

CHRI 2018



**CHRI**  
Commonwealth Human Rights Initiative  
working for the practical realisation of human rights in  
the Commonwealth

**SDG 16 INDIA**

**MAPPING THE  
DATASCAPE**

# Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation, working for the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the organisation provided member countries a shared set of values and legal principles from which to work.

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# SDG 16 INDIA

## MAPPING THE DATASCAPE

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# LIST OF ABBREVIATIONS

Adivasi:	Collective name used extensively across India for indigenous communities
AiNNI:	All India Network of NGOs and Individuals
AFSPA:	Armed Forces (Special Powers) Act
AIJS:	All India Judicial Services
BJP:	Bharatiya Janata Party
BSF:	Border Security Force
CBI:	Central Bureau of Investigation
CIC:	Central Information Commission
Crore:	Indian numerical unit, equivalent to 10,000,000
Dalit:	Members of Scheduled Castes
DSLA:	District Legal Services Authority
DPC:	District Planning Committee
EBC:	Economically Backward Classes
GANHRI:	Global Alliance of National Human Rights Institutions
HRD:	Human Rights Defenders
IBRD:	International Bank for Reconstruction and Development
IFC:	International Finance Corporation
IJU:	Indian Journalists Union
IPC:	Indian Penal Code
Lakh:	Indian numerical unit, equivalent to 100,000
LGBTQ:	Lesbian, Gay, Bisexual, Transgender and Queer
MHA:	Ministry of Home Affairs
NALSA:	National Legal Services Authority
NCRB:	National Crime Record Bureau
NDA:	National Democratic Alliance
NDAL:	National Database on Arms Licenses
NHRC:	National Human Rights Commission
NHRI:	National Human Rights Institutions
NSSO:	National Sample Survey Organisation
OBC:	Other Backward Classes
POSCO:	Protection of Children from Sexual Offences Act
RTI:	Right to Information
SC:	Scheduled Caste
SDG:	Sustainable Development Goal
SPP:	Special Public Prosecutor
ST:	Scheduled Tribe
UNHRC:	United Nations Human Rights Council
UNICEF:	United Nations Children's Fund
UPR:	Universal Periodic Reviews
UTRC:	Under Trial Review Committees
VNR:	Voluntary National Review

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# INTRODUCTION

On 25 September 2015, world leaders from 193 nations met at the United Nations' Sustainable Development Summit in New York and adopted the 2030 Agenda for Sustainable Development, including the Sustainable Development Goals (SDGs). The unanimously agreed upon objectives provide the overarching framework for international development for the next 15 years. The goals embody a strong commitment to a rights-based approach towards development, bound by the aspiration to "leave no one behind."

This report examines India's status and progress on the global goal for peace, justice, strong institutions and human rights, which is encapsulated in Goal 16 of the 2030 Agenda for Sustainable Development. These represent not just the essential building blocks of democratic society, but also the means and accelerator to achieve other goals. Irrespective of where a country stands in the development spectrum, good laws and regulations that are fairly administered by transparent institutions are central to progress. Irrespective of where a country stands in the development spectrum, "good laws and regulations that are fairly administered by transparent and accountable institutions" are central to progress (Irene Khan, IDLO 2014).

The Commonwealth Human Rights Initiative (CHRI) has chosen Goal 16 and its targets for these lie at the heart of our work. They address issues of human security and access to justice; corruption, transparency and accountability; discrimination and exclusion of marginalised groups from political and governance processes as well as human rights and fundamental freedoms.

One of the keys to ensuring implementation and monitoring of SDGs is through quality, accessible, timely and reliable disaggregated data. CHRI's report establishes baseline data for India's SDG 16 indicators. It fills the data blind spots and maps India's data landscape for monitoring Goal 16 targets— its data sources, their periodicity, availability or the lack thereof, and veracity. The effort is to develop a systematic framework for civil society organisations and citizen groups to monitor and report on the progress of SDG 16 targets and hold governments accountable to the promises of the 2030 Agenda.

## *From Millennium Development Goals...*

The agenda for sustainable development follows on from the 2000-2015 Millennium Development Goals (MDGs). The MDGs were aimed at some of the fundamental issues facing developing societies, such as poverty, health and education, and significantly brought about changes in approaches to development. However, these did not achieve their targets partly because the MDGs did not link development challenges to the larger context of environment, energy, governance and security.

## *...Towards Sustainable Development Goals*

The experience of the MDGs paved the way for the post-2015 agenda, which aimed to bridge these gaps. With a formidable 17 goals, 169 targets and 244 measurable indicators, SDGs are designed to cover all facets of sustainability, the interlinkages and co-dependencies which characterise modern living, from providing clean water and sanitation for all, to conservation of life on land and in water, education and good health, clean energy and economic growth, and the eradication of poverty and hunger.

The ambitious goals are designed as an integrated system. The goal towards making cities inclusive, safe and sustainable can only be achieved when its inhabitants feel secure from violence and crime; to

protect the environment, legal and regulatory frameworks need to be upheld and enforced; and vital issues of public health and safety can only be addressed when governments and civic authorities are transparent and accountable to the people.

### *Governance Matters: SDG 16*

After decades of fencing off issues of security, justice and accountability from development debates, the SDGs recognise that good governance is key to sustainable development. The political declaration of SDGs acknowledges as much:

“Sustainable development cannot be realized without peace and security; and peace and security will be at risk without sustainable development. The new Agenda recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions.”<sup>1</sup>

To ensure this, Goal 16 imbues the whole development agenda with the idea of good governance. Governments have committed to **“Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”** (emphasis added).

A UN survey of more than seven million persons, undertaken before the SDGs were signed off, officially made it clear that “protection against crime and violence ranks high among all population groups in all regions,”<sup>2</sup> and former UN Secretary General Ban Ki-moon urged that it be a priority for development.

### *High-Level Political Forum and Voluntary National Review*

To track progress on SDGs, the UN established the High-Level Political Forum (HLPF) as the central platform for follow-up and review of the 2030 Agenda for Sustainable Development.<sup>3</sup> For each year the HLPF has selected specific goals for thematic reviews of progress, including cross-cutting issues, with the objective of canvassing all 17 goals over a period of three years.<sup>4</sup>

Year	Theme	Goals
2017	Eradicating poverty and promoting prosperity in a changing world	1, 2, 3, 5, 9, 14, 17
2018	Transformation towards sustainable and resilient societies	5, 7, 11, 12, 15, 17
2019	Empowering people and ensuring inclusiveness and equality	4, 8, 10, 13, 16, 17

The HLPF also hosts Voluntary National Reviews (VNR), aimed at facilitating the sharing of experiences, including successes, challenges and lessons learned, with a view to accelerating the implementation of the 2030 Agenda. The reviews are state-led, voluntary and “include developed and developing countries as well as relevant United Nations entities and other stakeholders,

<sup>1</sup> UNGA RES 71(1), *Transforming Our World: The 2030 Agenda for Sustainable Development*, 2 August 2015, p. 8, paragraph 35, [https://www.un.org/pga/wp-content/uploads/sites/3/2015/08/120815\\_outcome-document-of-Summit-for-adoption-of-the-post-2015-development-agenda.pdf](https://www.un.org/pga/wp-content/uploads/sites/3/2015/08/120815_outcome-document-of-Summit-for-adoption-of-the-post-2015-development-agenda.pdf)

<sup>2</sup> UN SDG Action Campaign, *We the Peoples: Celebrating 7 Million Voices*, UN New York, 2015, p. 45-47, <https://myworld2015.files.wordpress.com/2014/12/wethepeoples-7million.pdf>

<sup>3</sup> The HLPF was established in 2013. It replaced the Commission on Sustainable Development, which had met annually since 1993.

<sup>4</sup> UN, “High-Level Political Forum on Sustainable Development”, Division for Sustainable Development (UN-DESA), 2018, <https://sustainabledevelopment.un.org/hlpf>



including the civil society and the private sector.”<sup>5</sup>

At the HLPF 2017, the Government of India (hereafter GoI) included only seven (SDGs 1, 2, 3, 5, 9, 14 and 17) out of the 17 goals in its VNR.<sup>6</sup> It did not report on Goal 16. Moreover, the seven goals that did find mention were presented without adequate data corresponding to the specific SDG indicators. On gender equality and women’s empowerment (SDG 5), GoI highlighted its programme to establish One Stop Crisis Centres to support women affected by violence, in private and public spaces. However, it did not provide data on the proportion of girls and women subjected to physical, sexual and psychological violence (SDG 5.2.1); nor the use and effectiveness of these centres to address violence against women.<sup>7</sup>

### *Data for SDGs*

Data forms the bedrock of the 2030 Agenda for Sustainable Development. While it enables governments to effectively implement strategies, it also enables people to monitor progress and hold governments accountable. To emphasise the role of data in SDG implementation, monitoring and accountability, a separate SDG target is allotted under means of implementation (SDG 17.18)—“increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.”

The National Institution for Transforming India (NITI Aayog), which is the GoI’s premier policy think-tank, is tasked with the overall responsibility of coordinating the SDGs. It collates data from various government agencies, monitors implementation and reports at the national, regional and global levels.

The decennial census by the Office of the Registrar General and Census Commissioner under the Ministry of Home Affairs is the largest single source of statistical information in India. The Ministry of Statistics and Programme Implementation (MoSPI) is the nodal agency for the development of the statistical system in the country and coordination in statistical activities among agencies at the Centre and in states. MoSPI undertakes large-scale nation-wide statistical exercises. Its Central Statistics Office is entrusted with preparing national accounts, including Gross Domestic Product and other macro-economic aggregates. The National Sample Survey Office (NSSO) is responsible for conducting large-scale sample surveys, including the Annual Survey of Industries and crop statistics, on a national basis. The Directorate of Economics and Statistics (DES) is the apex body responsible for the coordination of statistical activities at the state level.

The Ministry of Home Affairs (MHA) at the Centre is the nodal agency for SDG 16 in India. The National Crime Records Bureau (NCRB) under the MHA is the primary repository of all-India crime related statistics, including its annual flagship reports, Crime in India and Prison Statistics India. Other official sources for SDG 16 related data and information are: the MHA; the Bureau of Police Research and Development (BPRD); the National Judicial Data Grid; the Ministry of Law and Justice; the National Legal Services Authority (NALSA); the Ministry of Social Justice and Empowerment; the National Human Rights Commission of India (NHRC); the Central and State Information Commissions; and the Ministry of Women and Child Development (MWCD) for children-related SDG 16 targets and indicators.

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5 UNGA RES 71(1), *Transforming Our World: The 2030 Agenda for Sustainable Development*, 2 August 2015, p. 8, paragraph 84

6 The Government of India justified its selection of the 7 goals by equating its VNR with the thematic focus of HLPF 2017. However, the VNRs are independent of the HLPF thematic focus and member-states are to ensure “focus on the entire Agenda rather than the HLPF thematic focus.” See UN, “Synthesis of Voluntary National Reviews”, Division for Sustainable Development (UN-DESA), 2016, pp. 68-69 [https://sustainabledevelopment.un.org/content/documents/126002016\\_VNR\\_Synthesis\\_Report.pdf](https://sustainabledevelopment.un.org/content/documents/126002016_VNR_Synthesis_Report.pdf)

7 See Government of India, “Voluntary National Review Report: On the Implementation of Sustainable Development Goals” <https://sustainabledevelopment.un.org/content/documents/16693India.pdf> p. 22

## *SDG 16 Data in India*

In 2012, GoI adopted the National Data Sharing and Accessibility Policy (NDSAP).<sup>8</sup> The objective of the policy is to facilitate access to government owned shareable data to promote data sharing for national planning and development. The NDSAP applies to all data and information created, generated, collected and achieved using public funds provided by GoI directly or through authorised agencies by various ministries, departments, organisations, agencies and autonomous bodies. The Department of Science and Technology is the nodal department for all matters connected with overall coordination, formulation implementation and monitoring of the policy.

An important component of the government's efforts to ensure open and easily accessible data is the National Informatics Centre (NIC) under the Ministry of Electronics and Information. NIC is the custodian of e-Government and e-Governance applications as well as a promoter of digital opportunities for sustainable development. Through its information and communication technologies network "NICNET", NIC has "institutional linkages with all the ministries and departments of the central government, 36 state governments and Union Territories, and about 708 district administrations of India."<sup>9</sup> Other initiatives of the NIC to further data infrastructure and accessibility for SDG 16 related issues are the Crime and Criminal Tracking Network and Systems (CCTNS) in Tamilnadu; the National Prisons Information Portal (e-prisons); and the online civil registration systems in Rajasthan, Haryana and Maharashtra for recording births and deaths and sharing statistics regarding birth registration.

Despite these efforts, serious challenges remain for India's data infrastructure and its ability to monitor implementation of the global goals. Data needs to be specific, measureable, accessible, reliable and timely. However, a majority of the government departments and their data collection agencies are not yet computerized and the majority of digital records are not machine-readable. Lack of inter-operability of data and low levels of proactive disclosure of information by the government hampers access to information.

Data gives visibility to the hitherto invisible. However, the level of specificity in government data is inadequate and leads to opacity. MHA does not maintain data disaggregation based on age, sex and cause as suggested by the global indicator on conflict-related deaths. Furthermore, data released by the government is not timely and often delayed— NCRB's annual crime and prison statistics are published approximately eight months after their reporting period. In other instances, such as forced (bonded) labour and sex trafficking, official data is limited in scope and sporadic in nature. Nation-wide data for the total number of victims of forced labour is not available and surveys on sex trafficking are not undertaken with fixed periodicity.

There are also concerns with the reliability of government data. Discrepancies in figures exist within government ministries and departments— in 2015, the MHA mentioned three cases of communal violence in Haryana, while the NCRB recorded 201. Thus, crime reporting statistics are problematic: the Supreme Court has acknowledged that the number of crimes committed may be double the figure of registered crimes.<sup>10</sup> In the absence of victimization surveys by the government, the true extent of crime cannot be gauged through official sources alone.

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<sup>8</sup> Press Information Bureau, GoI "National Data Sharing and Accessibility Policy (NDSAP)" 9 February 2012; <http://pib.nic.in/newsite/PrintRelease.aspx?relid=80196>

<sup>9</sup> National Informatics Centre (NIC), GoI; <https://www.nic.in/about-us/>

<sup>10</sup> Lalita Kumari vs Govt.Of U.P.& Ors, Writ Petition (Criminal) no. 68 of 2008, <http://sci.gov.in/jonew/judis/40960.pdf>

## METHODOLOGY

This report is based on the global indicators framework developed by the Inter-Agency Expert Group on SDGs (IAEA-SDG), agreed by the UN Statistical Commission (UNSD) and adopted by the UN General Assembly in July 2017. Yet, the targets also “[take] into account different national realities, capacities and levels of development” and “different approaches, visions, models and tools available to each country, in accordance with its national circumstances and priorities, to achieve sustainable development.”<sup>11</sup>

Guided by the global level of ambition but taking into account national circumstances, member states are responsible for developing national indicator framework for monitoring and implementing SDGs. At the time of writing, Government of India had not finalised its national SDG indicators.

Definitions, methods of computation and levels of disaggregation for Goal 16 targets are based on the UNSD’s metadata on SDGs.<sup>12</sup> The metadata provides information on each global indicator, including sources, data collection methodologies, limitations and supplementary information, and current data availability. It is also a repository of existing data based on inputs from UN agencies, offices and programmes, regional commissions and other international and regional organisations. UNSD’s metadata defines the scope of each SDG global indicator and its component parts. The SDG 16 Data Initiative— a collective project by a consortium of international non-governmental organisations to support open tracking of progress towards Goal 16 targets— also informs the scope of global indicators, including international non-governmental sources.<sup>13</sup>

### *Data Sources: Official and Non-Official*

The official data sources in this report are from the Government of India, drawing upon reports of the central and state governments as well as reports of government-appointed committees, court documents and judgements. In addition we have looked into Public Interest Litigation (PIL) materials, census and National Sample Surveys (NSS), and data gathered from Right to Information (RTI) requests.

**To establish the baseline as far as possible, data from 2015 has been cited. Where official data for 2015 is not available, the last available figures have been used.**

Official figures are supplemented by non-official sources where available and possible— non-governmental and other civil society organisations, inter-governmental organisations, academic research, media reports, and the private sector and businesses. Data from non-official sources complements official figures and presents a more complete picture. For example, the government does not undertake perception studies, including on issues such as corruption, safety and satisfaction with public services. All such data has been derived from civil society sources.

Non-governmental reporting also challenges government data, while making a case for more disaggregated and detailed statistics for SDG reporting and review. While the NCRB lists the number of incidents of sexual violence reported in the country and the states, civil society analyses draw correlations between rural districts and the high rate of reported rape. Furthermore, NCRB data indicates no cases were registered against the police for fake encounter killings and the failure

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11 UNGA RES 71(1), *Transforming Our World: The 2030 Agenda for Sustainable Development*, 2 August 2015, p. 8, para. 55 and 59, [https://www.un.org/pga/wp-content/uploads/sites/3/2015/08/120815\\_outcome-document-of-Summit-for-adoption-of-the-post-2015-development-agenda.pdf](https://www.un.org/pga/wp-content/uploads/sites/3/2015/08/120815_outcome-document-of-Summit-for-adoption-of-the-post-2015-development-agenda.pdf)

12 See UN Statistics Division, “SDGs Indicators: Metadata Repository” <https://unstats.un.org/sdgs/metadata>

13 See SDG 16 Data Initiative, [www.sdg16.org](http://www.sdg16.org)

in registering crimes.<sup>14</sup> Civil society research suggests otherwise. Granular data on attacks on human rights defenders and RTI activists is also sourced exclusively from non-official sources.

In India, civil society organisations and media houses regularly collate data through the Right to Information (RTI) Act. As the data obtained through RTI requests is government owned and supplied, it provides a credible basis for analysis. Data generated by these stakeholders also includes polls and other forms of primary collection, such as observations, interviews, questionnaires and focus group discussions.

However, it should be noted that data generated by civil society has several inherent weaknesses:

- There is a lack of standardization and inconsistencies in research designs; as a result, citizen-generated data varies, based on differences in methodologies.
- Due to resource constraints, the sample size and scope of such primary data is often limited in comparison to government data.

Despite these handicaps, civil society data is valuable as it not only questions the official narrative of development, but also provides information where none exist through official sources.

## SUMMARY

SDG 16 can be divided into four groupings: peaceful societies; rule of law and access to justice; effective, accountable and inclusive institutions; human rights and fundamental freedoms. These form the essential building blocks for promoting governance based on principles of fairness and equality, and institutions that protect and serve its citizen, especially the vulnerable. SDG 16 has 12 targets which are further broken down into 23 specific indicators.

The table below provides an overview of the main trends and summarizes data points for Goal 16 indicators in India. The following 12 chapters delve deeper into each of the targets and their measurements. The report problematizes the global indicators in the context of India and provides supplementary data to better capture the targets.

### SDG16.1: Significantly Reduce All Forms of Violence and Related Death Rates Everywhere

SDG Indicator	Baseline Indicator Measurement
16.1.1: Number of victims of intentional homicide per 100,000 population, by sex and age	<b>45,084</b> victims of intentional homicide; <b>3.7</b> Per 100,000 (NCRB 2015) Disaggregation by sex and age available only for victims of murder and culpable homicide
16.1.2: Conflict-related deaths per 100,000 population, by sex, age, and cause	<b>620</b> conflict-related deaths; <b>0.1</b> per 100,000 (MHA 2015) Data disaggregation by sex, age and cause unavailable.
16.1.3: Proportion of population subjected to physical, psychological or sexual violence in the previous 12 months	<b>262,211</b> victims of physical violence (NCRB 2015) <b>129,384</b> victims of psychological violence (NCRB 2015) <b>184,243</b> victims of sexual violence (NCRB 2015)
16.1.4: Proportion of population that feel safe walking alone around the area they live	— GoI does not conduct safety perception surveys <b>52 percent in Delhi and 17 percent in Mumbai</b> worry for a lone female out after 8 pm (CHRI 2015) <b>1 percent in Delhi and 12 percent in Mumbai</b> always feel safe (CHRI 2015)

<sup>14</sup> NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p. 396

## SDG 16.2: End Abuse, Exploitation, Trafficking and All Forms of Violence and Torture of Children

SDG Indicator	Baseline Indicator Measurement
16.2.1: Proportion of children aged 1-17 years who experienced any physical punishment and/or psychological aggression by caregivers in the past month	<b>65 percent</b> of children are beaten at school (MWCD 2007) <b>88.5 percent</b> of children are beaten at home (MWCD 2007) <b>48.37 percent</b> of children emotionally abused at home (MWCD 2007) <b>10.2 million</b> children estimated in child labour (Census 2011)
16.2.2: Number of victims of human trafficking per 100,000 population, by sex, age and form of exploitation	<b>10,060</b> identified victims of human trafficking (NCRB 2015) <b>2.8 million</b> women trafficked for sex (MWCD 2008) <b>1.2 million</b> (40 percent) of prostitutes in India are under 18 years old (MWCD 2008) <b>286,839</b> identified bonded labourers (ML&E 2007) <b>18 million</b> forced (bonded) labourers (GSI 2017)
16.2.3: Proportion of young women and men aged 18-29 years who experienced sexual violence by age 18	<b>38,922</b> victims of child sexual abuse (NCRB 2015) <b>12,584</b> victims of forced marriage (NCRB 2015) <b>50.76 percent</b> faced "other forms" of sexual abuse (MWCD 2007)

## SDG 16.3: Promote the Rule of Law at the National and International Levels and Ensure Equal Access to Justice for All.

SDG Indicator	Baseline Indicator Measurement
16.3.1: Proportion of victims of violence in the previous 12 months who reported their victimisation to competent authorities or other officially recognised conflict resolution mechanisms	<b>442,887</b> victims reported victimization (NCRB 2015) <b>190,000</b> thefts in Bengaluru; <b>35,000</b> were reported to the police (IDFC 2015-2016) <b>92.5 percent</b> of women who faced sexual assault in Delhi did not report it to the police (CHRI 2015)
16.3.2: Unsentenced detainees as a proportion of overall prison population	<b>67 percent</b> unsentenced detainees in prison (NCRB 2015) <b>15 percent</b> increase in people waiting over a year for trial (NCRB 2001-2016) <b>11.7 percent</b> undertrials in prison for over 2 years (NCRB 2015)

## SDG 16.4: By 2030, Significantly Reduce Illicit Financial and Arms Flows, Strengthen the Recovery and Return of Stolen Assets and Combat All Forms of Organized Crime

SDG Indicator	Baseline Indicator Measurement
16.4.1: Total value of inward and outward illicit financial flows (in current United States dollars)	<b>\$466</b> Billion USD stored illegally in bank accounts overseas (Parliament 2011) <b>\$590</b> Billion USD in inward illicit flows (GFI 2004-2013) <b>\$505</b> Billion USD in outward illicit flows (GFI 2004-2013)
16.4.2: Proportion of seized small arms and light weapons that are recorded and traced, in accordance with international standards and legal instruments	<b>51,158</b> small arms and <b>3,571</b> explosives seized (NCRB 2015) <b>3.17 million</b> arms registered on the National Database on Arms License (NDAL) (2017)

## SDG 16.5: Substantially Reduce Corruption and Bribery in All their Forms

SDG Indicator	Baseline Indicator Measurement
16.5.1: Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked to pay a bribe by those public officials during the previous 12 months	<b>5,867</b> cases of corruption by state government and CBI officials (NCRB 2015) <b>4,355</b> cases of central government corruption (CVC 2015) <b>33</b> Percent of households surveyed paid bribes (CMS 2016)
16.5.2: Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked to pay a bribe by those public officials during the previous 12 months	<b>22.7 percent</b> of corporate bribery incidence (World Bank 2014) <b>79.4 percent</b> respondents reported corruption as the greatest constraint faced by businesses (NCAER 2015) <b>58 percent</b> business employees believed corruption occurs widely in India (E&Y 2016)

### SDG 16.6: Develop Effective, Accountable and Transparent Institutions at All Levels

SDG Indicator	Baseline Indicator Measurement
16.6.1: <i>Primary government expenditure as a proportion of original approved budget, by sector (or by budget codes or similar)</i>	<b>13,306 crore rupees</b> (\$2 billion US) more was spent on the 2015-2016 budget than was originally estimated (MoF) <b>29,764 crore rupees</b> (\$4.63 billion US) more was spent on Capital Outlay (excluding defence) (MoF 2016-2017) <b>46/100</b> on the Open Budget Index (IBP 2015)
16.6.2: <i>Proportion of the population satisfied with their last experience of public services</i>	— No governmental data on public satisfaction of essential public services <b>76 percent</b> approved of quality of drinking water (PAC 2016) <b>16 percent</b> approved of quality of education (PAC 2016) <b>29.55 percent and 50.13 percent in Delhi and Mumbai, respectively, satisfied with police</b> (CHRI 2015)

### SDG 16.7: Ensure Responsive, Inclusive, Participatory and Representative Decision-Making at All Levels

SDG Indicator	Baseline Indicator Measurement
16.7.1: Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions	<b>66 (12.15 percent)</b> women Members of Parliament (2014) <b>47 percent</b> MPs over the age of 55 in Lok Sabha 12 percent government jobs out of the 27 percent that is allocated for OBCs (RTI 2015) <b>9,961 out of 281,398 jobs</b> reserved for disabled persons in government ministries were filled (Census 2011) — Muslim representation is not recorded by the NCRB or BPRD since 2013 <b>6.11 percent</b> women police officers (NCRB 2014) — Caste-wise data not maintained for the judiciary <b>69 out of 652 (10.58 percent) women judges</b> serving in 24 High Courts (Parliament 2016) <b>1 out of 25</b> Supreme Court judges is a woman (Parliament 2016)
16.7.2: Proportion of population who believe decision making is inclusive and responsive, by sex, age, disability and population group	<b>67.40</b> out of 100 public approval of government initiatives (MyGov 2016) <b>61/50 percent</b> of men/women believe that the government understands their situation (PewGlobal 2016) <b>59 percent</b> between the ages 18 and 34 years think Prime Minister Modi cares about them (PewGlobal 2016) <b>65 percent</b> Indians trust the government (Edelmen 2016)

### SDG 16.8: Broaden and Strengthen the Participation of Developing Countries in the Institutions of Global Governance

SDG Indicator	Baseline Indicator Measurement
16.8.1: Proportion of members and voting rights of developing countries in international organizations	<b>4 out of 5</b> memberships in World Bank Institutions (World Bank 2015) <b>8 out of 11 years</b> since the HRC was formed (2006-2016), India has been a voting member <b>130 out of 341</b> recommendations made in the 2017 UPR were noted (deferred) by the State

### SDG 16.9: By 2030, Provide Legal Identity for All, Including Birth Registration

SDG Indicator	Baseline Indicator Measurement
16.9.1: Proportion of children under 5 years of age whose births have been registered with a civil authority, by age	<b>79.7 percent</b> of total births registered of children under 5 years (NFHS 2015-2016)

**SDG 16.10: Ensure Public Access to Information and Protect Fundamental Freedoms, in Accordance with National Legislation and International Agreements**

SDG Indicator	Baseline Indicator Measurement
16.10.1: Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months	<b>110</b> complaints regarding attacks and abuse of human rights activists recorded by the NHRC (2010-2014) — No government data on violence or abuse of journalists or trade unionists due to their work <b>4</b> <i>journalists killed due to their work (CPJ 2015)</i> <b>59</b> <i>cases of violence against RTI activists (CHRI 2015)</i>
16.10.2: Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information	<b>976,679</b> RTI requests (CIC 2015) <b>36,913 (43.4 percent of total rejections)</b> RTI Applications were rejected without giving reasons (CIC 2015)

**SDG 16.A: Strengthen Relevant National Institutions, Including Through International Cooperation, for Building Capacity at All Levels, in Particular in Developing Countries, to Prevent Violence and Combat Terrorism and Crime**

SDG Indicator	Baseline Indicator Measurement
16.A.1: Existence of independent national human rights institutions in compliance with the Paris Principles	<b>A status</b> <i>re-accredited based on NHRCI's proposed amendments (GANHRI 2018)</i> The global accreditation body's recommendations to NHRCI remain unchanged since 2006 (SCA)

**SDG 16.B: Promote and Enforce Non-Discriminatory Laws and Policies for Sustainable Development**

SDG Indicator	Baseline Indicator Measurement
16.B.1: Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law	<b>65.46 percent</b> women are literate, compared to 82.14 percent of men (Census 2011) <b>29 percent</b> <i>of women in the workforce (World Economic Forum 2015)</i> <b>66.1 percent</b> of SCs are literate, compared to 73 percent average literacy rate (Census 2011) <b>50 million</b> STs displaced by resource projects in 50 years (Parliament 1963-2013) <b>327 per 1,000</b> Muslims are illiterate, which is 53.75 per 1,000 higher than the average across all religious groups (NSS 2011-2012) <b>3/14 percent</b> of Denotified/nomadic tribes, respectively, not covered by state SC/ST allocations (2015) — No government data available on LGBTQ discrimination <b>36 percent</b> of disabled people are working (SSD 2016) <b>78 percent</b> of people from the Northeast living in Delhi experienced discrimination (NESC&H 2011) <b>3</b> High-profile rationalists were killed (2013-2015) <b>52 per every 1,000</b> Christians are unemployed (NSS 2012)

# SDG 16

Promote Peaceful and Inclusive Societies for Sustainable Development,  
Provide Access to Justice for All and Build Effective, Accountable and Inclusive  
Institutions at All Levels.



# SDG 16.1:

## SIGNIFICANTLY REDUCE ALL FORMS OF VIOLENCE AND RELATED DEATH RATES EVERYWHERE

The 2015 UN Development Report concluded that conflict is the most significant barrier to development.<sup>1</sup> If SDGs are to have a chance to succeed, violence, conflict and insecurity need to be mitigated for an environment that is conducive for development.

### 16.1.1:

#### NUMBER OF VICTIMS OF INTENTIONAL HOMICIDE PER 100,000 POPULATION, BY SEX AND AGE

Based on government data, the total number of victims of intentional homicide in 2015 is 45,084 at a rate of 3.7 per 100,000. Data disaggregation based on age and sex is available only for murder and culpable homicide— male victims (24,254) were three times more than women (8,828) and the highest number of murders were recorded in the age group of 18-29 (12,616), followed by the age group 30-44 (12,487).

Intentional homicide is defined as the unlawful death inflicted upon a person with the intent to cause death or serious injury.<sup>2</sup> According to the UN Statistics Division (UNSD), it includes murder, voluntary manslaughter, dowry-related killings, infanticide, killings during civil unrest, honour killing, killings caused due to excessive force by law enforcement and state officials and extrajudicial killings.<sup>3</sup> In India, the National Crime Record Bureau (NCRB), the primary source for official crime-related and criminal justice data, pegs the rate of intentional homicides at 3.7 per 100,000 in 2015. According to the 2014 World Bank report, India's rate of intentional homicides is 3.2 per 100,000, which is third highest in South Asia (after Pakistan and Afghanistan).<sup>4</sup>

**Fig: 1 Victims of Murder and Culpable Homicide by Age & Sex<sup>5</sup>**

Category	Age			Sex		Total Victims
	18-29	30-44	45-59	Male	Female	
Murder	12,616	12,487	49,50	24,254	8,828	33,082
Culpable Homicide	1,236	1,479	581	3,030	627	3,657

Although, the NCRB records all the aforementioned components of intentional homicide— barring extrajudicial killings— it only provides age and sex disaggregation for murder and culpable homicide not amounting to murder (voluntary manslaughter).

1 United Nations Department of Economic and Social Affairs, *The Millennium Development Goals Report 2015: Summary*, UN, 2015, p. 7.

2 UN Office on Drugs and Crime, *International Classification of Crime for Statistical Purposes (ICCS)*, UN, 2015. p. 16 <https://unstats.un.org/unsd/statcom/doc15/BG-ICCS-UNODC.pdf>

3 See UNSD SDG Metadata Repository <https://unstats.un.org/sdgs/metadata/files/Metadata-16-01-01.pdf>

4 The World Bank, *Intentional Homicides Per Capita*, (website), 2014, <http://data.worldbank.org/indicator/VC.IHR.PSRC.P5?contextual=region&locations=IN>; Nation Master, *Murder Rate: Countries Compared*, (website), 2012, <http://www.nationmaster.com/country-info/stats/Crime/Violent-crime/Murder-rate>

5 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, pp. 111-112. The summation of the 3 different age-groups of victims of murder and culpable homicide recorded by the NCRB is less than the total number of victims murders and intentional homicides because the latter number includes victims below 18 and above 60 years of age.

Out of the 29 States and seven Union Territories (UTs), the state of Uttar Pradesh recorded the highest incidence of murder (4,732 cases; 14.7 percent), followed by Bihar (3,178 cases; 9.9 percent).<sup>6</sup> The highest rate of homicide per capita was in Meghalaya (5.4 per 100,000), followed by Jharkhand (4.6 per 100,000).<sup>7</sup> The most common causes of homicide in 2015 were “personal vendetta or enmity” and “property dispute”, which made up 14.8 percent and 11.0 percent of all murders, respectively.<sup>8</sup>

### *Deaths from Communal Violence*

According to the data cited by the Minister of State in the Ministry of Home Affairs (MHA), 703 communal (inter-religious) clashes were reported in 2016, which resulted in 86 deaths and 2321 injured.<sup>9</sup> In 2015 there were 751 incidents resulting in 97 deaths and 2,264 injured. In 2014 there were 644 incidents with 95 deaths and 1,921 injured.<sup>10</sup>

### *Custodial Deaths*

In 2015, NCRB recorded 1,584 deaths in prisons, 115 of which were unnatural deaths.<sup>11</sup> Among the, Uttar Pradesh reported the highest number of un-natural causes of deaths in prisons (21 cases), ahead of Delhi (15), West Bengal (12) and Karnataka (11). “Most of the unnatural deaths were in form of suicides (77), followed by uncategorized deaths (19), murdered by fellow inmates (11) and deaths due to assault by outside elements (7).”<sup>12</sup> No death of inmates due to firing and negligence/excess by jail personnel were reported.<sup>13</sup>

In 2015, there were 97 deaths in custody— of this figure, 30 had been remanded to police custody by the courts and 67 had not.<sup>14</sup> Thirty-four were death by suicide; the next highest were 12 by hospitalization and 11 by illness.<sup>15</sup> Six cases of death were from injuries caused by police. Although 28 police officers were charge sheeted, none were convicted.<sup>16</sup> In its 2016 report on police custody violence, Human Rights Watch interviewed victims, their families, police and justice experts, and concluded that “while Indian police typically blame deaths in custody on suicide, illness, or natural causes, family members of victims frequently allege that the deaths were the result of torture or other ill-treatment.”<sup>17</sup>

### *Police Firing and Lathi Charge*

Deaths also occur during police firings and lathi (baton) charges. The NCRB defines such cases as those occurring during riot control, police self-defence, to make an arrest and “against other events.”<sup>18</sup> The rate of firings has decreased, from 1,421 occasions in 2010, to 156 occasions in 2015.<sup>19</sup>

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6 NCRB, *Crime in India 2015 Compendium*, New Delhi, 2016, p. 57.

7 *Ibid.*

8 *Ibid.*, p. 61.

9 Shri Kiren Rijju (MHA), *Communal Violence*, Lok Sabha, 7 February 2017, <http://164.100.47.190/loksabhaquestions/annex/11/AU849.pdf>

10 *Ibid.*

11 NCRB, *Prison Statistics India 2015*, GoI, New Delhi, p. 133.

12 *Ibid.*

13 *Ibid.* In 2014, out of 1,702 custodial deaths, the NCRB recorded 195 unnatural deaths in prisons. “Most of the unnatural deaths were in form of suicides (94) followed by uncategorized deaths (82), murdered by fellow inmates (12), deaths due to assault by outside elements (4), deaths due to firings (2) and deaths due to negligence/excess by jail personnel (1).”

14 NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, p. 147.

15 *Ibid.*, p. 148.

16 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, pp. 376-377.

17 HRW, “India: Killings in Police Custody Go Unpunished. Enforce Laws to End Torture, Deaths of Detainees”, (website) New York,

19 December 2016, <https://www.hrw.org/news/2016/12/19/india-killings-police-custody-go-unpunished>

18 NCRB, *Crime in India Compendium 2015*, GoI, New Delhi, p. 151.

19 *Ibid.*; NCRB, *Crime in India Compendium 2014*, GoI, New Delhi, p. 148.

The rate of lathi charges began to be recorded since 2014 (382 occasions), and 327 occasions in 2015.<sup>20</sup> Most lathi charges in both years occurred in Jammu and Kashmir (304 in 2014, and 207 in 2015).<sup>21</sup> In total, there were 57 deaths in 2015.

**Fig. 2 — Police Firing and Lathi Charge, 2014-2015<sup>22</sup>**

Year	Police Firing		Lathi Charge		Total Killed
	Civilians Killed	Police Killed	Civilians Killed	Police Killed	
2014	41	16	1	2	60
2015	42	8	7	0	57

### *Honour Killing*

Honour killing is the act of a family killing one of its own members due to a belief that the victim has brought shame or dishonour upon the family, or has violated the principles of the community or the religion. The Supreme Court of India has recognised the issue of honour killing as a significant source of violence, and highlights the importance of condemning and prosecuting such cases—“disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them.”<sup>23</sup>

The former Minister of State for Home Affairs, Hansraj G Ahir, told the Indian Parliament that there were 251 cases of honour killing in 2015, up from 28 cases in 2014.<sup>24</sup> This is in large part due to increasing awareness and reporting, and disaggregated reporting from other homicides. Most honour killings are reported in the northern Indian states, such as Uttar Pradesh, Haryana and Rajasthan, where caste councils and village elders wield significant power.<sup>25</sup>

There are no official numbers for other types of “honour” related violence not amounting to homicide. However, a combined research from Australian and Indian universities showed high incidence of honour-related violence in Uttar Pradesh and Gujarat— 45.1 percent had experienced honour based violence often and 41.7 percent had experienced it sometimes.<sup>26</sup>

### *Dowry Deaths*

Dowry deaths are deaths of women who are murdered or driven to suicide by continuous harassment and torture by husbands and in-laws to extort dowry payments. Dowries were declared illegal in 1961 but continue in various forms, such as the bride’s family paying for the expensive wedding, or repeatedly giving gifts to the groom’s family over an extended period of time. In 2015, the NCRB recorded 7,634 cases of dowry deaths. This was a decline in reported cases from the previous year (8,455 cases in 2014) and below the five-year average from 2010-2014 of 8,356 cases.<sup>27</sup>

20 NCRB, *Crime in India Compendium 2015*, p. 151; NCRB, *Crime in India Compendium 2014*, p. 148.

21 NCRB, *Crime in India Statistics 2015*, p. 384; NCRB, *Crime in India Statistics 2014*, p. 369.

22 *Ibid.*, p. 382 and *Ibid.*, p. 367.

23 *Vikas Yadav Vs. Respondent: State of U.P. and Ors.*, 2016, Supreme Court of India

24 EPA, “India Sees Huge Spike in ‘Honour’ Killings”, *Al Jazeera*, 7 December 2016,

<http://www.aljazeera.com/news/2016/12/india-sees-huge-spike-honour-killings-161207153333597.html>

25 Satnam Deol, *Honour Killings in India: A Study of the Punjab State*, *International Research Journal of Social Sciences*, Vol. 3(6), 7-16, June 2014, p. 9, <http://www.isca.in/IJSS/Archive/v3/i6/2.ISCA-IRJSS-2014-70.pdf>

26 Alex Broom, David Sibbritt, K. R. Nayar, Assa Doron, and Pamela Nilan, *Men’s Experiences of Family, Domestic and Honour-Related Violence in Gujarat and Uttar Pradesh, India*, *Asian Social Science*, Vol. 8, No. 6; May 2012, p. 5, <http://www.ccsenet.org/journal/index.php/ass/article/view/16530/11014>

27 NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, 2016, p. 12.

## *Infanticide*

The NCRB registers cases of infanticide under IPC Sec. 350. In 2015, it recorded 94 victims of infanticide.<sup>28</sup> In 2014 and 2016, there were 121 and 93 victims of infanticide, respectively.

## *Extrajudicial Killings*

In India, 'encounter deaths' refer to killings by the police or armed forces, allegedly in self-defence, when engaging with suspected gang members and terrorists. When encounter deaths occur without legal basis, they are termed 'extrajudicial killings'. In the 2015, no cases of human rights violations were registered against the Central Armed Reserved Forces, including the Border Security Force (BSF).<sup>29</sup> However, this is contradicted by personal accounts and media reports from conflict-affected areas from across the country.

A significant reason for discrepancy between official and non-official reports is the Armed Forces Special Powers Act (AFSPA), which came into effect in 1958, and provides sweeping powers and protection to the army. It gives armed forces personnel, including non-commissioned officers, the authority to shoot to kill based on suspicion in order to maintain public order.<sup>30</sup> AFSPA was first challenged in 1997 but the Supreme Court upheld its constitutional validity. However in 2016, the Supreme Court of India said that "there is no concept of absolute immunity from trial by a criminal court" if a soldier has committed an offence.<sup>31</sup> Currently, the Supreme Court has asked the Government of India to begin sorting the cases. Its decision on these hearings could have an impact on the status of the armed conflict and the scope of reporting on deaths in "disturbed" areas.<sup>32</sup>

This is part of a petition to look into 1,528 cases of alleged staged encounter killings between 1979 and 2012 by the Indian Army and paramilitary forces. These cases were presented to the Supreme Court of India in two writ petitions in 2012.<sup>33</sup> To assess the veracity of these claims, the Court appointed a high-power commission, headed by a retired Supreme Court judge, to probe a sample of six cases. It found all six sample cases "to be not real encounters [and...] egregious examples of the AFSPA's gross abuse."<sup>34</sup>

More recently, the Bastar Solidarity Network and Women against Sexual Violence and State Repression (WSS) working in south Chhattisgarh have documented 134 alleged extrajudicial killings since the beginning of 2016.<sup>35</sup> In a petition filed in 2016 at the Chhattisgarh High Court in Bilaspur, six of these cases were highlighted, and investigations are under way.<sup>36</sup>

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28 NCRB, *Crime in India 2015 Statistics*, New Delhi, p. 177

29 NCRB, *Crime in India 2015 Statistics*, New Delhi, p. 396.

30 Muzamil Jaleel, "Explained: AFSPA-Disturbed Areas Debate in J&K", *The Indian Express*, 30 March 2015, <http://indianexpress.com/article/explained/explained-afspa-disturbed-areas-debate-in-jk/>

31 Krishnadas Rajagopal, "SC Ends Impunity for Armed Forces", *The Hindu*, 8 July 2016, <http://www.thehindu.com/news/national/SC-ends-impunity-for-armed-forces/article14478391.ece>

32 Kishalay Bhattacharjee, "Rajnish Rai's Allegations of a Fake Encounter in Assam Will Not Impact the Impunity of India's Security Forces", *The Caravan*, 31 May 2017, <http://www.caravanmagazine.in/vantage/rajnish-rai-allegations-fake-encounter-assam-will-not-impact-impunity-indias-security-forces>

33 Writ petition filed by Extra Judicial Execution Victim Families Association and the Human Rights Alert; [https://supremecourtindia.nic.in/supremecourt/2012/29000/29000\\_2012\\_Judgement\\_14-Jul-2017.pdf](https://supremecourtindia.nic.in/supremecourt/2012/29000/29000_2012_Judgement_14-Jul-2017.pdf)

34 Human Rights Law Network, Santosh Hegde Commission Submits Report on Manipur Extra Judicial Killings, (website), May 2013, <http://www.hrln.org/hrln/criminal-justice/reports/1501-santosh-hegde-commission-submits-report-on-manipur-extra-judicial-killings.html>

35 Bastar Solidarity Network and Women Against Sexual Violence and State Repression (WSS); interview with Shreya Khimani

36 High Court of Chhattisgarh, *In Re Extra Judicial Killings in District Bijapur*, 2016, <https://wssnet.files.wordpress.com/2016/10/writ-on-encounters-2.pdf>

## 16.1.2: CONFLICT-RELATED DEATHS PER 100,000 POPULATION, BY SEX, AGE, AND CAUSE

MHA recorded 620 conflict-related deaths in 2015 at a rate of approximately 0.1 per 100,000 population. GoI does not record disaggregated data for sex, age and cause.

This SDG indicator is intended to report the number of battle-related deaths in armed conflict. However, the Government of India frames conflict as a law and order problem, internal security situation, or a “disturbance”.<sup>37</sup> News media or non-governmental sources more often use the term “armed conflict”. Government data on conflict-related deaths for the purposes of SDG reporting is obtained from annual reports of the Ministry of Home Affairs (MHA). In 2015, it reported 620 deaths and in 2016 there were 686 deaths.<sup>38</sup>

**Fig. 3 — MHA Conflict Incidents and Related Deaths, 2015 - 2016**<sup>39</sup>

Area of Conflict	Incidents	Civilian Deaths	Security Force Deaths	Non-State Actor Deaths	Total Deaths
LWE	1089	-	115	100	215*
NE	574	46	46	149	241
J&K	208	17	39	108	164
2015 Total	1871	63*	200	357	620
LWE	1048	-	65	222	287*
NE	484	48	27	87	152
J&K	322	15	82	150	247
2016 Total	1854	63*	164	495	686*

\*civilian deaths were not recorded in Left-Wing Extremism (LWE) in 2015 and 2016 and would change the total.

