

# Written statement for the 22<sup>nd</sup> session of the Human Rights Council Annual Report by the UN High Commissioner for Human Rights Item 2 - Interactive Dialogue

## Submitted by the International Movement against all forms of Racism and Discrimination<sup>1</sup>

This statement highlights some particular concerns with regard to the victims of caste discrimination in response to the High Commissioner's annual report (A/HRC/22/17) and her recent statements, including on the issue of violence against women.

### Violence against Dalit women

In recent months, two strong statements have been issued by the High Commissioner as a follow up to the heinous gang rape of a woman in India in December 2012. In that month, Madam Pillay stated that violence against women in India is "a national problem, affecting women of all classes and castes that will require national solutions."<sup>2</sup> In her January statement, the Verma Committee's report was welcomed as a "groundbreaking basis for action against violence against women in India". The High Commissioner underlined recommendations such as enhanced accountability for the police for sexual violence offences.<sup>3</sup>

The case has illustrated that violence against women is not only widespread and extreme, but often surrounded by a lack of effectively functioning justice systems and the rule of law. What was largely overlooked in the media and political attention to the case was the fact that women from the lower caste and indigenous communities are often the worst victims of sexual violence and exploitation.

The same pattern is found in other caste-affected countries, as noted by UN Treaty Bodies and Special Rapporteurs. Brutal assaults against Dalit women happen every day, and Dalit women are often subjected to mass violence by other castes. A wave of rape cases in the state of Haryana illustrates this problem. In Haryana, numerous Dalit women and underage girls were raped in September and October 2012, often with extreme brutality. In one of the most publicised cases, a 16-year old Dalit girl was raped for three hours by at least seven men – mostly from a dominant caste – who filmed the incident with their cell phones. When the victim's father discovered what had happened, he committed suicide. Only when faced with mass protests did the police decide to take action against the suspected perpetrators.

A key problem is that police officials fail to register complaints of such assaults, often do not investigate rape cases, and re-traumatize victims who approach them for help. In the wake of recent events, one cannot help to ask: Why did not these heinous crimes against Dalits provoke anger amongst the larger Indian public?

The reality is that crimes against Dalit women are often overlooked in the mainstream and cases go underreported by the police. Sometimes the reactions of people around a Dalit victim of rape are pity or hate. She and her parents may even be blamed for the crime, adding further stigma to the victim's physical trauma and mental torture.

Dalit women and girls belong to the category of especially vulnerable groups, who are exposed to multiple and intersecting forms of discrimination and violence on the basis of gender and caste. It is high time that the international community recognizes and acts to eliminate this. We therefore appeal to OHCHR and HRC to give more consideration to Dalit women's rights and mainstream them into the work of the HRC as a general concern, especially in the areas of multiple forms of discrimination and gender mainstreaming.

We also recommend that the Special Rapporteur on violence against women looks more into this situation, when she visits India in April this year, and call on the newly established UN Working Group on discrimination against women in law and practice to take due notice of this problem.

Furthermore, governments should take effective measures to ensure accountability in responses to sexual assaults against Dalit women by the police, judiciary and medical staff. Law reform efforts should be

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<sup>1</sup> This statement is supported by the International Dalit Solidarity Network (IDSN), an international network working on a global level for the elimination of caste discrimination and similar forms of discrimination based on work and descent. IDSN members include national Dalit platforms in caste-affected countries, Dalit Solidarity Networks in Europe and international associates.

<sup>2</sup> Fundamental changes needed in wake of India rape tragedy: Pillay, 31 January 2012

<sup>3</sup> India: Pillay praises groundbreaking report on violence against women, 25 January 2013

comprehensive and minimize the risks and delays that sexual assault survivors now endure. Police officers, soldiers, politicians, and civil servants should not be above the law for sexual assault or anything else.

### **Caste inclusion in post-2015 development agenda and UN Guidance Note**

Secondly, the annual report sums up the contributions of the OHCHR to the post-2015 process and the newly established UN network on racial discrimination and protection of minorities. In this regard, caste discrimination needs to stand out more clearly in the framing of development programming and UN policies.

