

**IDSN recommendations on relevant issues to be considered
at the 11th session of the Human Rights Council (2-18 June 2009)**

Item 2: Report by High Commissioner (follow-up to Nepal and India country visits)

During the High Commissioner's visit to Nepal and India in March 2009, Madam Pillay urged the two governments to effectively eliminate caste-based discrimination and take a lead in the global fight against this form of discrimination. With these statements the High Commissioner sent a strong signal to the governments of India and Nepal that caste-based discrimination must be effectively addressed, both as a national and an international human rights problem. This is the strongest support ever shown by the principal human rights official of the UN to the global fight against caste-based discrimination. The High Commissioner reaffirmed her commitment to addressing this issue during the Durban Review Conference, where she said in a press conference on 21 April that "she personally felt that "related intolerance" [in the DDPA] would cover discrimination on the basis of caste, class and social status. She agreed that all forms of discrimination should be addressed and said her office has suggested that an Observatory be established as a database to collect information on all kinds of discrimination."

Read the [IDSN press release](#) of 26 March which includes quotes from the High Commissioner's speeches.

Recommendation to delegations

- On the occasion of the presentation of her report, delegations may wish to welcome the High Commissioner's commitment to addressing this human rights issue during her country visits to these two affected countries, and encourage her to continue to promote this field of concern on a systematic basis.

Item 3: Women's rights – Dalit women

Report by the Special Rapporteur on violence against women, Ms. Yakin Ertürk (3 June)

In her report to the 11th session of the Human Rights Council, the Special Rapporteur on violence against women, its causes and consequences, addresses a number of cases of violence against Dalit women.

Violence against Dalit women presents clear evidence of widespread exploitation and discrimination against these women subordinated in terms of power relations to men in a patriarchal society, as also against their communities based on caste.

There are some specific social customs and religious practices of which specifically Dalit Woman are victims. These customs include the devadasi and jogini system of forced prostitution.

The CEDAW committee has expressed concern about the ongoing atrocities committed against Dalit women in India and the culture of impunity for perpetrators of such atrocities (CEDAW/C/IND/CO/3).

Questions to the Special Rapporteur on violence against women:

- In the cases of violence against Dalit women that were presented, did the Special Rapporteur encounter specific types of violence?
- In the Special Rapporteur's view, were the Dalit women in the cases that were presented targeted specifically because of their gender and caste?
- How does the Special Rapporteur suggest access to justice for Dalit women can be improved?
- What can be done to eliminate the sexual exploitation of Dalit women through social customs and religious practices such as the devadasi and jogini systems of forced prostitution?

Annual full day discussion on women's human rights (4 June)

Dalit women – equality in law

Dalit women are one of the largest socially segregated groups anywhere in the world. They are discriminated against three times over: they are poor, they are women, and they are Dalits. Vulnerably positioned at the bottom of caste, class and gender hierarchies, Dalit women in South Asia experience endemic gender-and-caste discrimination and violence as the outcome of severely imbalanced social, economic and political power equations. Their socio-economic vulnerability and lack of political voice, when combined with the dominant risk factors of being Dalit and female, increase their exposure to potentially violent situations while simultaneously reducing their ability to escape.

The countries where discrimination based on work and descent persists (Sri Lanka, Nepal, India, Pakistan, Malaysia and Bangladesh) are party to most of the relevant human rights instruments, which provide equal rights for women and men. As these countries are also party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), governments have a specific obligation to make sure that women can realize their human rights.

However, in spite of international and national legal mechanisms, Dalit women still face discrimination. The CEDAW Committee has stated that certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.¹ The CERD Committee has also recommended in its General Recommendation No. 29 that states take all measures necessary in order to eliminate multiple discrimination including descent-based discrimination against women, which includes discrimination based on caste and analogous forms of inherited status.²

When considering discrimination and violence against Dalit women, impunity is the key problem Dalit women face today – not only while seeking legal and judicial redress for violence, but also while attempting to access and enjoy their fundamental rights and freedoms. When considering India, the CEDAW committee expressed concern about the policy of non-interference in the personal laws of communities, the non-implementation of legislative and policy initiatives, narrow definition of rape in the current Penal Code, and the lack of legal protection against sexual and gender-based crimes against women perpetrated during communal violence.

Questions to the panel on the full day discussion on women's human rights:

- Based on your experience with addressing multiple forms of discrimination against women, could you share best practices? What type of special measures could states use to address de facto discrimination against Dalit women?
- How can impunity of violence against Dalit women be addressed in law? Could specific legislation be introduced? What type of legislation is needed to protect Dalit women from marital rape, communal sexual violence, and rape as punishment for breaking caste-taboos?

More information

See the attached **a briefing note on violence against Dalit women** prepared for the 11th Council session.