Jammu and Kashmir, Maharashtra, Odisha, Jharkhand, Chhattisgarh, and the states of Manipur, Nagaland, and Assam in the North-East have high concentrations of military personnel due to insurgencies and various movements in those areas.<sup>40</sup> The causes of conflict-related deaths therefore range from protests, to “encounters” in conflict areas and clashes with armed separatists. Official data is not disaggregated by sex.<sup>41</sup>

In contrast to government data, the independent South Asia Terrorism Portal (SATP) recorded 251 fatalities under LWE; 273 from insurgency in the North-East; 174 in Jammu and Kashmir; 10 in Punjab; and 13 cases of Islamist extremism. This totals to 722 conflict-related deaths in 2015.<sup>42</sup>

<sup>37</sup> United Nations (1997), *Human Rights Committee, Summary Record of the 1603rd Meeting*, CCPR/C/SR.1603, 24 July, Geneva; p. 6

<sup>38</sup> MHA, *Annual Report 2016-2017, Government of India (GoI)*, Delhi, 2016, p. 4, 5, 6, 15. [https://mha.gov.in/sites/default/files/annual\\_report\\_18082017.pdf](https://mha.gov.in/sites/default/files/annual_report_18082017.pdf) <https://mha.gov.in/sites/default/files/AR%28E%291516.pdf>

<sup>39</sup> *Ibid.*

<sup>40</sup> Ajaz Ashraf, “Do you need 700,000 soldiers to fight 150 militants?": Kashmiri rights activist Khurram Parvez”, *Scroll.in*, 21 July 2016, <https://scroll.in/article/812010/do-you-need-700000-soldiers-to-fight-150-militants-kashmiri-rights-activist-khurram-parvez>; Ved Marwah, “India’s Internal Security Challenges”, *Institute for Defence Study and Analysis*, October 2003, [http://www.idsa.in/strategicanalysis/IndiasInternalSecurityChallenges\\_vmarwah\\_1003](http://www.idsa.in/strategicanalysis/IndiasInternalSecurityChallenges_vmarwah_1003)

<sup>41</sup> Institute for Economics and Peace, *Global Terrorism Index 2016: Measuring and Understanding the Impact of Terrorism*, US, 2016, p. 31, <http://economicsandpeace.org/wp-content/uploads/2016/11/Global-Terrorism-Index-2016.2.pdf>

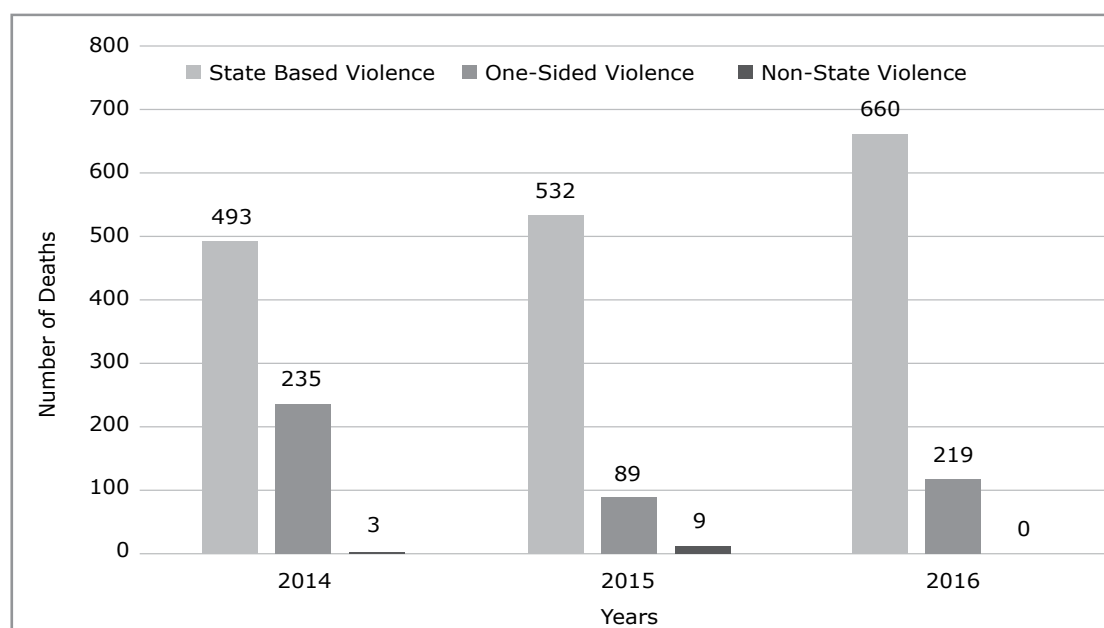
<sup>42</sup> SATP, “Cumulative Fatalities by Conflict Theatres: 2005-2017”, (website), 1 October 2017, [http://www.satp.org/satporgtp/countries/india/database/Cumulative\\_Fatalities.htm](http://www.satp.org/satporgtp/countries/india/database/Cumulative_Fatalities.htm)

**Fig. 4 – SATP Conflict Related Deaths Records 2010 - 2016<sup>43</sup>**

Year	Civilian Deaths	Security Force Deaths	Non-state Actor Deaths	Total Deaths
2014	407	161	408	976
2015	181	155	386	722
2016	202	180	516	898

The Sweden-based Uppsala Conflict Data Program (UCDP) aggregates conflict-related deaths globally for state-based, one-sided, and non-state violence resulting in deaths. According to UCDP, there were 630 deaths in India in 2015 and 783 in 2016.<sup>44</sup> The average FOR conflict-related deaths between 2010 and 2016 was placed at 739.<sup>45</sup>

**Fig. 5– UCDP Conflict Related Deaths by Type of Violence 2014 – 2016<sup>46</sup>**



<sup>43</sup> SATP, "India Fatalities: 1994-2017", (website), 1 October 2017, <http://www.satp.org/satporgtp/countries/india/database/indiafatalities.htm>

<sup>44</sup> UCDP, "India", (website), 2016, <http://ucdp.uu.se/#country/750>

<sup>45</sup> Ibid.

<sup>46</sup> Ibid., State-based violence (The use of armed force between the government of a state and one or more organised armed groups); one-sided conflict

The use of armed force by the government of a state or by a formally organised group against civilians); non-state violence (The use of armed force between two organised armed groups, neither of which is the government of a state) <http://www.pcr.uu.se/research/ucdp/definitions/>

### 16.1.3:

Proportion of population subjected to physical, psychological or sexual violence in the previous 12 months

In 2015, NCRB recorded 262,211 victims of physical violence; 129,384 victims of psychological violence; and 184,243 victims of sexual violence. Non-government studies project higher numbers. Data discrepancies exist between government agencies.

#### *Physical Violence*

Although SDG 16.1.1 mentions homicide rates, the physical violence component of this indicator addresses other aspects of personal security. The NCRB records data on physical violence under several IPC sections: attempt to commit murder (Sec. 307), attempt to commit culpable homicide (Sec. 308), kidnapping and abduction (Sec. 363), dacoity (Sec. 395), robbery (Sec. 392), and riots (Sec. 146), which total to 18.41 per 100,000.<sup>47</sup> The data is further supplemented by other forms of violence, such as violence against Scheduled Castes (SCs) and Scheduled Tribes (STs), and inter-religious (communal) violence. Overall, cases of physical violence have increased year after year.

**Fig. 6—Victims of Physical Violence, 2014 - 2016<sup>48</sup>**

Year	Attempt to Commit Murder	Attempt to Commit Culpable Homicide	Kidnapping and Abduction	Dacoity	Robbery	Riots	Total
2014	44,638	4,611	78,447	5,302	38,853	83,254	255,105
2015	4,8931	6,410	84,483	4,409	36,581	81,397	262,211
2016	52,746	7,882	89,894	4,160	32,238	73,744	260,664

According to NCRB data, violence against Other Backward Castes (OBCs) and SCs has also been on the rise; from 2010 to 2014, violence against SCs has increased 40 percent.<sup>49</sup> In 2015, the NCRB recorded 4,505 SC victims and 593 ST victims of physical violence under the PoA Act.<sup>50</sup>

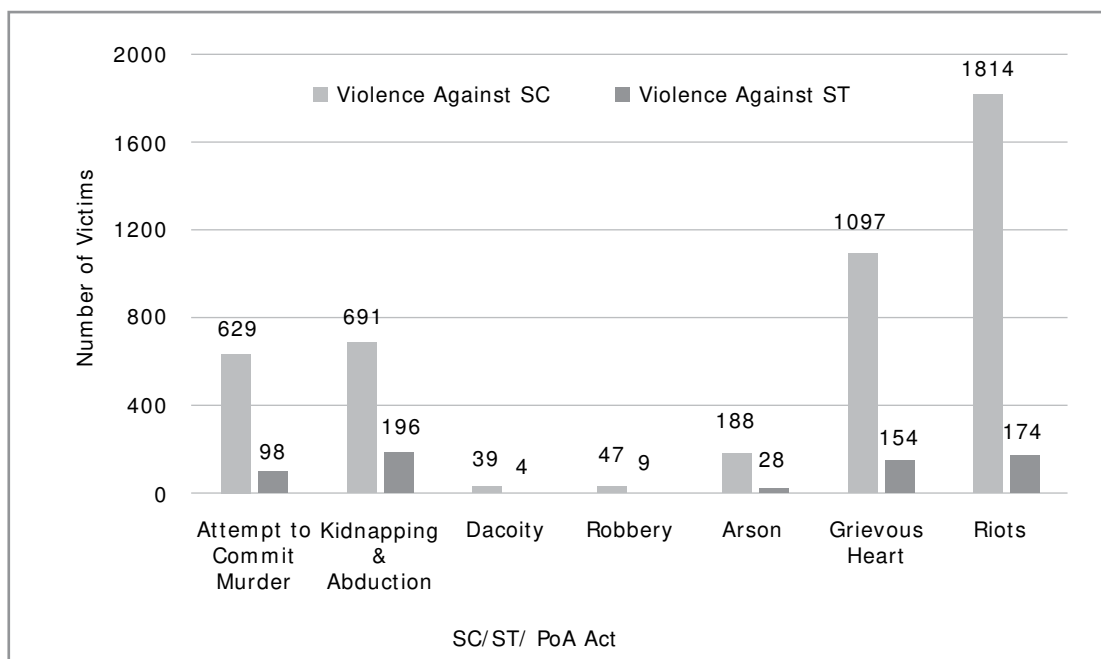
<sup>47</sup> NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, 2016, p. 11-12. The rate is crime cases divided by 2015 Indian population multiplied by 100,000; 3.55, 0.47, 6.34, 0.30, 2.76, 4.99, total 18.41.

<sup>48</sup> NCRB, *Crime in India 2014, 2015, 2016 Statistics*, New Delhi, executive summary.

<sup>49</sup> Himadri Ghosh, "Why Crime Is Rising Against India's Lowest Castes And Tribes", *IndiaSpend*, 4 July 2016, <http://www.indiaspend.com/cover-story/why-crime-is-rising-against-indias-lowest-castes-and-tribes-29049>

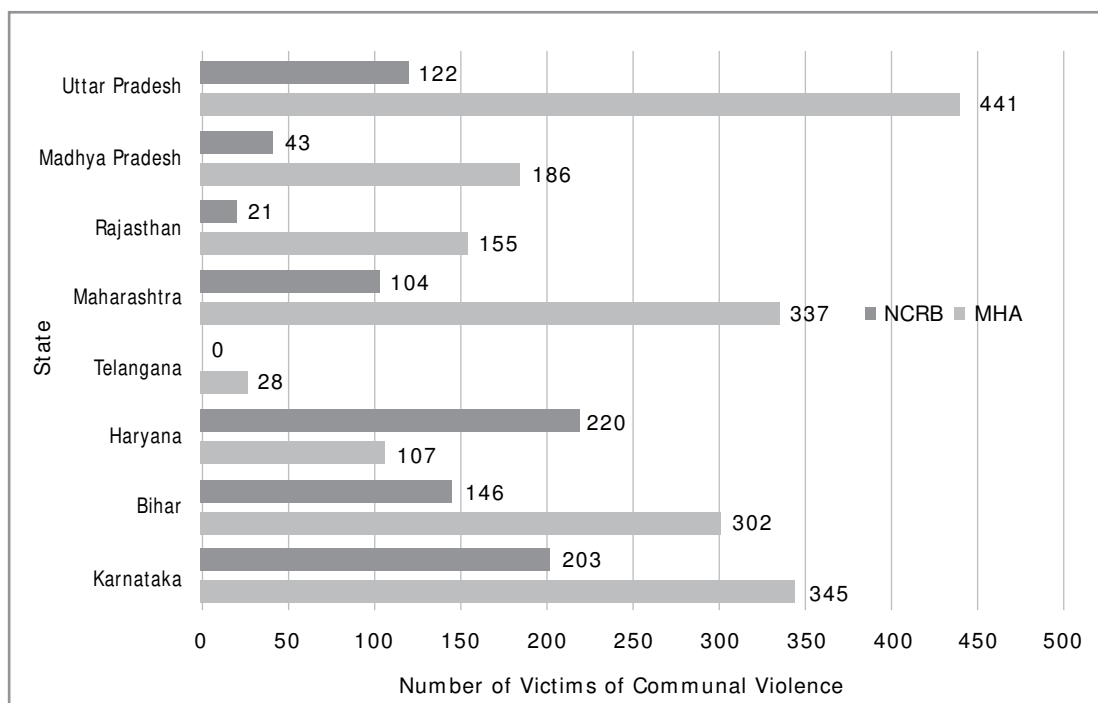
<sup>50</sup> NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, pp. 228-236, 260-268.

**Fig. 7— SC/ST Victims of Physical Violence under PoA Act, 2015<sup>51</sup>**



Although 2015 did not witness any major communal riots, there have been widespread incidents of low intensity violence throughout the year. However, discrepancies exist between the MHA and the NCRB as to the number of communal clashes and the number killed or injured in such incidents.<sup>52</sup>

**Fig. 8 —Victims of Communal Violence, 2015<sup>53</sup>**



<sup>51</sup> *Ibid.*

<sup>52</sup> Rakesh Dubbudu, "Home Ministry Still Clueless About Data Discrepancy Related to Communal Incidents", *Factly*, 25 November 2016, <https://factly.in/communal-incidents-ncrb-contradicts-home-ministry-yet/>

<sup>53</sup> NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p.15; Shri Sanjay Dhotre (MHA), *Communal Violence*, Lok Sabha, 19 July 2016, *ans*, <http://164.100.47.190/loksabhaquestions/annex/9/AS35.pdf>



While the majority of inter-religious and communal violence involves incidents between Hindus and Muslims in India, Christians are affected by it as well. The NCRB and MHA do not disaggregate communal incidents and deaths by religion, and therefore data is not available on the number of Christians affected.

Christians constitute approximately 2.3 percent of India's population, and according to the Catholic Secular Forum, 2015 was the worst year for Christians in India since independence.<sup>54</sup> There were 365 incidents of major attacks on community members and institutions, including churches and Christian schools, illustrating more than 300 percent increase as compared to 2014.<sup>55</sup>

Eight people were killed and at least 8,000 were attacked or harassed in different parts of the country in 2015.<sup>56</sup> The highest concentration of violence against Christians were in Chhattisgarh, followed by Madhya Pradesh, Odisha, Gujarat and Himachal Pradesh.<sup>57</sup> In the states with majority Christians, such as Mizoram, Meghalaya and Nagaland, ethnic rivalries and autonomy movements are larger issues.<sup>58</sup>

As mentioned in 16.1.1, violence occurs during police crowd control and during arrests. Below is the total amount of injuries recorded by the NCRB.

**Fig. 9— Police Firing and Lathi Charge Injuries, 2014-2015\*<sup>59</sup>**

Year	Police Firing		Lathi Charge		Total
	Civilians Injured	Police Injured	Civilians Injured	Police Injured	
2014	104	210	262	557	1133
2015	39	177	298	696	1210

\*Lathi charge injuries were not recorded before 2014

### *Psychological Violence*

There is as yet no consensus at the international level of the precise definition, nor a well-established methodology to measure psychological violence.<sup>60</sup> For the purposes of this report, psychological violence is understood as any intentional conduct that seriously impairs another person's psychological integrity through coercion or threats. Examples of psychological violence include acts such as isolation from others, verbal aggression, threats, intimidation, control, harassment or stalking, insults and humiliation.<sup>61</sup> Furthermore, only those forms of psychological violence are included here which are criminal offences in India. These include: insult to the modesty of women (IPC Sec. 509); cruelty by husband and relatives (IPC Sec. 498A); voyeurism (Sec. 354C); and stalking (Sec. 354D).<sup>62</sup>

54 Sudipto Mondal, "2015 Worst Year for Christians Since Independence, 8,000 attacked", *Hindustan Times*, 19 January 2016, <http://www.hindustantimes.com/india/2015-the-worst-year-for-christians-since-independence-study/story-WmObF2tsphJPVq2mqBDesK.html>

55 *Ibid.*

56 *Ibid.*

57 World Watch Monitor, *Uncertain Future for Indian Christians after BJP's Election Victories*, (website), 22 March 2017, <https://www.worldwatchmonitor.org/2017/03/uncertain-future-indian-christians-bjps-election-victories/>

58 Ashild Kolas, *Framing the Tribal: Ethnic Violence in Northeast India*, *Asian Ethnicity Journal*, Vol. 18, No. 1, 7 July 2015, <https://www.tandfonline.com/doi/full/10.1080/14631369.2015.1062050>

59 NCRB, *Crime in India Statistics 2015*, p. 382; NCRB, *Crime in India Statistics 2014*, p. 367.

60 UN Statistics Division, *SDG Metadata Repository* <https://unstats.un.org/sdgs/metadata/files/Metadata-16-01-03.pdf>

61 European Institute for Gender Equality; <http://eige.europa.eu/taxonomy/term/1334>

62 *Ibid.*, p. 90. *The statistics for stalking and voyeurism have been double counted under psychological violence and sexual violence since the NCRB classifies the two offences as "assault on women with the intent to outrage her modesty" (IPC Sec. 354) under sexual violence.*

**Fig. 10—Victims of Psychological Violence, 2015<sup>63</sup>**

Category	Number of Victims
Insult to the Modesty of Women	8,707
Cruelty by Husband or Relatives	113,548
Voyeurism	846
Stalking	6,283
Total	129,384

The phenomenon of “revenge porn” — non-consensual distribution of sexual imagery or videos— also qualifies as psychological violence. The Information Technology (IT) Act outlaws the publication, transmission of obscene and sexually explicit content under Sections 67 to 67C. Official statistics recorded 1,203 cases of “transmission of obscene content in electronic form” in 2013, and 816 cases were recorded in 2015.<sup>64</sup> According to the American Academy of Psychiatry, this offence can result in “lifelong mental health consequences for victims, damaged relationships, and social isolation.”<sup>65</sup>

Another significant area of psychological violence is the systemic abuse and mistreatment of the mentally ill and handicapped. As of 2015, there were 43 government funded mental health hospitals, and “for every 1 million people, there are just 3 psychiatrists, and even fewer psychologists.”<sup>66</sup> There is a lack of understanding of the experiences of the mentally ill, which leads to them being socially ostracised.<sup>67</sup> Those who are put in mental institutions are also subjected to isolation or restrained for long periods of time, electric shock therapy, and living in unsanitary conditions.<sup>68</sup> Human Rights Watch interviewed over 200 women and girls in 24 mental hospitals in Delhi, Mumbai, Pune, Kolkata, Bengaluru, and Mysore— 52 were forced into institutionalization and a significant majority faced verbal and physical abuse both before and after entering the mental health institution.<sup>69</sup>

### *Sexual Violence*

In 2015 the NCRB recorded a total of 130,195 cases and 184,243 victims of sexual violence, which includes rape (IPC Sec. 376), attempt to commit rape (IPC Sec. 511), assault on women with intent to outrage her modesty (IPC Sec. 354) and insult to the modesty of women (IPC Sec. 509).<sup>70</sup> Further, there were 59,277 cases and 60,652 victims of kidnapping and abduction of women (Sec. 363), which, although not a necessary condition, often involves sexual violence.<sup>71</sup> Cases of sexual violence against children are covered in chapter 16.2.3.

<sup>63</sup> NCRB, *Crime in India Statistics 2015*, p.p.24- 26

<sup>64</sup> NCRB, *Crime in India 2015*, New Delhi, p. 404.

<sup>65</sup> Mudasir Kamal and William J. Newman, *Revenge Pornography: Mental Health Implications and Related Legislation*, *Journal of the American Academy of Psychiatry and the Law*, Vol. 44, No. 3, September 2016, <http://jaapl.org/content/44/3/359>

<sup>66</sup> WHO, “Mental Health Care in India: Restoring Hope and Dignity”, October 2015, <http://www.who.int/features/2015/mental-health-care-india/en/>

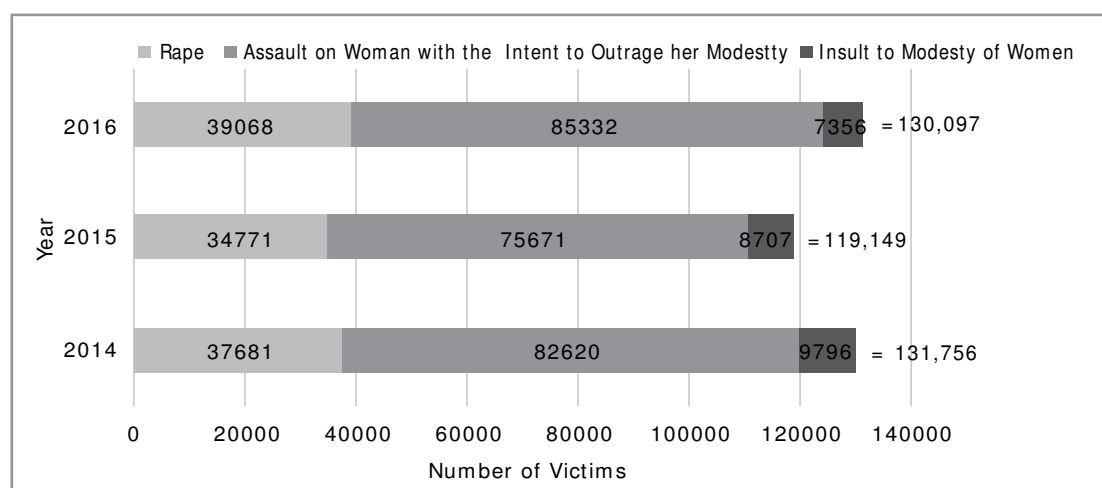
<sup>67</sup> Nikita Mishra, “World Mental Health Day: Being Mentally Ill in India”, *The Quint*, 7 February 2017, <https://www.thequint.com/fit/flex-em/a-life-in-shackles-mentally-ill-in-india>

<sup>68</sup> Reetinder Kaur, R K Pathak, *Treatment Gap in Mental Healthcare Reflections from Policy and Research*, *Economic and Political Weekly*, Vol. 52, No. 31, 5 August 2017, <http://www.epw.in/journal/2017/31/perspectives/treatment-gap-mental-healthcare.html>

<sup>69</sup> Human Rights Watch, *Abuses Against Women and Girls with Psychological or Intellectual Disabilities in Institutions in India*, 3 December 2014, <https://www.hrw.org/report/2014/12/03/treated-worse-animals/abuses-against-women-and-girls-psychosocial-or-intellectual>

<sup>70</sup> NCRB, *Crime in India 2015 Compendium*, New Delhi, 2016, pp. 1, 81. *The meaning of “modesty” can be taken to as the norms of respect required due to her female sex.*

<sup>71</sup> *Ibid.*, p.83

**Fig. 11 — Victims of Sexual Violence, 2014 - 2016<sup>72</sup>**

Violence against women remains one of the most underreported crimes. According to CHRI's 2015 survey, which covered a representative sample of approximately 5000 households in Delhi and Mumbai, only 7.5 percent and 11 percent women victims of sexual harassment, respectively, reported their victimization to the police.<sup>73</sup>

The non-governmental organisation *Jagori* found that of 1000 respondents on a study of sexual assault and female safety, 31 percent of women in Ranchi and 28 per cent in Hazaribagh had faced “some kind of sexual violence” — but only two respondents approached the police.<sup>74</sup>

The rate of incidents of sexual violence, as well as quality of reporting, deteriorates outside of cities. Poor women in rural areas are subject to high rates of victimization and are least likely to have their complaints registered. The Azim Premji University conducted a research project that correlated the impact of urbanization on sexual violence by comparing the 2011 Census data versus the rate of reported rape incidence in the 2011 NCRB. It found that the majority of districts with a high rate of reported rape appear almost exclusively in rural areas of the country— “specifically in the centre of the country covering the states of Rajasthan, Madhya Pradesh and Chhattisgarh, and also in the North-East in the states of Assam, Meghalaya and Mizoram.”<sup>75</sup>

This data has been corroborated by other sources. In February 2016, a Member of Parliament, Shreemathi Teacher of the Communist Party India (Marxist) raised the issue of violence against tribal women, and complaints of sexual assault and impunity by security forces.<sup>76</sup> The National Human Rights Commission (NHRC) confirmed that 16 women were subjected to rape, sexual and physical assault by security forces in Chhattisgarh in October 2015.<sup>77</sup>

<sup>72</sup> NCRB, *Crime in India 2015, Statistics*, GoI, New Delhi, p.p.150,154,156; NCRB, *Crime in India 2014, Statistics*, GoI, New Delhi, p.p.149,152,154; NCRB, *Crime in India 2016, Statistics*, GoI, New Delhi, p.p.138,140,141

<sup>73</sup> CHRI, *Crime Victimisation and Safety Perception*, New Delhi, 2015, pp. 3, 12.

<sup>74</sup> JAGORI, “Study on Violence Against Women in Public Spaces in Ranchi and Hazaribag, Jharkhand: A Synopsis”, Saftipin, Oak Foundation, and New Concept, 20 February 2016, p. 12, [http://www.jagori.org/sites/default/files/publication/Summary%20findings%20%28Ranchi%20%26%20Hazaribag%29%20English\\_0.pdf](http://www.jagori.org/sites/default/files/publication/Summary%20findings%20%28Ranchi%20%26%20Hazaribag%29%20English_0.pdf), p. 12,34

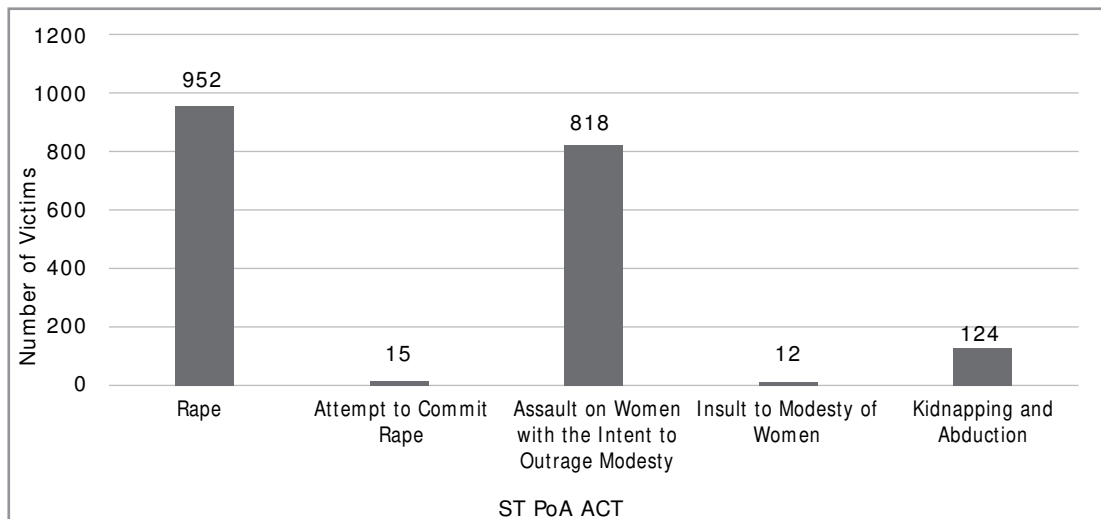
<sup>75</sup> Sudhir Krishnaswamy, Shishir Bail, and Rohan Kothari, *Urban-Rural Incidence of Rape in India: Myths and Social Science Evidence*, Azim Premji University, Bangalore, 18 April 2013, p. 7, <http://azimpremjiuniversity.edu.in/SitePages/pdf/Urban-Rural-Incidence-of-Rape-in-India.pdf>

<sup>76</sup> P.K. Shreemathi Teacher, *Issue Regarding Increasing Incidents of Sexual Violence Against Adivasi Women by Police and Security Force Personnel*, (website) Lok Sabha, GoI, 25 February 2016, <http://164.100.47.194/Loksabha/Debates/Result16.aspx?dbsl=6292>

<sup>77</sup> Malini Subramaniam, “Chilling Rape Allegations Force Police to Conduct Rare Investigation of Security Forces in Chhattisgarh”, *Scroll.in*, 23 November 2015, <https://scroll.in/article/770330/chilling-rape-allegations-force-police-to-conduct-rare-investigation-of-security-forces-in-chhattisgarh>. Earlier this year, India's National Human Rights Commission issued a notice giving official credence to these allegations. It stated that 16 women were subjected to rape, sexual and physical assault by security forces in Chhattisgarh in October 2015 (Scroll Staff; “Chhattisgarh: Security Forces Raped and Assaulted at least 16 Women in October 2015, says NHRC”, *Scroll.in*, 8 January 2017, <https://scroll.in/latest/826154/chhattisgarh-security-forces-raped-and-assaulted-at-least-16-women-says-nhrc>).

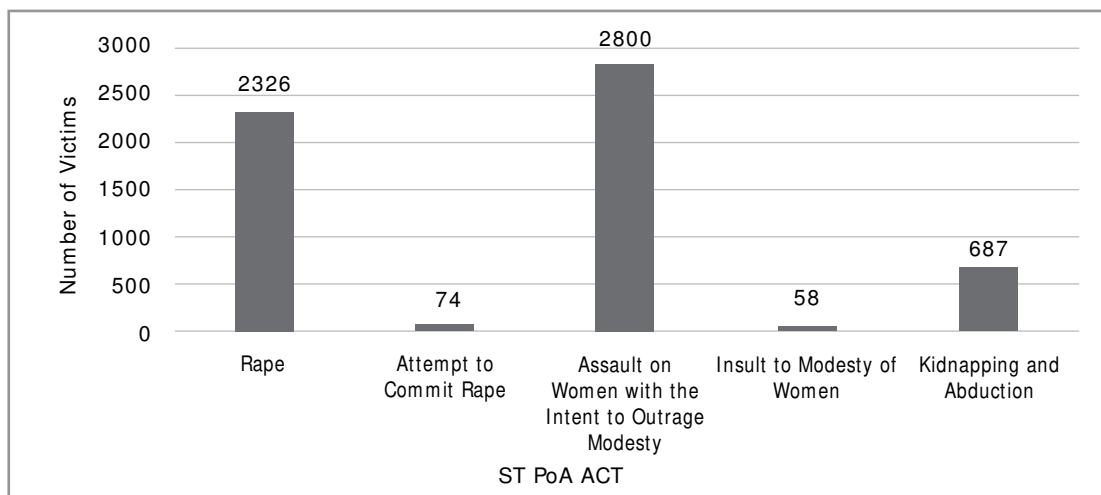
In 2015, NCRB recorded 1,921 victims of sexual violence belonging to the Scheduled Tribes (STs) under the Prevention of Atrocities (PoA) Act.<sup>78</sup> STs constitute 8 percent of the population and are disproportionately subjected to violence.<sup>79</sup> As of the 2011 census, there are 51 million ST women.<sup>80</sup>

**Fig. 12 — ST Victims of Sexual Violence under PoA Act, 2015<sup>81</sup>**



Scheduled Castes (SCs), also known under the broader term “Dalits”, constitute 16.2 percent of the country’s population. There are 98 million SC women, which is almost twice the number of ST women.<sup>82</sup> In 2015, NCRB recorded 5945 SC victims of sexual violence against SCs under the Prevention of Atrocities (PoA) Act.<sup>83</sup>

**Fig. 13—SC Victims of Sexual Violence under PoA Act, 2015<sup>84</sup>**



However, many such instances go unreported for the fear of reprisal.

78 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p. 269-272.

79 Ministry of Tribal Affairs, *National Policy on Tribals (Draft)*, GoI, 6 February 2013, p. 1, <http://www.mchrdrd.gov.in/87fc/policies/NATIONAL%20POLICY%20ON%20TRIBALS.pdf>

80 Ministry of Tribal Affairs: Statistics Division, *Statistical Profile of Scheduled Tribes in India 2013*, GoI, New Delhi, 2013, p. 117, <https://www.tribal.nic.in/ST/StatisticalProfileofSTs2013.pdf>

81 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p. 260-263. \*The entire PoA Act heading is “Assault on ST Women to Outrage Her Modesty” and “Assault or Use of Criminal Force to Women With Intent to Disrobe”, respectively.

82 Ministry of Tribal Affairs: Statistics Division, *Statistical Profile of Scheduled Tribes in India 2013*, GoI, New Delhi, 2013, p. 117, <https://www.tribal.nic.in/ST/StatisticalProfileofSTs2013.pdf>

83 NCRB, *Crime in India 2015 Statistics*, New Delhi, p. 228-231

84 *Ibid.*

In 2006, the National Campaign on Dalit Human Rights (NCDHR) recorded testimonies and cases of various types of abuses faced by Dalit women.<sup>85</sup> Of the 500 Dalit women respondents from 17 districts in four states, the report found 46.8 percent Dalit women faced sexual harassment and assault, 43 percent encountered domestic violence and 23.2 percent were raped.<sup>86</sup> In 2006, when the NCDHR study was published, the NCRB reported only 1,217 cases of rape of SC women (0.001 percent).<sup>87</sup>

## SDG 16.1.4: PROPORTION OF POPULATION THAT FEEL SAFE WALKING ALONE AROUND THE AREA THEY LIVE

GoI does not conduct crime victimization and safety-perception surveys, and therefore there is no official data. Civil society organisations have recorded data which indicates that a majority of people feel safe in their neighbourhoods during the day, but very few always feel safe. One study found only 1 percent always feel safe in Delhi and 12 percent always feel safe in Mumbai. Data crowd-sourced from other major Indian cities indicates people have an average or “fair” feeling of safety.

The NCRB only records quantitative data. Crime victimisation and safety perception studies have been undertaken by civil society organisations, albeit at state or city level. As a result, there is no official nor national data on safety perceptions.

According to a CHRI study which compared safety perceptions in Delhi and Mumbai, an average of 84.9 percent and 82.3 percent felt safe walking around during the day, respectively.<sup>88</sup> However, there is a difference between the cities in terms of walking alone at night, especially with regard to gender. “Whereas only 7 percent of respondents would be worried for a lone male member staying away from home beyond 8 PM in Delhi, 52 percent would worry for a lone female member of the household at the same hour of the night.”<sup>89</sup> Mumbai has a higher threshold of safety perception, where only 17 percent of respondents feel worried about a female family member out at 8 PM.<sup>90</sup>

Responses were similar when asked how individuals themselves felt being out at those times. A majority of Delhi men and women felt safe alone in their neighbourhoods until 9 PM, while a majority of Mumbai men and women felt safe until 11 PM.<sup>91</sup> Only one percent respondents in Delhi and 12 percent in Mumbai always felt safe.<sup>92</sup>

Access to justice, recourse and redressal also contribute to safety perceptions. In the same survey of Delhi and Mumbai, it was found that a significant proportion of crimes were unreported in each city, with First Information Reports (FIRs) registered in less than half of the study cases.<sup>93</sup> These numbers are starker in cases of sexual harassment and criminal intimidation.<sup>94</sup>

<sup>85</sup> Aloysius Irudayam S.J., Jayshree Mangubhai, and Joel Lee, *Dalit Women Speak Out: Violence Against Dalit Women in India, National Campaign on Dalit Human Rights, New Delhi, March 2006*, [http://idsn.org/uploads/media/Violence\\_against\\_Dalit\\_Woment.pdf](http://idsn.org/uploads/media/Violence_against_Dalit_Woment.pdf)

<sup>86</sup> *Ibid.*, p. 4.

<sup>87</sup> NCRB, *Crime in India 2006, MHA, GoI, Delhi 2006*, p. 3, <http://ncrb.nic.in/StatPublications/CII/CII2006/cii-2006/CHAP7.pdf>

<sup>88</sup> CHRI, *Crime Victimisation and Safety Perception: A Public Survey of Delhi and Mumbai, New Delhi, 2015*, p. 36.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*, p. 37.

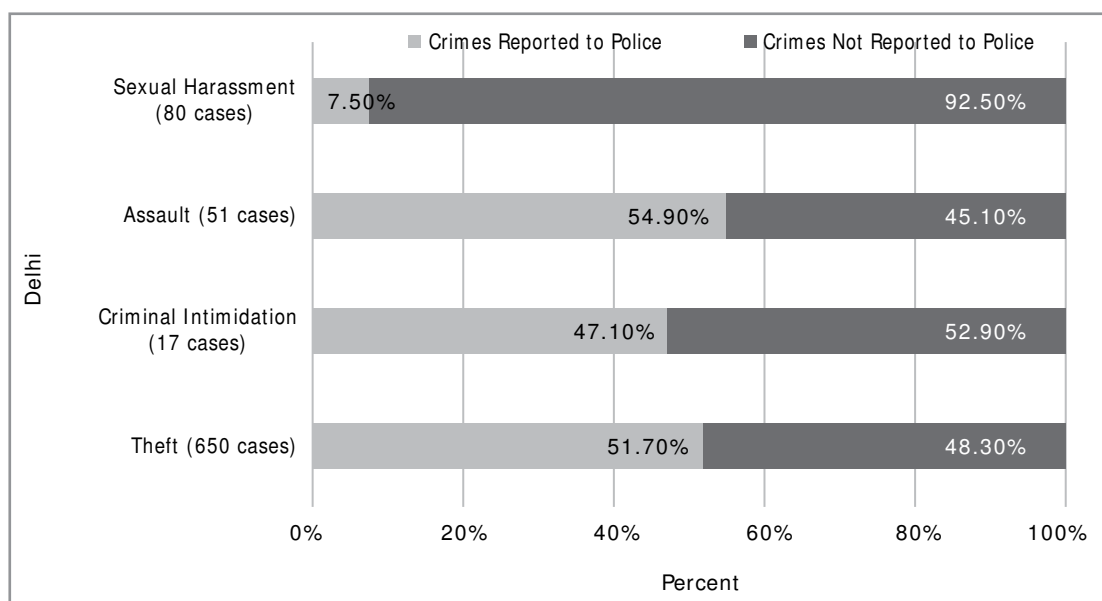
<sup>91</sup> *Ibid.*, p. 36.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*, p. 19.

<sup>94</sup> Crime reporting is covered in detail in Sec. SDG 16.3.1

**Fig. 14— Households Reporting Crimes to Police, 2015<sup>95</sup>**



According to Jagori’s study of two cities in Jharkhand: “Among female respondents, nearly 48 per cent in Ranchi and 41 per cent in Hazaribagh see their city as unsafe or very unsafe”.<sup>96</sup> The most important factors in perceiving an area as safe is if a public area has other people, including other women, and if there are security personnel visible.<sup>97</sup> The least important factor was having designated walk paths.<sup>98</sup>

A study by the Infrastructure Development Finance Company (IDFC) for the period between October 2015 to September 2016 in Delhi, Mumbai, Chennai and Bengaluru, found that people are more worried for women out at night than men, until 11 pm when they are equally worried for men and women.<sup>99</sup> Overall, Delhi is perceived as least safe, Chennai and Bengaluru as moderately safe, and Mumbai as the safest.<sup>100</sup>

95 CHRI, *Crime Victimization and Safety Perception: A Public Survey of Delhi and Mumbai*, New Delhi, 2015, p. 19

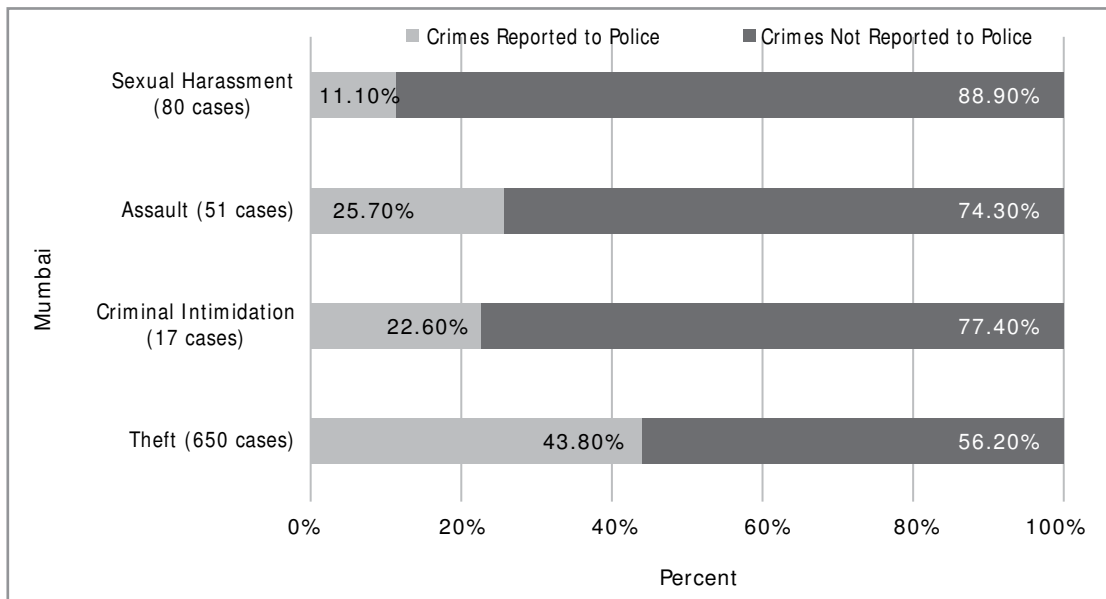
96 JAGORI, “Study on Violence Against Women in Public Spaces in Ranchi and Hazaribagh, Jharkhand: A Synopsis”, Saftipin, Oak Foundation, and New Concept, 20 February 2016, p. 33 [http://www.jagori.org/sites/default/files/publication/Summary%20findings%20%28Ranchi%20%26%20Hazaribagh%29%20English\\_0.pdf](http://www.jagori.org/sites/default/files/publication/Summary%20findings%20%28Ranchi%20%26%20Hazaribagh%29%20English_0.pdf)

97 *Ibid.*, p. 32.

98 *Ibid.*

99 IDFC Institute, *Safety Trends and Reporting of Crime: Survey of 20,597 Households Across Delhi, Mumbai, Chennai, Bengaluru, Mumbai*, April 2017, p. 12, [http://www.idfcinstitute.org/site/assets/files/12318/satarc\\_april272017.pdf](http://www.idfcinstitute.org/site/assets/files/12318/satarc_april272017.pdf)

100 *Ibid.*



Other sources of non-official data for safety perception in Indian cities are Safetipin and Safecity-online applications that enable citizens to report their immediate experiences. Although it does not have comprehensive coverage, the online application is currently used in Karnal, Chandigarh, Delhi, Guwahati, Chennai and Bengaluru, which provides insights into safety perception. Safetipin uses nine parameters to create an overall safety score: “Lighting in the Area, Openness of the Area, Visibility in the Area, People Density, Security, Walk Path, Transportation in the Area, Gender Diversity in the Area, and Feeling.”<sup>101</sup> Of the six cities, safety perception was recorded on an average of 2 out of 4. The city that felt safest overall was Chennai and the least safe was Delhi.<sup>102</sup>

Safecity is more directly focused on the gendered nature of insecurity, and uses stories of sexual harassment and abuse encountered in different places in their city.<sup>103</sup> From 18 August 2016 to 18 August 2017, there were 610 reports of feeling unsafe across six states: Punjab, Haryana, Delhi, Gujarat, Maharashtra and Tamil Nadu.<sup>104</sup>

In addition to NGOs and private organizations, academic research has also analysed safety perception in India. In 2016 the International Criminal Justice Review published a study on gender differences in victimization. According to the report’s findings, women viewed all forms of sexual harassment and assault as more serious than men did, and in Delhi there was the self-reported fear of auto-rickshaws and public transport.<sup>105</sup> However, based on quantitative data of assault locations, the most at risk areas are in fact public areas, such bus stops or busy streets.<sup>106</sup>

101 Safetipin, “Please Select a City”, (website), [www.safetipin.com/myCity/](http://www.safetipin.com/myCity/)

102 Ibid.

103 Safecity, “About Safecity”, (website), 2017, <https://safecity.in/about/>

104 Safecity, “Showing Reports from Dec 31 1969 to Sep 18 2017”, (website), 2017, <http://maps.safecity.in/reports#>

105 Manish Madan and Mahesh Nalla, *Sexual Harassment in Public Spaces: Examining Gender Differences in Perceived Seriousness and Victimization*, *International Criminal Justice Review*,

2016, Vol. 26(2), p. 93, <http://journals.sagepub.com/doi/pdf/10.1177/1057567716639093>

106 Ibid., pp. 93-94.





## SDG 16.2:

### END ABUSE, EXPLOITATION, TRAFFICKING AND ALL FORMS OF VIOLENCE AGAINST AND TORTURE OF CHILDREN

Violence against children occurs in homes, schools, streets, places of work and in juvenile detention centres. Perpetrators could be parents, family members, teachers, caretakers, law enforcement authorities and other children.<sup>107</sup> Irrespective of the nature of violence and abuse, the short- and long-term repercussions for children are very often grave and can have severe implications in their maturity into adulthood. This assumes even greater importance in a country such as India where 41 percent of the population is below the age of 18.<sup>108</sup>

## SDG 16.2.1:

### PROPORTION OF CHILDREN AGED 1-17 YEARS WHO EXPERIENCED ANY PHYSICAL PUNISHMENT AND/OR PSYCHOLOGICAL AGGRESSION BY CAREGIVERS IN THE PAST MONTH

The last publicly available comprehensive data is over 10 years old, from the Ministry of Women and Child Development's 2007 report, which recorded 65 percent of all children were beaten in school and 88.5 percent at home. 48.37 of children reported emotional abuse. The 2011 Census recorded approximately 10.2 million illegally "economically active" children aged 5-14, while UNICEF recorded 28 million; data focuses on the amount of illegal child labour, but not the abuse they face while working.

In India, physically punishing children is an often accepted means of administering discipline. Children are often beaten for unsatisfactory academic performance, displays of insolence, or simply to "toughen them up".<sup>109</sup> The Ministry of Women and Child Development (MWCD) was inaugurated in 2006, and in 2007 conducted the most comprehensive report to date on all forms of child abuse. According to its findings, 68.99 percent of children reported physical abuse and 48.37 percent reported emotional abuse.<sup>110</sup>

Despite its widespread prevalence, there is lack of recent comprehensive information provided by the government on corporal or psychological punishment on children in India. The MWCD annual reports cover ongoing programmes, but do not provide updated data on the scope of the issues addressed here.<sup>111</sup>

The National Commission for Protection of Child Rights (NCPCR) wrote a follow-up to the MWCD report, titled "Guidelines on Eliminating Corporal Punishment in Schools". According to its report, "Punishing children is regarded as normal and acceptable in all settings – whether in the family or in institutions."<sup>112</sup>

107 Paulo Pinheiro, *World Report on Violence Against Children, Published by the United Nations Secretary-General's Study on Violence against Children*, October 2006, p. XI, <https://www.unicef.org/violencestudy/I.%20World%20Report%20on%20Violence%20against%20Children.pdf>

108 Office of the Registrar General & Census Commissioner, *Age Structure and Marital Status*, (website), Ministry of Home Affairs, Government of India, Delhi, 2011, [http://censusindia.gov.in/Census\\_And\\_You/age\\_structure\\_and\\_marital\\_status.aspx](http://censusindia.gov.in/Census_And_You/age_structure_and_marital_status.aspx)

109 Ministry of Women and Child Development (MWCD), *Study on Child Abuse India 2007*, Government of India, 2007, p. 55, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

110 *Ibid.*, pp. 46, 106.