With regard to the post-2015 framework, it is well documented that caste discrimination is a major obstacle to achieving development goals. Social exclusion of Dalits leads to high levels of poverty among affected population groups and unequal distribution of resources. It furthermore precludes their involvement in decision making and governance, and their meaningful participation in public and civil life. We therefore recommend that caste-based discrimination is explicitly addressed in the post-2015 agenda as a root cause of poverty, inequalities and social exclusion of particularly marginalized groups.

The UN network has the potential for mainstreaming a holistic approach to addressing caste-based discrimination by the UN system as a whole. We therefore urge the network to explicitly recognise caste-based discrimination as a key human rights challenge in the UN General-Secretary's Guidance Note to be developed on this issue. The UN can promote multi-stakeholder cooperation between its Country Teams, governments, national institutions, and civil society in this regard. The UN can also assist governments develop and implement laws, policies, and national action plans to eliminate caste-based discrimination through technical assistance and cooperation. The draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent, published by the HRC in 2009 (A/HRC/11/CRP.3), can act as a guiding framework for enacting national action plans and special measures.

It is furthermore important that the UN Guidance Note promotes inclusive and meaningful participation of affected communities. Human rights defenders, including those representing women, children, minorities, indigenous peoples, persons affected by caste-based discrimination, and disabled persons, should be given a voice in these processes.

### **HRC action on caste discrimination**

Finally, we would like to recall the strong recommendation by the High Commissioner to the international community to “come together to support these efforts as it did when it helped put an end to apartheid.” In the statement “Tearing down the walls of caste” of 19 October 2009, Madam Pillay called on the Human Rights Council to promote the draft Principles and Guidelines for the effective elimination of discrimination based on work and descent. She urged all states to rally around and endorse the framework, as it complements existing international standards of non-discrimination.

Regrettably, the High Commissioner's call still stands unanswered in the Human Rights Council today. The HRC has not yet explicitly included caste – estimated to affect at least 260 million persons globally – in a single resolution text. Nor has it been dealt with as a separate, thematic topic on par with other aggravated forms of discrimination based on e.g. disability or sexual orientation. Only one country, Nepal, has officially endorsed the draft framework in its existing format. This is in spite of the many concerns expressed on this topic by UN Special Rapporteurs, UN Treaty Bodies and States over the past few years. Caste keeps coming up in thematic debates and reports as a root cause to grave, cross-cutting human rights violation, including in Universal Periodic Reviews, but no comprehensive action is taken by the HRC to address it.

Some States, like Norway and the Netherlands, have called for the sharing of good practices to eliminate caste discrimination in interactive dialogues of the HRC. Last year alone, 15 caste-specific recommendations were made during the reviews of India, the UK and Pakistan at the 13<sup>th</sup> and 14<sup>th</sup> UPR WG sessions. Nine Special Procedure mandate holders addressed the issue in their reports in 2012.<sup>4</sup> Two examples are the mission report on India by the Special Rapporteur on human rights defenders on the need to protect Dalit rights activists, especially the plight of Dalit women (A/HRC/19/55/Add.1), and the thematic report by the Special Rapporteur on the human right to safe drinking water and sanitation concerning the stigma and systematic exclusion that caste systems result in (A/HRC/21/42).

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<sup>4</sup> List of UN Special Procedure mandates which addressed caste discrimination in 2012: Contemporary forms of racism; Contemporary forms of slavery; Minority issues; Human rights defenders; Violence against women; Water and sanitation; Extreme poverty; Extrajudicial, arbitrary and summary executions; and UN working Group on discrimination against women in law and practice. Find all references here: [www.idsn.org/UNcompilation](http://www.idsn.org/UNcompilation)

In 2009, the High Commissioner on Human Rights said: “The time has come to eradicate the shameful concept of caste.” We extend this call to the HRC for immediate action on the topic. We therefore call on member states to condemn caste discrimination as a violation of international human rights law; to endorse the draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent (A/HRC/11/CRP.3); and propose that a panel discussion is convened in an HRC regular session on good practices to tackle this form of discrimination, also having in mind the establishment of an independent monitoring mechanism, which promotes and oversees human rights violations against persons affected by caste discrimination.