

The problem of violence against women was most recently highlighted by the UN Human Rights Committee, in its recent [Concluding Observations](#) on India's fourth periodic review under the ICCPR, issued on 25 July 2024. The committee noted with concern the endemic violence against women and girls in India, highlighting the prevalence of gang-rapes and public humiliation of women, noting also that such violence is exacerbated when directed against women and girls inter alia from ethnic and religious minorities and lower castes.

The endemic nature of this deep-rooted problem is evident from the findings of a [report](#) by the Association for Democratic Reforms and New Election Watch, released on 21 August 2024. This report [shows](#) that a total of 151 sitting Members of Parliament and Members of Legislative Assembly have declared cases of crimes against women, with the BJP having the highest number of such legislators among political parties. 16 of these are cases related to rape.

Another example of the open disregard by elected officials is also evident from recorded [statements](#) that have surfaced which are allegedly made by the chief minister of Manipur in connection with the incidents of sexual assault against Kuki women in May 2024, among large scale anti-Kuki violence in that state, which drew global attention and outrage. A voice purportedly belonging to chief minister Biren Singh can be heard making light of the crime and claiming that Meitei civil society groups should have asserted that they were the ones who saved the women, clothed them and sent them home. He was dismissive of the allegations of sexual violence and cast doubts on the testimony of the survivors. As highlighted above, proceedings in these cases remain pending, with investigations not completed or trials yet to begin.

Another trend to highlight is of threats and further violence meant to target and intimidate survivors of sexual violence and their family members. A few examples of cases are set out below, involving brutal violence and gang rape of women and girls belonging to marginalized communities, where police and perpetrators have threatened the survivor and her family members to force them to drop the case or enter a "compromise" with the accused perpetrator:

- In September 2020, a 19-year-old Dalit girl was gang-raped and brutally assaulted near her home in Hathras, Uttar Pradesh. She died in the hospital two weeks later and was [forcibly cremated](#) by the Uttar Pradesh police without conducting a proper post mortem examination or collecting

evidence. Consequently, three of the accused perpetrators have been [acquitted](#) and have returned to the village, living as neighbours of the family, with the family's own movements being restricted for their own safety. The family has [not yet been relocated](#) or given a job as they had been [directed](#) by the court in July 2022.

- In June 2017, former BJP MLA Kuldeep Singh Sengar along with his driver and other unnamed men raped a 17-year-old Dalit girl in Unnao, Uttar Pradesh. The miscarriage of justice in this case has been unabashed and blatant. The police initially conspired with the perpetrator Kuldeep Singh Sengar, a former BJP MLA, to falsely arrest the girl's father who was killed while in custody. Thereafter, a truck collision in 2019 led to the survivor and her lawyer being seriously injured and two of her relatives being killed. These were only some of the threats and attacks that the survivor and her family members faced. In this case as well, there were a number of public protests at various stages of the case, leading to eventual intervention by the Supreme Court and transfer of associated pending cases to courts in Delhi.
- In a separate [case](#) in [Unnao](#), Uttar Pradesh, after being released on bail in July 2024, two persons accused of committing rape killed the rape survivor's mother and attacked and injured the survivor herself as well as three of her family members.

## Annexure 2 – Legal Analysis

The incidents described in the submission (Reference: q7il98oz) amount to a violation of India's obligations under international human rights law, as described below:

### a. Violence against Women

The incidents detailed in the submission relate to sexual and gender-based violence including sexual assault, rape and murder. In many such cases, authorities fail to investigate or act against the perpetrators in a timely manner. Failing to prevent such incidents, conduct investigations and prosecute perpetrators is a violation of India's obligations under international human rights law as follows:

- i. Article 4(b) of the UN Declaration on the Elimination of Violence against Women stipulates that States should pursue a policy of eliminating violence against women, and should refrain from engaging in violence against women. Similarly, articles 4(c) and 4(d) set out the responsibility of States to exercise due diligence to prevent, investigate and punish acts of violence against women, whether perpetrated by the State or by private persons.
- ii. Article 2 of the Convention on Eliminating All Forms of Discrimination against Women (CEDAW) condemns all forms of discrimination against women. General Recommendation no. 19 (GR 19) of the CEDAW clarifies that gender-based violence constitutes discrimination within the meaning of article 1 of the CEDAW, whether perpetrated by a State official or a private citizen, in public or private life. Thus, India has an obligation to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. GR 19 further clarifies that if States fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation, they may also be held responsible for private acts.