111 MWCD, *Annual Report 2016-2017*, GoI, pp. 55-77, [http://wcd.nic.in/sites/default/files/FINAL%20WCD\\_AR\\_English%202016-17.pdf](http://wcd.nic.in/sites/default/files/FINAL%20WCD_AR_English%202016-17.pdf)

112 NCPCR, *Guidelines on Eliminating Corporal Punishment in Schools*, GoI, New Delhi, pp. 5-6, [http://www.ncpcr.gov.in/view\\_file.php?fid=108](http://www.ncpcr.gov.in/view_file.php?fid=108)

The lack of progress on the issue was highlighted by a 2017 Supreme Court statement on a case of child abuse, as a result of several Public Interest Litigations (PILs) and writ petitions, including reports of abuse in orphanages and in child care institutions<sup>113</sup>:

“little or no progress was made by the States in protecting the rights of children. As far as the Commissions for the Protection of Child Rights are concerned, they exist only on paper since in some cases the Chairperson had not been appointed or the Members had not been appointed or no Rules and Regulations had been framed. This Court observed that the lackadaisical manner in which the States and the Union Territories had responded to the rights of children made it necessary to draw attention to the constitutional rights guaranteed to children.”<sup>114</sup>

- *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu vs. Union of India (UOI) and Ors.*, 5 May 2017

### Schools

The MWCD 2007 study, which included more than 12,447 children aged from 5 to 18 years across 13 states with varying literacy quartiles, crime rate, and geographical regions,<sup>115</sup> found that 65 percent of all children were beaten in school.<sup>116</sup> While the majority of physical abuse occurs in state government schools, some states display high rates of abuse in public schools as well, as detailed in the chart below.<sup>117</sup> The Right to Education Act 2009 prohibits physical punishment and mental harassment in the school education system under Sec. 17 (1) and also mandates punishment for violation of the same under Sec. 17 (2).<sup>118</sup> Further, the National Policy for Children 2013 states that in education, the state shall “ensure no child is subjected to any physical punishment or mental harassment” and “promote positive engagement to impart discipline so as to provide children with a good learning experience.”<sup>119</sup>

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113 Madan Lokur, *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India & Ors.* Supreme Court of India, Writ Petition (Criminal) No. 102 of 2007, <http://www.advocatekhaj.com/library/judgments/announcement.php?WID=8864>

114 Madan B. Lokur and Deepak Gupta, *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu vs. Union of India (UOI) and Ors.*, Supreme Court of India, MANU/SC/0577/, 5 May 2017, <http://www.manupatrafast.com/pers/Personalized.aspx>

115 MWCD, *Study on Child Abuse India 2007*, Government of India, Delhi, p. 18, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

116 MWCD, *Study on Child Abuse India 2007*, Government of India, Delhi, p. 54, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

117 *Ibid.*

118 Ministry of Human Resource and Development, “The Right of Children to Free and Compulsory Education Act, 2009”, Government of India, Delhi, [http://mhrd.gov.in/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_Section\\_wise\\_rationale\\_rev\\_0.pdf](http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_Section_wise_rationale_rev_0.pdf)

119 National Policy for Children 2013, para 4.6 (xv), p. 7

**Fig. 15 — State-Wise Percentage of Children Reporting Physical Abuse by School Type in 2007<sup>120</sup>**

States	Municipal/ Zila Parishad Schools	State Government Schools	Public Schools	NGO Run Schools	Any Other Schools
Andhra Pradesh	21.90%	24.80%	41.00%	12.40%	-
Assam	0.90%	64.30%	0.40%	21.10%	13.20%
Bihar	2.20%	52.70%	45.10%	-	-
Delhi	6.10%	28.80%	25.00%	31.10%	9.10%
Goa	1.30%	13.30%	78.70%	6.70%	-
Gujarat	41.50%	29.80%	25.50%	3.20%	-
Kerala	4.40%	36.30%	17.70%	41.60%	-
Madhya Pradesh	-	46.90%	51.00%	2.10%	-
Maharashtra	47.60%	17.70%	15.00%	6.80%	12.90%
Mizoram	0.20%	81.20%	18.70%	-	-
Rajasthan	2.70%	45.90%	45.90%	5.40%	-
Uttar Pradesh	2.50%	35.00%	13.50%	49.10%	-
West Bengal	2.70%	85.50%	0.90%	10.00%	0.90%
Total	7.89%	53.77%	22.27%	13.00%	3.08%

Children were found to be most susceptible to abuse in the age group of 5-12 years; in this range, children reported the highest percentage of corporal punishment in Delhi (67.42 percent), followed by Goa (57.33 percent), Andhra Pradesh (55.24 percent) and Kerala (52.63 percent).<sup>121</sup>

The NCPCR's 2010 report focused on the types of abuse prevalent in schools. The study covered 6,632 children aged 3-17 in seven states and found that 99.86 percent of children had experienced physical or verbal punishment.<sup>122</sup> At least half of all children in schools faced seven main types of abuse, ranging from verbal, to physical and posture-based punishments.

**Fig. 16 — Types of Punishments Experienced by Students<sup>123</sup>**

Punishment	Percent Affected	Type
Mental characteristic/derisive judgements	81.2%	Verbal
Beaten by cane	75.0%	Physical
Slapped on cheek	69.9%	Physical
Hit on back	57.5%	Physical
Ears getting boxed	57.4%	Physical
Made to stand outside classroom	53.0%	Physical
Beaten on hand by scale	51.0%	Physical

The study also found that for 93.3 percent of children, the cause of punishment was for academic reasons, such as “for not doing a task, for not bringing books and notebooks, for scoring low marks in the exams and for not being able to perform well”.<sup>124</sup>

<sup>120</sup> MWCD, *Study on Child Abuse India 2007*, Government of India, Delhi, p. 54, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

<sup>121</sup> MWCD, *Study on Child Abuse India 2007*, Government of India, Delhi, p. 53, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

<sup>122</sup> NCPCR, *Eliminating Corporal Punishment in Schools*, GoI, New Delhi, 2010, pp. 12, 14 [https://tfc2012.files.wordpress.com/2012/08/ncpcr-study\\_corporal-punishment\\_final\\_01-03-12low-res-2.pdf](https://tfc2012.files.wordpress.com/2012/08/ncpcr-study_corporal-punishment_final_01-03-12low-res-2.pdf)

<sup>123</sup> *Ibid.*, p. 16.

<sup>124</sup> *Ibid.*, p. 39.

The data on corporal punishment is corroborated by UNICEF, which conducted research in 2015 and found that, despite it being outlawed in schools, “over nine in ten children 8 years old in India reported witnessing a teacher administering corporal punishment in the last week”.<sup>125</sup> It also found different rates of punishment between ages, as the “incidence of corporal punishment at age 8 is more than double the rate reported by 15-year-olds”, but among children aged 14-15, boys experienced higher levels of physical punishment than girls.<sup>126</sup> Further, poorer children were more likely to be physically punished than children from richer families.<sup>127</sup>

## Home

According to The Indian Penal Code (IPC) Sec. 89, corporal punishment in the home is lawful. The law states: “Nothing which is done in good faith for the benefit of a person under twelve years of age...is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person...”<sup>128</sup> The law exists despite India expressing its commitment to prohibiting all corporal punishment of children, including in the home, in its third and fourth report to the UN Committee on the Rights of the Child.<sup>129</sup> The commitment was reaffirmed when the Government accepted the recommendation to prohibit corporal punishment in all settings made during the Universal Periodic Review (UPR) of India in 2012.<sup>130</sup>

The MWCD 2007 study recorded high levels of abuse: the percentage of physical abuse inflicted by family members was 50.9 percent by mothers and 37.6 percent by fathers, totalling to 88.5 percent of children being abused.<sup>131</sup> The study found marginal difference in the incidence of physical abuse among girls and boys, but revealed that the rate of corporal punishment of children decreased as they got older: 72.2 percent for children 5-12 years old, 70.61 percent aged 13-14 years old, and 62.13 percent aged 15-18.<sup>132</sup>

A 2016 survey by the Early Childhood Association in Mumbai and Bengaluru, a not-for-profit organisation found that only 19 percent of parents did not hit their children.<sup>133</sup> However, of those who did hit their children, 80 percent of parents reported that hitting did not change the child’s behaviour and they “must hit more often” — only 11 percent said the child’s behaviour improved, and nine percent said there was no change.<sup>134</sup>

According to the World Health Organisation (WHO) emotional abuse is defined as: “the failure of a caregiver to provide an appropriate and supportive environment, and includes acts that have an adverse effect on the emotional health and development of a child.”<sup>135</sup> The MWCD has defined emotional abuse under two main categories: humiliation and comparison. Humiliation is defined as “being treated harshly, shouting, belittling, name calling and using abusive language”,<sup>136</sup>

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125 Ogando Portela, M.J. and Pells, K. *Corporal Punishment in Schools; Longitudinal Evidence from Ethiopia, India, Peru and Vietnam*, Innocenti Discussion Paper No. 2015-02, Florence, Italy, UNICEF Office of Research, 2015, p. 5.

126 *Ibid.*

127 Virginia Morrow, “I Do Not Like My School Since My Teachers Beat Me Badly”: How Corporal Punishment Makes Children Feel”, *Young Lives*, 12 May 2015, <https://younglives-india.org/node/804>

128 Section 89 of the India Penal Code, Government of India, <https://indiankanoon.org/doc/1858333/>

129 Ministry of Women and Child Development, India: *Third and Fourth Combined Periodic Report on the Convention on the Rights of the Child*, Government of India, 2011, pp. 79-83, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIND%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIND%2f3-4&Lang=en)

130 UPR of India, *Thematic List of Recommendations*, 2012, p. 9, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/INSession13.aspx>

131 Ministry of Women and Child Development, *Study on Child Abuse India 2007*, Government of India, 2007, p. 47, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

132 *Ibid.*, p. 46

133 Early Childhood Association, *Survey on Bribing, Threatening and Keeping Secrets*, Mumbai, 2016, <http://www.endcorporalpunishment.org/research/prevalence-research/india.html>

134 *Ibid.*

135 WHO, *Child Abuse and Neglect by Parents and Other Care Givers*, 2005, p. 60, [http://www.who.int/violence\\_injury\\_prevention/violence/global\\_campaign/en/chap3.pdf](http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap3.pdf)

136 MWCD, *Study on Child Abuse India 2007*, Government of India, Delhi, p. 105, <https://www.childlineindia.org.in/pdf/MWCD->

and emotional abuse by comparison is when “parents and other caregivers often compare one sibling with the other or one child with the other in terms of their physical appearance and other characteristics”.<sup>137</sup>

The MWCD study found that emotional abuse was almost completely even between boys and girls.<sup>138</sup> However, the abuse is most concentrated in a span of five years; abuse rises significantly at age 10 (9.40 percent), peaks at age 12 (14.12 percent), and begins to lower after the age of 14 (13.27 percent).<sup>139</sup> In every state except Kerala, children aged 5-12 were abused the most (in Kerala 15-18 year olds faced slightly more).<sup>140</sup> Overall, 83 percent of cases of emotional abuse were done by parents.<sup>141</sup>

**Fig. 17 — State-Wise Percentage of Children Reporting Emotional Abuse at Home, 2007<sup>142</sup>**

State	No	One Form of Abuse	Both Forms of Abuse	Total Abuse
Andhra Pradesh	52.85%	30.97%	16.18%	47.15%
Assam	28.69%	48.45%	22.87%	71.31%
Bihar	46.19%	36.07%	17.74%	53.81%
Delhi	37.99%	39.90%	22.11%	62.01%
Goa	66.34%	25.74%	7.92%	33.66%
Kerala	59.30%	31.80%	8.90%	40.70%
Madhya Pradesh	39.78%	37.69%	22.53%	60.22%
Maharashtra	49.15%	36.96%	13.89%	50.85%
Mizoram	66.77%	24.24%	8.99%	33.23%
Rajasthan	67.64%	21.34%	11.02%	32.36%
Uttar Pradesh	52.79%	37.65%	9.56%	47.21%
West Bengal	58.45%	31.79%	9.76%	41.55%
Total Average	51.63%	33.49%	14.88%	48.37%

### At Work

The SDG indicator is specifically designed to capture abuse by caregivers, but in many instances the site of such abuse is also where children work. Under the Child Labour (Prohibition and Regulation) Act 1986, employment of children below the age of 14 years in hazardous occupations is prohibited.<sup>143</sup> This was updated in 2015 to state that all employment of children under 14 years is banned and employment in hazardous areas is not allowed until 18 years of age. However, the Act allows children 14 years old and above to work for family businesses.<sup>144</sup>

Government and non-official data on physical punishment and psychological abuse of children in work primarily focusses on the incidence of child labour and hazardous work environment, without capturing the magnitude of abuse. Even in occupations that allow the employment of children in family businesses, work conditions and hours of work may be hazardous to their health and wellbeing, and children are often subject to abuse.<sup>145</sup>

*Child-Abuse-Report.pdf*

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*, p. 106. 49.99 percent for boys and 50.01 percent for girls.

<sup>139</sup> *Ibid.*, p. 106

<sup>140</sup> *Ibid.*, p. 107.

<sup>141</sup> *Ibid.*, p. 108.

<sup>142</sup> MWCD, *Study on Child Abuse India 2007*, Government of India, Delhi, p. 106, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>

<sup>143</sup> Government of India, *The Child Labour (Prohibition and Regulation) Act, 1986*, Act no. 61 of 1986, p. 4, [http://bba.org.in/sites/default/files/Child%20Labour%20\\_Prohibition%20\\_%20Regulation\\_%20Act,%201986.pdf](http://bba.org.in/sites/default/files/Child%20Labour%20_Prohibition%20_%20Regulation_%20Act,%201986.pdf)

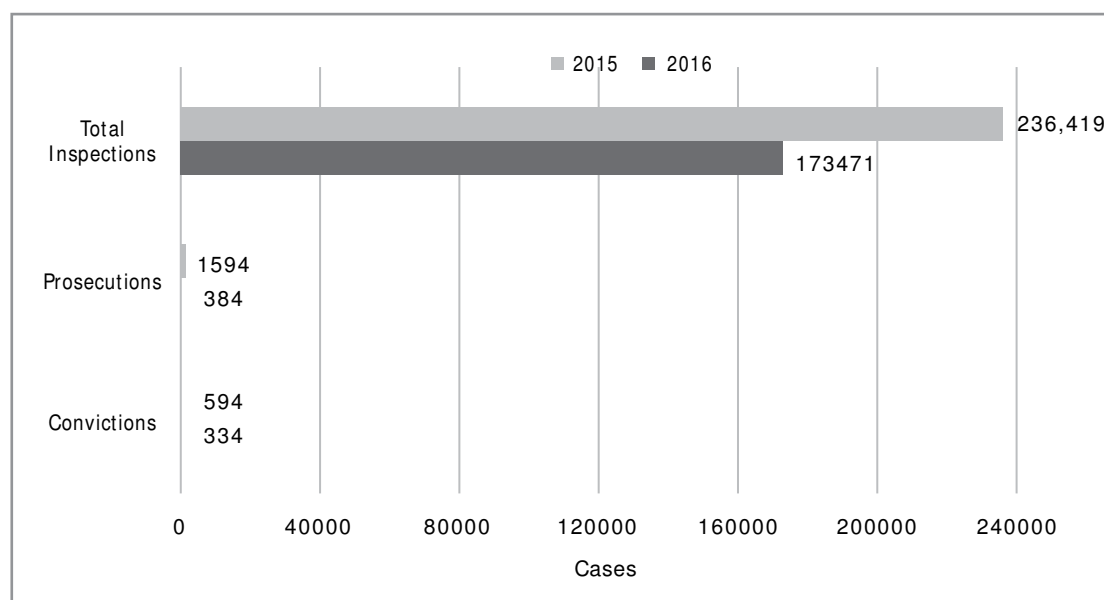
<sup>144</sup> Nita Bhalla, “Parliament Passes Controversial Child Labour Bill”, *Reuters*, 27 July 2016, <http://in.reuters.com/article/india-children-labour-idINKCN10619V>

<sup>145</sup> UNICEF, *Child Labour in India*, (website), <http://unicef.in/Whatwedo/21/Child-Labour#sthash.cu7s3OVS.dpuf>

According to the 2011 census, there were more than 10.1 million “economically active” children in the age group of 5 to 14 years; approximately 5.6 million boys and 4.5 million girls.<sup>146</sup> Of the 10.1 million children in employment, 8.1 million were working in rural areas while 2 million in urban India.<sup>147</sup> In rural settings the number of child workers reduced from 11.3 million to 8.1 million between the 2001 and 2011, and the number of children working in urban settings rose from 1.3 million to 2 million.<sup>148</sup> However, a 2011 UNICEF study with a more comprehensive definition on economic work for children estimates that there are 28 million child labourers.<sup>149</sup>

*Bachpan Bachao Andolan* (Save Childhood Movement), a Delhi based child rights NGO found that the majority of victims of child labour trafficking were under 14 years of age (3,022 out of 5,254 rescued children from 2013-2015) and 80 percent worked in private businesses.<sup>150</sup> Of all the children rescued (up to 18 years old), the most prevalent employer of illegal child labour was the garment industry’s zari (embroidery) sector, followed by bag making, footwear, and food stall work. These four areas accounted for over 50 percent of all child labour, both in the private sector and within family businesses.<sup>151</sup> According to Government of India’s Ministry of Law and Justice, there has been a decline in the number of cases of child labour reported and their subsequent prosecutions, and a gap in the recording of the amount of child labourers and prosecuting cases of abuse.<sup>152</sup>

**Fig. 18 – Cases of Child Labour, 2015-2016<sup>153</sup>**



146 2011 Census reported in UNICEF Child Labour in India.

147 UNICEF, *Child Labour in India*, (website), <http://unicef.in/Whatwedo/21/Child-Labour#sthash.cu7s3OVS.dpuf>

148 Ibid.

149 UNICEF, *The Situation of Children in India: A Profile*, New Delhi, May 2011, p. 29, [http://unicef.in/Uploads/Publications/Resources/pub\\_doc36.pdf](http://unicef.in/Uploads/Publications/Resources/pub_doc36.pdf) (Economic works is defined from Age 5–11 years: At least 1 hour of economic work or 28 hours of domestic work per week. At Age 12–14 years: At least 14 hours of economic work or 28 hours of domestic work per week.)

150 *Bachpan Bachao Andolan*, *Employment of Children in Hazardous and Family Run Business*, New Delhi, 2015, p. 4, <http://bba.org.in/sites/default/files/Employment%20of%20Children%20in%20Hazardous%20and%20Family%20Run%20Business.pdf>

151 Ibid., p. 7

152 PTI, “Stringent Punishment For Child Labour: Labour Minister Bandaru Dattatreya”, NDTV, 8 February 2017, <http://www.ndtv.com/india-news/stringent-punishment-for-child-labour-labour-minister-bandaru-dattatreya-1657428>

153 Ibid.

## SDG 16.2.2: NUMBER OF VICTIMS OF HUMAN TRAFFICKING PER 100,000 POPULATION, BY SEX, AGE AND FORM OF EXPLOITATION

NCRB recorded 10,060 victims of human trafficking in 2015. GoI data lacks coherent disaggregation by sex— women are targeted significantly more for sexual trafficking. MWCD recorded 1.2 million (40 percent) prostitutes in India under 18 years of age; people in forced (bonded) labour are of all ages. Non-governmental bodies estimate 12-16 million women have been trafficked for sex. The Global Slavery Index estimates 18 million Indians are forced into manual labour. The governmental numbers on bonded labour are conflicting.

The United Nations Office on Drugs and Crime (UNODC) defines human trafficking as: “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”<sup>154</sup>

NCRB 2015 said there had been a year-on-year increase in human trafficking: in 2011 there were 3,846 cases and in 2015 there were 7,170 cases.<sup>155</sup> This number was derived by summing all cases logged under the seven laws regarding trafficking in the IPC and Special and Local Laws (SLL):

**Fig. 19 — Victims of Human Trafficking, 2014 - 2016**<sup>156</sup>

Crime Head	2014	2015	2016
Procuration of minor girls(Sec.366A)	2025	3139	2488
Importation of girls from foreign country(Sec.366B)	13	8	7
Selling of minors for prostitution(Sec.372)	87	118	135
Buying of minors for prostitution(Sec.373)	18	11	7
Immoral trafficking(Prevention) act 1956	3351	3510	3258*
Prohibition of child marriages act 2006 <sup>157</sup>	286	296	327
Human trafficking(sec.370& 370A)	2605	2978	1946*

\*total no of - women and children

According to the NCPCR, children become more vulnerable to trafficking, child labour and other forms of exploitation in emergency situations such as natural disasters and armed conflict. “The Commission has examined the predicament of children in Naxal-affected parts of Chhattisgarh, in the North Cachar Hills, Chirang and New Bongaigaon districts in Assam, in Ashapara and Naisingpur camps at Kanchanpur in North Tripura District in Tripura, in Kandhamal, Orissa and in the Kashmir Valley.”<sup>158</sup> It found neither the government nor civil society organisations possessed reliable data on the scope of children affected, particularly of children forced to move or trafficked across states.<sup>159</sup> A 2007 UN report found “more than 38 million people were affected by natural

154 UNODC, “Human Trafficking”, (website), <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

155 NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, 2016 p. 104.

156 NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, pp. 99, 104; NCRB, *Crime in India 2011 Compendium*, GoI, New Delhi, 2012, p. 147.

157 Cases under the Prohibition of Child Marriages Act are not necessarily legally cases of human trafficking (the 2006 Act does not automatically declare child marriages void, only making them voluntarily voidable). See GoI, *The Prohibition of Child Marriage Act 2006*, New Delhi, 2007, p. 1, <http://lawmin.nic.in/ld/P-ACT/2007/The%20Prohibition%20of%20Child%20Marriage%20Act,%202006.pdf>

158 NCPCR, *Protect of Children’s Rights in Areas of Unrest*, GoI, New Delhi, 2010, p. 3, [http://ncpcr.gov.in/view\\_file.php?fid=61](http://ncpcr.gov.in/view_file.php?fid=61)

159 *Ibid.*, p. 28.

disasters, including earthquakes, floods and drought. Of these, more than 17 million were children aged between six months and 14 years.<sup>160</sup>

The 2016 report of the UN Secretary-General on children in armed conflict reported that young children were used by armed groups as couriers, human shields, and to plant bombs, primarily for “the Naxalites, in Bihar, Chhattisgarh, Jharkhand, Maharashtra, Odisha and West Bengal States.”<sup>161</sup> Parents were either forced to give up children, or the latter were abducted by the armed groups. Young girls were most susceptible to sexual violence.<sup>162</sup>

HAQ, a civil society organisation working in the area of child rights, undertook a study to determine the enforcement of current human trafficking laws. Based on Right to Information (RTI) queries, HAQ pointed out the discrepancies in government reports on the number of Anti-Human Trafficking Units (AHTUs) and the U.S. State Department’s *Trafficking in Persons* (TIP) reports from 2013-2015 which state the lack of AHTU staffing and training.<sup>163</sup>

HAQ also suggested that more structural cooperation was needed. “The problem with human trafficking, including child trafficking, (is that it) is multidimensional and requires coordination between several ministries like the Ministry of Home Affairs (MHA), Ministry of Labour, Ministry of Overseas Indian Affairs (merged with MEA in 2016), and the Ministry of External Affairs (MEA).”<sup>164</sup> In addition to lack of transparency on the issue, the scope and implementation of the law is also self-limiting; the criminalization of most aspects of prostitution means that when people try to leave sexual bondage legally, they may be charged with prostitution if they go to the police, or may be dismissed or shamed.<sup>165</sup>

The 2016-2017 MWCD Annual Report stated that “Presently, in India there is no comprehensive legislation for the prevention of trafficking and protection and rehabilitation of the victims of trafficking. In order to fill the existing gaps, Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 has been drafted by MWCD”.<sup>166</sup> It was under Cabinet review as of 31 December 2017.

### *Sex Trafficking*

Sex trafficking follows the same definition as human trafficking, but the control or purpose of exploitation is sexual in nature. Sex trafficking and prostitution are therefore related but not equivalent, as women may enter prostitution due to circumstance or free will. Nonetheless, in order to ascertain the extent of sex trafficking in India, a comprehensive picture of prostitution is necessary. Official statistics from 2008 claim there are approximately 3 million prostitutes in India.<sup>167</sup> Non-governmental sources pegged it as high as 15-20 million in 2013.<sup>168</sup> Exact numbers are hard to determine. In 2015 the Ministry of Health and Welfare identified 3,500 sex workers in Delhi’s

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160 Nilanjana Bhowmick, *India: Disasters, Climate Change Cloud Indian Children’s Prospects*, *ReliefWeb*, 11 November 2010, <https://reliefweb.int/report/india/india-disasters-climate-change-cloud-indian-childrens-prospects>

161 UNSC, *Report of the Secretary-General on Children and Armed Conflict*, (A/70/836–S/2016/360), New York, 201 April 2016, p. 30, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1611119.pdf>

162 *Ibid.*

163 HAQ: *Centre for Child Rights and Campaign Against Child Trafficking*, *Child Trafficking in India*, New Delhi, June 2016, p. 98 102, <http://haqrc.org/new-at-haq/child-trafficking-india-report-june-2016/>

164 *Ibid.*, p. 87.

165 *Ibid.*, p. 122

166 MWCD, *Annual Report 2016-17, GoI*, 2017, p. 16, [http://wcd.nic.in/sites/default/files/FINAL%20WCD\\_AR\\_English%202016-17.pdf](http://wcd.nic.in/sites/default/files/FINAL%20WCD_AR_English%202016-17.pdf)

167 Ministry of Women and Child Development, *Annual Report 2007-2008, Government of India*, New Delhi, 2008, p. 30, <http://wcd.nic.in/sites/default/files/AR2007-08.pdf>

168 Dasra, *Zero Traffick: Eliminating Sex Trafficking in India*, Omidyar Network, Hummingbird Trust, Kamonohashi Project, November 2013, p. 8.



largest ‘red-light’ area.<sup>169</sup> In the same year, the Delhi Commission for Women (DCW) stated in its annual report that there were approximately 5,000 women sex workers and 800 children in the same ‘red-light’ area.<sup>170</sup>

Government and non-government sources agree that a majority of women involved in prostitution in India are victims of trafficking. The Department of Women and Child Development estimates 2.8 million prostitutes have been trafficked, citing poverty as the main driving force.<sup>171</sup> Non-governmental studies estimate approximately “80 per cent of all Indian women engaged in prostitution are victims of trafficking”,<sup>172</sup> which would be between 12-16 million. Most women or children who are trafficked are under the age of 18, due to customers prizing virginity and fearing HIV/AIDS in older prostitutes.<sup>173</sup>

The opacity and the resulting discrepancy in numbers of victims is partly due to the illicit, coercive and brutal nature of trafficking. Also, the NCRB statistics do not directly represent how sex trafficking relates to missing persons and kidnapping (which had 41,893 cases recorded in 2015 at a rate of 9.4 per 100,000).<sup>174</sup> This link is evident in the MWCD 2008 annual report, which highlighted the correlation between kidnapping and the approximately 1.2 million recorded child prostitutes in India,<sup>175</sup> as they are more vulnerable to being trafficked “through means like duping, luring, fake marriages, abducting, kidnapping and manipulating social and economic vulnerabilities.”<sup>176</sup> Of those trafficked, “15 per cent are below 15 years of age while 25 per cent are between 15 and 18 years of age.”<sup>177</sup>

### Forced Labour

An international non-governmental research institute ranks India as fourth in the world with most number of people in conditions of forced labour, which in 2017 translated to an estimated 18 million people.<sup>178</sup> This takes the form of the following— bonded labour to pay off debts, domestic service, forced begging, forced marriage, and forced armed service for non-state groups. It is exacerbated by the fact that the majority of Indians work in the informal job market.<sup>179</sup>

The informal economy increases the vulnerability of people subjected to forced labour in other countries. For instance, “The Gulf is home to 6 million Indians, with Saudi Arabia (1.8 million)

169 Jeong In-seo, “Young Foreign Girls in Delhi’s Biggest Red Light District”, *HuffPost through AsiaToday*, [http://www.huffingtonpost.com/asiatoday/young-foreign-girls-in-de\\_b\\_13704814.html](http://www.huffingtonpost.com/asiatoday/young-foreign-girls-in-de_b_13704814.html)

170 DCW, *Annual Report 2015-2016*, GoI, New Delhi, 2016, p. 78, [http://www.delhi.gov.in/wps/wcm/connect/lib\\_dcw/DCW/Home/Annual+Report/](http://www.delhi.gov.in/wps/wcm/connect/lib_dcw/DCW/Home/Annual+Report/)

171 Siuli Sarkar, *Gender Disparity in India: Unheard Whimpers*, PHI Learning, Delhi, 2016, p. 286, <https://books.google.co.in/books?id=qwS7DAAAQBAJ&pg=PA286&lpg=PA286&dq=amount+of+women+forced+into+prostitution+in+india&source=bl&ots=ghIoCrCLWj&sig=8TRG80dz5GPW0rxfcxLzDV7ixZU&hl=en&sa=X&ved=0ahUKEwjWpqD8mLPWAhXMsY8KHYYvBms4FBD0AQhCMAc#v=onepage&q=amount%20of%20women%20forced%20into%20prostitution%20in%20india&f=false>

172 CEDPA-Pride in Dasra, *Zero Traffick: Eliminating Sex Trafficking in India*, Omidyar Network, Hummingbird Trust, Kamonohashi Project, November 2013, p. 8, <https://www.dasra.org/sites/default/files/Zero%20Traffick.pdf>

173 Siuli Sarkar, *Gender Disparity in India: Unheard Whimpers*, PHI Learning, Delhi, 2016, p. 286, <https://books.google.co.in/books?id=qwS7DAAAQBAJ&pg=PA286&lpg=PA286&dq=amount+of+women+forced+into+prostitution+in+india&source=bl&ots=ghIoCrCLWj&sig=8TRG80dz5GPW0rxfcxLzDV7ixZU&hl=en&sa=X&ved=0ahUKEwjWpqD8mLPWAhXMsY8KHYYvBms4FBD0AQhCMAc#v=onepage&q=amount%20of%20women%20forced%20into%20prostitution%20in%20india&f=false>

174 NCRB, *Crime in India 2015 Compendium*, New Delhi, p. 100.

175 Ministry of Women and Child Development, *Annual Report 2007-2008*, Government of India, New Delhi, 2008, p. 30, <http://wcd.nic.in/sites/default/files/AR2007-08.pdf>

176 Ministry of Women and Child Development, *Annual Report 2007-2008*, Government of India, New Delhi, 2008, p. 30, <http://wcd.nic.in/sites/default/files/AR2007-08.pdf>

177 *Stop-India in Dasra*, *Zero Traffick: Eliminating Sex Trafficking in India*, Omidyar Network, Hummingbird Trust, Kamonohashi Project, November 2013, p. 8, [http://helpap.in/images/docs/status%20of%20Child%20Trafficking\\_June%20\\_AP\\_2013.pdf](http://helpap.in/images/docs/status%20of%20Child%20Trafficking_June%20_AP_2013.pdf)

178 The Mindlo Foundation, *Country Study: India*, (website), *The Global Slavery Index*, 2017, <http://www.globalslaveryindex.org/country/india/>

179 *Ibid.*

and the United Arab Emirates (1.75 million) hosting more than half of all documented Indian citizens living in the region.”<sup>180</sup> The existence of the kafala system— where the worker needs approval from their employer in order to get an exit stamp from the host country and employers frequently take employees’ passports— has been termed by the International Labor Organization (ILO) as a “contemporary form of slavery.”<sup>181</sup>

In India, there are approximately 4.2 million domestic workers, such as maids or cooks who do menial tasks in peoples’ homes.<sup>182</sup> While they may be legitimately employed, they are more vulnerable to coercion due to much of the work taking place out of sight in homes and being separated from their family.<sup>183</sup>

### *Bonded Labour*

The practice of bonded labour— where an individual or family has incurred debts which have to be paid with labour— perpetuates a feudal human ownership tradition and debts are to be passed down the generations.<sup>184</sup> There are wide ranging views on the total number of bonded labourers in India. The National Labour Institute, an autonomous body of Government of India’s Ministry of Labour and Employment, recorded 2.62 million in 1978.<sup>185</sup> The next largest study covered the entire state of Tamil Nadu, on behest of a 1995 Supreme Court ruling, and recorded “over one million bonded labourers in Tamil Nadu, spread over 23 districts and 20 occupations, of which 10 percent were bonded child labourers (with a higher rate among girls). Scheduled Caste (SC), Scheduled Tribe (ST) and Most Backward Caste (MBC) bonded labourers formed 76% of the total.”<sup>186</sup> The Ministry of Labour and Employment recorded 286,839 identified bonded labourers in their 2007-08 Annual Report.<sup>187</sup>

Kailash Satyarthi, the Indian activist who received the 2014 Nobel Peace Prize for his work on child rights, estimated full-time child workers around the world in 2017 to be 160 million, with 4.2 million in India.<sup>188</sup>

According to a 2012 Supreme Court judgement on bonded labour: “No fresh surveys are being conducted in the States. Wherever surveys have been conducted in the last few years, no bonded labourers could be found.”<sup>189</sup> On the other hand, the *Bandhua Mukti Morcha* (Bonded Labour Liberation), a bonded-labour civil society organization, believes that the practice is so widespread that it could include 65 million children and 300 million adults.<sup>190</sup> The exact number can be clarified only after another comprehensive country-wide survey takes place.

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180 Rohan Joshi, “Bridging the Gulf: Securing India’s Migrant Workers in the Middle East” *The Diplomat*, 10 August 2016, <http://thediplomat.com/2016/08/bridging-the-gulf-securing-indias-migrant-workers-in-the-middle-east/>

181 *Ibid.*

182 *Ibid.*

183 *Ibid.*

184 *Ibid.*

185 Ravi Srivastava, *Bonded Labour in India: Its Incidence and Pattern*, International Labour Office Geneva June (ILO), 2005, p. 4, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081967.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081967.pdf)

186 *Ibid.* pp. 5-6.

187 Planning Commission, *A Report on Bonded Labour Rehabilitation Scheme under Centrally Sponsored Bonded Labour System (Abolition) Act, 1976 in the State of Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh*, prepared by the Socio Economic and Educational Development Society (SEEDS), GoI, March 2008, p. 2, [http://planningcommission.nic.in/reports/sereport/ser/ser\\_bon0405.pdf](http://planningcommission.nic.in/reports/sereport/ser/ser_bon0405.pdf)

188 LANS, “Child Slavery Down in India but Sexual Violence Against Children on the Rise: Kailash Satyarthi”, *First Post*, 21 May 2017, <http://www.firstpost.com/india/child-slavery-down-in-india-but-sexual-violence-against-children-on-the-rise-kailash-satyarthi-3463490.html>

189 Judge K S Radhakrishnan, “Public Union For Civil Liberties vs State Of Tamil Nadu And Ors on 15 October, 2012”, <https://indiankanoon.org/doc/182418340/>

190 *Bandhua Mukti Morcha*, “Bonded Labour”, (website), 2007, <http://bondedlabour.org/bonded-labour/>

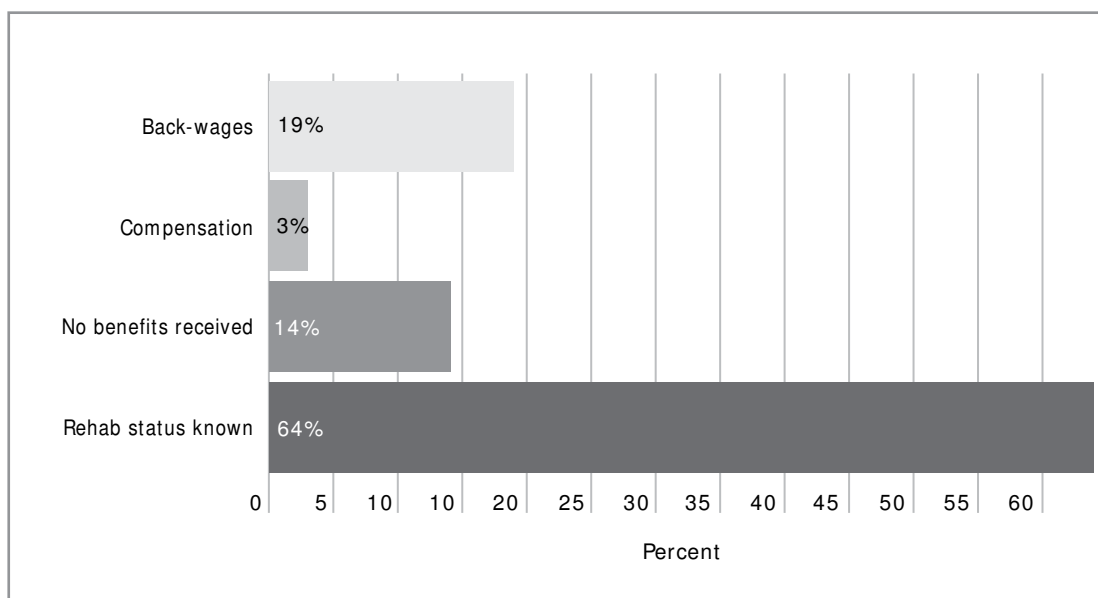
India has an obligation to find the exact number as it has ratified ILO Convention Number 29 on Forced Labour (1930) and the updated Convention Number 105 (1957).<sup>191</sup> Yet media and civil society reports point at the lack of implementation of Vigilance Committees, comprises of individuals responsible for surveying their districts and sub-divisional areas for bonded labourers and facilitating their release and rehabilitation, and reporting to the National Human Rights Commission (NHRC) every six months.<sup>192</sup>

Bachpan Bachao Andolan reported that of the 3,266 bonded labourers rescued between 2010 and 2014, only three percent could be verified to have received compensation.<sup>193</sup> In a 2012 Supreme Court document, the ILO and civil society organisation reports state the lack of sensitivity and responsiveness to those who have been freed from bondage.<sup>194</sup>

“It is almost confirmed beyond doubt that (a) efforts at identification of bonded labourers through fresh surveys are lackadaisical and the outcome of such surveys is nil (b) there is inordinate delay in securing rehabilitation of released labourers and (c) the penalties awarded are not proportional to the judicial severity of the crime.”<sup>195</sup>

*-Public Union For Civil Liberties vs State Of Tamil Nadu And Ors*

**Fig. 20 — Bonded Labour Compensation and Rehabilitation, 2010 - 2014**<sup>196</sup>



191 ILO, “Ratifications for India”, (website) 2017, [http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:102691](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102691)

192 Factly, “TBI Blogs: Towards An Unchained Nation – Analysing the Govt’s Revised Scheme to Rehabilitate Bonded Labourers”, August 2016, <https://www.thebetterindia.com/78706/key-facts-scheme-rehabilitation-bonded-labourers/>

193 BBA, *Status of Rehabilitation of Rescued Bonded Labourers-Analysis of Data with Bachpan Bachao Andolan (2010-2014)*, 2015, p. 3, <http://www.bba.org.in/sites/default/files/Rehab-of-Bonded-Child-Labour.pdf>

194 Judge K S Radhakrishnan, “Public Union For Civil Liberties vs State Of Tamil Nadu And Ors on 15 October, 2012”, <https://indiankanoon.org/doc/182418340/>; Ravi Srivastava, *Bonded Labour in India: Its Incidence and Pattern*, International Labour Office Geneva June (ILO), 2005, pp. 5-6, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081967.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081967.pdf); *Anti-Slavery, Forced Labour in the Brick Kiln Sector in India*, July 2015, pp. 5-9, <http://www.antislavery.org/wp-content/uploads/2017/01/forced-labour-in-brick-kilns-in-india-august-2015-briefing.pdf>

195 Judge K S Radhakrishnan, “Public Union For Civil Liberties vs State Of Tamil Nadu And Ors on 15 October, 2012”, <https://indiankanoon.org/doc/182418340/>

196 BBA, *Status of Rehabilitation of Rescued Bonded Labourers-Analysis of Data with Bachpan Bachao Andolan (2010-2014)*, 2015, p. 3, <http://www.bba.org.in/sites/default/files/Rehab-of-Bonded-Child-Labour.pdf>

## SDG 16.2.3: PROPORTION OF YOUNG WOMEN AND MEN AGED 18-29 YEARS WHO EXPERIENCED SEXUAL VIOLENCE BY AGE 18

In 2015, NCRB recorded 38,922 victims of child sexual violence under the age of 18. The Indian Institute of Psychiatry states at least half of all children have experienced sexual abuse. The MWCD study notes 20.9 percent of child respondents reported “severe sexual abuse”.

The parameters of sexual violence against children is defined by the UN Convention of the Rights of the Child, which includes unlawful or psychologically harmful sexual activity with a child; the use of children in commercial sexual exploitation; the use of children in audio or visual images of child sexual abuse; child prostitution and sex trafficking; and sale of children for sexual purposes and forced marriage.<sup>197</sup>

The NCRB records statistics for child sexual abuse (CSA) under 13 sections of the IPC and the Protection of Children from Sexual Offences (POCSO) Act. In 2015, it recorded 41,476 cases of sexual crimes against children aged 0-17 years old.<sup>198</sup> This equates to a rate of approximately 9.3 per 100,000.<sup>199</sup> Further, there were 41,893 cases of kidnapping and abduction of children (IPC Sec. 363) and 1,020 cases of stalking of children (IPC Sec. 354D), which may or may not have resulted in or recorded as sexual violence.<sup>200</sup>

**Fig. 21 – Victims of Child Sexual Violence, 2014 - 2016<sup>201</sup>**

Crime Head	2014	2015	2016**
Rape of Children	43,833	10,934	19,920
Assault on Girl Child With the Intent to Outrage Her Modesty*	11,376	8,452	12,329
Sexual Harassment of Children	4,617	3,376	-
Intent to Disrobe Girl Child	711	541	-
Voyeurism of Children	88	56	-
Procuration of Minor Girls	2,025	3,139	2,488
Importation of Girls from Foreign Country	13	8	7
Selling Of Minors for Prostitution	87	118	135
Buying of Minors for Prostitution	18	11	7
Prohibition of Child Marriages Act	286	296	327
Immoral Traffic Prevention Act	96	105	69
Unnatural Offences Against Children	769	820	1,254
Protection of Children From Sexual Offences (POCSO)	8,990	15,039	36,321

\* The head “Assault of Girl Child with the Intent to Outrage Her Modesty” includes Sexual Harassment of Children, Intent to Disrobe Girl Child and Voyeurism of Children. They have been mentioned separately only for representation purposes. For 2016, NCRB discontinued such disaggregation.

\*\* For 2016, the NCRB recorded the data for “Rape” and “Assault on Girl Child with the Intent to Outrage her Modesty” under POCSO. The figures mentioned here contain both, the numbers of victims under IPC and the number of victims POCSO. The total number of victims under POCSO for 2016 is inclusive of these numbers. Further, the total figure for POCSO also contains offences registered under IPC sections.

197 <http://www.refworld.org/docid/4e6da4922.html>

198 NCRB, *Crime in India 2015 Compendium*, New Delhi, pp. 98-102.

199 There are a total of 444,153,330 children aged 0-17, Office of the Registrar General & Census Commissioner, “Single Year Age Data”, MHA, GoI, 2011, [http://www.censusindia.gov.in/2011census/Age\\_level\\_data/Age\\_level\\_data.html](http://www.censusindia.gov.in/2011census/Age_level_data/Age_level_data.html)

200 NCRB, *Crime in India 2015 Compendium*, New Delhi, p.100.

201 NCRB, *Crime in India 2015 Compendium*, New Delhi, pp. 98-102.

The NCRB also records cases of child pornography and forced marriage. Cases of child pornography are registered under Sec. 14 and 15 of the POCSO Act and therefore included in the total number of victims under POCSO Act. Further, cases of forced marriage are recorded within the head ‘Kidnapping and Abduction of Women to Compel her Marriage’, under the chapter ‘Crimes against Children.’ These figures may not correspond to the actual number of victims of forced marriage since kidnapping and abduction may may not culminate in marriage.

**Fig. 22— Victims of Forced Marriage and Child Pornography, 2014-2016**

Category	Number of Victims		
	2014	2015	2016
Forced Marriage (s. 366 IPC)	12,290	12,584	16,695
Child Pornography (s. 14 & 15 POCSO)	40	96	210

It is difficult to ascertain accurate data on sexual violence against children due to its sensitive nature. According to a 2013 study conducted by University College London (UCL) with Maharashtra state police, approximately three percent of CSA cases are reported to the police.<sup>202</sup> Moreover, the high rate of pendency in such cases adds to decreased incentive for reporting cases of CSA (see 16.3.1 on crime reporting). As of 30 May 2016, out of the 5,217 CSA cases reported in New Delhi since POCSO Act took effect in 2012, 3,191 cases remain pending.<sup>203</sup>

Matters are further complicated when abuse takes place in the family or close relations. According to the Indian Journal of Psychology, public shame or loss of wages the family will bring upon themselves by imprisoning a family member is often seen as a greater threat than the abuse.<sup>204</sup> Only 138 cases of incest were reported in 2015 under the POCSO Act— the majority of the cases registered under the Act listed neighbours, co-workers or a spouse as the main perpetrators.<sup>205</sup> A 2014 UNICEF study on India reported 77 percent of sexual violence on girls aged 15-19 years old was committed by the current husband or partner.<sup>206</sup> This is also exacerbated due to forced marriage— in 2015 there were 12,516 cases of girl children who were abducted and forced to marry.<sup>207</sup>

Reporting is also limited by the inability for many of the victims to fully comprehend the intention of the abuse until many years later. The same UNICEF report stated that between 30 and 80 per cent of victims do not disclose experiences of childhood sexual abuse until adulthood and many others remain silent for their entire lives.<sup>208</sup>

Given the barriers to reporting, the MWCD 2007 report found that of all the children surveyed, “53.22% reported having faced one or more forms of sexual abuse that included severe and other forms. Among them 52.94% were boys and 47.06% girls.”<sup>209</sup> The gender difference in sexual abuse is due to boys being targeted more when they are prepubescent, though overall, the prevalence was highest amongst girls aged 12-15 from upper and middle class families.<sup>210</sup> 50.76 percent faced “other forms” of sexual abuse, which includes: “forcible kissing, sexual advances made during travel and

202 Jyoti Belur and Brijesh Bahadur Singh, “Child Sexual Abuse and the Law in India: A Commentary” *Crime Science*, 2015, <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2>

203 IANS, “Over 5,000 Cases Registered Under POCSO Act from 2012-15”, *The Times of India*, 30 May 2016, <http://timesofindia.indiatimes.com/city/delhi/Over-5000-cases-registered-under-POCSO-Act-from-2012-15/articleshow/52509657.cms>

204 Chittaranjan Andrade and TS Sathyanarayana Rao, “Childhood Sexual Abuse and the Law: More Problems than Solutions?”, *Indian Journal of Psychology*, Volume 55, Issue 3, 2013, pp. 214-215, <http://www.indianjpsychiatry.org/article.asp?issn=0019-5545;year=2013;volume=55;issue=3;spage=214;epage=215;aulast=Andrade>

205 NCRB, *Crime in India Statistics 2015*, GoI, New Delhi, 2016, p. 204.

206 UNICEF, *Hidden in Plain Sight: A Statistical Analysis of Violence Against Children*, Division of Data, Research and Policy, New York, September, 2014, p. 77, [http://files.unicef.org/publications/files/Hidden\\_in\\_plain\\_sight\\_statistical\\_analysis\\_EN\\_3\\_Sept\\_2014.pdf](http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf)

207 NCRB, *Crime in India Statistics 2015*, GoI, New Delhi, 2016, p. 181.

208 *Ibid.*, p. 62.

