

<b>Special Rapporteur on the right to food</b> <b>- Ms. Hilal Elver (Mr. Oliver De Schutter until 2014)</b>	
<p><b>Study of the Human Rights Council Advisory Committee on discrimination in the context of the right to food</b>  A/HRC/16/40  (16<sup>th</sup> session of the HR Council, March 2011)</p>	<p>In its resolution 10/12, the Human Rights Council mandated the Advisory Committee to undertake a study on discrimination in the context of the right to food, including identification of good practices of anti-discriminatory policies and strategies. The study is the outcome of a thorough research process and consultations among the members of the Advisory Committee and was endorsed by the Committee at its sixth session, for submission to the Human Rights Council at its sixteenth session.</p> <p>IV. Anti-discriminatory policies and strategies  C. Legal and social protection of the urban poor  56. Discrimination of the socially impoverished from urban areas often overlaps discrimination based on gender, ethnicity, religion, caste or age.<sup>66</sup> Governmental strategies aimed at improving access of the urban poor to food, health care and education must thus remove the multiple layers of discrimination.</p>
<p><b>Communications to/from Governments</b>  A/HRC/10/5/Add.1  (10th session of the HR Council, March 2009)</p>	<p>In the addendum to the annual report, the Special Rapporteur reports on the following communications sent to the Indian Government.</p> <p><u>INDIA</u></p> <p>53. On 13 December 2007, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a joint allegation letter regarding Dr Lenin Raghuvanshi and Mr Manoj Kumar. Dr Lenin Raghuvanshi and Mr Manoj Kumar are convener and staff member of the People's Vigilance Committee on Human Rights (PVCHR) in Varanasi, Uttar Pradesh state, respectively. Dr. Lenin Raghuvanshi was the subject of a joint urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on 16 August 2005. On 4 December 2007, from approximately 4.45pm (Indian Standard Time), Dr. Lenin Raghuvanshi reportedly received anonymous threatening phone calls on his mobile phone from callers warning him that he will be shot and killed if the PVCHR continues to report cases of deaths from starvation and malnutrition in the Uttar Pradesh state. The callers have also informed him that if the PVCHR continues its activities, staff members are to be charged with fabricated charges and the PVCHR itself forced to close down. There has been national media coverage of the death of a three-year-old boy from starvation on 25 November 2007 that was reported by the PVCHR. Its staff member, Mr. Manoj Kumar, working in the Ambedkarnagar district where the boy lived, has reportedly also been receiving threats. Concern was expressed for the physical and psychological integrity of Dr. Lenin Raghuvanshi and Mr. Manoj Kumar. Further concern is expressed that the aforementioned threats against Dr. Lenin Raghuvanshi and Mr. Manoj Kumar may be directly related to the human rights activities of the PVCHR, in particular its work to defend the right to food in India. In view of the urgency of the matter, the Special Rapporteur and the Special representative</p>

	<p>requested a response on the initial steps taken by the Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments. They also asked for clarifications and observations on the following matters:</p> <p>Whether a complaint has been lodged by or on behalf of the alleged victims, Details, and where available results, of any investigation and judicial or other inquiries carried out in relation to the aforementioned threats against Dr. Lenin Raghuvanshi and Mr. Manoj Kumar and how they conform with international standards. If no inquiries have taken place, or if they have been inconclusive, please explain why. [...]</p> <p>54. On 2 December 2008, the Special Rapporteur sent an allegation letter regarding the challenges and obstacles that the internally displaced communities from Dantewada and Bijapur districts in Southern Chattisgarh have faced in the exercise of their right to food. According to these allegations, as of February this year around 49,000 displaced persons were residing in 24 officially recognized Salwa Judum camps in the abovementioned districts with limited access to basic facilities and livelihood opportunities. The State Government claimed that it has provided free food or subsidized rations and employment opportunities in the camps under the existing social policies schemes. However, the allegations received indicate that in many camps, despite the existence of a clear food distribution plan, the public authorities have not issued to camp residents the documents necessary for them to benefit from the public distribution systems, particularly ration cards. [...]</p> <p>Communication received</p> <p>55. On 11 July 2008, the Government sent a reply to a joint communication dated 11 July 2007 regarding allegations of non-implementation of the National Rural employment Guarantee Act (NREGA) in 22 districts of Uttar Pradesh. [...]</p> <p>Follow-up</p> <p>57. On 4 December 2008, the Special Rapporteur sent a letter to ask the Government to elaborate on the reply he received on 11 July 2008. According to the Ministry, employment under NREGA is completely demand driven and there exists an elaborate procedure for the issuance of job cards. In this regard, the Special Rapporteur requested, first, further clarifications related to the extent to which information has provided to the beneficiary population about the specific modalities of this procedure; and, second, the extent to which the responsibilities and obligations of each institution involved in the procedure to issue job cards were clearly defined and communicated to the said population. [...]</p> <p>Observations</p> <p>58. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications dated 13 December 2007 and 2 December 2008 and any further reply to his letter of 4 December 2008.</p>
<p><b>Report of the former Special Rapporteur on the right to food Jean Ziegler</b></p>	<p>In the report the SR analyzes the positive developments in realizing the right to food, situations of serious concern and gives a summary of some thematic studies. In a study concerning children and their right to food, the SR mentions the issue of caste-based discrimination and cites from Prof. Thorat</p>