### b. Right to Life

The incidents detailed include multiple cases where women and girls have not only been assaulted, but also brutally murdered. Such arbitrary deprivation of life violates the victims' right to life, which the State is obligated to safeguard, as below:

- i. Article 3 of the Universal Declaration of Human Rights (UDHR) guarantees the right to life, liberty and security of person.
- ii. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) provides that the right to life is inherent and non-derogable, and goes on to state that no one shall be arbitrarily deprived of their life. The second sentence of Article 6(1) provides that the right to life "shall be protected by law". States, therefore, have a duty to refrain from engaging in conduct resulting in arbitrary deprivation of life; and must also exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. Extrajudicial killings by are completely devoid of due process and present no opportunity to the victims to defend themselves in accordance with the due process and rule of law, and therefore, are arbitrary deprivations of the right to life.
- iii. The Human Rights Committee has clarified that the obligation on States under Article 6 of the ICCPR extends to an obligation to protect individuals from reasonably foreseeable threats to life or bodily

integrity, including those from private persons and entities.<sup>1</sup> The duty to protect the right to life requires State parties to take special protective measures for persons in situations of vulnerability who have been placed at particular risk because of specific threats, which in the case of India, would include ethnic and religious minorities who are at risk of violence. In the broader context of religious intolerance and persecution of minorities prevalent in the country, it can be argued that the targeted attacks by non-State actors detailed in this submission were foreseeable, and that the State failed to take adequate measures to prevent such foreseeable arbitrary deprivations of life.

- iv. Further, the investigation of any potentially unlawful deprivations of life should be undertaken promptly and transparently and in accordance with relevant international standards such as the Minnesota Protocol on the Investigation of Potentially Unlawful Death which requires those responsible to be brought to justice, while promoting accountability and preventing impunity.

### **c. Torture and other cruel, inhuman or degrading treatment**

In the incidents described in the submission (Reference: q7il98oz), the victims were subjected to severe sexual and gender-based violence including rape, as well as other brutal violence which would amount to torture or other cruel, inhuman or degrading treatment. In some cases, the perpetrators were government officials. A failure to prevent such incidents, conduct investigations and prosecute perpetrators is a violation of India's obligations under international human rights law as follows:

- i. When rape is inflicted with the consent or acquiescence of a public official or other person acting in an official capacity, it would amount to torture under article 1 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT). In one of the cases highlighted in this submission, the perpetrator was himself a government official.
- ii. Articles 2 and 16 of the CAT require States to prevent occurrences of torture or ill-treatment. Further, Articles 7 and 12 of the CAT require prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed along with the prosecution of perpetrators of such acts.
- iii. Articles 7 and 9 of the ICCPR establish the prohibition of torture or to cruel, inhuman or degrading treatment or punishment and the right to security of person. General Comment No. 20 of the Human Rights Council clarifies that article 7 of the ICCPR aims to protect both the dignity and the physical and mental integrity of the individual, and the duty of the State party to afford everyone protection through legislative and other measures as necessary applies even in cases where the perpetrator is acting in a private capacity.

### **d. Rights of minorities (including racial minorities)**

Some of the incidents described pertain to women and girls from the Dalit community being brutally attacked, raped and sexually assaulted. The circumstances surrounding the attacks, the identity and behaviour of the perpetrators, as well as the widespread nature of such attacks indicate that the Dalit identity of the victims and the resulting power imbalance is also a relevant factor in them being targeted. In this context, it is relevant to note the following provisions of international human rights law:

- i. Article 27 of the ICCPR as well as the United Nations 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities) refer

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<sup>1</sup> UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/5e5e75e04.html> [accessed: 14 June 2023].

to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end.

- ii. The Declaration on Minorities also requires States to adopt measures to ensure that persons belonging to minorities can exercise their human rights without discrimination, and that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination.

It is, therefore, clear that the incidents detailed in the submission (Reference: q7il98oz) reflect India's failure to comply with its obligation to protect the rights of minorities, in this case, the women belonging to the Dalit minority.

**e. Rights of children**

Given that several of the incidents detailed in the submission pertain to violations targeting minor girls, it is also relevant to note the requirements under the Convention on the Rights of the Child (**CRC**), to which India is a party. Article 34 of the CRC, in particular, requires States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

## Annexure 3 – References

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2	Maharashtra: Man held for raping, killing 70-year-old woman, staying with corpse in Latur	27-Aug-24	Times of India	<a href="https://timesofindia.indiatimes.com/city/mumbai/maharashtra-man-held-for-raping-killing-70-year-old-woman-staying-with-corpse-in-latur/articleshow/112831496.cms">https://timesofindia.indiatimes.com/city/mumbai/maharashtra-man-held-for-raping-killing-70-year-old-woman-staying-with-corpse-in-latur/articleshow/112831496.cms</a>
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45	Annual Report 2020-21	Ministry of Social Justice and Empowerment	<a href="https://socialjustice.gov.in/writereaddata/UploadFile/90341650353538.pdf">https://socialjustice.gov.in/writereaddata/UploadFile/90341650353538.pdf</a>	
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