209 MWCD, *Study on Child Abuse*, GoI, 2007, p. 74, <https://resourcecentre.savethechildren.net/sites/default/files/documents/4978.pdf>

210 *Ibid.*, p. 74.

marriages, and exposure to pornographic material.”<sup>211</sup> In addition, 20.90 percent were subjected to severe forms of sexual abuse, which includes: “sexual assault, making the child fondle private parts, making the child exhibit private body parts and being photographed in the nude.”<sup>212</sup> Some children were subject to both severe sexual abuse and other forms of sexual abuse.

According to the 2011 Census, there were 444 million children aged 0-17.<sup>213</sup> Applying the MWCD statistics would mean that approximately 92.8 million have been seriously sexually abused, and 225.4 million were subject to other forms of sexual abuse. However, another comprehensive study should be conducted if we are to be sure of the exact rate of child abuse for post-2015 SDG 16 reporting.

**Fig. 23—Child Sexual Abuse by Type and Region, 2007**<sup>214</sup>

State	Not Abused	Other Forms of Sexual Abuse	Severe Sexual Abuse
Andhra Pradesh	27.17%	72.83%	33.87%
Assam	13.74%	86.26%	57.27%
Bihar	32.36%	67.64%	33.27%
Delhi	27.74%	72.26%	40.90%
Goa	65.94%	34.06%	2.38%
Kerala	55.20%	44.80%	17.70%
Madhya Pradesh	66.70%	33.30%	9.87%
Maharashtra	59.34%	40.66%	9.79%
Mizoram	45.25%	54.75%	16.20%
Rajasthan	70.64%	29.36%	10.82%
Uttar Pradesh	64.24%	35.76%	5.98%
West Bengal	67.71%	32.29%	17.20%
Total Average	49.24%	50.76%	20.90%

<sup>211</sup> *Ibid.*, p. 75.

<sup>212</sup> *Ibid.*, p. 75.

<sup>213</sup> MHA, C-13 Single Year Age Returns by Residence and Sex, GoI, 2011 <http://www.censusindia.gov.in/2011census/C-series/C-13.html>

<sup>214</sup> MWCD, *Study on Child Abuse*, GoI, 2007, p. 76, 78, <https://resourcecentre.savethechildren.net/sites/default/files/documents/4978.pdf>

## SDG 16.3:

### PROMOTE THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS AND ENSURE EQUAL ACCESS TO JUSTICE FOR ALL

Rule of law and access to justice form the cornerstone of Goal 16. Access to justice is essential to ensure that people's voices are heard, they are able to exercise their rights, challenge discrimination and hold decision-makers to account. The rule of law ensures that all, including the state, are accountable to laws that are "publicly promulgated, equally enforced and independently adjudicated."<sup>215</sup> It is the foundation for a fair and democratic society.

## SDG 16.3.1:

### PROPORTION OF VICTIMS OF VIOLENCE IN THE PREVIOUS 12 MONTHS WHO REPORTED THEIR VICTIMISATION TO COMPETENT AUTHORITIES OR OTHER OFFICIALLY RECOGNISED CONFLICT RESOLUTION MECHANISMS

In 2015, the NCRB recorded 428,897 cases of violent crimes and 442,887 victims. However, the Supreme Court of India and civil society reports indicate that majority, or at least half, of cases of violence go unreported, with the least amount of reporting from victimized women.

The UN Statistics Division defines the rationale of this indicator as "reporting to competent authorities is the first step for crime victims to seek justice: if competent authorities are not alerted they are not in a condition to conduct proper investigations and administer justice."<sup>216</sup> While the indicator addresses an important aspect of victim's access to criminal justice, it does not cover civil or administrative disputes.

In 2015, the NCRB recorded almost 17 million complaints received by the police and 7.3 million registered cases.<sup>217</sup> The total number of cases of violent crimes was 428,897 and the total number of victims was 442,887.<sup>218</sup> To determine the proportion of victims of violence who reported their victimization, it is necessary to ascertain the total number of victims of violence in the previous 12 months. However, not all victims of violence report their victimization nor are all such incidents registered.

The issue of underreporting was raised by the Supreme Court of India in 2012, which noted: "Keeping in view the NCRB figures that show that about 60 lakh [6 million] cognizable offences were registered in India during the year 2012, the burking of crime may itself be in the range of about 60 lakh every year."<sup>219</sup>

<sup>215</sup> United Nations, *What is the Rule of Law?*, (website) United Nations and the Rule of Law, 2015 <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

<sup>216</sup> UN Statistics Division, *SDG Metadata Repository*, p.1 <https://unstats.un.org/sdgs/metadata/files/Metadata-16-03-01.pdf>

<sup>217</sup> NCRB, *Crime in India 2015*, p. 2. *The complaint figures include crime related complaints only. Further, for the purposes of this report, competent authorities is restricted to the police; 'other officially recognized conflict resolution mechanisms' may include a variety of institutions with a role in the informal justice or dispute resolution process (e.g. tribal or religious leaders, village elders, community leaders), provided their role is officially recognized by state authorities.*

<sup>218</sup> NCRB, *Crime in India 2015*, pp. 30-34. *These include IPC offences of murder, attempt to commit murder, culpable homicide not amounting to murder, attempt to commit culpable homicide, rape, attempt to commit rape, kidnapping and abduction, grievous hurt, dacoity, preparation for dacoity, robbery, riots, arson and dowry deaths.*

<sup>219</sup> *Lalita Kumari vs Govt.Of U.P.& Ors, Writ Petition (Criminal) no. 68 of 2008*, <http://sci.gov.in/jonew/judis/40960.pdf>

Victims of violent crime are ascertained through sample surveys of the general population, most often in the form of crime victimization surveys. At present, GoI does not carry out crime victimization surveys, although it plans to in the near future.

### *Crime Reporting*

According to MOSPI, underreporting of crimes is largely due to the individual biases of police personnel, especially in the instance of non-cognizable offences (where the officer needs a warrant to arrest the suspect due to lack of immediacy or seriousness of the charge).<sup>220</sup> The lack of reliability in policing is attributed to “systemic biases, errors due to overlaps between different sections of IPC, [and] lack of outreach to the vulnerable (women, children and backward communities)”.<sup>221</sup> CHRI’s 2015 survey study found 53.2 percent of crime cases in Delhi and 58.2 percent in Mumbai were not reported.<sup>222</sup> The primary reason for not reporting was the fear of being entangled in complex or bureaucratic police and court system (48 percent in Delhi, and 37 percent in Mumbai).<sup>223</sup>

The discrepancy is greater in crimes against women. The same CHRI study also found that of the 80 households that were surveyed in Delhi regarding sexual harassment, 74 (92.5 percent) did not report it to the police. Likewise in Mumbai, there were 45 cases of sexual harassment and 40 (88.9 percent) of which went unreported.<sup>224</sup> *Praja*, an NGO working on governance issues, found that only half of those who witnessed a crime in Delhi and Mumbai reported it to the police.<sup>225</sup> Below is a representative sample of responses from varying districts and socio-economic strata.<sup>226</sup>

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220 Ministry of Statistics and Programme Implementation, “Chapter 37: Crime Statistics”, GoI, 2015, [http://mospi.nic.in/sites/default/files/Statistical\\_year\\_book\\_india\\_chapters/Crime.pdf](http://mospi.nic.in/sites/default/files/Statistical_year_book_india_chapters/Crime.pdf)

221 *Ibid.*

222 CHRI, *Crime Victimization Report*, 2015, p. 14.

223 *Ibid.*

224 *Ibid.*

225 45 percent reported in Delhi and 50 percent in Mumbai. *Praja and IC Centre for Governance, State of Policing and Law and Order in Delhi*, New Delhi, November 2016, p. 24, [http://www.praja.org/praja\\_docs/praja\\_downloads/Report%20on%20The%20STATE%20OF%20POLICING%20AND%20LAW%20&%20ORDER%20IN%20DELHI.pdf](http://www.praja.org/praja_docs/praja_downloads/Report%20on%20The%20STATE%20OF%20POLICING%20AND%20LAW%20&%20ORDER%20IN%20DELHI.pdf)

226 CHRI, *Crime Victimization Report*, 2015, p. 3-4.



**Fig. 24 — Sample Survey on Victimization and Crime Reporting<sup>227</sup>**

City	Crime Category	Cases of Crime	Cases Reported to the Police	Number of Cases Registered by FIR	Percent Cases Registered by FIR
Delhi	Theft	650	336	149	50.30%
	Assault	51	28	12	42.86%
	Break-In	51	18	9	50.00%
	Sexual Harassment	80	6	0	0.00%
	Criminal Intimidation	17	8	1	12.50%
	Unnatural Deaths	4	3	3	100.00%
	Missing Persons	1	1	1	100.00%
	Overall	854	400	195	48.75%
Mumbai	Theft	874	383	187	100.00%
	Assault	101	26	12	48.83%
	Break-In	66	40	19	46.15%
	Sexual Harassment	45	5	2	47.50%
	Criminal Intimidation	31	7	2	40.00%
	Unnatural Deaths	12	9	7	77.78%
	Missing Persons	3	3	0	0.00%
	Overall	1132	473	229	48.41%

Underreporting is prevalent in other cities as well. A study by the Infrastructure Development Finance Company (IDFC) found that from October 2015 to September 2016, 90,000 people in Chennai were subject to theft, of which 19,000 went to police, but only 7,909 FIRs were registered; in Bangaluru 190,000 reported thefts, 35,000 went to the police, and only 14,017 FIRs were registered.<sup>228</sup>

Minority groups too have the lowest crime reporting. State-level studies by civil society organisations show only 17.4 percent of victimised SC women across Bihar, Andhra Pradesh, Tamil Nadu and Uttar Pradesh to have reported their victimization to the police.<sup>229</sup>

Underreporting of crimes continues in spite of efforts to modernise the laws. An issue that faces persistent underreporting is spousal violence. Despite updated domestic violence law, only 461 cases were registered under the Domestic Violence Act in 2015.<sup>230</sup> In many instances, the police consider such offences as internal family affairs and dissuade the complainants from registering the abuse with the police. For example, in 2011 there were 400 cases brought to the women's police station under "cruelty of husband or relatives" in Kolkata, but only 38 FIRs were registered and 372 were "counselled".<sup>231</sup>

<sup>227</sup> *Ibid*, p. 19.

<sup>228</sup> IDFC Institute, *Safety Trends and Reporting of Crime: Survey of 20,597 Households Across Delhi, Mumbai, Chennai, Bengaluru, Mumbai, April 2017*, p. 3, 5, [http://www.idfcinstitute.org/site/assets/files/12318/satarc\\_april272017.pdf](http://www.idfcinstitute.org/site/assets/files/12318/satarc_april272017.pdf)

<sup>229</sup> Aloysius Irudayam SJ, et. al, *Dalit Women Speak Out*, NCDHR, New Delhi, March 2006, p. 17, [http://idsn.org/uploads/media/Violence\\_against\\_Dalit\\_Woment.pdf](http://idsn.org/uploads/media/Violence_against_Dalit_Woment.pdf)

<sup>230</sup> NCRB, *Crime in India 2015 Compendium, 2016*, New Delhi, p.83

<sup>231</sup> *The Telegraph*, "To Act or Not to Act: Few Takers for Domestic Violence Law in State, Counselling Easy Way Out", 3 April 2012, [https://www.telegraphindia.com/1120403/jsp/frontpage/story\\_15327846.jsp#.WLaOhtKGPCs](https://www.telegraphindia.com/1120403/jsp/frontpage/story_15327846.jsp#.WLaOhtKGPCs)

## Disposal of Cases

In the 2015 NCRB, the all-India charge-sheet (disposal) rate of IPC criminal cases by the police was 77.7,<sup>232</sup> slightly below its five year average (from 2010-2014) of 79.<sup>233</sup> The conviction rate of IPC criminal cases by the courts was 46.9 in 2015,<sup>234</sup> higher than the 2010-2014 average of 41.1.<sup>235</sup> There has been a steady decline in convictions rates in cases of crimes against women— from 37.7 percent in 1983 to 26.9 percent in 2009, to 21.7 percent in 2015.<sup>236</sup>

## SDG16.3.2: UNSENTENCED DETAINEES AS A PROPORTION OF OVERALL PRISON POPULATION

In 2015, out of the 419,623 inmates, 282,076 (67 percent) were unsentenced detainees. 11.7 percent of undertrials have been in prison for two or more years.

In India, unsentenced detainees are referred to as “undertrial prisoners” in NCRB statistics.<sup>237</sup> A person is termed an undertrial prisoner from the day they are sent to judicial custody until the trial’s completion. This also includes those who have not yet been charged, those unable to post bail and those whose trials are underway. According to the UN Statistics Division, as of 2012-2014, the global average of unsentenced prisoners is 30 percent, and the South Asia average was 64 percent.<sup>238</sup>

According to NCRB’s Prison Statistics India report, the total prison inmate population in 2015 was 419,623. Of this figure, 67.2 percent, or 282,076, were undertrials; this two-thirds proportion of undertrials has been consistent for over a decade.<sup>239</sup> The situation is worse in Meghalaya, Bihar, Manipur, and Jammu and Kashmir.<sup>240</sup> In better instances, such as in the states of Uttarakhand, Mizoram and Tripura, undertrials are around half of the prison population.<sup>241</sup>

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232 NCRB, *Crime in India 2015 Compendium, 2016*, New Delhi, p. iii

233 *Ibid.*, p. 67.

234 *Ibid.*, p. iii

235 *Ibid.*, 76

236 *Ibid.*, p. iii; FP Staff, “A 24.21 Percent Conviction Rate for Rape in India, Lower Every Year”, *First Post*, 10 September 2013, <http://www.firstpost.com/india/a-24-21-per-cent-conviction-rate-for-rape-in-india-lower-every-year-1096959.html>

237 NCRB does not record the number of persons in police custody who may not be prisoners yet but should fall within the purview of unsentenced detainees.

238 UN Statistics Division, *Goal 16, UN DESA, 2016*, <https://unstats.un.org/sdgs/report/2016/goal-16/>

239 NCRB, *Prison Statistics India 2015*, GoI, 2016, pp. 9,11. *The average proportion of undertrials to the overall prison population between 2006-2015 is 66.4 (Prison Statistics India, 2006-2015, GoI; p.i).*

240 NCRB, *Prison Statistics India 2015*, p. 37

241 *Ibid.*

**Fig. 25 — Proportion of Undertrial Prisoners, 2015<sup>242</sup>**

Top 6 States	Convicts	Undertrials	Detenues/Other	Percent Who Are Undertrials
Meghalaya	73	862	8	91.4%
Bihar	4,696	23,424	25	82.4%
Manipur	85	533	33	81.9%
Jammu and Kashmir	342	1,906	90	81.5%
Nagaland	56	390	44	79.6%
Odisha	3,381	12,584	0	78.8%
Bottom 6 States	Convicts	Undertrials	Detenues/Other	Percent Who Are Undertrials
Himachal Pradesh	793	1,186	0	59.9%
Chhattisgarh	7,774	9,870	18	55.9%
Sikkim	11	140	0	55.8%
Uttarakhand	2,056	2,292	0	48.9%
Mizoram	636	608	0	44.1%
Tripura	581	458	0	44.1%

Overall, there has been a general increase in the number of undertrial prisoners. From 2001 to 2016, there has been an increase of more than 25 percent in the number of people who have spent more than a year in prison awaiting their trial.<sup>243</sup>

In April 2015, the Supreme Court directed setting up of Under Trial Review Committees (UTRCs) in every district in India. The purpose of UTRCs is to prevent the prolonged incarceration of undertrials by conducting periodic review of prisoners' cases.<sup>244</sup> A study on the status of UTRCs across India reveals that as many as 16 out of the 26 states and union territories that were surveyed had a compliance rate of 50 percent or less in quarterly prison checks.<sup>245</sup> The same study found that between May and October 2015, 60 percent of the districts did not adhere to the strict three-month quarterly meetings of UTRCs.<sup>246</sup>

“Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties.” — Sec. 436A of India's Criminal Procedure Code<sup>247</sup>

In terms of length of time spent in prison, 35.2 percent of undertrials prisoners spend up to three months in jail. As many as 11.7 percent or 32,940 undertrials have been in prison for two or more years.<sup>248</sup> The better performing states are Kerala and Tripura, with only 35 and 32 percent of undertrials, respectively, held for three or more months until released or convicted. The worst performing are Goa, Jammu and Kashmir, Gujarat, and Punjab, with over 75 percent of the undertrials remaining in jail for over three months.<sup>249</sup>

<sup>242</sup> *Ibid.*, pp. 37-39.

<sup>243</sup> CHRI, *The Sorry State of Indian Prisons*, (website), Factly, 24 October 2016, <https://factly.in/the-sorry-state-of-indian-prisons/>

<sup>244</sup> CHRI, *Revised Mandate For Under Trial Review Committees & Suggested Action*, New Delhi, 2016, <http://www.humanrightsinitiative.org/content/undertrial-review-committees>

<sup>245</sup> CHRI, *Circle of Justice: A National Report on Under Trial Review Committee*, New Delhi, 2016, p. 4

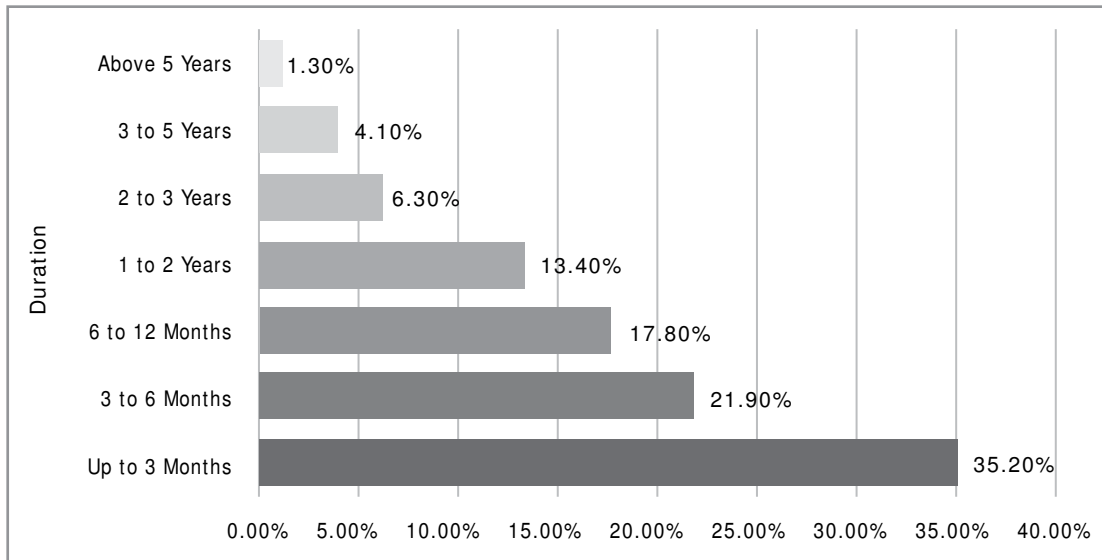
<sup>246</sup> *Ibid.*, p. 12

<sup>247</sup> *Ibid.*, p. 62

<sup>248</sup> NCRB, *Prison Statistics 2015*, GoI, Delhi, 2016, pp. 114, 115.

<sup>249</sup> *Ibid.*, p. 115

**Fig. 26 — Percentage of Undertrial Prisoners by Duration, 2015<sup>250</sup>**



<sup>250</sup> Ibid.

# SDG 16.4:

BY 2030, SIGNIFICANTLY REDUCE THE ILLICIT FINANCIAL AND ARMS FLOWS, STRENGTHEN THE RECOVERY AND RETURN OF STOLEN ASSETS AND COMBAT ALL FORMS OF ORGANIZED CRIME

Illicit financial flows (IFFs) are illegal movements of money or capital from one country to another and includes funds that are illegally earned, transferred, and/or utilized.<sup>251</sup> This would include individual and corporate tax evasion, and other criminal activities like bribery or payment for trafficking of drugs or people. The consequences of IFFs are manifold: rising inequality, and lack of public resources for basic social services and protection, such as access to quality health care, education, unemployment and care facilities.

## 16.4.1:

TOTAL VALUE OF INWARD AND OUTWARD ILLICIT FINANCIAL FLOWS (IN CURRENT UNITED STATES DOLLARS)

According to the GoI, no official figures for illicit financial flows exist. International non-official sources estimate India has lost approximately \$590 billion USD in illicit inward flows and \$505 billion USD in illicit outward flows from 2004 to 2013.

Secrecy and diverse international financial regulations make it extremely difficult to ascertain and monitor illicit financial flows. Against the backdrop of the GoI's demonetisation drive in November 2016, the tax department reported "Rs. 65,250 crore [\$9.9 billion USD] worth black money from 64,275 declarations".<sup>252</sup> Black money refers to income which is illegally obtained or not declared for tax purposes. In 2017, Finance Minister Arun Jaitley stated that there exists no official estimation of black money parked abroad.<sup>253</sup> The most recent estimate was presented in 2011 by senior BJP leader L.K. Advani, who claimed ₹28 lakh crore (\$466 billion USD) was stashed away illegally in bank accounts overseas.<sup>254</sup> According to Arun Kumar, an economist specialising in the parallel economy, India's black money makes up 62 percent of GDP "generating about Rs 93 lakh crore of revenue (or USD 14 trillion)".<sup>255</sup>

In the absence of official data, the most reliable indication of illicit financial flows (IFFs) is based on the Global Financial Integrity's (GFI) data. It estimates inward illicit flows by combining under-invoiced imports and over-invoiced exports, which equals \$590 billion USD lost from India from 2004 to 2013.<sup>256</sup> The opposite is true for calculating outward illicit flows—over-invoiced imports and under-invoiced exports— which equals \$505 billion USD lost from 2004-2013.<sup>257</sup> Furthermore, according to GFI, the quantity of IFF has been steadily increasing, with \$83 billion USD of illicit outflows from India in 2013—approximately five percent of the country's Gross Domestic Product (GDP) that year.<sup>258</sup>

251 GFI, "Illicit Financial Flows", 2013, <http://www.gfintegrity.org/issue/illicit-financial-flows/>

252 Dinesh Unnikrishnan, "Rs 65,250 Cr Black Money Declared: Relief to Modi Govt; Now it's Time for Final Crackdown", *FirstPost*, 1 October 2016, <http://www.firstpost.com/business/rs-65250-crore-black-money-haul-a-relief-to-modi-govt-now-its-time-for-final-crackdown-3029722.html>

253 PTI, "Demonetisation Impact: Rs. 5,400 Cr of Undisclosed Income Detected, says Arun Jaitley", *FirstPost*, 12 April 2017, <http://www.firstpost.com/business/demonetisation-impact-rs-5400-cr-of-undisclosed-income-detected-says-arun-jaitley-3380038.html>

254 Shri Shri Bhartruhari Mahtab, "Discussion Regarding Need to Expedite Process of Bringing Back Black Money Stashed Abroad", *Lok Sabha, GoI*, 26 November 2014, <https://indiankanoon.org/doc/20311786/>

255 Arun Kumar, "The Scourge of the Black Economy in India: Origins, Causes and Remedies", *The Wire*, 5 May 2017, <https://thewire.in/131728/scourge-black-economy-india-origins-causes-remedies/>

256 Dev Kar and Joseph Spanjers, *Illicit Financial Flows From Developing Countries: 2004-2013*, Global Financial Integrity (GFI), December 2015, p. 43, [http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update\\_2015-Final-1.pdf](http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf)

257 *Ibid.*

258 *Ibid.*, p.8

## 16.4.2: PROPORTION OF SEIZED SMALL ARMS AND LIGHT WEAPONS THAT ARE RECORDED AND TRACED, IN ACCORDANCE WITH INTERNATIONAL STANDARDS AND LEGAL INSTRUMENTS

There were 51,158 arms seizures and 3,571 explosives seizures in 2015. India scored 8.25 out of 25 on the 2016 Small Arms Trade Transparency Barometer. The National Database on Arms License (NDAL) is being updated electronically to account for all legal gun owners, with approximately 3.17 million licences registered. India is not a signatory to the Arms Trade Treaty (ATT).

As defined by the UN, small arms are “those weapons designed for personal use, and light weapons are those designed for use by several persons serving as a crew”, which includes handguns, heavy machine guns and explosives.<sup>259</sup> India is not a signatory to the Arms Trade Treaty (ATT) and therefore is not internationally obligated to regulate conventional arms.<sup>260</sup> India is also the largest importer of arms in the world.<sup>261</sup>

In 2015, the NCRB reported over 50,000 cases of arms seizures, resulting in 53,272 small arms collection— 32,564 were unlicensed, 1,241 were licensed, 19,467 were from abroad and 342,478 rounds of ammunition.<sup>262</sup> Uttar Pradesh reported the most small arms recovered, with 24,498 out of the total 53,272 arms (46 percent), followed by Madhya Pradesh, which had 8,676 (16.3 percent).<sup>263</sup> According to Delhi Police, 90 percent of arms smuggled through the city come from select districts in Bihar and Madhya Pradesh.<sup>264</sup>

As legal manufacturing winds down due to strict gun manufacturing and ownership laws, a parallel black market has emerged.<sup>265</sup> Although the “country-made” guns are traditionally low-grade one-shot guns, larger illegal factories have been able to replicate more sophisticated weapons, such as AK 47s.<sup>266</sup>

In 2015, the NCRB registered 3,571 cases of seizures under Explosives and Explosive Substance Act; in 2014, there were 3,843 cases.<sup>267</sup> The majority were originally produced in factories, and in both years the majority of explosives were found in Rajasthan, Tamil Nadu, and Uttar Pradesh.<sup>268</sup>

**Fig. 27 – Seized Explosives, 2014-2015\***<sup>269</sup>

Type	Factory Made					Country Made	
	Detonators (#)	RDX (KGs)	TNT (KGs)	Gelatine Sticks (#)	Grenades/Landmines (#)	Country Made Bomb (#)	IED Landmine (#)
2014	301,092	18,151	9,052	132,087	11,867	23,847	61,551
2015	224,400	2,606	484.3	92,776	6,181	24,652	23,195

\*Seized small arms and explosives were not recorded before 2014

259 United Nations General Assembly (UNGA), A/52/298 General and Complete Disarmament: Small Arms, New York, 27 August 1997, <http://www.un.org/Depts/ddar/Firstcom/SGreport52/a52298.html>

260 Paul Newman, “India Needs to Sign the Arms Trade Treaty”, *International Policy Digest*, 5 August 2015, <https://intpolicydigest.org/2015/08/05/india-needs-to-sign-the-arms-trade-treaty/>

261 *Ibid.*

262 NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, 2016, p. 193.

263 *Ibid.*

264 Praga Arya, “Delhi is Fast Becoming a Safe Haven for the Huge Illegal Gun Trafficking Industry”, *India Times*, 2 August 2016, <http://www.indiatimes.com/news/india/delhi-is-fast-becoming-a-safe-heaven-for-the-huge-illegal-gun-trafficking-industry-259278.html>

265 Tarique Anwar, “The Illegal ‘Make in India’: What Makes Munger a Favourite Destination of Criminals”, *FirstPost*, 6 April 2015, <http://www.firstpost.com/india/flawless-ak-47-makes-munger-favourite-destination-criminals-2186471.html>

266 *Ibid.*

267 NCRB, *Crime in India 2015*, GoI, 2016, p. 450

268 NCRB, *Crime in India 2015 Compendium*, p. 193-194; NCRB, *Crime in India 2014 Compendium*, p. 190-191.

269 *Ibid.*

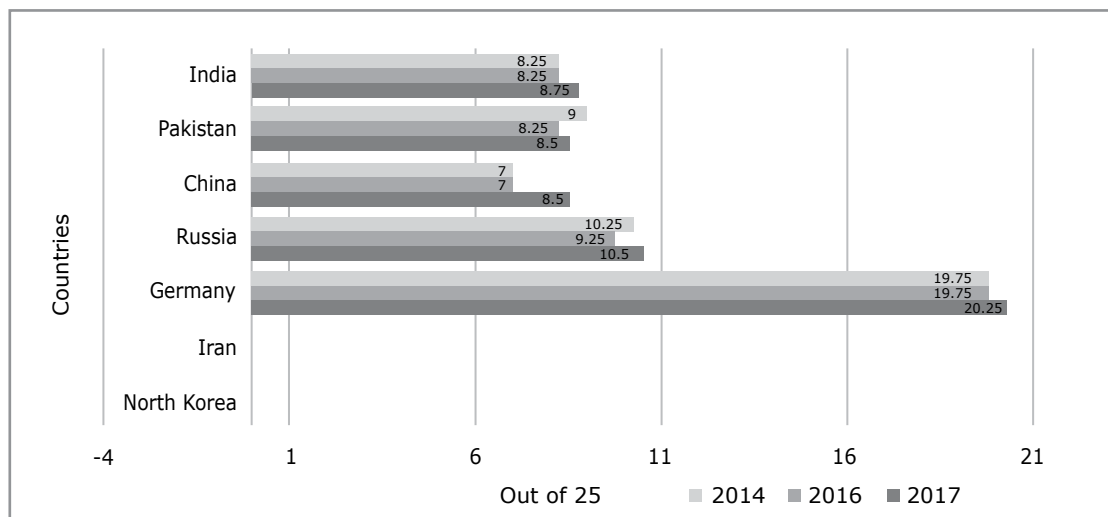
### Imported Small Arms

Small arms are imported predominantly in Jammu and Kashmir, the coastline of Maharashtra, and rural areas of the North-East states bordering Myanmar and Bangladesh.<sup>270</sup> More reliable tracing of the origins of small arms imports would be possible if India signed on to the ATT, which requires states to implement “scientific initiatives to reduce the probability of diversion of arms and ammunition to illicit markets” and track sales and transit points.<sup>271</sup>

The University of Sydney’s School of Public Health has compiled data from across arms research bodies and as of the most recent available data from 2011 found that India has a moderate level of firearm and ammunition smuggling.<sup>272</sup>

The Small Arms Survey located at the Graduate Institute of International and Development Studies in Geneva generates evidence-based and policy-relevant knowledge on all aspects of small arms and armed violence. According to its Small Arms Trade Transparency Barometer, India received a score of 8.25 out of 25 in 2016.

**Fig. 28— Small Arms Transparency Barometer**<sup>273</sup>



The BPRD recorded that between 2007 and 2015, were an average of 285 guns stolen from police stations in India each year.<sup>274</sup> 2015 recorded the least numbers stolen at 44, with half of the guns (52.27 percent) stolen from stations in Uttar Pradesh and Chhattisgarh.<sup>275</sup> Data on stolen weapons was not collected by the BPRD for 2016-2017.

270 Ravinder Pal Singh, *An Ideal Arms Trade Treaty from India’s Perspective*, Institute for Defence Studies and Analysis (IDSNA), 27 July 2012, <https://idsa.in/policybrief/AnIdealArmsTradeTreatyfromIndiasPerspective>

271 *Ibid.*

272 Arabinda Acharya, Aaron Karp, Sonal Marwah and Anjali Krishnan, ‘The Context of Violent Crime’ India’s States of Armed Violence: Assessing the Human Cost and Political Priorities; Issue Brief No. 1, 2011, p. 8. New Delhi: India Armed Violence Assessment / IAVA and the Small Arms Survey, Geneva. 20 September; in GunPolicy.org, “India – Gun Facts, Figures, and the Law” (website), <http://www.gunpolicy.org/firearms/region/india>

273 Small Arms Survey, “Small Arms Trade Transparency Barometer Interactive Map 2016”, <http://www.smallarmssurvey.org/weapons-and-markets/tools/the-transparency-barometer/interactive-map.html>

274 BPRD, *Data on Police Organizations*, GoI, New Delhi, 1 January 2016, p. 152, <http://bprd.nic.in/WriteReadData/userfiles/file/201701090303068737739DATABOOK2016FINALSMALL09-01-2017.pdf>

275 *Ibid.*

## *Gun Registry*

To deal with the regulation of small arms in India, the MHA created the National Database on Arms Licence (NDAL) in 2015. This was in response to the lack of engagement by the states in reporting the number of gun licenses issued and the existence of fake licenses. Initially, 324 out of 671 districts responded.<sup>276</sup> Due to the lack of engagement from license holders and states, and issues with the electronic format, the deadline was extended twice, “from September 30, 2015 to March 31, 2016 and then to March 31, 2017”.<sup>277</sup> As of 1 April 2017, any small arms not registered to this database are deemed illegal. By July 2016 it was reported that 2.6 million licences had been issued.<sup>278</sup> The MHA in its 2016-2017 annual report stated that “approximately 31.7 lakh [3.17 million] of arms licensees have been uploaded on the NDAL portal upto [sic] 31.12.2016.”<sup>279</sup>

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<sup>276</sup> *The Indian Express*, “Nearly 20 Lakh Private Arms Licensed in Half the Country”, 7 February 2014, <http://indianexpress.com/article/india/india-others/nearly-20-lakh-private-arms-licensed-in-half-the-country/>

<sup>277</sup> Avinash Kumar, “Bihar Set to Miss Arms Licenses Database Deadline”, *Hindustan Times*, 15 March 2017, <http://www.hindustantimes.com/india-news/bihar-set-to-miss-arms-licenses-database-deadline/story-ncA6Wk2hbblstZwABH7LDXN.html>

<sup>278</sup> Sandeep Ummithan, “New Gun Mantra”, *IndiaToday.In*, 27 July 2016, <http://indiatoday.intoday.in/story/overhaul-of-arms-rules-gun-licences-manufacturing-policy/1/725641.html>

<sup>279</sup> MHA, *Annual Report 2016-2017*, GoI, 2016, p. 28, [https://mha.gov.in/sites/default/files/annual\\_report\\_18082017.pdf](https://mha.gov.in/sites/default/files/annual_report_18082017.pdf)



# SDG 16.5:

## SUBSTANTIALLY REDUCE CORRUPTION AND BRIBERY IN ALL THEIR FORMS

Corruption undermines the rule of law and access to justice. The lack of independent oversight and accountability of institutions charged with upholding the law results in a culture of impunity. While there has been progress in reducing corruption and bribery, its continued entrenchment threatens the fundamentals of a functioning democracy.

### 16.5.1:

#### PROPORTION OF PERSONS WHO HAD AT LEAST ONE CONTACT WITH A PUBLIC OFFICIAL AND WHO PAID A BRIBE TO A PUBLIC OFFICIAL, OR WERE ASKED TO PAY A BRIBE BY THOSE PUBLIC OFFICIALS DURING THE PREVIOUS 12 MONTHS

The NCRB recorded 5,867 cases of corruption by public officials in 2015. According to non-governmental surveys, 30 percent of Delhi households had paid a bribe at least once during the last 12 months. The highest rate of corruption in a public service was the police at 34 percent. The highest total incidence documented was in the Public Distribution System (PDS).

The International Classification of Crime for Statistical Purposes (ICCS) defines bribery as: ‘Promising, offering, giving, soliciting, or accepting an undue advantage to or from a public official or a person who directs or works in a private sector entity, directly or indirectly, in order that the person act or refrain from acting in the exercise of his or her official duties.’<sup>280</sup> The indicator attempts to capture ‘administrative bribery’— the type of bribery affecting people in their dealings with public administration and civil servants— and is limited to the public sector.<sup>281</sup>

The Prevention of Corruption Act, 1988 specifies the scope of punishable offences of corruption for public servants.<sup>282</sup> In 2015 the NCRB recorded 5,250 cases of corruption by state government officials and 617 cases of corruption by officials in India’s Central Bureau of Investigation (CBI).<sup>283</sup> The cases led to the arrest of 6,223 state government officials and 434 CBI personnel.<sup>284</sup> Overall, there has been a gradual increase in the numbers of corruption cases registered and persons arrested in the state and union territory governments.<sup>285</sup> Notably, two ex-CBI chiefs were booked for corruption in 2017; one for quashing investigations into a coal block case and the other for accepting money to seek government favours.<sup>286</sup>

280 UNSD, *SDG Metadata Repository SDG16.5* <https://unstats.un.org/sdgs/metadata/files/Metadata-16-05-01.pdf>

281 *Ibid.*

282 [http://www.delhihighcourt.nic.in/library/acts\\_bills\\_rules\\_regulations/Prevention%20of%20corruption%20Act,%201988.pdf](http://www.delhihighcourt.nic.in/library/acts_bills_rules_regulations/Prevention%20of%20corruption%20Act,%201988.pdf)

283 NCRB, *Crime in India Compendium 2015*; p. 128 (table 9 I)

284 *Ibid.*

285 *Ibid.*

286 Devesh Pandey, ‘CBI Books Ex-Chief Ranjit Sinha in Corruption Case’, *The Hindu*, 8 July 2017, <http://www.thehindu.com/news/national/cbi-books-ex-chief-ranjit-sinha-in-corruption-case/article18209524.ece>

**Fig. 29 –Cases under the Prevention of Corruption Act, 2014 - 2016<sup>287</sup>**

Year	Cases Registered By State/UT*	Persons Arrested By State/UT
2014	4,966	6,597
2015	5,250	6,223
2016	4439**	5473

\* Cases registered by State/ UT in 2014 and 2015 include cases under s. 409 of IPC. This section deals with “Criminal Breach of Trust by Public Servant” which may or may not constitute cases of corruption even though they may constitute economic offences.

Cases under s.102B and s. 109 of IPC are also recorded but they are in connection with the PC Act.

\*\* Cases registered in 2016 include cases under s. 409 in connection with the PC Act.

The Central Vigilance Commission (CVC) is an independent body that acts to prevent corruption in central government institutions. In addition to registering cases, the CVC can recommend degrees of penalties as well as legal charges.

**Fig. 30 – CVC Cases, Punishments and Prosecution, 2014 - 2016<sup>288</sup>**

Year	Cases Registered by CVC	Major Penalty	Minor Penalty	Administrative Action	Prosecution
2014	5492	863	838	443	133
2015	4355	1832	1346	414	132
2016	3980	1904	1034	358	154

At the end of 2015, there were 22,543 cases pending trial in court and a total backlog of 24,800 cases.<sup>289</sup> Of the 2,100 cases completed in 2015, 788 resulted in a conviction (37.5 percent), which is an improvement over the average conviction rate of 18.94 percent between 2001 and 2015.<sup>290</sup> The state with the highest number of reported cases was Maharashtra (1,279), followed by Madhya Pradesh (634) and Odisha (456).<sup>291</sup> The NCRB figures are based on the data received from respective anti-corruption departments and therefore “may not include cases of corruption inquired or investigated by the *Lokayuktas* or the Vigilance/Accountability Commissions or where a case of corruption is directly registered in the local police station.”<sup>292</sup>

Transparency International, an international non-governmental organization that seeks to stop bribery and other forms of public corruption, annually publishes the Corruption Perception Index (CPI). In 2014, India was ranked at 85 in the CPI. In 2015, it improved to 76 but the following year it declined to 79 and in 2017 India was ranked at 81.<sup>293</sup>

A 2015 non-government report on corruption in Delhi found bribery by police as the most frequent source of corruption (39 percent of the time), followed by hawking permits (32 percent) and applying for driving license (26 percent).<sup>294</sup> Overall, “nearly 30 percent of Delhi households had paid a bribe at least once during the last 12 months” and approximately 45 percent of this group were from the poorest socio-economic classes.<sup>295</sup>

287 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p.p.296,300; NCRB, *Crime in India 2014 Statistics*, GoI, New Delhi, p.p. 281,285; NCRB, *Crime in India 2016 Statistics*, GoI, New Delhi, p.p.408,412.

288 Central Vigilance Commission (CVC), *Annual Report 2016*, New Delhi, 2016, pp. 16, 19, 20 <http://www.cvc.nic.in/sites/default/files/ar2016.pdf>

289 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p. 298.

290 Venkatesh Nayak, *Fact and Fiction: Governments’ Efforts to Combat Corruption: CHRI’s Preliminary Findings from a Study of NCRB’s Statistics (2001-2015)*, CHRI, New Delhi, 2016, p. 6. <http://www.humanrightsinitiative.org/download/CHRI-IndiaCorruptionstats.pdf>

291 NCRB, *Crime in India 2015 Statistics*, GoI, New Delhi, 2016, p. 296.

292 Venkatesh Nayak, *Fact and Fiction: Governments’ Efforts to Combat Corruption: CHRI’s Preliminary Findings from a Study of NCRB’s Statistics (2001-2015)*, CHRI, New Delhi, 2016, p. 4. <http://www.humanrightsinitiative.org/download/CHRI-IndiaCorruptionstats.pdf>

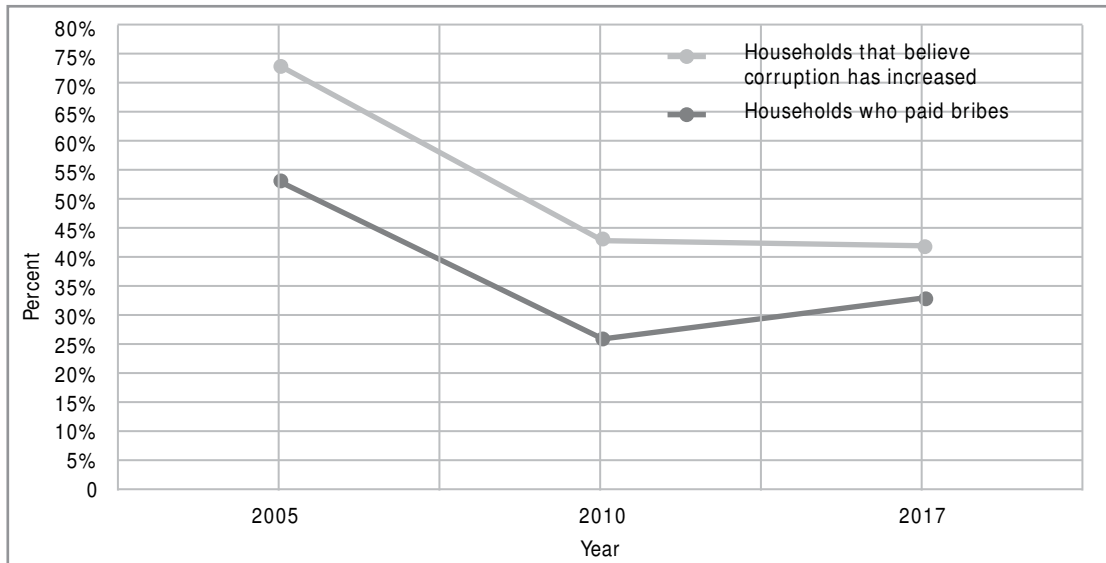
293 Transparency International, *Corruption Perception Index, 2014, 2015, 2016, 2017*.

294 Centre for Media Studies, *CMS-India Corruption Study 2015: Perception and Experience with Public Services in Delhi*, CMS Research House, New Delhi, 2015, p. 4, [http://cmsindia.org/sites/default/files/ICS\\_Report-2015.pdf](http://cmsindia.org/sites/default/files/ICS_Report-2015.pdf)

295 *Ibid.*, p.5.

The non-governmental Centre for Media Studies (CMS) publishes annual reports on corruption and bribery in India. Its 2017 report includes data on corruption perception and acts of corruption from households across 10-12 rural or urban locations from 19 states on India and two districts in Delhi.<sup>296</sup> The report revealed a decrease in corruption perception— 43 percent of people believed corruption has increased, compared to 73 percent in 2005.<sup>297</sup> These statistics parallel the experience of corruption as well— around one-third of the households in 2017 faced corruption in public services compared to 53 percent in 2005.<sup>298</sup> This is in median with the 2015 survey on corruption in Delhi by CMS.

**Fig. 31 — Perception and Experience of Corruption, 2005 – 2017<sup>299</sup>**



While corruption has reduced over the past decade, its endemic nature means that the most vital services continue to be plagued by it. The CMS 2017 report found the highest frequency of bribes to be the police (32 percent), although only 14 percent of Indian households reported accessing police services that year.<sup>300</sup> The food and essentials welfare network, called the Public Distribution System (PDS), was used by 74 percent of respondents and was subject to bribery 12 percent of the time.<sup>301</sup> Due to its frequent use and importance for the poorest members of society, the PDS constitutes the highest total of bribery cases for the average Indian. According to the CMS study, states in south India have the highest rates of corruption.

296 CMS, *CMS-India Corruption Study 2017: Perception and Experience with Public Services & Snapshot View for 2005-17, 2017*, p. 3, [http://cmsindia.org/sites/default/files/Monograph\\_IC\\_S\\_2017.pdf](http://cmsindia.org/sites/default/files/Monograph_IC_S_2017.pdf) p. 2.

297 *Ibid.*, p. 3.

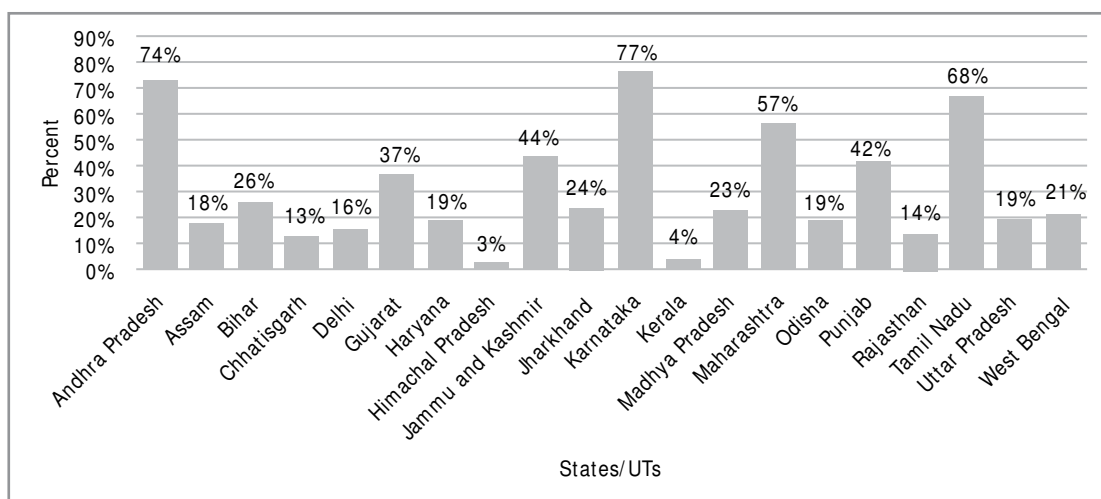
298 *Ibid.*

299 CMS, *CMS-India Corruption Study 2017: Perception and Experience with Public Services & Snapshot View for 2005-17, 2017*, p. 3, [http://cmsindia.org/sites/default/files/Monograph\\_IC\\_S\\_2017.pdf](http://cmsindia.org/sites/default/files/Monograph_IC_S_2017.pdf); CMS, *CMS-India Corruption study 2010: Is the scenario changing?*, 2011, p.p.3,12, <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan047870.pdf>

300 CMS, *CMS-India Corruption Study 2017: Perception and Experience with Public Services & Snapshot View for 2005-17, 2017*, p. 3, [http://cmsindia.org/sites/default/files/Monograph\\_IC\\_S\\_2017.pdf](http://cmsindia.org/sites/default/files/Monograph_IC_S_2017.pdf); p. 3.