Item 6: Universal Periodic Review of Bangladesh

The Universal Periodic Review of Bangladesh took place in the Human Rights Council on 3 February 2009. In conclusions and recommendations 13; 14; 15; 18; 30; 36; and 37 of the [report of the working group](#) (A/HRC/11/18), the Government of Bangladesh is recommended to improve the human rights of women, to eliminate all forms of discrimination, to take further steps to address discrimination against vulnerable groups and to pursue its efforts to combat poverty, with the help of the international community.

¹ General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures

² General recommendation No. 29 on article 4, paragraph 2, of the Convention on the Elimination of Racial Discrimination, on descent-based discrimination

Specifically, Bangladesh is recommended to take measures to ensure women's rights are protected through implementing existing laws such as the Early Marriage Act and the Dowry Act; to continue combating discrimination and violence against women and girls by elaborating effective laws and implementing them effectively, and adopt without delay a uniform Family Code that fully complies with the provisions of CEDAW; and to ensure that women's rights are protected, through effective implementation of existing laws, the development of a comprehensive national action plan to combat violence against women and the adoption of a family code complying with the provisions of CEDAW.

In Bangladesh, Dalits constitute one of the most vulnerable groups in society. Almost 90 per cent of Dalits live in rural areas. Economic exploitation, discrimination and poverty remain their most acute problems. They are almost all marginal farmers or landless labourers. As in other South Asian countries, Dalit women face violence and impunity.

A [joint UPR submission](#) on caste-based discrimination in Bangladesh was submitted by BDERM, NU and IDSJ in September 2008. The [compilation of stakeholders' information](#) (A/HRC/WG.6/4/BGD/3) prepared by the OHCHR referred extensively to the human rights situation of Dalits in Bangladesh based on the information from this NGO report.

Request to the Government of Bangladesh

- The abovementioned conclusions and recommendations, if implemented, would greatly benefit the human rights of marginalised groups, in particular Dalit women, in Bangladesh. The Government is urged to respond positively to them and, if possible, explain how they could be implemented to help realize the human rights of Dalit women.
- With the re-election of Bangladesh to the Human Rights Council, the Government of Bangladesh is urged to promote and encourage the recommendations from the UPR exercise in collaboration with civil society with due respect to representation of marginalised groups and women.

Item 9: Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Report by the special rapporteur on racism, Mr. Githu Muigai

The previous special rapporteur Mr. Diène has on several occasions said that caste-based discrimination is implicit in his mandate, thereby reaffirming the interpretation made by the UN Committee on the Elimination of Racial Discrimination (CERD) that discrimination based on descent includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status. This position was maintained by Mr. Muigai in a statement held at a side event during the Durban Review Conference, in which he furthermore called for proper implementation and robust action of governments in order to advance in the fight against this form of discrimination. He also recalled the need for taking into account gender dimensions of caste discrimination and thorough gender analysis to meet the needs of women and girls. Nevertheless, this position continues to be questioned by certain governments, as it has been demonstrated in the context of the Durban Review Conference and during the presentation of the special rapporteur's report in 2008.

Questions to the special rapporteur:

- How do you recommend that discrimination based on work and descent is tackled more effectively and comprehensively in countries where this form of discrimination is prevalent? Would a legal framework such as the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent provide a useful tool to enhance the response and increase the recognition of the fight against this form of discrimination? And how can such draft principles and guidelines, which is the result of a yearlong study process in the former Sub-Commission, be used and promoted within your mandate?
- Discrimination based on work and descent is a cross-cutting human rights issue which is relevant to many other special rapporteurs (minorities, violence against women, contemporary forms of slavery, housing, education, water and sanitation, etc). Could a joint cooperation between these rapporteurs – maybe including UN treaty bodies and other relevant mechanisms – be envisaged to bring greater attention to this thematic area?

- How do you intend to follow-up on the non-response to the standing invitations you have issued for country visits?

More information

Read the [draft UN principles and guidelines](#) on discrimination based on work and descent

Follow-up to HRC decision on the publication of the completed Sub-Commission reports (10th Council session)

Despite the [HRC decision A/HRC/10/117](#) to publish all reports with the mandate of the former Commission on Human Rights *completed* and *submitted* to the OHCHR in accordance with the decisions and resolutions of the 58th Sub-Commission session, there is still uncertainty concerning the publication of the final report on discrimination based on work and descent.

Recommendation to delegations

- IDSN recommends that delegations follow-up with the Secretariat to ensure that the final report on discrimination based on work and descent, which was submitted to the OHCHR according to the criteria mentioned in the decision, should be published without further delay.

More information

Read about the [UN Sub-Commission study on discrimination based on work and descent](#)