301 *Ibid.*, p.p. 5, 17.

**Fig. 32 — Experience of Corruption in Public Services, 2016**<sup>302</sup>



Services that are used more often usually have lower bribe amounts, with the average households paying ₹1,840 (\$30 USD) per year in bribes.<sup>303</sup> For accessing PDS shops the bribes can be as low as ₹20 (\$0.30 USD) but for one-time expenses, such as bribing an official for an earlier court hearing, the amount could be as high as ₹50,000 (\$800 USD).<sup>304</sup>

In 2011, “I Paid a Bribe” campaign was launched in Bengaluru which focused on crowd-sourced reports of retail corruption and bribery. The campaign website enables citizen to share their experiences with bribes— the amount, the reason and the government agency— including experiences with honest officials and stories of their successful attempts at getting something done without paying a bribe. Until May 2018, the campaign’s online platform registered more than 158,000 instances of bribery— approximately 36,000 bribes paid totalling in excess of Rs. 2,800 crores.<sup>305</sup>

## 16.5.2: PROPORTION OF BUSINESSES THAT HAD AT LEAST ONE CONTACT WITH A PUBLIC OFFICIAL AND THAT PAID A BRIBE TO A PUBLIC OFFICIAL, OR WERE ASKED TO PAY A BRIBE BY THOSE PUBLIC OFFICIALS DURING THE PREVIOUS 12 MONTHS

The NCRB recorded 5,867 cases of corruption by public officials in 2015. According to non-governmental surveys, 30 percent of Delhi households had paid a bribe at least once during the last 12 months. The highest rate of corruption in a public service was the police at 34 percent. The highest total incidence documented was in the Public Distribution System (PDS).

The data on bribery and corruption in the NCRB under the Prevention of Corruption Act 1988 is not disaggregated based on individuals and businesses. The World Bank’s Enterprise Survey collects national data on the proportion of firms asked for a gift or informal payment when meeting with tax officials. Enterprise Surveys are firm-level surveys conducted in World Bank client countries every 4-5 years and includes face-to-face interviews with the top manager or business owner.

<sup>302</sup> *Ibid.*, p. 18

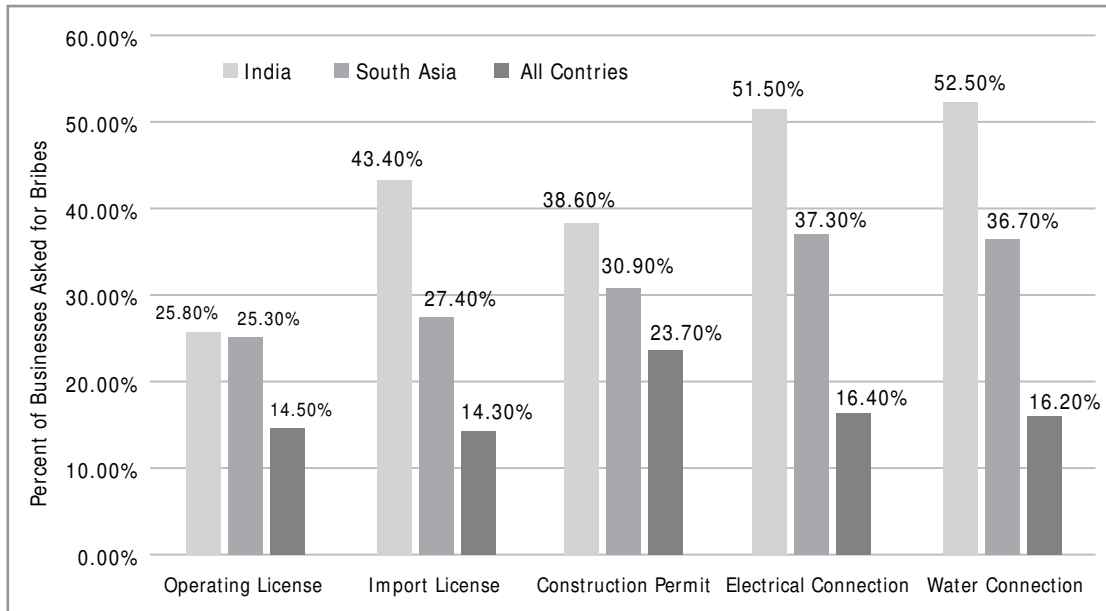
<sup>303</sup> *Ibid.* p. 4.

<sup>304</sup> *Ibid.* p. 3.

<sup>305</sup> [www.ipaidabribe.com](http://www.ipaidabribe.com).

The Enterprise Survey data for India found corruption as the top business environment obstacle in 2014.<sup>306</sup> It reported bribery incidence in India at 22.7 percent, compared to 24.8 percent in South Asia and global average of 18.1 percent.<sup>307</sup> In India, the most frequent area for bribery in businesses was getting essential services.<sup>308</sup> However, while 39.8 percent of firms were expected to give gifts in order to get a government contract, the value of the gift was only expected to be 0.1 percent of the contract value.<sup>309</sup>

**Fig. 33 — World Bank Enterprise Survey, 2014<sup>310</sup>**



In 2017, India climbed up the ranking in the World Bank’s “Doing Business”— from 130 in 2015<sup>311</sup> to 100 in 2017<sup>312</sup>. However, the report only looks at Delhi and Mumbai, and corruption is not explicitly factored in to the ranking.<sup>313</sup>

The National Council of Applied Economic Research (NCAER), an independent economic policy research institute in India, published the state investment potential index for 2015. The study covered 1011 industrial units in 40 districts across twenty major states and the union territory of Delhi. It found the greatest constraint faced by businesses to be corruption, at 79.4 percent of the time.<sup>314</sup>

<sup>306</sup> The World Bank Group, *Enterprise Surveys: What Businesses Experience – India (2014)*, (website), 2014, <http://www.enterprisesurveys.org/data/exploreeconomies/2014/india#corruption>

<sup>307</sup> *Ibid.*

<sup>308</sup> *Ibid.*

<sup>309</sup> *Ibid.*

<sup>310</sup> *Ibid.*

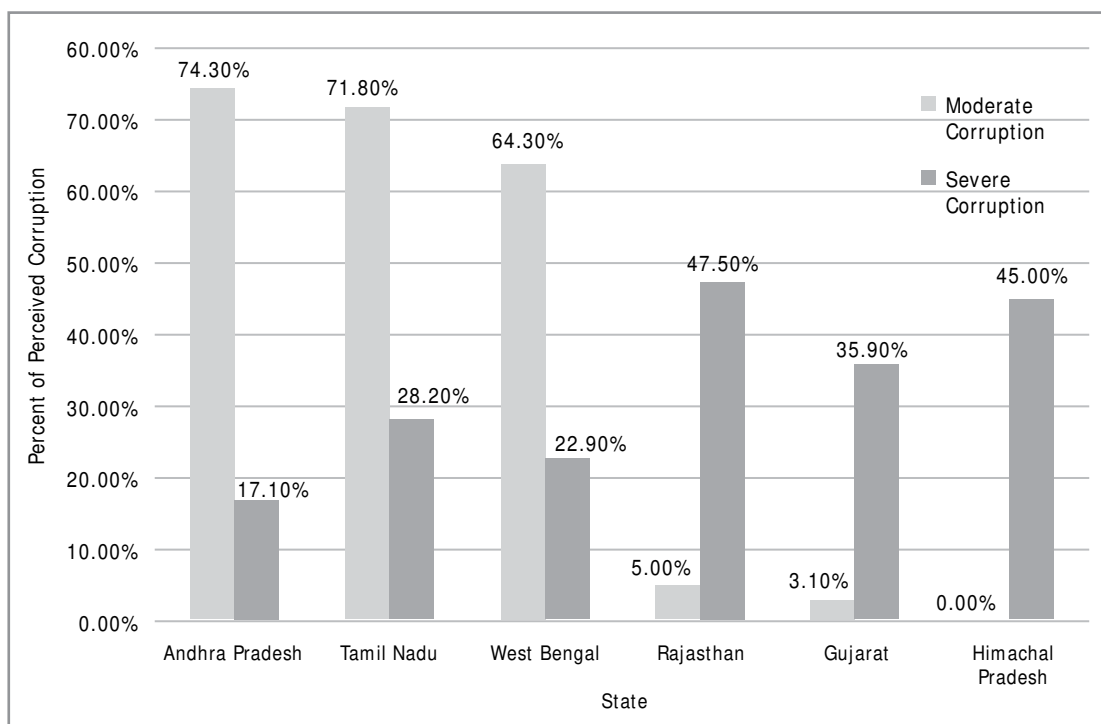
<sup>311</sup> World Bank Group, *Doing Business 2016, Measuring Regulatory Quality and Efficiency*, Washington D.C., 2016, p. 5, <http://www.doingbusiness.org/~media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB16-Full-Report.pdf>

<sup>312</sup> World Bank Group, *Doing Business 2018*, Washington D.C., 2018, <http://www.doingbusiness.org/data/exploreeconomies/india>

<sup>313</sup> *Ibid.*

<sup>314</sup> NCAER, *The NCAER State Investment Potential Index*, The Foreign and Commonwealth Office, British High Commission, India, New Delhi, March 2016, p. 9, <http://www.ncaer.org/uploads/photo-gallery/files/1459754012NCAER-SIPI-Report%202016.pdf>

**Fig. 34 — Perception of Severe and Moderate Corruption, 2015<sup>315</sup>**



A 2016 study by Ernst & Young found a significant part of the high rates of bribery were exacerbated by the corporate culture.<sup>316</sup> According to its findings, the sectors most vulnerable to corruption are “infrastructure and real estate, metals and mining, aerospace and defence, and power and utilities.”<sup>317</sup> Seventy percent of those surveyed believed that “at least one form of unethical conduct can be justified to meet financial targets” and 30 percent of the respondents believed “loyalty to their company would prevent them from reporting an incident of fraud, bribery or corruption.”<sup>318</sup>

<sup>315</sup> *Ibid.*, p. 14, 34, 42, 74, 78, 94.

<sup>316</sup> Ernst and Young (EY), *Corporate Misconduct – Individual Consequences: Global Enforcement Focuses the Spotlight on Executive Integrity*, 14th Global Fraud Survey, 2016, p. 38, [http://www.ey.com/Publication/vwLUAssets/ey-global-fraud-survey-2016/\\$FILE/ey-global-fraud-survey-final.pdf](http://www.ey.com/Publication/vwLUAssets/ey-global-fraud-survey-2016/$FILE/ey-global-fraud-survey-final.pdf)

<sup>317</sup> EY, *Bribery and Corruption: Ground Reality in India: A Survey by EY’s Fraud Investigation & Dispute Services Practice*, 2013, p. 5, [http://www.ey.com/Publication/vwLUAssets/Bribery\\_and\\_corruption:\\_ground\\_reality\\_in\\_India/\\$FILE/EY-FIDS-Bribery-and-corruption-ground-reality-in-India.pdf](http://www.ey.com/Publication/vwLUAssets/Bribery_and_corruption:_ground_reality_in_India/$FILE/EY-FIDS-Bribery-and-corruption-ground-reality-in-India.pdf)

<sup>318</sup> *Ibid.*, p. 39.

# SDG 16.6:

## DEVELOP EFFECTIVE, ACCOUNTABLE AND TRANSPARENT INSTITUTIONS AT ALL LEVELS

Accountability and transparency are the hallmarks of good governance and democracy, and essential elements for realising the transformative potential of the Agenda 2030. Governments that are open and accountable are better suited to review their SDG implementation strategies, utilise their resources effectively, and mitigate corruption. Despite various checks and balances, several gaps remain in India's accountability and transparency framework.

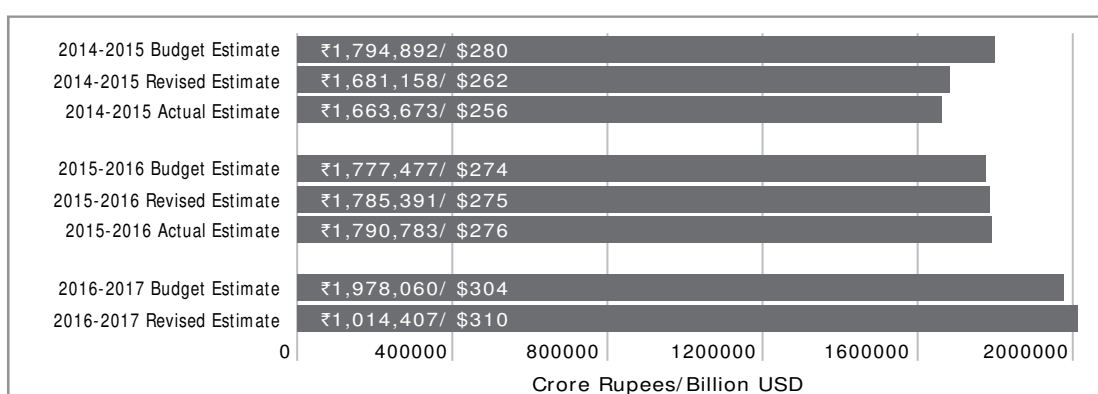
### 16.6.1:

#### PRIMARY GOVERNMENT EXPENDITURE AS A PROPORTION OF ORIGINAL APPROVED BUDGET, BY SECTOR (OR BY BUDGET CODES OR SIMILAR)

The 2015-2016 Actual Spending was ₹13,306 crore higher than the initial Budget Estimate, and in 2016-2017 the Revised Estimate was ₹36,347 crore higher than the Budget Estimate. In 2016, the largest increase from approved budget was in capital outlay, and the largest decrease was on interest payments. There are also systemic problems with implementation and oversight of government programmes.

The initial government budget is called the Budget Estimate (BE), which is updated as a Revised Estimate (RE) after the first six months of the financial year, and the final Actual Spending (AS) is determined after the end of the financial year.<sup>319</sup> From 2000 to 2016 there has been an annual increase in the actual expenditure, except for 2014-2015 which witnessed a 7.3 percent decline (₹131,219 crore, \$20 billion US).<sup>320</sup> There was a 0.75 percent increase in estimated to actual expenditure in 2015-2016 budget (₹13,306 crore, \$2 billion US), and 2016-2017 budget estimate to revised estimate was ₹36,347 crore (\$6 billion US).<sup>321</sup>

**Fig. 35 — Budget Estimate and Revised Estimate, 2014 - 2016**<sup>322</sup>



319 DTE Staff, "A Step-by-Step Guide on How Union Budget is Formulated", (website), 9 July 2014,

<http://www.downtoearth.org.in/news/a-step-by-step-guide-on-how-union-budget-is-formulated-36901>

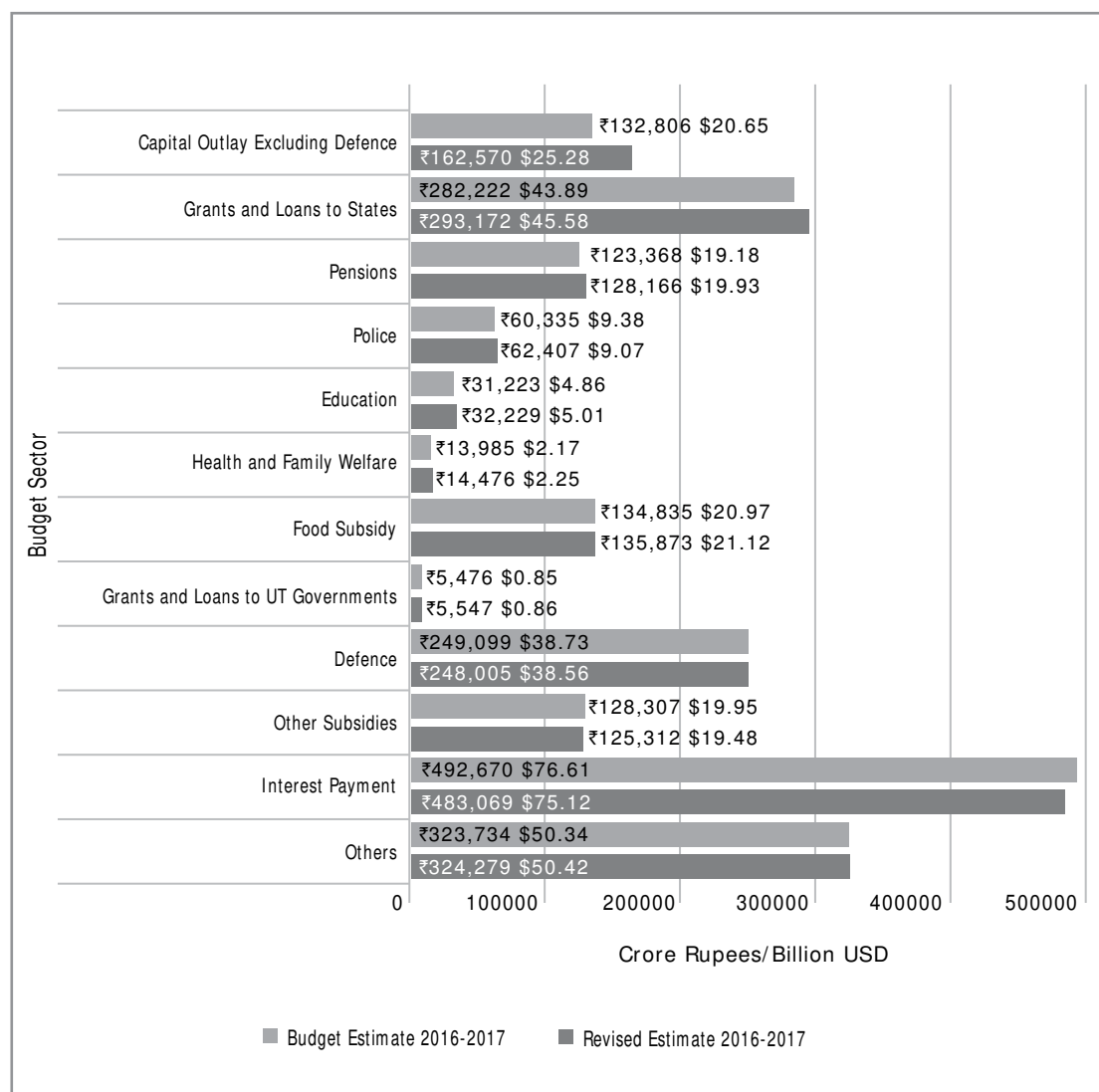
320 Community Data.gov.IN, Expenditure of the Indian Government from 2000-01 to 2015-16, (website), Government of India, 29 February 2016, <https://community.data.gov.in/expenditure-of-the-indian-government-from-2000-01-to-2015-16/>

321 Ministry of Finance, Budget at a Glance 2015-2016, GoI, 2015, p. 1, <http://indiabudget.nic.in/budget2015-2016/ub2015-16/bag/bag11.pdf>; Ministry of Finance, Budget at a Glance 2016-2017, GoI, 2016, p. 1, <http://indiabudget.nic.in/budget2016-2017/ub2016-17/bag/bag11.pdf>; Ministry of Finance, Budget at a Glance 2017-2018, GoI, 2017, p. 1, <http://indiabudget.nic.in/ub2017-18/bag/bag1.pdf>; Ministry of Finance, Expenditure of Government of India, GoI, 2017, p. 12, <http://indiabudget.nic.in/ub2017-18/bag/bag6.pdf>

322 Ibid.

The general breakdown of the Indian government's spending for the 2016-2017 fiscal year was: 37.62 percent on budgets under spending ministries, 24.91 percent on interest payments, 12.66 percent on subsidies, 12.56 percent on defence (excluding defence pension), 6.24 percent on pension finance commission, and 5.98 percent recommended grants-in-aid to states.<sup>323</sup> The most significant differences in budget spending are represented below, with the largest being an increase of ₹29,764 crore (\$4.63 billion US) for Capital Outlay:

**Fig. 36 — Comparison of Budget Estimate and Revised Estimate, 2016<sup>324</sup>**



### Budget Planning

As per international standards, central governments are supposed to maintain budget reporting through eight key budget documents— Pre-Budget Statement, Executive Budget Proposal, Enacted Budget, Citizens Budget, In-Year Report, Mid-Year Review, Year-End Report, and the Audit Report. However, GoI does not produce pre-budget statement. Among others, the transition from Congress to a BJP-led government after the 2014 general elections meant delays in producing Mid-Year Review and Year-End Reports.<sup>325</sup>

<sup>323</sup> Open Budgets India Beta, *Union Budget*, (website), 2017, <https://openbudgetsindia.org/budget-basics/union-budget.html>

<sup>324</sup> Ministry of Finance, *Statement of Major Variations of Expenditure Between BE 2016-2017 and RE 2016-2017*, GoI, January 2017, <http://indiabudget.nic.in/ub2017-18/eb/stat2a.pdf>

<sup>325</sup> Nilachala Acharya, *Open Budget Survey 2015: What Does it Say About Budget Transparency in India?*, Centre for Budget and



## Budget Accountability

The International Budget Partnership (IBP) rates government budgets in 102 countries, and uses public participation, and legislative and auditor oversight as the basis of its Open Budget Index. From March 2014 to September 2015, the IBP gave India a score of 46/100, with 100 being the highest.<sup>326</sup> While the Indian budget oversight by the supreme audit institutions (the Comptroller and Auditor General of India and the Indian Audit and Accounts Department) was “adequate” (75/100), the low overall score is due to the 19/100 on their public participation, and 39/100 on legislature oversight.<sup>327</sup> The low scores are due to the lack of engagement with the public on pre-budget plans, and the lack of transparency and equality of input on the mid-year review and year-end reports.<sup>328</sup>

An issue not captured in these scores is the rationalization of the objectives of the budget. For instance, in 2014 the non-governmental organisation Centre for Budget and Governance Accountability (CBGA) analysed the allocation of resources within the 2014-2015 budget. Despite on average 5.76 percent of the Union budget being allocated under gender budgeting, no rationale was put forward as how the money allocated benefits women.<sup>329</sup> This lack of rationale is also true for other areas of budgeting, as many ministries and departments do not follow the guidelines for proactive disclosure of information.<sup>330</sup> Therefore, it is difficult to ascertain the actual expenditures vis-à-vis funds allocated to government departments, without resorting to the Right to Information (RTI) requests.

It also remains unclear whether government funds are indeed being spent on the allocated areas and how effective those projects are. This is exemplified by the 2007 Self Employment Scheme for Rehabilitation of Manual Scavengers; in March 2016, “the Ministry of Social Justice and Empowerment reported that, between 2013 and 2016, the scheme’s actual spending came to ₹37.7 crore [\$5.8 million USD]—only 2.5 percent of the funds it was promised in the union budget over this period.”<sup>331</sup>

According to CBGA, the inability to utilize budgeted funds is largely due to the underutilized District Planning Committees (DPCs). Although most states have established DPCs (except for Uttarakhand and Jharkhand), there is a lack of indication of the deployment of funds and the criteria for allocating resources.<sup>332</sup> Strengthened DPCs can collect disaggregated regional data that currently goes unrecorded and increase citizen awareness of government funds.<sup>333</sup>

Governance Accountability (CBGA), 10 September 2015, <http://www.cbgaindia.org/wp-content/uploads/2016/06/Open-Budget-Survey-2015-What-does-it-say-about-budget-transparency-in-India-1.pdf>

326 International Budget Partnership (IBP), India: Open Budget Survey Document Availability Tracker, December 2016, <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=in>. For purposes of comparison, Sri Lanka’s 2014-2015 Open Budget Index rating was 39/100, Pakistan (43/100), Brazil (77/100), Russia (74/100), China (14/100), and South Africa (86/100).

327 IBP, India: Open Budget Survey Document Availability Tracker, December 2016, <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/country-info/?country=in>

328 *Ibid.*

329 Centre for Budget and Governance Accountability (CBGA), *Has the Tide Turned? Response to Union Budget 2014-15*, 2014, p. 59, <http://www.cbgaindia.org/wp-content/uploads/2016/02/Response-to-Union-Budget-2014-15.pdf>

330 *Ibid.*

331 Sagar, “Down The Drain: How the Swachh Bharat Mission is Heading for Failure”, *The Caravan*, 1 May 2017, <http://www.caravanmagazine.in/reportage/swachh-bharat-mission-heading-failure/2>

332 Rajni Kumari, *Status of District Planning Committees Formation in India*, M.D. University Rohtak, Haryana, September 2016, pp. 383-385, [http://www.academia.edu/28657771/STATUS\\_OF\\_DISTRICT\\_PLANNING\\_COMMITTEES\\_FORMATION\\_IN\\_INDIA](http://www.academia.edu/28657771/STATUS_OF_DISTRICT_PLANNING_COMMITTEES_FORMATION_IN_INDIA)

333 Happy Pant, *Winds of Change: Assessing the Changes in Structure and Processes*, Centre for Budget and Governance Accountability India (CBGA), March 2017, p. 33, <http://www.cbgaindia.org/wp-content/uploads/2017/03/Assessing-the-Changes-in-Structure-and-Processes.pdf>

## 16.6.2: PROPORTION OF THE POPULATION SATISFIED WITH THEIR LAST EXPERIENCE OF PUBLIC SERVICES

The government has collected ad-hoc qualitative data on public service satisfaction. More comprehensive data is available from private and civil society organizations. Non-governmental surveys report majority of respondents being partially dissatisfied with public services. The highest rates of satisfaction were with drinking water, the lowest with education. Majority of people across all incomes groups and states are dissatisfied with their experience with access to justice.

Due to its subjective nature, there is little government data available on public service satisfaction. One of the most recent studies was in 2011, when the Department of Administrative Reforms and Public Grievances published a report on streamlining customer access across 10 different departments and ministries.<sup>334</sup> In the 2011 report, only the Department of Posts conducted a public satisfaction survey whose results varied from 95 percent to 48 percent satisfaction. The nine other departments and ministries in the report conducted customer training and policy reviews, but not customer satisfaction surveys.<sup>335</sup>

In the absence of up-to-date official statistics, data on citizen satisfaction with public services is derived from non-governmental sources. The most comprehensive data on the satisfaction of public services is by the Public Affairs Centre of India (PAC) — a non-profit think tank that works on building good governance practices. In 2016, PAC published a nation-wide study on the satisfaction and access to five main public services: drinking water, primary healthcare, primary education, primary distribution of food and public transport.<sup>336</sup> It surveyed 37,000 households across rural and urban populations from every state to ascertain rates of access and satisfaction of services.

**Fig. 37 — Rate of Access and Satisfaction with Public Services, 2016**<sup>337</sup>

Public Service	Access to Facilities	Use of Public Service	Quality/Reliability	Full Satisfaction
Drinking Water	55% (within 100m)	62 %	76 %	22%
Healthcare (Doctors)	41% (Within 1 Km)	52%	70%	14%
Education	66% (Within 1 Km)	78%	16%	10%
Food Distribution	78% (Fair Price Shop)	72%	23%	8%
Public Transport	54% (Public Bus)	35%	20%	21%

Overall, the majority of respondents across all states were partially dissatisfied, especially with services that necessitate a high element of human interaction, such as health care. Some of the most pressing concerns facing access to public services were lack of access to water and lack of quality/reliability of staple foods.<sup>338</sup> Drinking water had the highest levels of satisfaction overall.<sup>339</sup> State-wise, people in Maharashtra, Gujarat and Tamil Nadu were the most satisfied, while people in Assam, Punjab and Bihar were the least satisfied.<sup>340</sup>

<sup>334</sup> Department of Administrative Reforms and Public Grievances, *Our Sevottam Journey: Implementation Experience of Ten Central Ministries/Departments*, GoI, September 2011, p. 10, [http://darpg.gov.in/sites/default/files/Sevottam\\_Journey.pdf](http://darpg.gov.in/sites/default/files/Sevottam_Journey.pdf)

<sup>335</sup> *Ibid.*

<sup>336</sup> Public Affairs Centre, *The State of India's Public Services – Benchmarks for the New Millennium*, 2016, <http://pacindia.org/2016/06/27/the-state-of-indias-public-services-benchmarks-for-the-new-millennium/> Published in June 2016, the data on public

satisfaction corresponds to 2015.

<sup>337</sup> *Ibid.*

<sup>338</sup> *Ibid.*

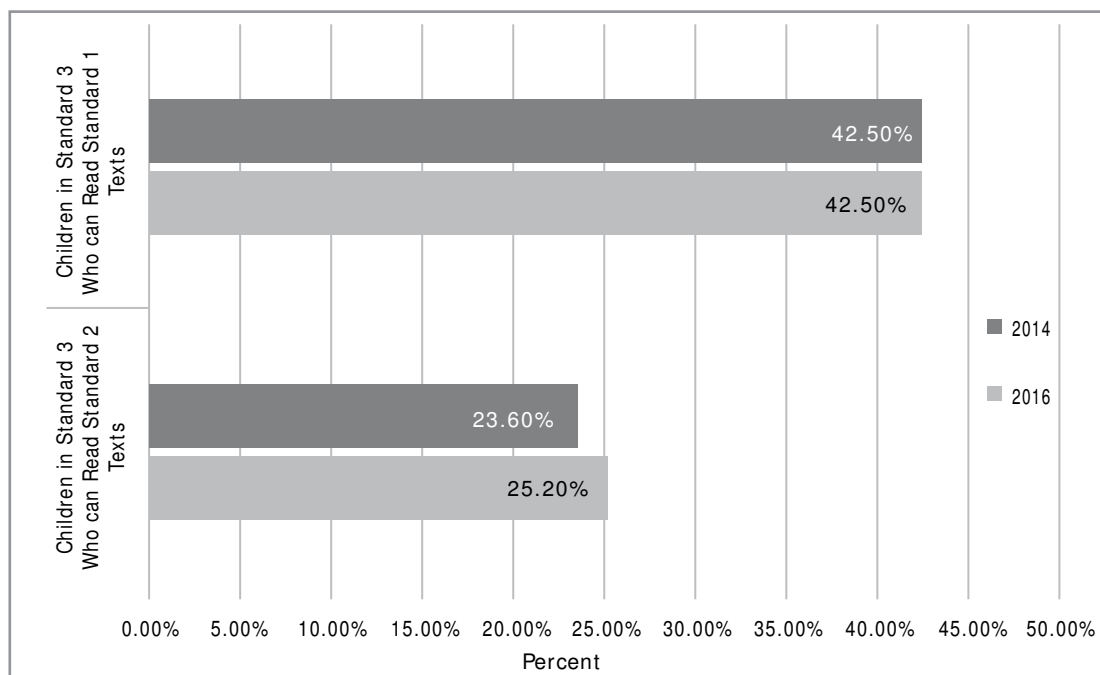
<sup>339</sup> *Ibid.*

<sup>340</sup> *Ibid.*

## Education

The Annual Status of Education Report by the 2016 ASER Centre, a non-governmental organization that studies the outcomes of social sectors programmes, especially education. On the basis of household-based surveys 562,305 students from 589 out of 651 rural districts in India, it found only a quarter of students of standard 3 could read standard 2 texts.<sup>341</sup>

**Fig. 38 — Literacy Levels of Children in Standard 3, 2014 and 2016<sup>342</sup>**



Despite some improvements in the standard of education in government schools, significant gaps continue to exist between government and private school students' abilities. Public school students lag behind in their ability to read Hindi and do basic math (subtraction, division) by 10 to 25 percent less.<sup>343</sup> children in the lower grades in public schools underperform the most and least satisfied with school.<sup>344</sup> These national statistics are adversely affected by highly populated underperforming states, such as Uttar Pradesh and West Bengal, while the better performers are smaller states, such as Manipur and Punjab.<sup>345</sup>

The Right to Education Act, which mandates under Sec. 12(1)(c) that private unaided schools reserve 25 percent of their seats for children belonging to disadvantaged communities, is meant to improve ease of access to quality education for students. Schedule I to the Act lays down norms for schools to follow (on infrastructure and teacher-student ratio). In 2015, only 8.3 percent of all such schools had complied with these parameters.<sup>346</sup>

341 Wilima Wadhwa, "School Matters", in ASER Centre, *Annual Status of Education Report (Rural) 2016*, New Delhi, 18 January 2017, p. 43, [https://prathamusa.org/website-admin/wp-content/uploads/2017/03/aser\\_2016.compressed.pdf](https://prathamusa.org/website-admin/wp-content/uploads/2017/03/aser_2016.compressed.pdf)

342 Ibid.p.16

343 Aser Centre, *Enrolment and Learning Report Card*, New Delhi, 18 January 2017, p. 2-3, [http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202016/4%20pagers/enrollmentandlearningreportcard\\_englishb.pdf](http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202016/4%20pagers/enrollmentandlearningreportcard_englishb.pdf)

344 Ibid.

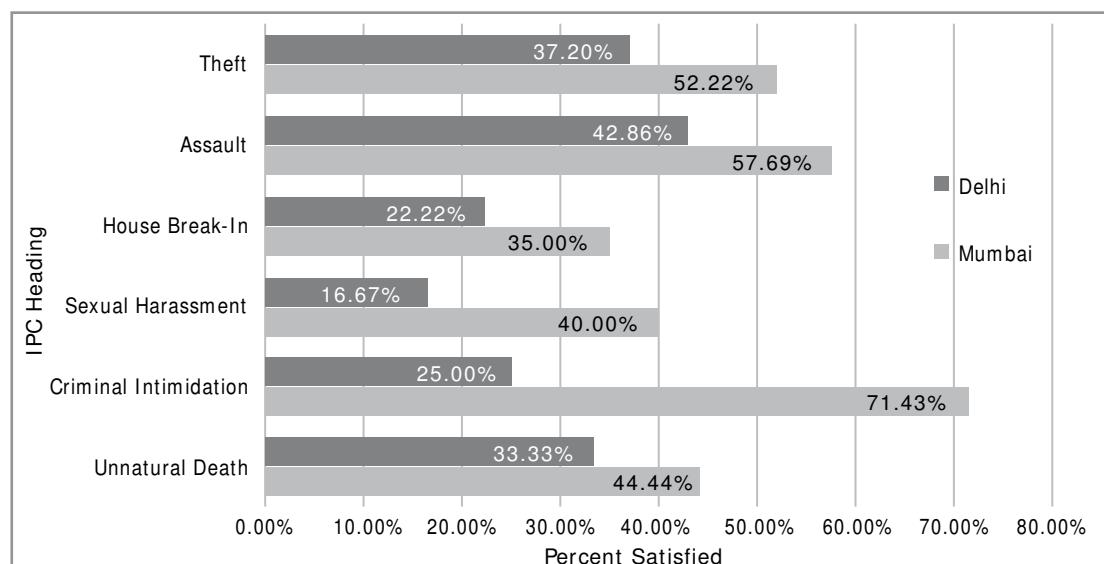
345 Ibid.

346 National University of Educational Planning and Administration, *Education for All: Towards Quality with Equity*, GoI, New Delhi 2014. However, these parameters have also been subject to criticism, on grounds that they are unreasonable, and have adversely impacted lower-cost private schools. See Geeta Kingdon, "Schooling without learning: How the RTE Act destroys private schools and destroys standards in public schools", *Times of India*, 26 August 2015, <https://blogs.timesofindia.indiatimes.com/toi-edit-page/schooling-without-learning-how-the-rte-act-destroys-private-schools-and-destroys-standards-in-public-schools/>

## Access to Justice

Some aspects of systemic impediments to access to justice have been covered in Section SDG 16.3.1 and bribery under Section SDG 16.5.1. Taken together it leads to an unsatisfying public service experience. According to civil society surveys in Delhi and Mumbai, on average police satisfaction was recorded at 36 percent and 51 percent, respectively.<sup>347</sup>

**Fig. 39 — Satisfied with Police Response to Reported Crimes, 2015<sup>348</sup>**



Legal aid is a right guaranteed in the Indian constitution.<sup>349</sup> According to a 2016 ruling by the Supreme Court of India on prison conditions, legal aid representation continues to be poor in quality due to lack of implementation of oversight mechanisms and complex bureaucracy.<sup>350</sup>

In 2016, the National Legal Services Authority (NALSA) developed a standard operating procedure for representation and redressal of grievances and complaints.<sup>351</sup> Yet people are not aware of these redressal mechanisms. Inmates and their families often complain about the poor quality of legal representation and legal aid lawyers' practice of demanding money.<sup>352</sup>

Monitoring Committees (MCs) are tasked to uphold legal aid quality and good practice. In 2016, CHRI released an RTI study of Monitoring Committee (MC) compliance in Rajasthan. 22 of the total 33 districts responded to the RTI requests, with eight of the respondent districts having set up MCs. Of those eight, two had designated staff, and only one, Dungarpur, had legal aid procedure reports.<sup>353</sup> Additionally, payment of panel lawyers is only allowed if there are legal aid procedure reports, yet five districts reported giving payments totalling ₹594,900 (\$9,300 USD).<sup>354</sup>

Daksh, a civil society organization working on issues of governance and transparency, found that people become disillusioned with civil cases: "56 percent of litigants expected their cases to be resolved within a year when they first filed their cases. However, on the date of the survey, only 32

<sup>347</sup> CHRI, *Crime Victimization Report*, New Delhi, 2014, p. 21.

<sup>348</sup> *Ibid.*

<sup>349</sup> Article 21 and Article 39A of the Indian Constitution

<sup>350</sup> Judges Madan B. Lokur and R.K. Agrawal, JJ., *In Re: human Conditions in 1382 Prisons*, Supreme Court of India, 5 February 2016

<sup>351</sup> NALSA, *Standard Operating Procedure for Redressal of Complaints/Public Grievances*, New Delhi, 2016, <http://nalsa.gov.in/sites/default/files/document/SOP-%20COMPLAINT%20REDRESSAL%20MECHANISM.pdf>

<sup>352</sup> National Law University, Delhi, *Death Penalty India Report Vol. 1*, February 2016, p. 133, 134, <https://barandbench.com/wp-content/uploads/2016/05/Death-Penalty-India-Report-Volume-1.pdf>

<sup>353</sup> CHRI, *Legal Aid for Prisoners: Status Report on the Implementation of Three Schemes in Rajasthan*, New Delhi, 2016, p. 22.

<sup>354</sup> *Ibid.*

percent litigants had the same expectation.”<sup>355</sup> It is similar for those in court for criminal matters—“67 percent respondents expected their case to be disposed of within one year. However, on the date of the survey, only 42 percent litigants had the same expectation.”<sup>356</sup> People with greater monetary resources reported having better experiences in court, while poorer people had longer and less satisfying experiences.<sup>357</sup>

### *Exclusion from Public Services*

Caste-based exclusion persists despite principles of equality enshrined in the Indian constitution (Article 14-18, 23, 24, 44), the Indian Civil Rights Act 1955, and the SC/ST Prevention of Atrocities (PoA) Act.<sup>358</sup> Part of the problem is that, despite these laws, there is no anti-discrimination legislation that can be used to actively penalize offenders.<sup>359</sup>

A 2012 report published by the Immigration and Refugee Board of Canada studied the treatment of SCs across rural and urban India, including 565 villages in 11 states. It found that SCs were not allowed to enter the local police station in 27.6 percent of the villages, postal service was not delivered to their homes in 23.5 percent of villages, and SCs in 48.4 percent of areas were not allowed to use public water services.<sup>360</sup> The effects of this exclusion by government and the public falls under the larger umbrella of discrimination, which is covered comprehensively later in this report under Section 16.B.1.

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355 Daksh, *Access to Justice Survey 2015-16*, Centre for Development, Planning and Research, Pune, and National Law University, Delhi, 2016, p. 18, <http://dakshindia.org/wp-content/uploads/2016/05/Daksh-access-to-justice-survey.pdf>

356 *Ibid.*

357 *Hindustan Times*, “Law is Not Same for Rich and Poor: Victim on Uphaar Case Order”, 20 March 2017, <http://www.hindustantimes.com/delhi-news/law-is-not-same-for-rich-and-poor-victim-on-uphaar-case-order/story-i608pVUNXXS2p9YBXtfeSM.html>

358 U. S. Bagde. “Laws Against Caste Discrimination and Their Rampant Violations in Indian Scenario.” *Journal of Law and Conflict Resolution*, University of Mumbai, vol 5, no. 2 (28 February 2013), <http://www.academicjournals.org/journal/JLCR/article-abstract/4266A457728>

359 Zeeshan Sheikh, “A Law Against Discrimination, Often Suggested, Not Yet Drafted”, *Indian Express Nation*, 29 May 2015, <http://indianexpress.com/article/india/india-others/a-law-against-discrimination-often-suggested-not-yet-drafted/>

360 Immigration and Refugee Board of Canada, *India: Treatment of Dalits by Society and Government Authorities, Including the State Response to Mistreatment (2010-March 2012)*, Refworld: UNHCR, 7 May 2012, <http://www.refworld.org/docid/50b49fa2.html>



# SDG 16.7:

## ENSURE REponsive, INCLUSIVE, PARTICIPATORY AND REPRESENTATIVE DECISION-MAKING AT ALL LEVELS

Patriarchy, poverty and deep-seated social biases have resulted in the lack of representation and further marginalisation of vast sections of the population. Scheduled Castes (SC), Scheduled Tribes (ST), Muslims and women are some of the most affected in the country. Despite long-standing government policies for reservation and affirmative action, the culture of discrimination and exclusion mitigates positive discrimination efforts.

### 16.7.1:

#### PROPORTIONS OF POSITIONS (BY SEX, AGE, PERSONS WITH DISABILITIES AND POPULATION GROUPS) IN PUBLIC INSTITUTIONS (NATIONAL AND LOCAL LEGISLATURES, PUBLIC SERVICE, AND JUDICIARY) COMPARED TO NATIONAL DISTRIBUTIONS

Despite improvements in representation, minority and marginalised population groups continue to be under-represented in public institutions. Legislature has improved slightly in female representation, but not in minority and age. Civil service reservations are only partially filled. Women make up 6.11 percent of police, and BPRD and NCRB have conflicting data on minority representation. The judiciary has an average of 14.26 percent women, but does not have data on minorities. 3.5 percent of public service jobs for people with disabilities are filled.

As defined by the United Nations Committee of Experts on Public Administration (CEPA), the “public sector” are those institutions and persons “engaged in the delivery of public goods and services to citizens.”<sup>361</sup> For the purposes of this report, we have focused on the national legislature, civil services and police, and the judiciary, as they comprise the three main branches of government, and police is most relevant to other sections of SDG 16.

#### *Legislature*

The first national Lok Sabha (ruling Lower House of parliament) in 1951 had 22 women Members of Parliament (MPs) (4.5 percent); more than six decades later, in 2014, the number of women MPs rose to 66 (12.15 percent).<sup>362</sup> In the first Rajya Sabha (the Upper House legislature review body) in 1952, there were 15 women (6.9 percent).<sup>363</sup> In 2017, 27 out of a total 241 members were women (11.6 percent).<sup>364</sup> In the states and Union Territories, the average representation of women Members of Legislative Assembly (MLA) is 9 percent.<sup>365</sup>

<sup>361</sup> UN, *World Public Sector Report 2015: Responsive and Accountable Public Governance*, DESA, New York, 2015, p.4, <http://workspace.unpan.org/sites/Internet/Documents/UNPAN95253.pdf>

<sup>362</sup> Bhanupriya Rao, “Women MPs in Lok Sabha: How Have the Numbers Changed?”, *Factly*, 8 March 2016, <https://factly.in/women-mps-in-lok-sabha-how-have-the-numbers-changed/>

<sup>363</sup> Election Commission of India, *Electoral Statistics: Pocket Book*, New Delhi, 2014, p. 17, [http://eci.nic.in/eci\\_main1/current/Electoral%20Statistics%20Pocket%20Book%202014.pdf](http://eci.nic.in/eci_main1/current/Electoral%20Statistics%20Pocket%20Book%202014.pdf)

<sup>364</sup> Parliament of India Rajya Sabha, *List of Women Members*, New Delhi, November 2017, <http://164.100.47.5/Newmembers/women.aspx>

<sup>365</sup> *Ibid.*

In the 16th (current) parliament elected in 2014, there are 23 Muslim MPs (4.2 percent). Muslims make up 14.2 percent of the national population and the current level is the lowest ever representation in Parliament.<sup>366</sup> Fifty three percent of the MPs in the current Lok Sabha are over the age of 55. This is the oldest parliament India has ever had.<sup>367</sup> At the same time, India as a nation is at its youngest; 15-59 year olds make up 62.5 percent of the total population as of the 2011 census.<sup>368</sup> Other Backward Castes (OBC) representation is 20 percent— OBCs make up approximately 41 percent nationally.<sup>369</sup>

### *Public Service*

The Government of India does not maintain consolidated and disaggregated records of public service personnel in the Indian civil services. According to the Ministry of Minority Affairs, the share of minorities in government jobs, public sector banks and public sector undertakings was 8.57 percent in 2014-15; it acknowledges that religion-wise data is not maintained.<sup>370</sup>

Despite 27 percent of reservation in government jobs mandated in the Mandal Commission, in 2015 OBCs occupied only 12 percent positions.<sup>371</sup> According to the 2011 Socio Economic Caste Census (SECC), 3.95 percent of SC households and 4.36 percent of ST households had salaried government jobs; their national population distributions were 16.6 percent and 8.6 percent, respectively.<sup>372</sup> As of January 2017, the UNDP recorded 18.3 percent women in the Indian civil services.<sup>373</sup>

As of 1 January 2014, there were 1,722,786 police officers across all state police services; of these, 105,325 were female police officers (6.11 percent).<sup>374</sup> Despite annual improvement in the number of women police personnel, progress has been slow with a net improvement of 2.21 percent since 2008.<sup>375</sup> In 2009, the Ministry of Home Affairs (MHA) set a goal of 33 percent and reinforced it in 2013.<sup>376</sup>

An MP from Mizoram has raised the issue in the Lok Sabha in May 2016, and pointed out the specific equipment and facility inequalities that make it harder to be a police woman.<sup>377</sup> The 2006 Model Police Act and the 2009 MHA advisory suggested the set-up of a woman and child protection desk in every police station, which would be staffed by women police, as “women victims of crime are more comfortable talking with policewomen”; Delhi, Kerala, Rajasthan, and Telangana are some of the states that have instituted such helpdesks.<sup>378</sup>

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366 *Timesofindia*, “Muslim representation on decline”, 31 August 2015, <https://timesofindia.indiatimes.com/india/Muslim-representation-on-decline/articleshow/48737293.cms>

367 Rukmini S., *India Elects Its Oldest Ever Parliament*, *The Hindu*, 17 May 2014, <http://www.thehindu.com/opinion/lead/india-elects-its-oldest-ever-parliament/article6020532.ece>

368 MHA, (2011), *SRS Statistical Report 2011, Government of India*, p. 11, [http://www.censusindia.gov.in/vital\\_statistics/srs\\_report/9chap%20%20-%202011.pdf](http://www.censusindia.gov.in/vital_statistics/srs_report/9chap%20%20-%202011.pdf)

369 Christophe Jaffrelot and Gilles Verniers, “The Representation Gap”, *The Indian Express*, 24 July 2015, <http://indianexpress.com/article/opinion/columns/the-representation-gap-2/>

370 Press Information Bureau, *Percentage of Muslims in Government Jobs, Government of India*, 27 July 2016, <http://pib.nic.in/newsite/mbErel.aspx?relid=147820>

371 Prabhakar Siddharth, “20 Years After Mandal, Less than 12% OBCs in Central Govt Jobs”, *The Times of India*, 26 December 2015, <http://timesofindia.indiatimes.com/india/20-years-after-Mandal-less-than-12-OBCs-in-central-govt-jobs/articleshow/50328073.cms>

372 SECC, *SC Household (Rural), National Informatics Centre, GoI*, 2011, <http://secc.gov.in/stateSummaryReport>

373 *The Women in Public Service Project, “India”, (website)*, UNDP, 2017, <http://data.50x50movement.org/countries/view/India>

374 Devyani Srivastava, and Aditi Datta, *Rough Roads to Equality: Women Police in South Asia*, CHRI, Delhi, 2015, pp. 46-47. <http://www.humanrightsinitiative.org/download/1449728344rough-roads-to-equalitywomen-police-in-south-asia-august-2015.pdf>

375 Gilmore et al., *Rough Roads to Equality*, CHRI, 2015, p. 48.

376 *Ibid.*, p. 48.

377 Shrimati Patel, *Regarding Problems Faced by Women Working in Police and Armed Forces*, (website), *Lok Sabha, GoI*, 2 May 2016, <http://164.100.47.194/Loksabha/Debates/Result16.aspx?dbsl=7431>

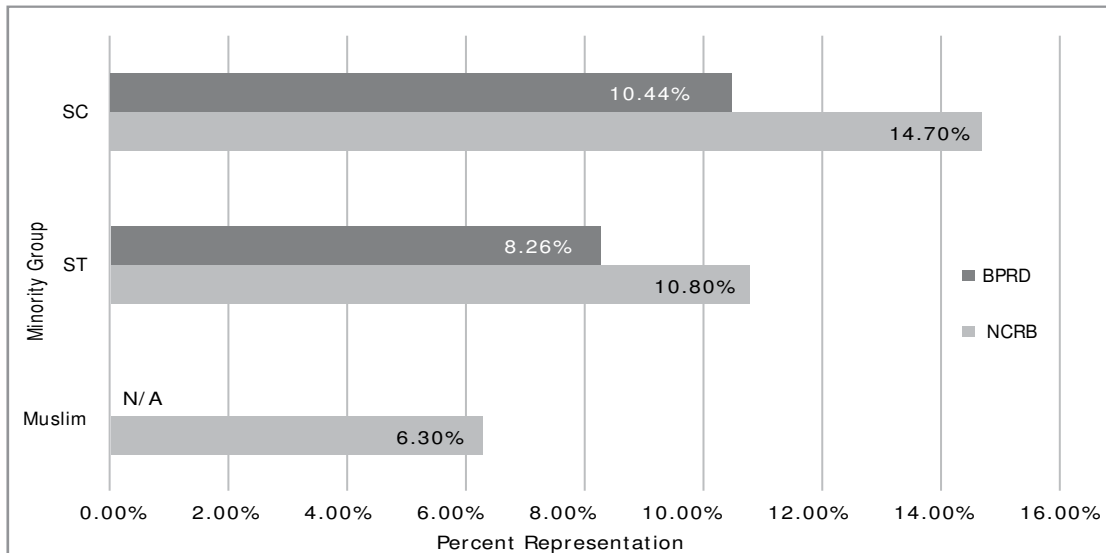
378 Gilmore et al., *Rough Roads to Equality*, CHRI, 2015, p. 54.



**Fig. 40 — Comparison of Women Police to Men Police by Rank, 2014<sup>379</sup>**

Rank	Number of Women	As Percentage of Male Equivalents
Director General of Police/Special Director General of Police/Additional Director General of Police	16	4.00%
Inspector General of Police	44	7.80%
Deputy Inspector General	20	3.20%
Additional Inspector General of Police/Senior Superintendent of Police/Superintendent of Police/Commissioner	190	6.70%
Additional Superintendent of Police/Deputy Commissioner	162	6.90%
Assistant Superintendent of Police/Deputy Superintendent of Police/Assistant Commissioner	496	4.00%
Inspector of Police	1,234	3.80%
Sub-Inspector	5,668	4.40%
Additional Sub-Inspector	3,553	2.80%
Head Constable	8,246	2.30%
Constable	85,696	5.20%
Total	105,325	6.11%

The last publicly available data on Muslim, SC, ST and OBC representation in the police is from 2013. Moreover, the numbers vary between the NCRB and the Bureau of Police Research and Development (BPRD). That year, there was a total of 1.786 million police officers<sup>380</sup> but BPRD had lower SC/ST representation statistics (BPRD did not supply Muslim police officer data).

**Fig. 41 — Minority Representation in Police, 2013<sup>381</sup>**

Muslim representation has not been recorded by either the NCRB or BPRD since 2013, but according to the 2014 BPRD report, there were 240,323 SCs (10.62 percent), 194,186 STs (8.58 percent), and 456,596 OBCs (20.17 percent) in the police service.<sup>382</sup>

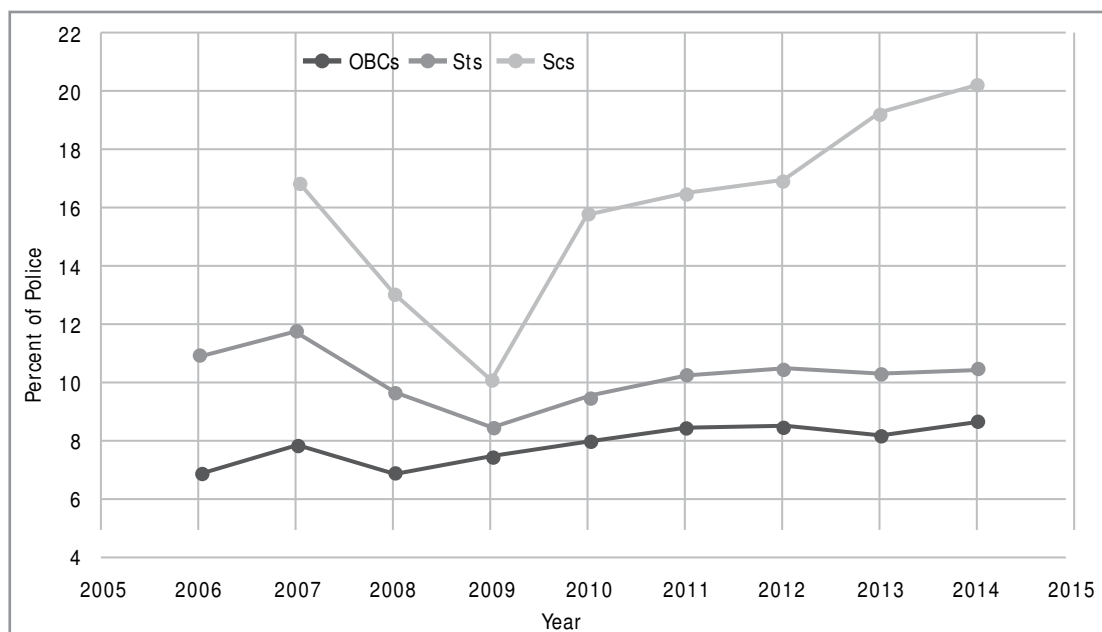
<sup>379</sup> *Ibid.*, p. 71.

<sup>380</sup> *Ibid.*, p. 587.

<sup>381</sup> NCRB, *Crime in India 2013 Compendium*, New Delhi, GoI, 2014, p. 600; BPRD, *Data on Police Organisations in India: As on January 1, 2015*, GoI, 2015, p. 67, <http://bprd.nic.in/WriteReadData/userfiles/file/201607121235174125303FinalDATABOOKSMALL2015.pdf>

<sup>382</sup> *Ibid.*

**Fig. 42 — BPRD Minority Representation in Police, 2015<sup>383</sup>**



### Judiciary

The government does not maintain caste-wise data for most levels of the judiciary.<sup>384</sup> However, the notable exception to this is the SC/ST reservation for lower judiciary in Bihar; in 2016 the government of Bihar introduced 50 percent reservation, saying that “21 per cent seats will be reserved for EBCs [economically backward castes], 16 per cent for SCs, 12 per cent for Other Backward Castes (OBC) and 1 per cent for STs.”<sup>385</sup>

Representation of women in Indian judiciary is roughly on par with the South Asian average. According to the 2011-2012 UN report *Progress for the World’s Women*, nine percent of South Asian judges were women, and four percent of prosecutors were women.<sup>386</sup> As of December 2016, only one of the 25 Supreme Court judges (4 percent) was a woman, and 69 of the 652 judges (10.58 percent) serving in the 24 High Courts were women.<sup>387</sup> The Delhi High Court has the highest representation at 11 women out of 39 judges (28.2 percent), but only seven out of the 24 High Courts have over 10 percent representation,<sup>388</sup> overall, an average of 14.26 percent of judges are women.

### Disability

Prior to 1995, there was no reservations for the disabled. From 1995 to 2016, the Persons with Disability Act set aside three percent of all government jobs for disabled persons (defined as persons with 40 percent or more of total mental or physical impairment) and provided incentives for

<sup>383</sup> *Ibid.*

<sup>384</sup> Lok Sabha Unstarred Questions No. 4551, *Women/SC/ST/Minority Judges*, Ministry of Law and Justice, Government of India, p. 1, <http://164.100.47.190/loksabhaquestions/annex/10/AU4551.pdf>

<sup>385</sup> They are the only state to do this, though the Supreme Court only recently decided in favour of allowing lower judiciary reservation in September 2016; Dev Raj, “50% Quota in Lower Courts- Reservation Across Judicial Services”, *The Telegraph*, 28 December 2016, [https://www.telegraphindia.com/1161228/jsp/frontpage/story\\_127216.jsp](https://www.telegraphindia.com/1161228/jsp/frontpage/story_127216.jsp)

<sup>386</sup> UN Women, *Progress of the World’s Women: In Pursuit of Justice 2011-2012*, 2011, p. 60, <https://www.un.org/ruleoflaw/files/Progress%20of%20the%20Worlds%20Women%202011-2012.pdf>

<sup>387</sup> Lok Sabha, *Women/SC/ST/Minority Judges*, Ministry of Law and Justice, GoI, 14 December 2016, <http://164.100.47.190/loksabhaquestions/annex/10/AU4551.pdf>

<sup>388</sup> *Ibid.*

companies to employ disabled people.<sup>389</sup> However, a disconnect remains between the skills needed to get those jobs and the lack of job training programs. In 2011, out of the three percent (281,398 jobs) reserved for disabled persons in government ministries, only 9,975 posts (or 3.5 percent of the whole) were filled.<sup>390</sup> This is reflected in nation-wide data, as of 2011, “on average, for all types of disability, 73.6% are out of the labour force”.<sup>391</sup>

In December 2016 the government replaced the Rights of Persons with Disabilities Act with The Rights of Persons with Disabilities Bill 2016. It expanded the inclusion parameters, worked to update the benefits for the disabled, and increased the allotment of government jobs from three to four percent.<sup>392</sup> Impact on the inclusion of disabled people in public service is yet to be recorded.

## 16.7.2: PROPORTION OF POPULATION WHO BELIEVE DECISION MAKING IS INCLUSIVE AND RESPONSIVE, BY SEX, AGE, DISABILITY AND POPULATION GROUP

The government does not collect comprehensive perception data on decision making. Private polling by PewGlobal found 56 percent people feel the government is inclusive, and younger men are more supportive of the government than women or older people. People in rural areas are only slightly less satisfied with job creation than urban populations. A 2017 Edelman poll found that 75 percent of Indians trusted their government’s decisions.

There is no universal method of measuring government inclusivity and responsivity, but polling a representative sample of citizens on their satisfaction with government is the most popular method. Additionally, there is no set definition of what questions measure inclusivity, but has been defined by UN DESA as a “a process by which efforts are made to ensure equal opportunities for all, regardless of their background, so that they can achieve their full potential in life”<sup>393</sup> and the Oxford Bibliography defines responsivity as “government action [that] responds to the preferences of its citizens.”<sup>394</sup>

In July 2014, Prime Minister Modi launched MyGov, an online platform to connect citizen with the government that was open until 2016. Survey questions on the MyGov platform are informal and aim to promote awareness of the central government’s objectives.<sup>395</sup> In this poll, the government was rated highest on its proactive foreign policy (76.09/100) and lowest on its efforts in reducing black money (62.76/100); the overall average was 67.40.<sup>396</sup> Private poll companies and organisations produce more comprehensive and objective data on how the national government is regarded by the public.

389 Meera Shenoy, *Persons with Disability & the India Labour Market: Challenges and Opportunities*, International Labour Organization (ILO), Bangkok, December 2011, p. 2 <http://164.100.47.190/loksabhaquestions/annex/10/AU4551.pdf>

390 *Ibid.*, p. 14.

391 *Ibid.*, p. 2.

392 Ministry of Social Justice and Empowerment, “Rights of Persons with Disabilities Bill - 2016 Passed by Parliament”, Press Information Bureau, Government of India, 16 December 2016, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=155592>

393 UN DESA, *Creating an Inclusive Society: Practical Strategies to Promote Social Integration*, 2009, p. 3, <http://www.un.org/esa/socdev/egms/docs/2009/Ghana/inclusive-society.pdf>

394 Robert Erikson, *Policy Responsiveness to Public Opinion*, (website), Oxford Bibliographies, 25 June 2015, <http://www.oxfordbibliographies.com/view/document/obo-9780199756223/obo-9780199756223-0103.xml>

395 MyGovTeam, *Jan Bagidari – ‘Rate My Government’ Survey*, (website), GoI, 26 June 2016, <https://blog.mygov.in/editorial/rate-my-government-survey/>

396 *Ibid.* total of 1041.02 divided by 15 questions = 67.40

In its 2016 government satisfaction poll, PewGlobal found 57 percent Indians felt that Prime Minister Modi was inclusive by being “someone who cares about people like me”, with men (61 percent) more likely than women (53percent) to believe that the government understands their situation.<sup>397</sup> The Prime Minister’s popularity is also higher amongst the younger population; 60 percent of those between the ages of 18 and 34 think Modi cares about them.<sup>398</sup> Roughly half also see his government as being responsive, as “49% of the public views Modi as someone who is able to gets things done”. Those who support the BJP view Modi more favourably on all metrics than those who do not.<sup>399</sup>

Below is a chart of more detailed information on approval of other pertinent questions of government competency and how different groups responded:

**Fig. 43 — Positive Views on Prime Minister Modi’s Handling of Issues, 2016<sup>400</sup>**

	Helping the Poor (%)	Unemployment (%)	Terrorism (%)	Corruption (%)	Communal Relations (%)	Air Pollution (%)
Men	64	64	65	61	56	55
Women	60	59	57	57	51	51
18-34	65	65	62	60	55	56
35-49	60	60	59	59	53	51
50+	59	59	63	57	51	52
Urban	64	60	62	61	55	55
Rural	61	63	61	58	53	53
Average	62	62	61	59	53	53

In a 2017 poll conducted by the Edelman Company, an average of 75 percent Indians said they trusted their government institutions, up from 65 percent in 2016.<sup>401</sup> This high level of appreciation is present in other studies as well. According to the 2017 Association for Democratic Reforms report, with a large sample size covering 527 out of 543 *Lok Sabha* constituencies, the issues that people thought the government were doing best on were electricity, loans, subsidies and water for agriculture, and facilitating pedestrian traffic on roads. The government was doing the worst on terrorism, garbage clearance, encroachment of public land, and corruption.<sup>402</sup> According to the survey, the issues that the government was doing best at were also rated as the most important and the ones they were doing the worst were also rated the least important.<sup>403</sup>

The one exception to this was the issue that is most important overall for people of all ages, sexes and geographies- employment opportunities.<sup>404</sup> Most people in cities thought the government was doing above average at creating jobs in urban areas and people in rural areas thought the job creation for them was slightly less than average.<sup>405</sup>

397 Bruce Stokes, *India and Modi: The Honeymoon Continues*, (website), Pew Research Centre, 19 September 2016, p. 3, <http://www.pewglobal.org/2016/09/19/1-how-is-india-doing/>

398 *Ibid.*

399 *Ibid.*

400 *Ibid.*; in late 2013, 52 percent had a favourable view of PM Manmohan Singh, 29 percent were satisfied with the direction of the country, and 57 percent thought the current state of the economy was good. Bruce Stokes, *The Modi Bounce*, (website), Pew Research Centre, 17 September 2015, <http://www.pewglobal.org/2015/09/17/the-modi-bounce/>

401 Edelman, *Trust Barometer: Global Report*, 17 January 2017, <https://www.edelman.com/research/2017-trust-barometer-global-results>, slide 13.

402 Association for Democratic Reforms, *ADR’s Mid-Term Survey Report - All India (Jan ’17 – Apr ’17)- Brief Analysis of Voters’ Priorities in India: Importance of Issues and Performance of the Government*, New Delhi, 2017, p. 15, [http://adrindia.org/sites/default/files/ADR%E2%80%99s\\_Mid-Term\\_Survey\\_Report-All\\_India.pdf](http://adrindia.org/sites/default/files/ADR%E2%80%99s_Mid-Term_Survey_Report-All_India.pdf)

403 *Ibid.*, p. 14-15.

404 *Ibid.*, pp. 14, 17, 22, 24, 26.

405 *Ibid.*, pp. 25, 27; *Demonetization is a topical area of measuring a belief in inclusive decision making. A study from across rural areas in 17 states found that between 80-82 percent viewed demonetization favourably, and 77 percent believed it had an impact on reducing black money: Kabir Shetty, Naman Pugalia, and Andrew Claster, “Despite Loss of Jobs, Demonetisation is a Success (According*

Additionally, an informal way of judging public trust in government decision-making is voter turnout. There has been a steady rise in voter turnout during elections:<sup>406</sup> 66.4 percent in the last general election in 2014, up from 58.2 percent in 2009, and higher than the previous record of 64 percent from 1984.<sup>407</sup>

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to this Survey)”. DailyO, 17 January 2017, <http://www.dailyo.in/politics/demonetisation-survey-black-money-narendra-modi-cash-chaos-cashless-economy/story/1/15149.html>; In Southern India, there was significantly less approval; 40.05 percent believed the government did a good job, 41.59 percent saying demonetization did not go well, and the rest thought it was neutral or were unsure: Express News Service, “Do You Think the Government Has Planned the Demonetisation Move Well?”, New Indian Express, 1 December 2016, <http://www.newindianexpress.com/nation/2016/dec/01/do-you-think-the-government-has-planned-the-demonetisation-move-well-1544406.html>

<sup>406</sup> Heather Timmons., “Here’s How India’s Record-Setting Voter Turnout Compares to the Rest of the World”, Quartz, 13 May 2013, <https://qz.com/208578/heres-how-indias-record-setting-voter-turnout-compares-to-the-rest-of-the-world/>

<sup>407</sup> Bharti Jain., “Highest-Ever Voter Turnout Recorded in 2014 Polls, Govt Spending Doubled Since 2009”, The Times of India, 13 May, 2014, <http://timesofindia.indiatimes.com/news/Highest-ever-voter-turnout-recorded-in-2014-polls-govt-spending-doubled-since-2009/articleshow/35033135.cms>



# SDG 16.8

## BROADEN AND STRENGTHEN THE PARTICIPATION OF DEVELOPING COUNTRIES IN THE INSTITUTIONS OF GLOBAL GOVERNANCE

Increasingly, questions of finance, trade, climate change and international development are no longer determined by sovereign states themselves. What has been traditionally considered areas of state policy are now being negotiated at international meets and multilateral institutions. In order to negotiate policies that are favourable to their national interest, it is imperative for developing countries to actively participate in these institutions of global governance.

### 16.8.1:

#### PROPORTION OF MEMBERS AND VOTING RIGHTS OF DEVELOPING COUNTRIES IN INTERNATIONAL ORGANIZATIONS

India is a member of four out of the five World Bank institutions, as well as many other international bodies. India spent eight years on the UN Human Rights Council and undergone three Universal Periodic Reviews.

India has voting rights in four out of the five World Bank Group institutions— the International Bank for Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA).<sup>408</sup> India was one of the founders of the IBRD, IDA and IFC, and has several ongoing projects with the World Bank Group, such as governance assistance in West Bengal, a national hydrology project and solar parks.<sup>409</sup>

India is also a member of other international organizations, including— the United Nations General Assembly (UNGA), United Nations Security Council (UNSC) from 2011-2013, the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), International Atomic Energy Agency (IAEA), Organisation for the Prohibition of Chemical Weapons (OPCW), the Asian Development Bank (ADB), African Development Bank (ADB), Financial Stability Board (FSB), International Finance Corporation (IFC), International Monetary Fund (IMF), UN Economic and Social Council (ECOSOC), UN General Assembly (UNGA) and the World Trade Organization (WTO).<sup>410</sup>

#### *United Nations Human Rights Council (UNHRC) Record*

In 2006, the UN Commission on Human Rights underwent significant reform and the UN Human Rights Council (HRC) was established. India has also been a voting member on the new council for eight of the past 11 years. Despite its sustained engagements, the country's voting record suggests a lack of consistency with its constitutional values, especially on resolutions concerning civil and political rights.<sup>411</sup> India "voted against four resolutions and one decision regarding peaceful protests,

<sup>408</sup> India is not a member of ICSID (International Centre for Settlement of Investment Disputes). Department of Economic Affairs (DEA), (2012), *India and The World Bank Group*, Government of India, [http://dea.gov.in/sites/default/files/India\\_WB\\_0.pdf](http://dea.gov.in/sites/default/files/India_WB_0.pdf)

<sup>409</sup> The World Bank, (2017), *Lending - India: Organizational Information and Lending Data Appendixes*, IBRD and IDA Commitments, pp.48-49

<https://openknowledge.worldbank.org/bitstream/handle/10986/27986/211119app.pdf>

<sup>410</sup> UN Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, p. 50 [http://www.un.org/en/development/desa/policy/untaskteam\\_undf/HLP%20P2015%20Report.pdf](http://www.un.org/en/development/desa/policy/untaskteam_undf/HLP%20P2015%20Report.pdf)

<sup>411</sup> CHRI, *The Commonwealth at the Human Rights Council: A Decade of Voting 2006-16*, New Delhi, June 2017, p. 77

death penalty and the protection of human rights while countering terrorism.”<sup>412</sup> Its votes ‘in favour’ are all on either the rights of Palestinians, or for reconciliation in Sri Lanka.<sup>413</sup> Further, over the three terms at the HRC, India abstained from voting on 16 resolutions on issues such as sexual orientation and gender identity, defamation of religions, the right to peace, the use of drones, transitional justice, torture, and reprisal killings against those who cooperate with UN human rights mechanisms.<sup>414</sup>

### *Universal Periodic Review (UPR) Record*

India has undergone three Universal Periodic Reviews (UPRs) - a process by which the UN takes stock of the human rights record of its member states. During its second UPR in 2012, the Indian delegation accepted 56 recommendations, had no clear position on 28 of them (due to changing the wording that they accepted), and took note (which is equivalent to deferring, as rejecting is not an option) of the other 85 pending recommendations.<sup>415</sup> During its third UPR in 2017, India accepted 211 recommendations, predominately on economic, social and cultural rights, and noted 130 recommendations, relating to the death penalty, security laws, international protection measures for human rights defenders, violence against women, and freedom of religion.<sup>416</sup>

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<sup>412</sup> *Ibid.*

<sup>413</sup> *Ibid.* pp. 77-85

<sup>414</sup> *Ibid.*

<sup>415</sup> UPR Info, *Recommendations and Pledges: India Second Review Session 13, (website), 20 September 2012, [https://www.upr-info.org/sites/default/files/document/india/session\\_13\\_-\\_may\\_2012/recommendationstoindia2012.pdf](https://www.upr-info.org/sites/default/files/document/india/session_13_-_may_2012/recommendationstoindia2012.pdf)*

<sup>416</sup> WGHR India, *Subject-Wise Classification of India’s UPR III Recommendations with Government of India’s Response, 2017, <http://wghr.org/wp-content/uploads/2017/09/UPR-III-recommendations-and-India-response.pdf>*



# SDG 16.9:

## BY 2030, PROVIDE LEGAL IDENTITY FOR ALL, INCLUDING BIRTH REGISTRATION

The provision of legal identity has been described as “one of the most basic institutional responsibilities” for states to provide.<sup>417</sup> Legal identity is documentation or proof of one’s identity and vital in accessing basic social services such as education, health care and social welfare benefits. By making the invisible legally visible, legal identity will have significant positive effect for the achievement of many of the other SDGs.

### 16.9.1:

#### PROPORTION OF CHILDREN UNDER 5 YEARS OF AGE WHOSE BIRTHS HAVE BEEN REGISTERED WITH A CIVIL AUTHORITY, BY AGE

As of 2015, 79.7 percent of children in India under five years of age are registered. This has come from a push to register every citizen electronically through a programme of Unique Identification (UID; Aadhar) programme and ongoing expansion of medical access.

The National Family Health Survey (NFHS) reports the rate of recording birth of children up to five years of age in 2015— 88.8 percent in urban areas and 76.1 percent in rural areas. The national average is 79.7 percent.<sup>418</sup> This is a considerable improvement since 2005-06 when the average birth registration of children under five was 41.2 percent.<sup>419</sup> Southern Indian states have higher rates of birth registration— nearly 100 percent— compared to most states in North India.<sup>420</sup>

**Fig. 44 — Children Registered Under 5 Years of Age by State/UT, 2015<sup>421</sup>**

States/UTs	Urban	Rural	2015-2016 Total	2005-2006 Total
Andhra Pradesh	96.5	89.7	91.6	N/A
Bihar	74.3	62.7	63.8	19.9
Goa	95.8	98.8	96.9	92.3
Haryana	80.6	80.4	80.5	35.7
Karnataka	95.4	93.5	94.3	64.7
Madhya Pradesh	93.8	76.4	80.8	26.2
Meghalaya	88.1	45.7	51.4	29
Puducherry	99.9	100	99	N/A
Sikkim	95.3	94.4	94.7	47.2
Tamil Nadu	99.2	98.7	99	87.8
Telangana	96.3	87.3	91.5	N/A
Tripura	92.6	75.7	79.9	46.9
Uttarakhand	79.1	63.7	68.6	32.6
West Bengal	83.7	71.9	75.2	42

417 High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, *A New Global Partnership: Eradicate Poverty and Transform Economies Through Sustainable Development*, 2013 pp. 50, 31; [http://www.un.org/sg/management/pdf/HLP\\_P2015\\_Report.pdf](http://www.un.org/sg/management/pdf/HLP_P2015_Report.pdf)

418 Ministry of Health and Family Welfare (MHRW) and International Institute of Population Sciences, Mumbai (IIPS), *National Family Health Survey – 4 State Fact Sheet, Government of India, 2016*, <http://rchiips.org/NFHS/pdf/NFHS4/India.pdf>

419 Ibid.

420 Ministry of Health and Family Welfare (MHFW) and International Institute of Population Sciences, Mumbai (IIPS), *National Family Health Survey – 4: 2015-16 India Fact Sheet, Government of India, 2016*, [http://www.indiaenvironmentportal.org.in/files/file/National%20Family%20Health%20Survey%202015-16%20\(NFHS-4\)%20-%20state%20fact%20sheet.pdf](http://www.indiaenvironmentportal.org.in/files/file/National%20Family%20Health%20Survey%202015-16%20(NFHS-4)%20-%20state%20fact%20sheet.pdf)

421 Ibid.

A UNICEF report for the period 2010 to 2015 found 62 percent children under the age of five years old registered in South Asia. The report also found that richer households in urban areas had significantly better access for institutional births than those who are poor or live in rural areas.<sup>422</sup> As of 2013, 72 percent of Indians living in rural areas had access to only one-third of all the hospital beds across the country.<sup>423</sup>

**Fig. 45 — Birth Registration of Children Under 5 by Age and Urban-Rural Area, 2011**<sup>424</sup>

Age	Urban	Rural	Total
0	5,426,544	14,884,690	20,311,234
1	6,023,488	15,731,709	21,755,197
2	5,990,510	17,065,758	23,056,268
3	6,195,172	17,778,869	23,974,041
4	6,184,404	17,525,634	23,710,038
Total	29,820,118	82,986,660	112,806,778

In 2016, the Government of India launched the Unique Identification Authority of India (UIDAI) under the Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act 2016. According to the government, the objective is to enable financial inclusion for all through access to benefits, and to have an easy and cost effective way for citizens to verify their identity.<sup>425</sup> However, its implementation has raised questions regarding its impact on privacy and constitutionality.<sup>426</sup>

In 2015 and 2016 the Supreme Court of India ruled that Aadhar registration should remain voluntary, and on 24 August 2017 ruled that the right to privacy was a fundamental right; it will impact the scope of Aadhar.<sup>427</sup> However, the government has continued to create new services that require Aadhar, such as scholarships, phone SIM cards, bank accounts, or registering new-born children.<sup>428</sup> According to the Unique Identification Authority of India (UIADI), the most recent data from 31 October 2017 indicates 1.15 billion people have Aadhar cards, or 87.9 percent the total population.<sup>429</sup> Of those under five years old, 51.9 million (42.1 percent) have Aadhar cards.<sup>430</sup>

422 UNICEF, "The Births of Nearly One Fourth of the Global Population of Children Under Five Have Never Been Registered", (website), Access the Data: Birth Registration, October 2016, <http://data.unicef.org/topic/child-protection/birth-registration/>

423 The Hindu, "Study Reveals that Rural India Gets Only 1/3 of Hospital Beds", 19 July 2013, <http://www.thehindu.com/sci-tech/health/study-reveals-rural-india-gets-only-13rd-of-hospital-beds/article4931844.ece>

424 The 2011 Census is the most recent data for the total births recorded by age. Office of the Registrar General & Census Commissioner, C-13 Single Year Age Returns by Residence and Sex, MHA, GoI, 2011, <http://www.censusindia.gov.in/2011census/C-series/C-13.html>

425 Government of India, The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, Section 11(1), 2016

426 Saikat Datta, "The End of Privacy: Aadhaar is Being Converted into the World's Biggest Surveillance Engine", Scroll.in, 24 March 2017, <https://scroll.in/article/832592/the-end-of-privacy-aadhaar-is-being-converted-into-the-worlds-biggest-surveillance-engine>

427 Supreme Court of India, Justice K S Puttaswamy (retd.), and ANR. versus Union of India and Ors., Writ Petition (Civil) No 494 of 2012, 24 August 2017, [http://supremecourtindia.nic.in/pdf/LU/ALL%20WP\(C\)%20No.494%20of%202012%20Right%20to%20Privacy.pdf](http://supremecourtindia.nic.in/pdf/LU/ALL%20WP(C)%20No.494%20of%202012%20Right%20to%20Privacy.pdf)

428 Ibid.

429 UAIDI, State/UT Wise Aadhar Saturation, (website), GoI, November 2017, p. 1, [https://uidai.gov.in/images/StateWiseAge\\_AadhaarSat\\_24082017.pdf](https://uidai.gov.in/images/StateWiseAge_AadhaarSat_24082017.pdf)

430 Ibid., p.2.

## SDG 16.10:

ENSURE PUBLIC ACCESS TO INFORMATION AND PROTECT FUNDAMENTAL FREEDOMS, IN ACCORDANCE WITH NATIONAL LEGISLATION AND INTERNATIONAL AGREEMENTS

Respect for and protection and promotion of fundamental rights and freedoms is an essential feature of democracy. Freedom of information is a fundamental principle of a functioning democracy and informs the public's right to access to information, which is an integral part of the fundamental right of freedom of expression.<sup>431</sup> It is not only important for countries to pass right to information laws, but also necessary to take steps to effectively implement those laws in order to further accountability, transparency, access to justice and good governance.

### SDG 16.10.1:

NUMBER OF VERIFIED CASES OF KILLING, KIDNAPPING, ENFORCED DISAPPEARANCE, ARBITRARY DETENTION AND TORTURE OF JOURNALISTS, ASSOCIATED MEDIA PERSONNEL, TRADE UNIONISTS AND HUMAN RIGHTS ADVOCATES IN THE PREVIOUS 12 MONTHS

GoI does not record data on violence specifically against journalists, media personnel and human rights advocates. In 2015, NHRCI received 53 complaints of human rights violations and disposed 23 cases. In the same year, the Committee to Protect Journalists recorded the deaths of four journalists. The Indian Journalists Union recorded four other journalist deaths in 2016. There were no recorded cases against trade unionists. The Human Rights Defenders Alert - India (HRDA) recorded 70 verifiable cases of abuse against HRDs and RTI activists in 2015 and 75 cases in 2016. CHRI recorded 59 cases of violence against RTI users in 2015 and 26 cases in 2016.

Although the NCRB disaggregates homicides by cause, there is no official data explicitly related to harm or death of people aiming to uphold transparency and human rights. Therefore, the majority of reporting comes from independent civil society organisations and the media. Although custodial deaths are recorded, the absence of anti-torture legislation severely limits the scope of official reporting.

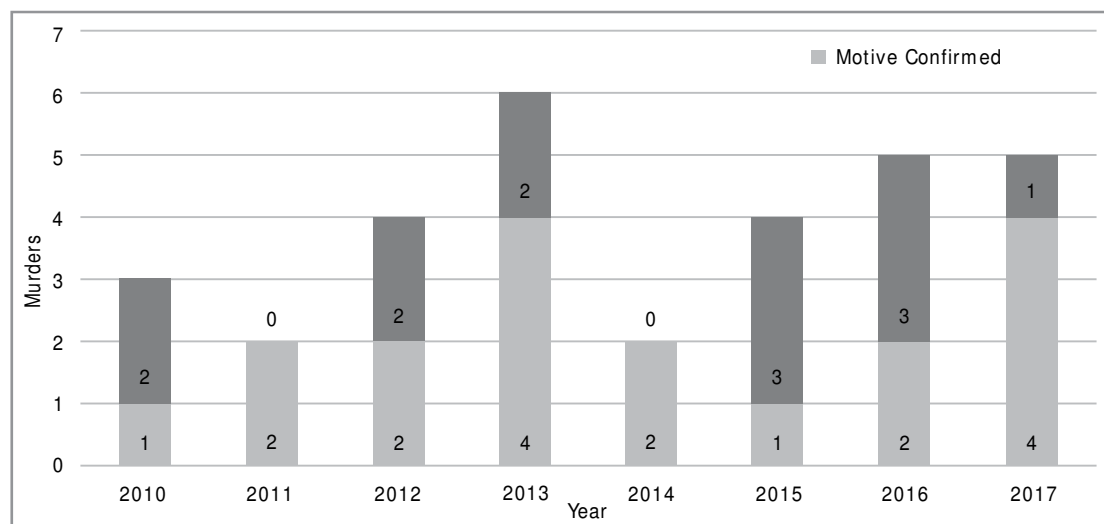
India is a signatory to the UN Convention Against Torture, which also covers enforced disappearance and arbitrary detention. However, the recommendations from the 2010 Rajya Sabha Select Committee on Torture have not been implemented. On 30 October 2017 the Law Commission of India released a report titled, "Implementation of 'United Nations Convention against torture and other Cruel, Inhuman and Degrading Treatment or Punishment' through Legislation".<sup>432</sup> The report, annexed with the Prevention of Torture Bill 2017, recommended that the GoI to consider the ratification of the Convention Against Torture and amendment of provisions of existing legislations. As of 15 January 2018, there has been no formal engagement by the government in implementing the recommendations.

<sup>431</sup> UNESCO, *Freedom of Information*, (website), 2017, <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/freedom-of-information/>

<sup>432</sup> Jinee Lokaneeta, "Law Commission Report on Torture Is a Step in the Right Direction, but a Just Bill Is Still Some Way Off", *The Wire*, 15 November 2017, <https://thewire.in/197101/prevention-of-torture-bill-india-law-commission/>. Also see, Law Commission report "title" <http://lawcommissionofindia.nic.in/reports/Report273.pdf>

The World Press Freedom Index by Reporters Without Borders' rated India at 136 out of 180 countries in 2017; in 2016 and 2015 India ranked at 133.<sup>433</sup> Between 1992 and 2017 the Committee to Protect Journalists (CPJ) recorded 43 verified killings of journalists who were killed in the course of their professional duties.<sup>434</sup> Fifty-six percent of those killed were covering corruption, and as of August 2016, there had been no convictions.<sup>435</sup> CPJ also found "those reporting in remote and rural areas in India are at greater risk of threats and violence."<sup>436</sup>

**Fig. 46 — CPJ Records of Journalists and Media Workers Killed in India from 2010 - 2017<sup>437</sup>**



Rajdev Ranjan, the bureau chief for the Hindi national daily newspaper *Hindustan* based in Siwan, Bihar was shot and killed on his way to his office on 13 May 2016, allegedly for his reporting on corruption in local politics.<sup>438</sup> Karun Misra was shot and killed on 13 February 2016. He was the Ambedkar Nagar bureau chief of the Hindi daily Jansandesh Times that had reported on an allegedly illegal local mining operation in the Lucknow area.<sup>439</sup>

More vulnerable are those reporting in local or regional languages and independent bloggers. The International Federation of Journalists (IFJ) works with the National Union of Journalists (India) (NUJ) and the Indian Journalists Union (IJU) to bring these cases to light. According to their records, four other journalists, in addition to the two recorded by the CPJ, were killed in India in 2016.<sup>440</sup>

Journalists and media personnel operate under greater stress in conflict-affected regions. In March 2016, a fact-finding team from the Editors Guild of India, the only professional organisation

<sup>433</sup> Reporters Without Borders, *India*, (website), 2017, <https://rsf.org/en/india>

<sup>434</sup> CPJ, *Journalists and Media Workers Killed in India*, (website), 2017, [https://cpj.org/killed/asia/india/#~\(status~'Killed~motiveConfirmed~\(~'Confirmed\)~motiveUnconfirmed~\(~'Unconfirmed\)~type~\(~'Journalist~'Media\\*20Worker\)~cc\\_fips~\(~'IN\)~start\\_year~'1992~end\\_year~'2017~group\\_by~'year](https://cpj.org/killed/asia/india/#~(status~'Killed~motiveConfirmed~(~'Confirmed)~motiveUnconfirmed~(~'Unconfirmed)~type~(~'Journalist~'Media*20Worker)~cc_fips~(~'IN)~start_year~'1992~end_year~'2017~group_by~'year)

<sup>435</sup> Sumit Galotra, *Dangerous Pursuit: In India, Journalists Who Investigate Corruption May Pay With Their Lives*, *The Committee to Protect Journalists (CPJ)*, Introduction, 2016, p. 13, <https://cpj.org/reports/CPJ-India-PDF-Done.pdf>

<sup>436</sup> *Ibid.*, p. 12.

<sup>437</sup> CPJ, *Journalists and Media Workers Killed in India*, (website), 2017, [https://cpj.org/killed/asia/india/#~\(status~'Killed~motiveConfirmed~\(~'Confirmed\)~motiveUnconfirmed~\(~'Unconfirmed\)~type~\(~'Journalist~'Media\\*20Worker\)~cc\\_fips~\(~'IN\)~start\\_year~'1992~end\\_year~'2017~group\\_by~'year](https://cpj.org/killed/asia/india/#~(status~'Killed~motiveConfirmed~(~'Confirmed)~motiveUnconfirmed~(~'Unconfirmed)~type~(~'Journalist~'Media*20Worker)~cc_fips~(~'IN)~start_year~'1992~end_year~'2017~group_by~'year)

<sup>438</sup> CPJ, "Rajdev Ranjan", (website), *Murdered Journalists*, 13 May 2016, <https://cpj.org/killed/2016/rajdev-ranjan.php>

<sup>439</sup> CPJ, "Karun Misra", (website), *Murdered Journalists*, 13 February 2016, <https://cpj.org/killed/2016/karun-misra.php>  
<sup>439</sup> CPJ, "Karun Misra", (website), *Murdered Journalists*, 13 February 2016, <https://cpj.org/killed/2016/karun-misra.php>  
 A 2011 case was the killing of senior journalist Jyotendra Dey in Mumbai, who had been investigating police and criminal "underworld" connections; *The Hindu*, "Professional Hand in Murder: Police", 12 June 2011, <http://www.thehindu.com/todays-paper/tp-national/professional-hand-in-murder-police/article2097772.ece>

<sup>440</sup> International Federation of Journalists (IFJ), "Sixth Journalist Killed in India as Deadly Year Continues", (website), 14 November 2016, <http://www.ifj.org/nc/news-single-view/backpid/1/article/seventh-journalist-killed-in-india-as-deadly-year-continues/>

representing editors in India, travelled to Chhattisgarh and confirmed that journalists in all parts of the state were subject to severe pressure from all sides.<sup>441</sup> All of the journalists interviewed also claimed that their phones were being tapped and that they were under undeclared surveillance by the State.<sup>442</sup>

### *Trade Unionists*

Official data sources do not specifically record attacks on trade union workers, although there have been cases reported in the media.<sup>443</sup> The International Trade Union Confederation (ITUC) rates 139 countries on a scale of 1-5, with 1 being irregular/rare violation of union rights, and 5 being no guarantee of rights. In 2013, India was rated at 5.<sup>444</sup>

### *Human Rights Defenders (HRDs)/Right to Information (RTI) Activists*

Official data on attacks on HRDs and RTI activists is derived from the National Human Rights Commission of India (NHRCI). In 2015, NHRCI received 53 complaints regarding attacks, illegal detentions, threats, and deaths of human rights activists all over India and disposed 23 cases.<sup>445</sup> Each case briefly outlines the person involved, whether the alleged offence was perpetrated by state or non-state actor, and the call for further investigation, reports, payments, or charges suggested.<sup>446</sup>

The Human Rights Defenders Alert - India (HRDA) documents verifiable cases of abuse against HRDs and RTI activists. It recorded 70 cases in 2015 and 75 cases in 2016.<sup>447</sup> The type of abuse that HRDA-India records range from instances of violent attacks, illegal FIRs, illegal surveillance, limitations on free movement and other forms of police or legal abuse.<sup>448</sup> The courts have ruled against those cases where illegal<sup>449</sup> governmental intervention took place:

“Criticism, by an individual, may not be palatable; even so, it cannot be muzzled... The state may not accept the views of the civil right activists, but that by itself cannot be a good enough reason to do away with dissent.”<sup>450</sup>

- Justice Rajiv Shakdher, *Priya Parameshwaran Pillai v. Union Of India*, 2015

CHRI has compiled data on the incidents of attack against RTI activists across India.<sup>451</sup> These numbers are compiled from instances recorded in newspapers or by civil society groups; victims reported in local language media may be missing. In 2015, there were 59 cases of violence against RTI activists.

441 Ibid.

442 Pavan Dabat, “Media in Chhattisgarh Working Under Pressure, Threats”, *The Hindu*, 30 March 2016, <http://www.thehindu.com/news/national/other-states/media-in-chhattisgarh-working-under-pressure-threats/article8413633.ece>

443 Business Line, “Union Flays Attack on Protesting AISIN Auto Workers in Rohtak”, 1 June 2017, <http://www.thehindubusinessline.com/news/union-flays-attack-on-protesting-aisin-auto-workers-in-rohtak/article9717703.ece>

444 ITUC, India, 2013, <https://survey.ituc-csi.org/India.html>

445 NHRC India, *Updated List of Human Rights Defender Cases, New Delhi, 2015*, [http://nhrc.nic.in/Documents/HRD\\_CASES\\_2015\\_02.pdf](http://nhrc.nic.in/Documents/HRD_CASES_2015_02.pdf)

446 Ibid.

447 HRDA-India, “Proud to Be A Human Rights Defender”, (website), 8 June 2017, <http://hrdaindia.org/>

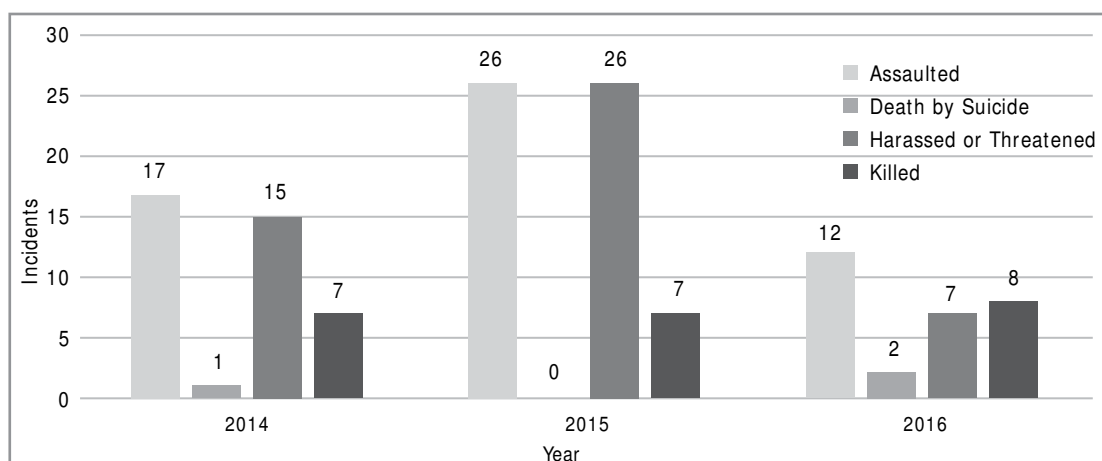
448 Kashmiri civil and political rights activist, Khurram Parvez, had spoken out about the ongoing police practices in Jammu and Kashmir. Subsequently, he was stopped at the Delhi airport from flying to attend a UN Human Rights Council meeting in Geneva, despite having all his travel documents in order. He was then arrested at his home in Srinagar under the Public Safety Act. He was released after 76 days when the state's high court decided his detention was an abuse governmental power; HRDA, *Urgent Appeal for Action – Jammu & Kashmir*, 23 December 2016, <http://hrdaindia.org/?p=1971>; Moazum Mohammad, “The Government Wants Control, Not Peace”: An Interview with Khurram Parvez”, *The Caravan*, 4 December 2016, <http://www.caravanmagazine.in/vantage/interview-khurram-parvez-kashmir>

449 *Priya Parameshwaran Pillai v. Union Of India*, 12 March, 2015, Delhi High Court WP(C) 774/2015, considered illegal under Article 21 and 19(1)(a)

450 Ibid.

451 CHRI, *Hall of Shame: Mapping Attacks on RTI Users*, (website), updated 21 April 2017, <http://attacksonrtiusers.org/>

**Fig. 47 — Cases of Violence Against RTI Activists from 2014 – 2016<sup>452</sup>**



## SDG 16.10.2:

### NUMBER OF COUNTRIES THAT ADOPT AND IMPLEMENT CONSTITUTIONAL, STATUTORY AND/OR POLICY GUARANTEES FOR PUBLIC ACCESS TO INFORMATION

In 2005, India passed the Right to Information Act. There has been new legislation through the Whistleblower Protection Act 2011, which is being amended retroactively by Parliament. There is also the 2017 Right to Information draft rules, which have yet to be finalised. Civil society reports indicate that the Draft Rules create issues with accessing information and protection for citizens seeking information.

The Right to Information (RTI) Act, which came into force in 2005, has been instrumental in providing citizens with access to government information, and thereby strengthening transparency and accountability. Its implementation was predominantly a citizen and civil society led initiative. Its implementation has also been supplemented by government engagement— the Department of Personnel and Training (under the Ministry of Personnel, Public Grievances and Pensions) undertook an initiative to provide an “RTI Portal Gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs [Public Information Officers] etc.”<sup>453</sup>

The RTI Act has measures that ensure that government officials implement the law, as PIOs can face fines of up to ₹25,000 (\$390 USD) if they cannot or will not provide a valid reason for withholding information, and replies must be made within 30 days of receiving the request.<sup>454</sup> However, there are systemic loopholes; definitive data on the rate recovery of non-compliance fines is not compiled and the 30 day limit is reapplied every time the RTI request is transferred to a different government agency.

<sup>452</sup> Ibid.

<sup>453</sup> Department of Personnel and Training, *About Right to Information Act 2005*, (website), 3 July 2015, <http://rti.gov.in/>

<sup>454</sup> Shailesh Ghandi, “Right to Information is Slowly but Surely Being Suffocated”, *The Wire*, 7 August 2015, <https://thewire.in/7970/right-to-information-is-slowly-but-surely-being-suffocated/>

## Information Commissions

Even when problems in replying to requests are identified, according to the Working Group on Human Rights (WGHR) in India, “Information Commissioners rarely impose penalties for non-compliance, which leads to unreasonable delays in furnishing information. Further, information access disputes often take between 1-3 years for resolution defeating the very purpose of the RTI laws.”<sup>455</sup>

These issues in accessing information are enhanced by ongoing vacancies in Information Commissions. In 2015, “a little more than 20% of these posts (Chief Information Commissioners and Information Commissioners) were lying vacant.”<sup>456</sup> In March 2018, the vacancies increased to more than 25 percent.<sup>457</sup> Additionally, a significant majority of Information Commissioners are retired bureaucrats, which goes against the intention of the Supreme Court’s selection process guidelines for diverse backgrounds.<sup>458</sup> In 2015, 76 percent were bureaucrats, up from 69 percent in 2014 and 74 percent in 2012.<sup>459</sup>

A key function of the access to information law is to bring to light instances of corruption. The Whistleblowers Protection Act approved by Parliament in February 2014 was aimed to protect individuals and non-government organisations that blew the whistle on corruption in government, abuse of discretionary power to cause undue loss to the public exchequer or undue gain to private interests and the commission of offences recognised in law by government servants. But its implementation has been unreasonably delayed through ongoing amendments in the Parliament’s upper house, with the intention of reducing the statutory protections for whistleblowers.<sup>460</sup> The amendments seek to remove immunity from prosecution for whistleblowers under the Official Secrets Act, 1923 if they disclose sensitive official records as part of their complaint and prohibit the competent authorities from inquiring into whistleblower complaints that cover information which is exempt from disclosure under the RTI Act.

The RTI Act has witnessed a year-on-year increase in the number of requests. In 2014-15, the Central Information Commission (CIC) recorded 755,247 new RTI requests,<sup>461</sup> and in 2015-16, the requests increased to 976,679.<sup>462</sup> This increase is despite RTI request exemptions— in 2015-2016, 36,913 applications were rejected without giving reasons (43.4 percent of total rejections), which is the highest amount in the history of the Act.<sup>463</sup> During the previous government (2009-

455 WGHR in India and the UN, *Human Rights in India: Joint Stakeholder’s Report*, New Delhi, December 2016, pp. 30-31, <http://wghr.org/wp-content/uploads/2017/01/Human-Rights-in-India-Joint-Stakeholders-Report-UN-3rd-UPR.pdf>; referencing RTI Assessment and Advocacy Group (RaaG) and Samya- Centre for Equity Studies (CES), *People’s Monitoring of the RTI Regime in India 2011-2013*, New Delhi, October 2014, pp. 9, 99, <http://nebula.wsiing.com/93c4b1e26eb3fbd41782c6526475ed79?AccessKeyId=52EBDBA4FE710433B3D8&disposition=0&alloworigin=1>

456 CHRI, *State of Information Commissions and the Use of RTI Laws in India: Rapid Study 3.0 Based on the Annual Reports of Information Commissions (2012-2014)*, New Delhi, June 2015, p. 6, <http://humanrightsinitiative.org/publications/rti/ICs-RapidStudy-finalreport-NDelhi-ATIITeam-Jun15.pdf>

457 CHRI, *State of Information Commissions and the Use of RTI Laws in India: Rapid Study 4.0 Based on the Annual Reports of Information Commissions*, New Delhi, March 2018, p. 5.

458 WGHR in India and the UN, *Human Rights in India: Joint Stakeholder’s Report*, New Delhi, December 2016, pp. 30-31, <http://wghr.org/wp-content/uploads/2017/01/Human-Rights-in-India-Joint-Stakeholders-Report-UN-3rd-UPR.pdf>; referencing *Union of India v. Namit Sharma*, 10 SCC 359 (2013).

459 CHRI, *State of Information Commissions and the Use of RTI Laws in India: Rapid Study 3.0 Based on the Annual Reports of Information Commissions (2012-2014)*, New Delhi, June 2015, p. 7, <http://humanrightsinitiative.org/publications/rti/ICs-RapidStudy-finalreport-NDelhi-ATIITeam-Jun15.pdf>

460 Nidhi Sharma, “Modi Government Rejected 8.4% Applications in 2014-15: Central Information Commission”, *The Economic Times*, 18 March 2016, <http://economictimes.indiatimes.com/news/politics-and-nation/modi-government-rejected-8-4-applications-in-2014-15-central-information-commission/articleshow/51449492.cms>; Adishhalamkar, *Whistleblowers and Their Protection in India: An Overview*, (website), 14 August 2014, <http://www.legalservicesindia.com/article/article/whistleblowers-and-their-protection-in-india-1693-1.html>

461 Central Information Commission, *Annual Report 2014-15*, GoI, 2015, p. 30, <http://cic.gov.in/sites/default/files/Reports/AR2014-15E.compressed.pdf>

462 Central Information Commission, *Annual Report 2015-16*, GoI, 2016, p. 27, [http://cic.gov.in/sites/default/files/Reports/CIC%20Annual%20Report%20English-2015-16\\_0.pdf](http://cic.gov.in/sites/default/files/Reports/CIC%20Annual%20Report%20English-2015-16_0.pdf). Also see, *Central Information Commission, Annual Report 2016-17*, which reports 6.1 percent decrease in the number of RTI applications received.

463 Ibid.; Akshay Deshmane, “All Talk, Little Information”, *Frontline*, 23 June 2017, <http://www.frontline.in/the-nation/all-talk-little-information/article9721328.ece>

2014), the highest number of rejections without reasons was 26,673.<sup>464</sup> In addition to high numbers of rejected requests, it is also higher in terms of total percentage, with the Prime Minister's Office rejecting 22.10 percent—the highest rate of rejection since the Act was implemented.<sup>465</sup> “Except for first appeals filed with the central government or Delhi government, there is less than 4% chance of getting any information by filing a first appeal.”<sup>466</sup>

Therefore, RTI activist groups recommend that instead of exemptions the government could reduce requests through greater proactive disclosure of information, and educating the public on how the process works and what the government is doing to improve it.<sup>467</sup> According to the RTI Assessment and Advocacy Group (RAAG) and Samya – Centre for Equity Studies (CES), 70 percent of all RTI requests are related to the basic functioning or grievances with public institutions, particularly land and building departments, police and local government.<sup>468</sup> More training is also needed for PIOs— as of 2014, 40 percent of PIOs responsible for responding to RTI requests were not trained in the RTI Act.<sup>469</sup>

### *RTI Draft Rules 2017*

In 2017 the Government of India proposed the 2017 Right to Information Draft Rules to amend detailed procedures for seeking and obtaining information laid down in the original act. However, the Draft Rules faced significant public criticism when it was released in April 2017 as it remained an overly bureaucratic process that stifles government reporting, reduces quality and results in court procedures.<sup>470</sup> For example, Rule 8 (1) (viii) of the Draft Rules requires applicants to “provide a certificate stating that the matter under appeal or complaint has not been previously filed and disposed, and is not pending with the commission or any court.”<sup>471</sup> However, most significant criticism came upon the Rules which, as argued by activists, would undermine the safety of RTI users.<sup>472</sup> The Rule 12 (1) would permit an appellant to withdraw an appeal, and Rule 12(2) would end any RTI case if the appellant dies.<sup>473</sup>

The citizen-empowering aspects of the Draft Rules were provisions to empower the CIC to compel public officials to follow protocol, and a more flexible format for filing complaints in order to reduce arbitrary rejection.<sup>474</sup> The Rules were also intended to provide greater transparency over the decision on how the RTI request was handled, as “a copy of the counter statement(s), if any, shall be served to the appellant or complainant by the CPIO, the First Appellate Authority or the Public Authority, as the case may be and proof of service submitted to the Commission.”<sup>475</sup> The public consultation ended on the 15 April 2017. As of 1 May 2018, the final version of the RTI Rules had not been finalised.

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<sup>464</sup> Akshay Deshmone, “All Talk, Little Information”, *Frontline*, 23 June 2017, <http://www.frontline.in/the-nation/all-talk-little-information/article9721328.ece>

<sup>465</sup> *Ibid.* in 2016-17, it were the banks with the highest number of rejections to RTI queries.

<sup>466</sup> RTI Assessment and Advocacy Group (RAAG) and Samya – Centre for Equity Studies (CES), *People's Monitoring of the RTI Regime in India 2011-13*, New Delhi, October 2014, p. 3, <http://nebula.usimg.com/93c4b1e26eb3fbd41782c6526475ed79?AccessKeyId=S2EBDBA4FE710433B3D8&disposition=0&alloworigin=1>

<sup>467</sup> *Ibid.*, p. 1

<sup>468</sup> *Ibid.*, p. 5

<sup>469</sup> *Ibid.*, p. 8.

<sup>470</sup> Venkatesh Nayak, “Central Govt's Proposal to Amend RTI Rules Can Increase Attacks on RTI Users and Activists”, CHRI, New Delhi, 3 April 2017, <http://www.humanrightsinitiative.org/blog/central-govts-proposal-to-amend-rti-rules-can-increase-attacks-on-rti-users-and-activists>

<sup>471</sup> Government of India, *Right to Information Rules, 2017*, New Delhi, 2017, p. 3, [http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1\\_5\\_2016-IR-31032017.pdf](http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_5_2016-IR-31032017.pdf)

<sup>472</sup> Venkatesh Nayak, *Question for the Government: Should Subhas Haldankar's Pending RTIs Abate Because He Was Murdered Last Sunday?*, CHRI, New Delhi, 11 April 2017, <http://www.humanrightsinitiative.org/blog/question-for-the-government-should-subhas-haldankars-pending-rtis-abate-because-he-was-murdered-last-sunday#sthash.zi8KjwMm.dpuf>

<sup>473</sup> Government of India, *Right to Information Rules, 2017*, New Delhi, 2017, p. 5, [http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1\\_5\\_2016-IR-31032017.pdf](http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_5_2016-IR-31032017.pdf)

<sup>474</sup> Government of India, *Right to Information Rules, 2017*, New Delhi, 2017, p. 2-3, [http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1\\_5\\_2016-IR-31032017.pdf](http://document.ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/1_5_2016-IR-31032017.pdf)

<sup>475</sup> *Ibid.*, p. 3.



# SDG 16.A:

STRENGTHEN RELEVANT NATIONAL INSTITUTIONS, INCLUDING THROUGH INTERNATIONAL COOPERATION, FOR BUILDING CAPACITY AT ALL LEVELS, IN PARTICULAR IN DEVELOPING COUNTRIES, TO PREVENT VIOLENCE AND COMBAT TERRORISM AND CRIME

National Human Rights Institutions (NHRIs) are independent state institutions that operate from an unbiased position between the State, civil society and international sphere. Its monitoring mandate lends a unique position to act as both watchdog and advisor, and to uphold human rights. There are other statutory bodies which also address human rights issues, such as national commissions for women, minorities, Scheduled Castes and Scheduled Tribes. However, these national commissions are not reviewed and accredited according to the international Paris Principle standards.

## SDG 16.A.1:

EXISTENCE OF INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTIONS IN COMPLIANCE WITH THE PARIS PRINCIPLES

From 1999 to 2006, the National Human Rights Commission of India (NHRCI) was accredited 'A' status by the UN Global Alliance of National Human Rights Institutions (GANHRI). In 2011, the GANHRI's Sub-Committee on Accreditation (SCA) recommended NHRCI re-accreditation with 'A' status, but subject to an additional review in 2013. The NHRCI challenged the recommendation, which was upheld. In 2016, NHRCI accreditation was deferred and in 2018 it was reaccredited 'A' status.

The NHRCI is a statutory body mandated by the Protection of Human Rights Act (1993). It is responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".<sup>476</sup>

To ensure the independence and methods of operation of National Human Rights Institutions (NHRIs), the Paris Principles were drafted at an international workshop and subsequently adopted by the UN General Assembly in 1993. The Principles provide a set of international standards which frame and guide the work of NHRIs across the world. Although legally non-binding, the internationally agreed benchmarks define the role, composition, status and functions of national human rights institutions.<sup>477</sup> The GANHRI classifies NHRIs based on three status: 'A' for full compliance with Paris Principles; 'B' for partial compliance; and 'C' denotes non-compliance.<sup>478</sup> In the reviews from 1999 and 2006, the Global Alliance of National Human Rights Institutions (GANHRI) accredited NHRCI with 'A' status.<sup>479</sup> At its review in 2011, the SCA recommended re-accreditation with 'A' status, but subject to an additional review in 2013 (that is, three years earlier than its next scheduled review in 2016). The NHRCI challenged the recommendation on the

<sup>476</sup> *The Protection of Human Rights Act, 1993, No. 10, Act of Parliament, 1993.*

<sup>477</sup> NHRIs across the world are monitored by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). However, as the need was felt to increase the scope of monitoring the functions of the NHRIs, the UN Human Rights Council (HRC) created the Global Alliance of National Human Rights Institutions (GANHRI). This body has a Sub-Committee on Accreditation (SCA), which certifies the quality of NHRIs under GANHRI's updated criteria.

<sup>478</sup> GANHRI, "GANHRI Sub-Committee on Accreditation (SCA)", (website), 2017, <http://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/default.aspx>;

<sup>479</sup> GANHRI, *Accreditation Status as of 26 May 2017*, 2017, p. 2, <https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20%2826%20May%202017.pdf>

grounds that the ICC did not have the power to order an interim accreditation review. The challenge was upheld and the SCA has subsequently not recommended interim reviews to other NHRIs as well.

The NHRCI was due for review in 2016 but the SCA deferred it to the second session of 2017. In February 2018, GANHRI SCA report confirmed the NHRCI 'A' status.<sup>480</sup> The re-accreditation was based on amendments proposed by the NHRCI to address the issues raised by the SCA during its reviews in 2011 and 2017. In other similar instances, NHRIs have had to implement the changes prior to restoring their accreditation, as in the case of South Korea, Malaysia, Germany, Malawi and Egypt, among others.<sup>481</sup>

The SCA report also noted the expectation that "NHRIs who have been accredited with "A" status will take the necessary steps to pursue continuous efforts at improvement and to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review."<sup>482</sup> The SCA's concerns regarding the NHRCI's compliance with Paris Principles have remained unchanged since its 2006 and 2011 reviews, and were reiterated in 2017:<sup>483</sup>

- The NHRCI did not have representation of minorities, such as Muslims, STs and women, and those women that were present were only there part time.<sup>484</sup>
- There is concern about the appointment of police or ex-police officers for investigations of human rights violations that involve perpetrations by the police.<sup>485</sup>
- Too close a relationship and coordination of the NHRCI with politicians; there needs to be a working relationship, but there should be greater transparency into the meetings and relationships they have with the NHRCI, and should be limited to those with "direct relevance."<sup>486</sup>
- Continued lack of engagement with civil society organisations, and the significant back log of submitted cases.<sup>487</sup>
- Lack of recent annual reports due to a restrictive publishing process by GoI, which means their work goes un-read and important data that has been collected remains undisclosed.<sup>488</sup>

In November 2016, GoI appointed Bharatiya Janata Party (BJP) vice-president and its party leader of Jammu and Kashmir, Avinash Rai Khanna, to one of the four NHRCI member seats.<sup>489</sup> The move was opposed by opposition parties and civil society organisations on the grounds that his appointment would seriously erode public confidence in the impartiality and neutrality of the NHRCI. On the day the matter was scheduled for hearing at the Supreme Court, Khanna withdrew his acceptance of the post.<sup>490</sup>

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480 GANHRI, *Reports and Recommendations of the Sessions of the Sub-Committee on Accreditation (SCA)*, (website), December 2017, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20November%202017%20-%20ENG.pdf>

481 AiNNI, *Call for Urgent Review of Grant of 'A' Status to the Indian National Human Rights Commission, Madurai, India*, 15 February 2018.

482 *Ibid.*, p. 18.

483 GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, Geneva, 14 – 18 November 2016, p. 24, <http://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Final%20Report%20-%20Nov%202016%20-%20English.pdf>

484 *Ibid.* p. 24-25

485 *Ibid.* p. 26-27

486 *Ibid.* p. 27

487 *Ibid.* p. 28; *The backlog may be reduced in the future as the NHRC has been allocated an increased budget year-on-year. For the financial year 2015-2016, the NHRC received 35.95 crore [\$558 million USD]; for 2017-2018, they are allocated an almost 40 percent increase to 48.91 crore [\$759 million USD]. National Informatics Centre (NIC), Expenditure Budget Vol. I, 2016-2017, GoI, 2016, p. 79, <http://indiabudget.nic.in/budget2016-2017/ub2016-17/eb/vol1.pdf>; NIC, Expenditure Profile 2017-2018, GoI, 2017, p. 202, <http://indiabudget.nic.in/ub2017-18/eb/vol1.pdf>*

488 *Ibid.* p. 28-29

489 Maneesh Chhibber and Manoj C G, "In a First, NHRC Prepares for a Political Appointee", *Indian Express*, 6 November 2016, <http://indianexpress.com/article/india/india-news-india/in-a-first-nhrc-prepares-for-a-political-appointee-3739527/>

490 People's Union for Civil Liberties (PUCL), *Bulletin*, January 2017, p. 14 <http://www.pucl.org/bulletins/2017/PUCLjan2017.pdf>

In April 2017, Jyotika Kalra assumed the office of Member, NHRCI on the recommendation of GoI. Her appointment was not held in a consultative manner. GoI did not advertise the vacancy, nor spell out the criteria for assessment. Based on the minutes of the appointment committee furnished by the MHA, no other candidates were considered for the position.<sup>491</sup> An advocate by profession, in the past Kalra was associated with the *Rashtriya Swayamsevak Sangh* (RSS), which is widely recognised as the BJP's ideological parent organisation and its legal wing *Akhil Bharatiya Adhivakta Parishad*.<sup>492</sup> As the first full-time woman member of the NHRCI in 13 years, Kalra's appointment meets the SCA's recommendation for increased and diverse representation in the institution.

The All-India Network of NGOs and Individuals (AiNNI), a civil society forum which monitors India's human rights institutions, analysed how the NHRCI can improve, specifically in relation to its protection of Human Rights Defenders (HRDs).<sup>493</sup> For instance, the Human Rights Defenders Alert-India (HRDA) submitted 104 cases to the NHRCI in 2015— 74 cases were registered as accepted, of which 24 had actions taken, but none were resolved as of November 2016.<sup>494</sup> AiNNI concluded that there is little engagement by the NHRCI because “the NHRC more often than not relies on the State agencies for investigation, who mostly are the perpetrators of human rights violations.”<sup>495</sup>

Many of these issues had previously been discussed in the NHRCI's internal review on 19 February 2015.<sup>496</sup> The internal review specifically mentioned the need for training officials so that police, armed forces and NHRCI employees can react in a meaningful way to the complaints by HRDs.<sup>497</sup>

On 12 April 2017, the United Nations High Commissioner for Human Rights (UNHCHR) issued a letter to the GoI to ensure full compliance of the NHRCI with the Paris Principles. The High Commissioner had four main recommendations: the creation of a civil society and independent expert advisory panel; establishment of three regional offices to increase public access; a national helpline to field urgent calls of severe human rights abuse; and empowering the NHRCI to cover all relevant cases and inquire into allegations of human rights violations and abuses by paramilitary and armed forces of India, including in Jammu and Kashmir.<sup>498</sup> According to the International Federation for Human Rights (FIDH), as of 8 November 2017 “Indian authorities have repeatedly failed to take any meaningful steps towards the implementation of the recommendations made by the SCA and the UN High Commissioner for Human Rights.”<sup>499</sup>

491 See, the South Asia Human Rights Documentation Centre's report submitted to the GANHRI, July 2017, pp. 5-7

492 In 2014, Kalra was an editorial board member of *Nyaypravah*, the quarterly news magazine of the *Akhil Bharatiya Adhivakta Parishad*. <https://counterview.org/2017/07/11/national-human-rights-commission-is-a-toothless-tiger-with-no-real-autonomy-or-power/>

493 AiNNi, *India: A Spectator When Fundamental Freedoms are Under Attack*, 5 November 2016, p. 76-77, <https://www.forum-asia.org/uploads/wp/2016/11/5.-India-Final.pdf>

494 *Ibid.*, p. 72.

495 *Ibid.*, p. 82-83.

496 NHRC India, *Recommendations of the Workshop on Human Rights Defenders organized by the Commission on 19.02.2015*, February 2 2015, pp. 3-4, [http://www.nhrc.nic.in/Documents/recommendations\\_workshop\\_HRD\\_organized\\_on\\_19feb2015.pdf](http://www.nhrc.nic.in/Documents/recommendations_workshop_HRD_organized_on_19feb2015.pdf)

497 *Ibid.*, p. 82-83.

498 An RTI was filed by the International Federation for Human Rights (FIDH) regarding the contents of the High Commissioner's letter to the Indian government, and its contents were reported on by FIDH; Zeid Ra'ad Al Hussein, *Letter from the High Commissioner of Human Rights to Implement the Recommendations of Sub-Committee on Accreditation of Global Alliance for Allowing NHRC to Function in Accordance with Paris Principles*, Geneva, Switzerland, 12 April 2017.

499 Dimitris Christopolous, *Re: Downgrading of the National Human Rights Commission of India*, FIDH, Paris, France, 8 November 2017, p. 1.



# SDG 16.B:

## PROMOTE AND ENFORCE NON-DISCRIMINATORY LAWS AND POLICIES FOR SUSTAINABLE DEVELOPMENT

Chapters III and IV of the Constitution of India guarantees Fundamental Rights and outlines the state's obligation to provide equal opportunities to all its citizens. India also has instituted policies of job and education reservations for minorities and the disadvantaged. However, discrimination based on caste, religion, gender, sexual orientation, disability, ethnicity, and skin colour continues.

### 16.B.1:

#### PROPORTION OF POPULATION REPORTING HAVING PERSONALLY FELT DISCRIMINATED AGAINST OR HARASSED IN THE PREVIOUS 12 MONTHS ON THE BASIS OF A GROUND OF DISCRIMINATION PROHIBITED UNDER INTERNATIONAL HUMAN RIGHTS LAW

The most discriminated in India are women (48.46 percent of the population), SCs (16 percent), STs (8.6 percent), Muslims (14.2 percent), Christians (2.3 percent), denotified tribes/nomadic tribes (8-10 percent), disabled (7-9 percent) and LGBTQ (0.6-3.8 percent). Also facing discrimination are people from the North-Eastern states (414,850 living outside the North-East), Africans (approximately 40,000), rationalists/atheists (33,000 officially registered) and Christians (2.3 percent). These population groups are most susceptible to discrimination.

Discrimination is understood as “the unequal treatment of an individual or group on the basis of their statuses (e.g., age, beliefs, ethnicity, sex) by limiting access to social resources (e.g., education, housing, jobs, legal rights, loans, or political power).”<sup>500</sup>

Article 15 of the Constitution of India prohibits discrimination on grounds of religion, race, caste, sex or place of birth. This is in line with Article 2 of the Universal Declaration of Human Rights, which sets out the basic principles of equality and forbids “distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>501</sup> India has also ratified ILO Treaty 111, the Discrimination (Employment Occupation) Convention.<sup>502</sup> In March 2017, a comprehensive anti-discrimination Bill was introduced in the Parliament which assures accountability for discrimination in both the public and private sectors.<sup>503</sup> As of 1 January 2018, it has yet to be voted on.

For the purposes of this report, women, Scheduled Castes, Scheduled Tribes, Muslims, Denotified and Nomadic Tribes, disabled, LGBTQ, people from the North-East, black minorities and atheists have been considered as victims of discrimination. In the absence of a codified anti-discrimination

500 *Open Education Sociology Dictionary, Discrimination*, 2013, <https://sociologydictionary.org/discrimination/>

501 UNGA, *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*, 10 December 1948, p. 3, <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>; India has also ratified five other international conventions relating to discrimination: *International Covenant on Civil and Political Rights (ICCPR)*, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, and *ILO Discrimination (Employment and Occupation) Convention (No. 111)*, as reported by the NHRC India, *Core International Human Rights Treaties, Optional Protocols & Core ILO Conventions Ratified by India*, New Delhi, p. 22-23, [http://nhrc.nic.in/documents/india\\_ratification\\_status.pdf](http://nhrc.nic.in/documents/india_ratification_status.pdf)

502 *Ibid.*

503 NH Political Bureau, “15 Examples of Discrimination in India”, *National Herald*, 17 March 2017, <https://www.nationalheraldindia.com/news/2017/03/17/a-new-bill-against-discrimination-lists-common-forms-check-out-if-you-know-of-citizens-subjected-to-discrimination>

law, data on the proportion of population to have felt discriminated against remains unavailable. Institutional discrimination— bias built into the operation of society’s institutions— manifests in how people interface with and their access to education, health care, the criminal justice system and employment, among others.

## Women

According to the 2011 census, women constitute 48.46 percent of India’s population.<sup>504</sup> Some of the issues faced by women and girls have been covered in previous chapters—violence and sexual assault, human trafficking, access to justice and representation in public spheres.<sup>505</sup> This section highlights other forms of discrimination experienced by women and girls in India.

According to previous census reports, there has been a “declining number of female child population in the age group of 0-6 years from 78.83 million in 2001 to 75.84 million in 2011.”<sup>506</sup> The United Nations Population Fund (UNFPA) estimates that about 30 percent of Indian women make sex selective births if their previous child was not male.<sup>507</sup> However, there is still a slowly increasing positive trend towards equal sex-ratio as India increased from 933 women per 1,000 men in 2001 to 940 women per 1,000 men in 2011.<sup>508</sup> The net increase is due to women living longer than men on average. In 2005 the life expectancy of women in India was 65 years, which increased to 69 years in 2015.<sup>509</sup> Male life expectancy in 2005 was 63 years and in 2015 the average was 66 years.<sup>510</sup>

In 2011, the national census recorded India’s overall literacy rate at 74.04 percent, with an almost 17 percent gap between sexes— for men, the literacy rate was 82.14 percent while for women it was 65.46 percent.<sup>511</sup> The National Sample Survey 2014 found that “in rural India 72.3% males and 56.8% females and in Urban India 83.7% males and 74.8% females are literate.”<sup>512</sup> Girl dropout rate is higher than boys, with over 20 percent of girls dropping out after they reached puberty.<sup>513</sup>

In 2015, 3.7 million eligible girls were out of school and in rural areas girls receive an average of less than four years of education.<sup>514</sup> In the World Economic Forum’s 2015 Global Gender Gap report, India was ranked 125 out of 145 countries in education equality (which is measured by female literacy and enrolment in primary, secondary and tertiary education).<sup>515</sup>

According to the National Family Health Survey (NFHS) women receive less food overall, which leads to Chronic Energy Deficiency (indicated by a BMI of less than 18.5).

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<sup>504</sup> *Census of India, Gender Composition of the Population, 2011*, p. 78, [http://censusindia.gov.in/2011-prov-results/data\\_files/india/Final\\_PPT\\_2011\\_chapter5.pdf](http://censusindia.gov.in/2011-prov-results/data_files/india/Final_PPT_2011_chapter5.pdf)

<sup>505</sup> See sections 1.3, 1.4, 2.1, 2.2, 2.3, 3.1, 7.1, and 7.2 of this report.

<sup>506</sup> Asian Centre for Human Rights, *Female Infanticide Worldwide*, June 2016, p. 14-19, <http://www.global-sisterhood-network.org/gsn/downloads/FemaleFoeticideWorldwide.pdf>

<sup>507</sup> UNFPA Asia and Pacific Regional Office, *Sex Imbalances at Birth: Current Trends, Consequences, and Policy Implications*, 2012, <http://www.unfpa.org/public/home/publications/pid/12405>

<sup>508</sup> *Census of India, Gender Composition of the Population, 2011*, p. 79, [http://censusindia.gov.in/2011-prov-results/data\\_files/india/Final\\_PPT\\_2011\\_chapter5.pdf](http://censusindia.gov.in/2011-prov-results/data_files/india/Final_PPT_2011_chapter5.pdf)

<sup>509</sup> The World Bank, *Life Expectancy at Birth, Female (Years), 2005-2015*, <https://data.worldbank.org/indicator/SP.DYN.LE00.FE.IN?locations=IN>

<sup>510</sup> The World Bank, *Life Expectancy at Birth, Male (Years), 2005-2015*, <https://data.worldbank.org/indicator/SP.DYN.LE00.MA.IN?end=2015&locations=IN&start=1960&view=chart>

<sup>511</sup> *Census 2011, Literacy in India, Census Population 2015 Data*, New Delhi, <http://www.census2011.co.in/literacy.php>

<sup>512</sup> Ministry of Statistics and Programme Implementation, *Literacy and Education*, GoI, New Delhi, 2015, p.2 [http://www.mospi.gov.in/sites/default/files/reports\\_and\\_publication/statistical\\_publication/social\\_statistics/Chapter\\_3.pdf](http://www.mospi.gov.in/sites/default/files/reports_and_publication/statistical_publication/social_statistics/Chapter_3.pdf)

<sup>513</sup> Tharanga Yakupitiyage, “Menstrual Hygiene Gaps Continue to Keep Girls from School”, *Inter Press Service*, 27 May 2016, <http://www.ipsnews.net/2016/05/menstrual-hygiene-gaps-continue-to-keep-girls-from-school/>

<sup>514</sup> Safecity, *The Status of Women’s Education in India*, (website), 14 July 2016, <http://safecity.in/the-status-of-womens-education-in-india/>

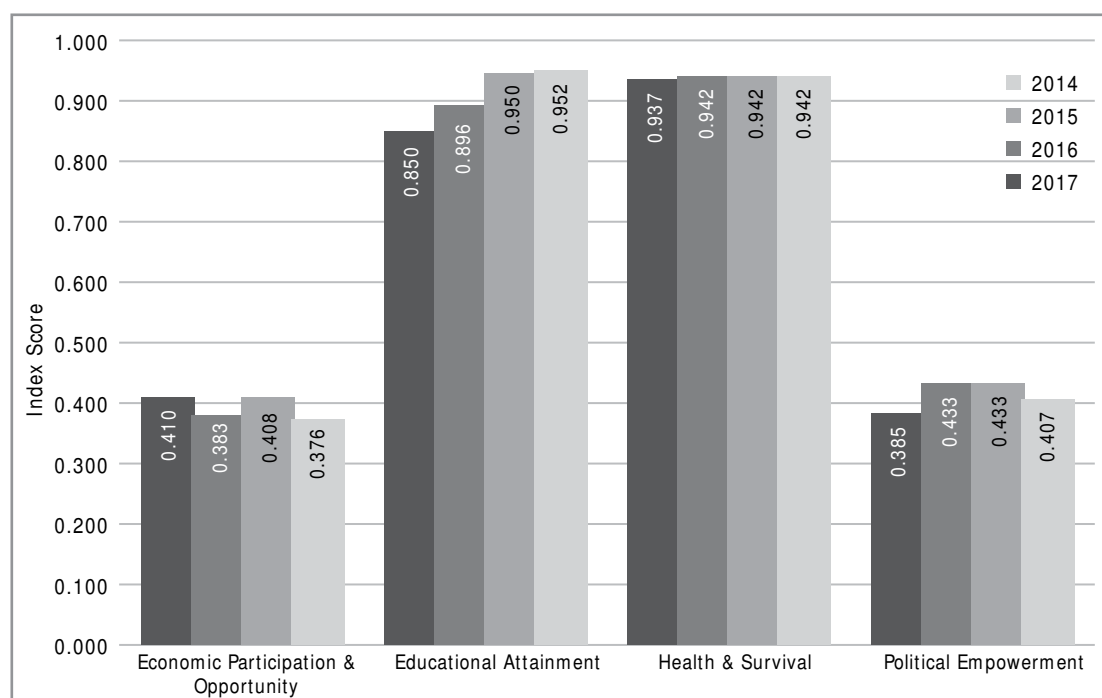
<sup>515</sup> World Economic Forum (WEF), *The Global Gender Gap Index Results in 2015*, (website), 2015, <http://reports.weforum.org/global-gender-gap-report-2015/the-global-gender-gap-index-results-in-2015/>

**Fig. 48 — Nation-wide Nutritional Status of Adults (Aged 15-49), 2015<sup>516</sup>**

Sex and BMI	NFHS-3 (2005-2006)			NFHS-4 (2015-2016)		
	Rural	Urban	Total	Rural	Urban	Total
% Women with BMI less than 18.5	38.8	19.8	33.0	26.7	15.5	22.9
% Men with BMI less than 18.5	33.1	17.5	28.1	23.0	15.5	22.9
% Women with BMI greater than 25.0	8.6	28.9	14.8	15.0	31.3	20.7
% Men with BMI greater than 25.0	7.3	22.2	12.1	14.3	26.6	18.9

In World Economic Forum's 2015 Global Gender Gap report, India was ranked near the bottom at 143 on the health index (which includes sex ratio at birth and healthy life expectancy).<sup>517</sup> In terms of overall ranking,<sup>518</sup> India is progressing (scoring 0.615 in 2010, which increased to 0.664 in 2015).

Women's participation in the labour force continues to be low— only 29 percent of women are in the work force compared to 83 percent of men.<sup>519</sup> The graph below shows the gaps between men and women, with 0 being complete inequality, and 1 being complete equality. Independent of how economically developed a country is, the chart records the domestic equality of opportunity.<sup>520</sup>

**Fig. 49 — Gender Inequality in India, 2015<sup>521</sup>**

516 Ministry of Health and Family Welfare (MHFW), National Family Health Survey – 3: 2005-06 India Fact Sheet, GoI, 2006, <http://rchiips.org/NFHS/pdf/India.pdf>; Ministry of Health and Family Welfare (MHFW) and International Institute of Population Sciences, Mumbai (IIPS), National Family Health Survey – 4: 2015-16 India Fact Sheet, GoI, 2016, <http://rchiips.org/NFHS/pdf/NFHS4/India.pdf>

517 World Economic Forum (WEF), The Global Gender Gap Index Results in 2015, (website), 2015, <http://reports.weforum.org/global-gender-gap-report-2015/the-global-gender-gap-index-results-in-2015/>

518 Overall ranking is based on an average scores across 1) economic participation and opportunity, 2) educational attainment, 3) health and survival, and 4) political empowerment. The lowest ranking in 2015 was Yemen, with 0.484, and the highest was Iceland at 0.881.

519 World Economic Forum (WEF), India: Gender Gap Index 2015, (website), 2015, <http://reports.weforum.org/global-gender-gap-report-2015/economies/#economy=IND>

520 Ibid, pp. 3-4.

521 World Economic Forum, The Global Gender Gap Report 2015, Switzerland, 2015, pp. 198-199, <http://www3.weforum.org/docs/GGGR2015/cover.pdf>; WEF, The Global Gender Gap Report 2016, Switzerland, 2016, pp.196-197, [http://www3.weforum.org/docs/GGGR16/WEF\\_Global\\_Gender\\_Gap\\_Report\\_2016.pdf](http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf); WEF, The Global Gender Gap Report 2017, Switzerland, 2017, pp. 176-177, [http://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf](http://www3.weforum.org/docs/WEF_GGGR_2017.pdf)

## Scheduled Castes

According to the 2011 census, 16.6 percent of the population— 201 million people— are classified as Scheduled Castes (SCs).<sup>522</sup> The National Commission for Scheduled Castes defines SCs as those who “suffer from extreme social, educational and economic backwardness arising out of age-old practice of untouchability.”<sup>523</sup> Article 17 and 18 of the Indian Constitution prohibits discrimination on grounds of caste.

The 2011 census recorded 66.1 percent literacy rate for SCs— 75.2 percent of SC men and 56.5 percent of SC women were literate.<sup>524</sup> The average literacy rate for SCs is 6.9 percent lower than the national average.<sup>525</sup>

According to the findings of the GoI’s Socio-Economic and Caste Census (SECC) 2011, 1.3 million SCs have government jobs, 300,000 work in the public sector and 800,000 work in the private sector— in total, 2,420,655 salaried jobs or 7.3 percent of the rural SC households.<sup>526</sup> The majority of rural employment is in Manual Casual Labour (MCL) with 22,308,739 (67.27 percent) households.<sup>527</sup> The SECC is not disaggregated by caste for urban households. In 2014, the Ministry for Labour and Employment recorded 58.3 percent (76.1 percent SC males and 35.3 percent SC females) Labour Force Participation Rate (LFPR) for rural populations among SCs older than 15 years of age.<sup>528</sup> SCs also have the lowest land ownership rates of any rural groups— 45.15 percent of SCs are landless and depend on manual casual labour, compared to 29.84 percent STs, and Others at 26.02 percent.<sup>529</sup> The SECC 2011 also found SCs in rural areas to have low earning rates— 83.55 percent of SC breadwinners of rural households earn less than ₹5,000 per month (\$75 USD).<sup>530</sup>

Manual scavenging refers to the practice of manually cleaning excreta and waste from private and public dry toilets (outhouses) and open drains. The Employment of Manual Scavenging and Construction of Dry Latrines (Prohibition) Act 1993 aimed to get people out of cleaning human excrement. This was followed by the National Safai Karamcharis Finance & Development Corporation (NSKFDC), which was set up in 1997, followed by amendments to the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act in 2013.

As per the SECC 2011 data of manual scavengers released by the Ministry of Rural Development on 3 July 2015, there were 1,82,505 manual scavengers in the rural areas of the country.<sup>531</sup> However, in response to a parliamentary question on 11 April 2017 on the rehabilitation of manual scavengers, the Minister for Social Justice and Empowerment, Mr. Thaawarchand Gehlot said: “The number of Manual scavengers identified during the past three years are 12,742.”<sup>532</sup> He further added that “states

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522 Office of the Registrar General & Census Commissioner, *Primary Census Abstract: India 00, MHA, GoI, 2011*, <http://www.censusindia.gov.in/pca/default.aspx>

523 National Commission for Scheduled Castes, *Handbook 2016, GoI, 2016*, p. 3, <http://ncsc.nic.in/files/HANDBOOK-2016.pdf>

524 Ministry of Statistics and Programme Implementation, *Literacy and Education, GoI, New Delhi, 2015*, p. 4, [http://www.mospi.gov.in/sites/default/files/reports\\_and\\_publication/statistical\\_publication/social\\_statistics/Chapter\\_3.pdf](http://www.mospi.gov.in/sites/default/files/reports_and_publication/statistical_publication/social_statistics/Chapter_3.pdf)

525 2011 Census, C-13(SC) Appendix Single Year Age Returns by Residence, Sex and Literacy Status For Scheduled Castes (India & States/UTs), GoI, 2011, [http://www.censusindia.gov.in/2011census/population\\_enumeration.html](http://www.censusindia.gov.in/2011census/population_enumeration.html); 2011 Census, C-13 Appendix Single Year Age Returns by Residence, Sex and Literacy Status (India & States/UTs), GoI, 2011, [http://www.censusindia.gov.in/2011census/population\\_enumeration.html](http://www.censusindia.gov.in/2011census/population_enumeration.html)

526 Socio Economic and Caste Census 2011, SC Households With Salaried Jobs, GoI, 2011, <http://secc.gov.in/categorywiseSalariedJobReport?reportType=SC%20Category>

527 Ibid., *Income Source of SC Households*, <http://secc.gov.in/categorywiseIncomeSourceReport?reportType=SC%20Category>

528 Ministry of Labour and Employment, *Employment-Unemployment Scenario Among Different Social Groups: Volume V 2013-2014*, Labour Bureau, GoI, 2014, p. 12, <http://labour.gov.in/sites/default/files/Report%20Vol%205%20final.pdf>

529 SECC 2011 in Harish Damodaran, “Landlessness is Higher Among Dalits but More Adivasis are ‘Deprived’”, *The Indian Express*, 6 July 2015, <http://indianexpress.com/article/india/india-others/landlessness-is-higher-among-dalits-but-more-adivasis-are-deprived/>

530 Socio Economic and Caste Census 2011, *Monthly Income of Highest Earning Household Member in SC Category*, GoI, 2011, <http://secc.gov.in/categorywiseIncomeSlabReport?reportType=SC%20Category>

531 Ministry of Social Justice and Empowerment, *Manual Scavenging*, GoI, 15 Dec 2015 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=133286>

532 <http://164.100.47.190/loksabhaquestions/annex/11/AS527.pdf>



are the implementing agencies (for rehabilitation), but when we seek information, most states say there are no manual scavengers.”<sup>533</sup>

Thus, there is no definitive number of total manual scavengers. Civil society groups, such as the *Safai Karmachari Andolan* (SKA) and the International Dalit Solidarity Network (IDSN) estimate that the practice “still continues in as many as 256 districts in India”<sup>534</sup> and that there are approximately 1.3 million manual scavengers in total.<sup>535</sup> According to Human Rights Watch, state representatives at local village levels and municipal corporations “not only fail to implement prohibitions on manual scavenging by private households, but also perpetuate the practice.”<sup>536</sup>

SCs also face a variety of other forms of social exclusions. In 2012 the Navsarjan Trust and the Robert F. Kennedy Center for Justice and Human Rights (RFK Center) conducted a quantitative discrimination review of 5,462 respondents from 1,589 villages from in Gujarat.<sup>537</sup> The study found:

- “In 98.4 % of villages surveyed, inter-caste marriage was prohibited. In such locales, an inter-caste couple would be subject to violence and would often have to leave the village.
- In 98.1% of villages surveyed, a Dalit cannot rent a house in a non-Dalit community.
- In 97.6% of villages, Dalits must not touch the water pots or utensils of non-Dalits; such contact is considered defilement.
- In 97.2% of villages surveyed, Dalit religious leaders will never be asked to celebrate a religious ceremony in a non-Dalit area.”<sup>538</sup>

Furthermore, the study also found inter sub-caste SC exclusion— “in 78% of the villages, lower sub-caste Dalit farm workers are not provided with water on a higher subcaste Dalit farm... in 80% of villages, lower sub-caste Dalits are not allowed to sit with higher sub-caste Dalits in the Katha and Parayan religious discourse even when the discourse takes place in the home of a Dalit.”<sup>539</sup>

### *Scheduled Tribes*

Tribals, also known as *Adivasis* (indigenous people), are officially classified as Scheduled Tribes (STs) and constitute 8.6 percent of the country’s population.<sup>540</sup> Economic development has led to corporations building large-scale infrastructure development projects in the resource-rich states of Chhattisgarh, Jharkhand and Odisha, which are the traditional homelands of the majority of STs. As reported by the Lok Sabha Secretariat in 2013, in the past 50 years approximately 50 million people have been displaced due to development projects.<sup>541</sup> The largest cause of displacement is dam building, with tribal people disproportionately affected as they “constitute 40 to 50 percent of the displaced populations.”<sup>542</sup> On average (from 1947-2000) only one-third of project displaced

533 Smriti Kak Ramachandran, “Centre Blames States for Deaths of Manual Scavengers, Lapses in Rehabilitation”, *Hindustan Times*, 31 August 2017, <http://www.hindustantimes.com/india-news/after-sanitation-workers-deaths-centre-plans-change-in-law/story-i5kTuuXFpkxzCOKKiO6AyH.html>

534 SKA, “About Safai Karmachari Andolan”, (website), 2010, <http://safaikarmachariandolan.org/aboutus.html>

535 International Dalit Solidarity Network (IDSN), *Dalit Children in India – Victims of Caste Discrimination*, p. 1, [http://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/India/Dalit\\_children\\_in\\_India\\_-\\_victims\\_of\\_caste\\_discrimination.pdf](http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/Dalit_children_in_India_-_victims_of_caste_discrimination.pdf)

536 HRW, *Cleaning Human Waste: Manual Scavenging*, 25 August 2014, <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>

537 Navsarjan Trust and The Robert F. Kennedy Center for Justice & Human Rights, *Understanding Untouchability: A Comprehensive Study of Practices and Conditions in 1589 Villages, Ahmedabad, India*, 2012, p. v, <http://www.indianet.nl/pdf/UnderstandingUntouchability.pdf>

538 *Ibid.*, p. 17.

539 *Ibid.*, p. 24-25.

540 Office of the Registrar General & Census Commissioner, *Primary Census Abstract: India 00, MHA, GoI*, 2011, <http://www.censusindia.gov.in/pca/default.aspx>

541 Lok Sabha Secretariat, *Displacement and Rehabilitation of People Due to Developmental Projects*, GoI, December 2013, p. 1-3, <http://164.100.47.193/intranet/DisplacementandRehabilitation.pdf>

542 *Ibid.*

persons (DPs) are resettled in a planned manner.<sup>543</sup> Two-thirds are left without compensation or rehabilitation, with one of the worst rates being West Bengal which “has resettled only about 9 per cent of its 3.7 million DPs.”<sup>544</sup>

“In the district of Dantewada, lie the Bailadila mines of the National Mineral Development Corporation (NMDC) which, since 1965, have been yielding 29 million tonnes of iron-ore every year through five mining leases totalling an area of 2556.424 hectares. However... only 31 jobs have been given to the people from the affected villages/areas of Baidila iron ore mine.”<sup>545</sup>

- Gutta Rohit, RTI Activist

There have been a succession of acts to empower STs: Articles 244, 330, 332 of the Constitution<sup>546</sup>; the Forest Rights Act 1996; Panchayat Extension to Scheduled Areas Act 1996; Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006; and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. These acts were promulgated to recognise individual and community rights of STs over their ancestral land, water and forest resources, and also makes local level village councils the ultimate consenting body.<sup>547</sup> The lack of awareness of the implications of these laws and resulting exploitation leads to economic discrimination.<sup>548</sup>

The National Commission for Scheduled Tribes (NCST) reported that the majority tribal women employed as domestic help in cities, and are vulnerable to harassment and unfair practices due to the private and unregulated nature of the work.<sup>549</sup> The NCST pushed for worker registration, which was made mandatory in the Domestic Worker’s Welfare Bill 2016. It mandates that any household that employs domestic help, with particular attention to SCs and STs, needs to register their details with the local police and labour office.<sup>550</sup> Anti-discrimination measures also extend into laws aiming to curb verbal abuse. In 2017 the Delhi High Court ruled that insults to specific SC/ST individuals, either online or in person, are punishable offences.<sup>551</sup> Discrimination experienced by STs extends into the classrooms as well.

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543 Walter Fernandes, *India’s Force Displacement Policy and Practice: Is Compensation up to its Functions?*, North East Social Research Centre, Guwahati, Assam, 2010, p. 3, <http://onlineministries.creighton.edu/CollaborativeMinistry/NESRC/Walter/chp-7.pdf>

544 Ibid.

545 WSS, *Bearing Witness: Sexual Violence in South Chhattisgarh*, Gurgaon, WSS Press, March 2017, p. 8.

546 Art. 244: Administration of Scheduled Areas and Tribal Areas, Art. 330: Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People, and Art. 332: Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

547 Abhinav Gupta, “Mining-affected Adivasis in Chhattisgarh have Forced a Coal Firm and the State to Hear Them Out”, Scroll.in, 20 July 2016, <https://scroll.in/article/812086/how-mining-affected-adivasis-in-chhattisgarh-forced-a-minerals-firm-and-the-state-to-hear-them-out>; Zubair Nazeer and Rahul Chirmurkar, “Supreme Court Must Safeguard Tribal Rights Over Niyamgiri Hills in Odisha”, *The Wire*, 17 March 2016, <https://thewire.in/25043/supreme-court-must-safeguard-tribal-rights-over-niyamgiri-hills-in-odisha/>

548 Poorest Areas Civil Society (PACS) programme, “Scheduled Tribes”, (online), Department for International Development (DFID) UK, [http://www.pacsindia.org/socially\\_excluded\\_group/aboutpacs/who-we-work-with/socially-excluded-groups/scheduled-tribes](http://www.pacsindia.org/socially_excluded_group/aboutpacs/who-we-work-with/socially-excluded-groups/scheduled-tribes)

549 Smriti Kak Ramachandran, “Tribals Working As Domestic Help Must Be Registered with Local Police, Govt Orders”, *Hindustan Times*, 8 July 2018, <http://www.hindustantimes.com/india-news/tribals-working-as-domestic-help-must-be-registered-with-local-police-govt-orders/story-Jlz7IKxS1AXyS9Jbn53ubM.html>

550 Lok Sabha, *The Domestic Workers’ Welfare Bill 2016*, Bill no. 204 of 2016, 5 July 2016, <http://164.100.47.4/billtexts/LSBillTexts/AsIntroduced/1573.pdf>; Smriti Kak Ramachandran, “Tribals Working as Domestic Help Must be Registered with Local Police, Govt Orders”, *Hindustan Times*, 8 July 2017, <http://www.hindustantimes.com/india-news/tribals-working-as-domestic-help-must-be-registered-with-local-police-govt-orders/story-Jlz7IKxS1AXyS9Jbn53ubM.html>

551 PTI, “Offensive Posts Against SC/ST On Social Media An Offence: Delhi High Court”, *NDTV*, 4 July 2017, <https://www.ndtv.com/delhi-news/offensive-posts-against-scheduled-caste-scheduled-tribe-on-social-media-an-offence-delhi-high-court-1720545>

“There were complaints that some schools are rendering secondary treatment to tribal students like keeping a separate sitting arrangement for them in class rooms, not letting them mix with other students or teaching them in a separate class”<sup>552</sup>

- Official from the Tribal Development department, Maharashtra, 2016

The literacy rate among STs is 59 percent, compared to the national average of 73 percent.<sup>553</sup> STs also exhibit high unemployment rates. The “unemployment rates for people with secondary level and above education was highest for scheduled tribes (men and women, rural and urban) – 6.8 per cent against 5.8 per cent for scheduled castes, 4.8 per cent for other backward classes and 4.5 per cent for ‘others.’”<sup>554</sup> Additionally, the SECC 2011 recorded that 861,283 (4.36 percent) rural ST households had government jobs, while the majority 10,130,157 (51.32 percent) perform MCL.<sup>555</sup> The SECC does not disaggregate for urban households.

## Muslims

Muslims constitute 14.2 percent of India’s population.<sup>556</sup> The government has recognised that Muslims face discrimination and in 2006 released the Sachar Committee report that has 76 recommendations under seven main themes: improve education, skill development, access to credit, implement special development initiatives, affirmative action, Waqfs (i.e. preservation of Muslim history), and other miscellaneous issues.<sup>557</sup>

In 2017 a review of the implementation of the Sachar Committee recommendations noted that three measures were rejected, one was deferred, and two expert groups on affirmative action have been suspended. The Government of India took 43 decisions on the 72 recommendations that it accepted, which have either been implemented or are ongoing.<sup>558</sup> However, the Ministry of Minority Affairs (MoMA) has not published reports on Muslim equality measures since 2014.<sup>559</sup>

The Centre for Equity Studies (CES) reports that specific laws, such as the Unlawful Activities Prevention Act (UAPA), target Muslims disproportionately.<sup>560</sup> Human Rights Watch has alleged that Indian security forces discriminate against Muslims by “committing numerous, serious human rights violations in their quest to identify and prosecute suspected perpetrators. These abuses are both unlawful under Indian and international law and counterproductive in the fight against terrorism.”<sup>561</sup> Amnesty International interviewed 35 Muslims detained in the aftermath of the 2008 Mumbai bombings, and highlighted the practice of profiling and detaining innocents to intimidate the community— “mistreatment of suspects took place...at every stage of custody... in a few cases, the relatives of suspects were even taken hostage by law enforcement agencies.”<sup>562</sup>

552 Press Trust of India (PTI), “Tribal Students Face Discrimination in Maharashtra Schools”, 15 October 2016, <http://indianexpress.com/article/india/india-news-india/tribal-students-face-discrimination-in-maharashtra-schools/>

553 FirstPost, “Literacy Rates of Scheduled Tribes far below National Average, Says Parliamentary Panel”, March 15 2015, <http://www.firstpost.com/india/literacy-rates-scheduled-tribes-far-national-average-says-parliamentary-panel-2154745.html>

554 Seetha, “Are Scheduled Tribes Losing Out in the Job Market? NSSO Data Suggests So”, FirstPost, 24 March 2015, <http://www.firstpost.com/business/economy/scheduled-tribes-losing-job-market-nssso-data-suggests-2167933.html>

555 Socio Economic and Caste Census 2011, Income Source of ST Households; ST Households with Salaried Jobs, GoI, 2011, <http://secc.gov.in/categorywiseSalariedJobReport?reportType=ST%20Category>

556 Office of the Registrar General & Census Commissioner, India, Religion, MHA, GoI, 2011, [http://www.censusindia.gov.in/2011census/Religion\\_PCA.html](http://www.censusindia.gov.in/2011census/Religion_PCA.html)

557 GoI, Implementation of Sachar Committee Recommendations, 31 March 2017, [http://www.minorityaffairs.gov.in/sites/default/files/Updated%20status%20on%20Sachar%20Committee%27s%20recommendations\\_0.pdf](http://www.minorityaffairs.gov.in/sites/default/files/Updated%20status%20on%20Sachar%20Committee%27s%20recommendations_0.pdf)

558 Ibid., pp. 1,2

559 MoMA, Reports, GoI, New Delhi, <http://www.minorityaffairs.gov.in/reports>

560 Misaal- Centre for Equity Studies, South Asia State of Minorities Report (India Chapter), 2016, p. 166, [http://www.misaal.ngo/wp-content/uploads/2016/11/e-Book\\_South-Asia-State-of-Minorities-Report-2016.pdf](http://www.misaal.ngo/wp-content/uploads/2016/11/e-Book_South-Asia-State-of-Minorities-Report-2016.pdf)

561 Human Rights Watch, The “Anti-Nationals”: Arbitrary Detention and Torture of Terrorism Suspects in India, February 2011, p. 3, <https://www.hrw.org/report/2011/02/01/anti-nationals/arbitrary-detention-and-torture-terrorism-suspects-india>

562 Ibid., p. 1

Discrimination is also present in access to housing. The United Nations University World Institute for Development Economics Research (UNWIDER) studied accommodation discrimination in Delhi. It found “strong evidence of discrimination against Muslim applicants, both in terms of probability of being contacted and the number of contacts, relative to upper-caste Hindu (UC) applicants”.<sup>563</sup> In real-estate websites for apartments in Delhi, landlords responded to Upper-Caste Hindu applicants at a rate of 0.35 and to Muslim applicants at the rate of 0.22.<sup>564</sup> In addition, it took longer for Muslims to get a response and a reduced likelihood for securing one-bedroom accommodations in Delhi.<sup>565</sup> The same study found that there was no significant discrimination in response time to SC or OBC applicants.<sup>566</sup>

Seven percent of Indians over the age of 20 are graduates or hold diplomas, but this proportion is less than four percent among Muslims.<sup>567</sup> The Centre for Criminology and Justice at the Tata Institute of Social Sciences reported that “the disparity in graduation attainment rates is widening since the 1970’s between Muslims and all other categories both in urban and rural areas. Only one out of the 25 under-graduate students and one out of 50 post-graduate students is a Muslim in colleges.”<sup>568</sup> Muslims have the highest rate of illiteracy among all major religious groups.

**Fig. 50 — Muslims Per 1,000 Aged 15 years and Above by General Education Level, 2012**<sup>569</sup>

Gender Education Level	Rural Male	Urban Male	Rural Female	Urban Female	Average	Average
of All Religions						
Not Literate	300	190	487	331	327	273.25
Literate and Up to Primary	303	257	256	230	261.5	203
Secondary and Above	213	355	126	278	243	374

Sanctions are also imposed by state and non-state actors on inter-religious marriages, despite the right to marry being enshrined in UDHR (Article 16) and the Indian Constitution (right to life and liberty). This has taken the form of “love jihad”, which is the notion that Muslim men seduce Hindu women and marry them so that they can convert these women to Islam, and subsequently bear Muslim children. India’s National Investigation Agency (NIA) reported that of 89 “love jihad” related cases from 2015 to 2017 given to them by the Kerala police, none of them resulted in proof of the Muslim men using monetary benefits to seduce women.<sup>570</sup>

The Citizenship (Amendment) Bill 2016 suggests changing the definition of “illegal migrant” in the existing Citizenship Act (1995), with explicit implications for Muslims.<sup>571</sup> The Amendment creates an exception, stating that “...persons belonging to minority communities, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan...shall not be treated as illegal migrants for the purposes of this Act”.<sup>572</sup>

563 Saugato Datta and Vikram Pathania, *For Whom Does the Phone (Not) Ring? Discrimination in the Rental Housing Market in Delhi, India*, UNWIDER, May 2016, p. 4, <https://www.wider.unu.edu/sites/default/files/wp2016-55.pdf>

564 *Ibid.* p. 16

565 *Ibid.*, p. 18

566 *Ibid.*, p. 4.

567 Vijay Raghavan and Roshni Nair, *A Study of the Socio Economic Profile and Rehabilitation Needs of Muslim Community in Prisons in Maharashtra*, 2011, Centre for Criminology and Justice, Tata Institute of Social Sciences, 2012, p. 26, 27, <http://hrsjm.org/wp-content/uploads/2017/03/Prisons-Muslims-study-maharashtra-2011.pdf>

568 *Ibid.*

569 MOSPI, NSS Report No. 568: *Employment and Unemployment Situation among Major Religious Groups in India*, 2012, p. 30, [http://mospi.nic.in/sites/default/files/publication\\_reports/nss\\_report\\_568\\_19feb16.pdf](http://mospi.nic.in/sites/default/files/publication_reports/nss_report_568_19feb16.pdf)

570 Vijaita Singh, “No Conversions for Money Seen In Love Jihad Cases: NIA”, *The Hindu*, 2 November 2017, <http://www.thehindu.com/news/national/no-conversion-for-money-seen-in-love-jihad-cases-nia/article19966254.ece>

571 Section 2(1)(b) of the Citizenship Act, 1955. The current definition of “illegal migrant” under S. 2(b) is a “foreigner who has entered into India – (i) without a valid passport or other travel documents...” or one who enters legally but overstays their visa.

572 Section 2 of The Citizenship (Amendment) Bill, 2016, Bill No. 172 of 2016.

Muslims (and Jews and Atheists) are excluded from the scope of the Amendment, even if they are a minority in their home country. It also excludes nearby Myanmar, where Muslims are a persecuted minority. According to the PRS Legislative Research organization, the Bill creates preferential treatment based on religion and is potentially a violation of Article 14 of the Constitution (the right to equality).<sup>573</sup>

### *Denotified and Nomadic Tribes*

Denotified Tribes (DNTs) are groups who were criminalised under the Criminal Tribes' Act of 1871. It was believed that these communities are “addicted to the systematic commission of non-bailable offences.”<sup>574</sup> They were “denotified” of this status in 1952, but members of these communities continue to be perceived as criminals based on their heritage.<sup>575</sup> Nomadic tribes (NTs) are groups who are “constantly on the move and have no home.”<sup>576</sup>

These groups make up between 8-10 percent of the population, though there is yet to be definitive data.<sup>577</sup> Due to the generally isolated and marginalised existence, approximately 3 percent of denotified tribes and 14 percent of nomadic tribes are not covered by the state's SC/ST allocations.<sup>578</sup> The National Commission for Denotified, Nomadic and Semi-Nomadic Tribes (NCDNT) also found that among those eligible, there remains a significant lack of ability and awareness to access government allotted benefits.<sup>579</sup>

The NCDNT also found that “in many states still many people do not know what is DNT/NT”.<sup>580</sup> The report noted that because many aspects of nomadic living are outlawed, traditional occupations can no longer sustain them.<sup>581</sup> Sixty percent of DNT/NT do not have legal identification and have to turn to “crime, begging, prostitution, etc.”<sup>582</sup> Such behaviour reinforces entrenched social biases against DNTs being families of criminals.<sup>583</sup> This view is even propagated within law and justice institutions— “as recently as 2014, the website of the district court of Patiala still publicly identified Sansis as a ‘criminal tribe’ whose traditional offences were ‘house breaking, highway robbery, dacoity [banditry], [and] theft.’”<sup>584</sup>

In 2015 the National Alliance Group for Denotified and Nomadic Tribe and the Praxis Institute conducted a focus group study with members of denotified tribes from Bihar, Gujarat, Haryana, Uttar Pradesh and West Bengal.<sup>585</sup> The report found that government officials and police were the most discriminatory overall.

573 PRS, *Legislative Brief: The Citizenship (Amendment) Bill, 2016*, New Delhi, 27 September 2016, <http://www.prsindia.org/uploads/media/Citizenship/Legislative%20Brief%20Citizenship%20Amendment%20Bill%202016.pdf>

574 *Criminal Tribes Act, 1871*, no. 27, *Act of the Governor-General of India (repealed 1949)*, S. 2.

575 National Commission for Denotified, Nomadic and Semi-Nomadic Tribes (NCDNT), *press brief*, Ministry of Social Justice & Empowerment, GoI, New Delhi, 2016 <http://socialjustice.nic.in/writereaddata/UploadFile/pressbrief-NCDNT.pdf>

576 *Ibid.*

577 National Commission for Denotified, Nomadic and Semi-Nomadic Tribes (NCDNT), *Report: Volume I*, Ministry of Social Justice & Empowerment, Government of India, New Delhi, 30 June 2008, pp. 53-56, [http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20\(1\).pdf](http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20(1).pdf)

578 PIB, *Gist of Recommendations of the Renke Commission*, Ministry of Social Justice & Empowerment, Government of India, New Delhi, 23 April 2015, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=118570>

579 NCDNT, *Report: Volume I*, Government of India, 30 June 2008, p. 108, [http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20\(1\).pdf](http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20(1).pdf)

580 *Ibid.*, p. 34.

581 *Ibid.*

582 *Ibid.*

583 Sumita Malpani, “In MP's Betul, Pardhi Tribe Lives Like Refugees in Its Homeland”, *The Quint*, 12 February 2017, <https://www.thequint.com/blogs/2017/02/11/in-mps-betul-pardhi-tribe-lives-like-refugees-in-its-homeland>

584 Sarah Gandee, “India's Persecuted Tribes are Marking an Alternative Independence Day”, *The Wire*, 1 September 2016, <https://thewire.in/63312/tribes-mark-alternative-independence/>

585 Praxis Institute for Participatory Practices, *A Report by the Ground Level Panel of Denotified and Nomadic Tribes on their Status with Respect to the Sustainable Development Goals*, June 2017, p. 9, <https://praxisindia.org/pdf/DNT-EventReport.pdf>

**Fig. 51 — Discrimination Faced by DNT/NTs, 2015<sup>586</sup>**

Stakeholders	1-Always Discriminate	2-Often Discriminate	3-Sometimes Discriminate	4-Never Discriminate
Doctors	55%	22%	23%	0%
Teachers	30%	62%	8%	0%
Other Children	38%	12%	50%	0%
Affluent Neighbours	44%	33%	23%	0%
Other Marginalised Groups	20%	20%	50%	10%
Shop Keepers	11%	55%	33%	0%
Police	63%	37%	0%	0%
Religious Leaders	50%	20%	0%	0%
Government	70%	30%	0%	0%

### *Persons with Disability (PwD)*

The 2011 national census recorded 26.8 million (2.21 percent) disabled persons.<sup>587</sup> However, according to the government’s updated definition of disability defined in the Rights of Persons with Disabilities Act passed in December 2016, disabled people make up between 70 – 100 million (7-9 percent) of India’s population.<sup>588</sup> In addition to expanding the scope, by including such disabilities as multiple sclerosis, intellectual disabilities, acid attack injuries, mental illness, haemophilia, and Parkinson’s disease, the bill aims to tackle under-employment, building access, and outlaw discrimination of disabled people.<sup>589</sup>

According to a 2016 report by the Government of India’s Social Statistics Division (SSD), only 36 percent of disabled people are working,<sup>590</sup> compared to the 95 percent employment rate for the rest of Indians.<sup>591</sup> Although there is no data on the amount of disabled people capable of full-time employment or schooling, there is data on the lack of inclusion for the education and training necessary to improve their access to jobs. As a result, there is a lack of capacity to fill the four percent reservation for government jobs for persons with disability.<sup>592</sup> In the National Center for Promotion of Employment for Disabled People’s (NCPEDP) 2013-2014 survey, 32 of India’s top universities have only filled 16 percent of their allotment for disabled persons (1,614 students); of these, 71.8 percent were male, and 28.2 percent were female.<sup>593</sup>

In December 2015, the Government of India inaugurated the Accessible India Campaign, which audited 1,653 buildings chosen by the state government access auditors. It set out to have 26 main cities make their top 50 most important government buildings accessible by July 2016 and 24 smaller cities make the top 25 most important government buildings accessible by July 2016.<sup>594</sup>

586 *Ibid.* p. 7

587 Social Statistics Division, *Disabled Persons in India: A Statistical Profile 2016*, MOSPI, GoI, January 2017, p. 1, [http://mospi.nic.in/sites/default/files/publication\\_reports/Disabled\\_persons\\_in\\_India\\_2016.pdf](http://mospi.nic.in/sites/default/files/publication_reports/Disabled_persons_in_India_2016.pdf)

588 Virendra Singh Gosain, “New Bill gives India’s 70 Million Disabled Reasons to Smile”, *The Hindustan Times*, 16 December 2016, <http://www.hindustantimes.com/editorials/new-bill-gives-india-s-70-million-disabled-reasons-to-smile/story-rkTgWUniAVq2fqXu6VMnO.html>

589 *The Rights of Persons with Disabilities Act 2016*, No. 49

590 Social Statistics Division, *Disabled Persons in India: A Statistical Profile 2016*, Ministry of Statistics and Programme Implementation (MOSPI), GoI, New Delhi, 2016, p. 31-33, [http://mospi.nic.in/sites/default/files/publication\\_reports/Disabled\\_persons\\_in\\_India\\_2016.pdf](http://mospi.nic.in/sites/default/files/publication_reports/Disabled_persons_in_India_2016.pdf)

591 PTI, “India’s Unemployment Rate Highest in 5 Years in 2015-16”, *The Indian Express*, 29 September 2016, <http://indianexpress.com/article/india/india-news-india/unemployment-india-paints-grim-picture-highest-in-5-years-in-2015-16-3056290/>

592 Virendra Singh Gosain, “New Bill gives India’s 70 Million Disabled Reasons to Smile”, *The Hindustan Times*, 16 December 2016, <http://www.hindustantimes.com/editorials/new-bill-gives-india-s-70-million-disabled-reasons-to-smile/story-rkTgWUniAVq2fqXu6VMnO.html>

593 NCPEDP, *Education*, (website), New Delhi, 2015, <http://www.ncpedp.org/Education>; Manash Gohain, “84% of Seats for Disabled Unfilled at Top Universities”, *Times of India*, 30 November 2017, <https://timesofindia.indiatimes.com/city/delhi/84-seats-for-disabled-unfilled-at-top-universities/articleshow/61856865.cms>

594 Department of Empowerment of Persons With Disabilities, “About Accessible India Campaign”, (website), Ministry of Social Justice

As of 1 December 2017 there has been no official public record of the follow through or degree of accessibility achieved.<sup>595</sup> The measurement of overall engagement by society, public and private businesses was supposed to be reported through the “Inclusiveness and Accessibility Index” which was launched on 30 March 2016, but, as of 1 December 2017, it has not yet been made available for public review.<sup>596</sup>

The ongoing lack of implementation was highlighted in a report by the Disability Rights Alliance which conducted a survey of 1,200 polling stations in Tamil Nadu ahead of the 2016 elections. “Around 25 percent of the audited booths continue to have inaccessible ramps, and around 35 percent have obstacles in the pathways,” which is the same level of coverage recorded in their last report in 2009.<sup>597</sup>

### *Lesbians, Gays, Bisexuals, Transsexuals and Queer (LGBTQ)*

In 2012, the Ministry of Health estimated 2.5 million gay men in India, or 0.2 percent of the population.<sup>598</sup> However, a 2014 study by the University of Massachusetts said that the figure was higher for LGBTQ persons in India, between 0.6 and 3.8 percent of the population.<sup>599</sup>

The IPC Section 377 criminalizes “acts against the order of nature” which fall under three basic categories: carnal offences against minors; sodomy against women; and homosexual acts of sodomy by men. IPC Section 377 has been repeatedly cited as “anti-gay” legislation by international rights bodies and human rights groups, and is argued to contravene the Right to Privacy as ruled by the Supreme Court.<sup>600</sup> As stated by the High Court of Delhi, “It was based on a conception of sexual morality specific to Victorian era drawing on notions of carnality and sinfulness... The discrimination severely affects the rights and interests of homosexuals and deeply impairs their dignity.”<sup>601</sup> In 2015, IPC Section 377 was applied to 814 cases of sex with minors and 533 were cases against adults.<sup>602</sup> However, due to ambiguity of the law, it did not discriminate between sexual assaults and consensual sex between adults.<sup>603</sup>

In 2009, the Delhi High Court ruled IPC Section 377 unconstitutional which then decriminalized it nation-wide.<sup>604</sup> Four years later, the Supreme Court of India overturned this decision and criminalized it again.<sup>605</sup> In 2016, the Supreme Court agreed to review the decision to reinstate the law.<sup>606</sup> As of 9 January 2018 the review process was on.<sup>607</sup>

and Empowerment, 30 August 2015, <http://accessibleindia.gov.in/content/innerpage/about-accessible-india-campaign.php>

595 Sanjay Kumar, *Accessible India Campaign*, PIB, Department of Empowerment of Persons with Disabilities (DEPwD), GoI, 9 March 2017, <http://pib.nic.in/newsite/printrelease.aspx?relid=159009>; *Ibid.*

596 PIB, *Government Launches ‘Inclusiveness and Accessibility Index’ as Part of Prime Minister’s ‘Sugamya Bharat Abhiyan’ for Persons with Disabilities*, Ministry of Social Justice and Empowerment, GoI, 30 March 2016, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=138417>

597 Zubeda Hamid, “Many Polling Booths Remain Inaccessible: Disability Activists”, *The Hindu*, 12 May 2016, <http://www.thehindu.com/news/cities/chennai/many-polling-booths-remain-inaccessible-disability-activists/article8587460.ece>

598 PTI, “Govt. Submits Data on Gay Population”, *The Hindu*, 13 March 2012, <http://www.thehindu.com/news/national/govt-submits-data-on-gay-population/article2991667.ece>

599 Lester Feder, *Homophobia Costs India An Estimated \$31 Billion Annually – Should Development Institutions Care?*, *The Williams Institute: UCLA School of Law*, 14 March 2014, <https://williamsinstitute.law.ucla.edu/press/homophobia-costs-india-an-estimated-31-billion-annually-should-development-institutions-care-2/>

600 Equaldex, *LGBT Rights in India*, (website), 6 March 2017, <http://www.equaldex.com/region/india>; *Lawyered*, “Simplifying Section 377: From British Raj to Changing Times, What India Needs to Understand”, *The Better India*, 29 June 2017, <https://www.thebetterindia.com/106813/section-377-indian-penal-code-simpler-words/>

601 *Naz Foundation vs. Government of NCT and Ors.*, 2010 Cri LJ 94

602 NCRB, *Crime in India 2015 Compendium*, GoI, New Delhi, 2016, pp. 6, 101.

603 *Ibid.*; Shibu Thomas, “14% of Those Arrested Under Section 377 Last Year Were Minors”, *The Times of India*, 29 September 2016, <http://timesofindia.indiatimes.com/city/mumbai/14-of-those-arrested-under-section-377-last-year-were-minors/articleshow/54573741.cms>

604 *Naz Foundation v. Government of NCT of Delhi*, 160 DLT 277(2009), para.132.

605 *Suresh Kumar Koushal v. Naz Foundation*, 1 SCC 1 (2014), para. 54.

606 *National Legal Services Authority v. Union of India*, 5 SCC 438 (2014), para 129.

607 *Express Web Desk*, “Supreme Court to Review Section 377: Here’s What You Need To Know”, *Indian Express*, 9 January 2018, <http://>

India's transgender, intersex and eunuch community, locally referred to as *hijra*, were legally recognised as a third gender in 2014.<sup>608</sup> According to the Indian Journal of Psychological medicine, “Thirty-one percent of transgender persons in India end their life by committing suicide, and 50% of them have attempted suicide at least once before their 20th birthday; however, the exact prevalence of completed suicide among transgender persons in the country remain undocumented.”<sup>609</sup> There are inclusive laws that allow homosexuals and transgenders to donate blood and legally change their gender (if there is also sex corrective surgery).<sup>610</sup> The Indian parliament passed the Transgender Persons (Protection of Rights) Bill 2016, which aims to protect the rights of transgender persons in accessing education, employment and healthcare following the Supreme Court order. However, the legislation defines transgenders as “neither wholly female nor wholly male; or a combination of female or male; or neither female nor male”.<sup>611</sup> The Oxford Dictionary defines “transgender” as a matter of self-identification: “Denoting or relating to a person whose sense of person identity and gender does not correspond with their birth sex”.<sup>612</sup>

India's legal framework does not protect LGBTQ persons from discrimination due to their sexual orientation and gender identity. Same-sex marriages are not recognised by law, adoption is not permitted for same-sex couples and homosexuals cannot serve in the military<sup>613</sup> as it constitutes “unbecoming conduct”.<sup>614</sup> There is also a lack of legal protection from discrimination in regards to housing, employment and public acts of intolerance and homophobia.<sup>615</sup>

According to a 2015 study conducted by the India Institute of Technology Delhi, discrimination or rejection from parents had the most significant negative psychological impact on gay or lesbian individuals.<sup>616</sup> Discrimination is most severe in rural areas, where “village medics and babas often prescribe rape to cure lesbians of homosexuality. Refusal to marry brings more physical abuse.”<sup>617</sup>

### *People from North-East of India*

A 2014 report published by the North-East Committee setup by the MHA stated that between 2005 and 2010, 414,850 people from North-Eastern India migrated to other Indian cities, though the majority (approximately 200,000) have moved to Delhi.<sup>618</sup> Discrimination against people from the North-East takes many forms— being called derogatory names, stereotyping North-Eastern women as having “loose morals”, viewing the men with tattoos or dyed hair as drug dealers or “miscreants”,<sup>619</sup> non-payment of wages and arbitrary termination of employment.<sup>620</sup> According

[indianexpress.com/article/india/supreme-court-to-review-section-377-homosexuality-gay-lesbians-all-your-questions-answered-5016319/](http://indianexpress.com/article/india/supreme-court-to-review-section-377-homosexuality-gay-lesbians-all-your-questions-answered-5016319/)  
608 Homa Khaleeli, “Hijra: India's Third Gender Claims its Place in Law”, *The Guardian*, 16 April 2014, <https://www.theguardian.com/society/2014/apr/16/india-third-gender-claims-place-in-law>

609 H. G. Virupaksha, Daliboyina Muralidhar, and Jayashree Ramakrishna, “Suicide and Suicidal Behavior Among Transgender Persons.” *Indian Journal of Psychological Medicine*, Vol 38, Issue 6, 2016, p. 505–509, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5178031/>

610 Equaldex, *LGBT Rights in India*, (website), 6 March 2017, <http://www.equaldex.com/region/india>

611 Lok Sabha, *Transgender Persons (Protection of Rights) Bill 2016*, Bill no. 201 of 2016, <http://www.prsindia.org/uploads/media/Transgender/Transgender%20Persons%20Bill,%202016.pdf>

612 Oxford Dictionary, *Transgender*, (website), 2017, <https://en.oxforddictionaries.com/definition/transgender>

613 Equaldex, *LGBT Rights in India*, (website), 6 March 2017, <http://www.equaldex.com/region/india>

614 Pritika Jain, *Should the Homosexuals Be Allowed To Serve In Armed Forces: A Critical Analysis*, *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)*, Vol. 20, Issue 2, Ver. 2, February 2015, pp. 14-15, <http://www.iosrjournals.org/iosr-jhss/papers/Vol20-issue2/Version-2/C020221215.pdf>

615 Equaldex, *LGBT Rights in India*, (website), 6 March 2017, <http://www.equaldex.com/region/india>

616 Sanchita Srivastava and Purnima Singh, *Psychosocial Roots of Stigma of Homosexuality and Its Impact on the Lives of Sexual Minorities in India*, *Open Journal of Social Sciences*, No. 3, 21 August 2015, p. 135, [http://file.scirp.org/pdf/JSS\\_2015082110220314.pdf](http://file.scirp.org/pdf/JSS_2015082110220314.pdf)

617 Rashmi Patel, “Being LGBT in India: Some Home Truths”, *Live Mint*, 27 August 2016, <http://www.livemint.com/Sundayapp/sAYrieZdZKEybKzhP8FDbb/Being-LGBT-in-India-Some-home-truths.html>

618 Shri M. P. Bezbaruah, “Report of the Committee Under the Chairmanship of Shri M.P.Bezbaruah to Look into the Concerns of the People of the North East Living in Other Parts of the Country”, *Assam Public Service Commission (APSC), Ministry of Home Affairs, GoI*, 2014, p. 6, <http://itanagar.nic.in/documents/Bezbaruah.PDF>

619 Duncan McDurie-Ra, *North-East Migrants in Delhi: Race, Refuge and Retail*, *International Institute of Asian Studies (IIAS)*, Amsterdam University Press, Amsterdam, 2012, pp. 96-97

620 Bijoyeta Das, “India's Northeast Speaks Out Against Racism”, *Al Jazeera*, 19 February 2014,



to a 2012 study by the Indian Institute of Advanced Study (IIAS), discrimination is most often experienced in their search for accommodation in cities in terms of arbitrary eviction, refusal of accommodation, higher rent rates and assault.<sup>621</sup>

The systemic and specific nature of discrimination of North-Easterners has gained greater political awareness and resulted in the 2014 Bezbaruah Report which outlined the extent of discrimination and its remedy. The report covered six main concerns of migrant North-Easterners: a sense of insecurity, cultural conflict, daily discrimination, racial comments and violence, workplace discrimination, and apathy of law enforcement.<sup>622</sup> The Bezbaruah Report recommendations were split by their timeline for implementation:

**Fig. 52 — Recommendations for North Eastern Inclusiveness Based on Priority, 2012<sup>623</sup>**

Timeline	Recommendations
Intermediate (6 months – 1 year)	Study North Easterner's concerns
	Amend IPC Sec. 153
	Legal assistance and law implementation
	Cross-cultural understanding through sports
	Curriculum on the North East
	State Government outreach
Short Term (1 – 1.5 years)	Sensitize law enforcement agencies
	Strengthen law enforcement agencies
	Create cultural and media awareness
	Coordination on all schemes for the North East
	North East cultural/tourism programmes
	Private sector programmes
Long Term (1.5 – 3 years)	Anti-racial law
	Establish North East Centre in Delhi
	World-wide North East awareness
	Umbrella organization for all North East activities

Part of the advocacy leading up to the Bezbaruah Report was the 2011 survey by The North-East Support Centre and Helpline (NESC&H). It found 78 percent of the approximately 200,000 of people from the North-East in Delhi faced some form of discrimination.<sup>624</sup> While the report revealed 96 cases of crime against them, Delhi Police officially registered only 36 cases— five of which had been followed up.<sup>625</sup> In a 2017 report published in the Indian Sociological Society Journal, 68.4 percent of North-Eastern respondents in Delhi indicated that the recommendations implemented from the report have led to a positive impact in their lives.<sup>626</sup>

A study on discrimination and challenges of women from the North-East was conducted from 2012-2014 by the Jamia Millia Islamia University, with 215 women aged 18-32 living in Mumbai, Delhi, Bengaluru and Kolkata. 23 percent of the women claimed to have experienced different types

<http://www.aljazeera.com/indepth/features/2014/02/voices-from-india-northeast-201421811314600858.html>

621 Duncan McDuie-Ra, *Northeast Migrants in Delhi*, IIAS, 2012, p. 100, 101.

622 *Ibid.*, p. 1-10.

623 *Ibid.*, p. 58-78.

624 Madhu Chandra, *A Research Report: North East Migration and Challenges in National Capital Cities*, North East Support Centre & Helpline in association with South Asia Institute of Advance Christian Studies (SALACS) Bangalore, Dwarka, New Delhi, 2011, p. 25, <http://www.nehelpline.in/wp-content/uploads/2015/06/NE-Migration-Challenges-Research-Report.pdf>; Hakim Irfan, "North-East residents in Delhi Facing Bias: Report", *India Today.in*, 18 April 2011, <http://indiatoday.intoday.in/story/report-says-north-east-residents-in-delhi-face-humiliation/1/135561.html>

625 *Ibid.*

626 Hoineilbing Sitlhou and Salah Punathil, *Research in Progress: Racial Discrimination and Violence Against Northeasterners and the Bezbaruah Committee Report, 2014*, Indian Sociological Society (ISS), Vol. 1, No.1, April 2017, p. 97, [http://www.insoso.org/images/pdfs/Hoineilbing\\_Sitlhou\\_Salah\\_Punathil\\_6.PDF](http://www.insoso.org/images/pdfs/Hoineilbing_Sitlhou_Salah_Punathil_6.PDF)

and degrees of verbal harassment or abuse from their landlords and 16 percent claimed that their landlords sometimes raised uncomfortable questions regarding their place of origin, work, food habits, lifestyle, friends, and dress sense.<sup>627</sup> 62 percent had “frequently suffered” varying forms of discrimination in their everyday lives— in the workplace, while travelling, at college/university, or on the street. The most common form of discrimination were overcharging by auto drivers/taxis, eve teasing, molestation, being mistaken as a foreigner, and being overcharged by shopkeepers.<sup>628</sup>

Most respondents said that they would not trust the local police to protect them; only 13 percent sought their help. Instead, 72 percent preferred to seek the help of friends or student unions and 48 percent felt that sensitisation was important to help police enforce gender and culturally aware strategies.<sup>629</sup>

### *Ethnic Africans /Black Minorities*

Approximately 40,000 Africans study and work in India.<sup>630</sup> African women have faced harmful stereotypes of being prostitutes and men stereotyped as drug dealers.<sup>631</sup> There also 55,000 Siddis, a lesser known group of ethnic Africans who have lived in India since 900 AD.<sup>632</sup> They face discrimination as they are seen as lower caste or non-Indian, and face difficulties in finding jobs or housing in Indian cities, as well as face verbal abuse.<sup>633</sup>

In May 2016, 12 Africans were allegedly attacked in Delhi over their “free lifestyle”. In October 2014, a mob attacked African students at a central Delhi metro station. In January 2014, Somnath Bharti, then the Law Minister of Delhi, led a mob ostensibly to bust an alleged sex and drug racket. Four African women, two from Nigeria and two from Uganda, were attacked by the mob although the sex and drug racket allegations were not substantiated.<sup>634</sup>

India’s Foreign Minister, Sushma Swaraj, has stated that such incidents were spontaneous, and since they were not premeditated, could not count as racially motivated. African ambassadors submitted an unprecedented complaint and stated that “no known, sufficient and visible deterring measures” were taken to protect African citizens from racial profiling and violence.<sup>635</sup>

### *Rationalists/Atheists*

According to the 2011 census, 33,000 people were identified as atheist and 2.9 million declined to state their religion.<sup>636</sup> There have been strong reactions against those who publically profess atheistic

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627 *Jamia Millia Islamia – Centre for North East Studies, Discrimination and Challenges Before Women from North East India: Case Studies from Four Metros- New Delhi, Mumbai, Kolkata and Bengaluru, National Commission for Women, New Delhi, 2014.*

628 *Ibid.*

629 *Ibid.*

630 *The Economist*, “Africans in India: They Don’t Love US”, 2 June 2016, <http://www.economist.com/news/asia/21699936-murder-congoliese-migrant-makes-africans-india-nervous-they-dont-love-us>

631 *Aletta Andre*, “Being African in India: ‘We are Seen as Demons’”, *Aljazeera*, 26 June 2016, <http://www.aljazeera.com/indepth/features/2016/06/african-india-demons-160620101135164.html>

632 *Rita Banerji*, “India’s Unsung African Blood”, *Huffington Post.in*, 3 November 2015, [http://www.huffingtonpost.in/rita-banerji/indias-unsung-african-blo\\_b\\_6742294.html](http://www.huffingtonpost.in/rita-banerji/indias-unsung-african-blo_b_6742294.html); they have either emigrated thousands of years ago, or were sold as slaves in India from 700 to 900 AD and escaped and settled in rural areas. They have since lost their native languages and speak local Indian dialects, but still have unique dances and music.

633 *Jahnavi Sen*, “Africans in India: Pictures that Speak of a Forgotten History”, *The Wire*, 20 March 2016, <https://thewire.in/25347/africans-in-india-pictures-that-speak-of-a-forgotten-history/>

634 *Nilanjana Bhowmick*, “Racist Attacks in India Give China the Edge in Africa”, *South China Morning Post*, 31 March 2017, <http://www.scmp.com/week-asia/geopolitics/article/2083885/racist-attacks-india-could-give-china-edge-africa>

635 *Shubha singh*, “Attack on African nationals terming racist assaults as ‘petty crime’ can do more harm than good”, *Firstpost*, 5 April 2017, <https://www.firstpost.com/world/attack-on-african-nationals-terming-racist-assaults-as-petty-crimes-may-do-more-harm-than-good-3367840.html>

636 *Aloke Tikku*, “The Land of Believers: In India, Just 33,000 People are Atheists”, *Hindustan Times*, 28 July 2016, <http://www.hindustantimes.com/india-news/the-land-of-believers-in-india-just-33-000-people-are-atheists/story-BjwB8QXrW0lvFhd0uJ9nGM.html>

values. Between 2013 and 2015, three high-profile rationalists and advocates against superstition were killed— Narendra Dabholkar, Govind Pansare and M.M. Kalburgi.<sup>637</sup> In addition to this violence, there are accusations that there is a lack of will to investigate. In Dabholkar’s case, one man was arrested and charged, while the other two are still missing.<sup>638</sup> Pansare’s killer was arrested in September 2015 but has yet to be tried.

In October 2016, Swami Balendu, a guru-turned-atheist, had planned a meeting to discuss atheism with his friends at his private property. However, it was shut down when Hindutva groups protested against it.<sup>639</sup> In March 2017, members of a Muslim radical group in Coimbatore, Tamil Nadu, murdered a man for professing atheistic beliefs.<sup>640</sup> The rationalist, Sanal Edamaraku, was threatened by fundamentalist Christians after he proved that the water droplets forming at the base of a crucifix in a Mumbai church was not a miracle, but the result of a broken drainage pipe.<sup>641</sup> Sanal fled the country after the police filed charges against him under IPC Section 298 on the grounds that he had wounded religious sentiments. The charges were filed in opposition of the protections available to atheists under Part III of the Constitution relating to freedom of speech and expression.

However, the Indian legal system has protected the right of non-participation in religious rituals. In 2012, a Public Interest Litigation (PIL) challenged the installation of a statue depicting Thanthai Periyar, the atheist caste reformer. The petition was submitted on the grounds that it would influence children to become atheists, but the case was rejected by the Supreme Court.<sup>642</sup> In 2014, the Bombay High Court ruled in favour of a teacher at a State-run school who was denied a higher salary due to the “indiscipline” of not folding his hands in obeisance during school prayers.<sup>643</sup> The court held that no one could be compelled to participate or even show deference during the recitation of religious prayers, since this would violate the right to speech and expression under Article 19(1)(a). Prior to that, the Supreme Court had also ruled that requiring every member of the Managing Committee of the Guruvayoor temple to be a practicing Hindu amounts to an unconstitutional practice.<sup>644</sup>

## Christians

Christians make up 2.3 percent of India’s population.<sup>645</sup> According to the World Watch List, persecution and abuse of Christians in India has significantly increased. In 2015 India was ranked at 21,<sup>646</sup> in 2016 it was ranked 15 and in 2017 India ranked 11.

637 Raj Das, “What Happened To Them Proves India Is No Country For Rational People”, *Scoop Whoop*, 15 September 2015, <https://www.scoopwhoop.com/inothernews/no-country-for-rationalist-people/#.m65i5hlyq>

638 Abhiram Ghadyalpatil, “4 Years On, Narendra Dabholkar’s Kin Protest Tardy Probe”, *Live Mint*, 21 August 2017, <http://www.livemint.com/Politics/G4rNbyVq4DxuFkthsALKk1/4-years-on-Narendra-Dabholkars-kin-protest-tardy-probe.html>

639 *The Hindu*, “Hindutva Activists Attack, Force Cancellation of Private Meeting of Atheists in Mathura”, 14 October 2016, <http://www.thehindu.com/news/national/other-states/Hindutva-activists-attack-force-cancellation-of-private-meeting-of-atheists-in-Mathura/article16071222.ece>

640 Arun Janardhanan, “Tamil Nadu Youth Killed for Being an Atheist, Father Says He Too Will Become One”, *Indian Express*, 27 March 2017, <http://indianexpress.com/article/india/tamil-nadu-youth-h-farook-killed-for-being-an-atheist-father-says-he-too-will-become-one-4586999/>

641 Raj Das, “What Happened To Them Proves India Is No Country For Rational People”, *Scoop Whoop*, 15 September 2015, <https://www.scoopwhoop.com/inothernews/no-country-for-rationalist-people/#.m65i5hlyq>

642 P.D. Sundaresan v. The Principal Secretary to Government, 5 MLJ 208 (2012).

643 Sanjay Ananda Salve v. State of Maharashtra, 2 MLJ 178 (2014).

644 M.P. Gopalakrishnan Nair v. State of Kerala, 11 SCC 45 (2005).

645 Office of the Registrar General & Census Commissioner, India, Religion, MHA, GoI, [http://www.censusindia.gov.in/2011census/Religion\\_PCA.html](http://www.censusindia.gov.in/2011census/Religion_PCA.html)

646 Open Doors, 2015 World Watch List”, (online), Harriet Sherwood, “Christians in India Increasingly Under Attack, Study Shows”, *The Guardian*, 11 January 2017, <https://www.theguardian.com/world/2017/jan/11/christians-in-india-increasingly-under-attack-study-shows>

The allegation that Christian communities are forcing conversions of Hindus is a persistent argument to justify the persecution of Christians by Hindu nationalist groups.<sup>647</sup> Recurrent crimes against Christians are: assaults, threats, hate speeches, false allegations, rape, murder, kidnapping, desecration, vandalizing and burning of churches, and the disruption of religious services and ceremonies.<sup>648</sup> According to a Human Rights Watch Report, government authorities are not pressured to persecute the offenders of such crimes, creating a general perception of impunity.<sup>649</sup>

Christians also face social discrimination. In 2012 the Ministry of Statistics and Programme Implementation (MOSPI) conducted a study on unemployment amongst the major religious groups. It found that in spite of a higher literacy rate, Christians face the highest unemployment rate (average 52 per 1,000) compared to Hindus, Muslims and Sikhs.<sup>650</sup> It is important to note that between 50 and 75 percent of the Christians in India are former SCs.<sup>651</sup>

+Dalits who converted to Christianity to escape caste oppression still cannot benefit from the reservations unless they reconvert to Hinduism.<sup>652</sup> According to Member of Parliament Srinivasa Reddy, this has been a longstanding issue which results in social oppression and economic and educational backwardness.<sup>653</sup>

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647 Unites States Commission on International Religious Freedom, 2017 Annual Report, p. 151, <http://www.uscirf.gov/sites/default/files/2017.USCIRFAnnualReport.pdf>

648 Evangelical Fellowship of India Report 2016, p. 7 and following, <https://www.worldwatchmonitor.org/old-site-imgs-pdfs/4628515.pdf>; Persecution Watch February 2017, p. 1-3, <http://www.efionline.org/the-news/persecution/655-persecution-watch-february-2017?format=pdf>

649 Human Rights Watch, World Report 2016: Events of 2015, 2016, p. 299, [https://www.hrw.org/sites/default/files/world\\_report\\_download/wr2016\\_web.pdf](https://www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf)

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## CHRI PROGRAMMES

CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

### 1. Access to Justice

**Police Reforms:** In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focussed on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

### 2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In the latter CHRI is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

### 3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.



**CHRI**  
Commonwealth Human Rights Initiative  
working for the practical realisation of human rights in  
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