<p>A/HRC/4/30 (5<sup>th</sup> session of the HR Council, June 2007)</p>	<p>and Joel Lee's work on Discrimination and Exclusion in Food Related Governments Programme (see p. 13). "1. The prohibition of discrimination 34. The prohibition of discrimination requires Governments not to discriminate against children in their access to food, nor to the means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status. Yet discrimination against children is still frequent between rural and urban areas or within different communities in one country. Children living in rural areas are twice as likely to suffer from malnutrition as those living in urban areas in almost all developing countries. In South Asia, girls are more likely to be underweight than boys. In India, Dalit children are discriminated against in multiple ways that affect their right to food. These disparities, whether they are the direct or indirect consequences of governmental policies and practices, constitute violations of the prohibition of non-discrimination in the enjoyment of children's right to food."</p> <p>In the conclusion of the report, the SR makes recommendations to other countries to follow the recent examples of e.g. India (which he visited in 2005 – see the summary from the mission below).</p> <p>"V. CONCLUSION AND RECOMMENDATIONS</p> <p>68. The eradication of hunger and violations of the human right to food is the most urgent priority facing Governments today. In a world that is richer than ever before, it is unacceptable to allow children, women and men to suffer from hunger and famine. Hunger and people's lack of access to sufficient productive resources to be able to feed themselves will continue to create conflicts and force children out of school into forced labour, including recruitment into armed forces. Hunger will also continue to force people to flee their own countries. The answer is not a criminalization of those who suffer from hunger. The answer is to take immediate action to respect, protect and fulfil the right to food of every human being.</p> <p>69. The Special Rapporteur makes the following recommendations: (a) Governments should follow the recent examples of Brazil, Guatemala, India, South Africa, Venezuela and Bolivia in the implementation of the right to food at the national level. The Special Rapporteur encourages Governments to adopt an adequate legal framework to ensure the right to food for all, including and in particular for the most vulnerable. This should include a clear definition of the right to food and the obligations of the Government to respect, protect and fulfil the right to food, without discrimination, as well as provisions for strong, independent and adequately financed monitoring mechanisms; [...]"</p>
<p><b>Communications to/from Governments</b> A/HRC/4/30/Add.1 (5<sup>th</sup> session of the HR Council, June 2007)</p>	<p>The report (A/HRC/4/30/Add. 1) which is an addendum to the main report submitted to the HRC, summarizes the communications sent to Governments and the replies received by the SR on the right to food. India is the only caste-affected country mentioned in the summary. The report, however, contains a large section covering communications sent to the Government of India with the specificities of each case (see p. 17-21). One case, written to the Government on 21 August 2006, concerns discrimination against Dalits in Uttar Pradesh:</p>

	<p>“32. [...] Allegations that the residents of Jai Bheem Nagar (JBN), in Meerut City, Uttar Pradesh, do not have access to safe drinking water and are therefore compelled to consume contaminated water. JBN is a slum located on the banks of the Kali Ganga River in Meerut City, which has a population of approximately 10,000 people, mostly Dalits. [...]”</p> <p>According to the report, no replies from the Government were received by the SR by the time of the submission of the report. Hence, no follow-up has been made on these cases.</p>
<p><b>Interim report, Mission to India</b> E/CN.4/2006/44/Add.2 (62<sup>nd</sup> session of the Commission on Human Rights)</p>	<p>Interim report (E/CN.4/2006/44/Add.2) on the right to food based on his mission to India in 2005.</p> <p>The report contains several references to the connection between caste-based discrimination and undernourishment in India and some interesting recommendations. In the summary section, the SR states that: “[...] the key finding of the report is that, although famine has been overcome, millions of Indians still suffer from chronic undernourishment and severe micronutrient malnutrition, especially women and children and people of lower-caste scheduled castes and tribes. Starvation deaths have not been fully eradicated, nor have discrimination against women and against lower castes, corruption, impunity and a wide range of violations including forced labour, debt bondage and forced displacement (destroying people’s access to productive resources) remain serious obstacles to the realization of the right to food. [...]”</p> <p>In the introductory part, the SR states that: “Although today the threat of famine has been conquered, hunger and poverty remain a chronic and pervasive problem, exacerbated by widespread discrimination under the caste system and against women.</p> <p>Hunger and food in India:</p> <p>“11. Scheduled castes and tribes suffer most from hunger and malnutrition, making up 25 per cent of the rural population but 42 per cent of the poor. As a result of discrimination, many low-caste Dalits are expected to work as agricultural labourers without being paid, many held in debt bondage by their higher-caste employers. Although debt bondage is illegal, NGOs estimate that there are between 20 to 60 million bonded labourers in India, 85 per cent of them belonging to scheduled castes and scheduled tribes. Widespread discrimination prevents Dalits from owning land, as they are seen as the “worker class”, and even if they receive land (as a result of redistribution and agrarian reform programmes in some states), such land is frequently taken by force by higher-caste people in the area. Lower castes are also often restricted from using village wells, as observed by the Special Rapporteur in Shivpuri District.”</p> <p>Discrimination against the Scheduled Castes and the Scheduled Tribes:</p> <p>43. Most of the victims of starvation are women and children, members of the Scheduled Tribes and Scheduled Castes, with their deaths mainly due to discrimination in access to food or productive resources, evictions or the lack of implementation of the food-based schemes. Despite an extensive legal framework prohibiting discrimination and untouchability, discrimination persists, particularly in rural areas. In Madhya Pradesh and Orissa, the Special Rapporteur observed that access to village water wells is still not allowed for</p>

	<p>Dalits and that even if members of the Scheduled Castes or Scheduled Tribes were granted lands, higher castes often take the land away. Reports were also received that in Uttar Pradesh and Uttaranchal, Dalit families were forcibly evicted from their land by upper castes, and sometimes forced to work for them. In Harinagar, Kashipur, it is reported that 154 Dalit families have been forcibly evicted from their land and remain landless to this day despite a decision by the Supreme Court in their favour in 1996. As former Chief Justice R. Mishra said in a meeting with the Special Rapporteur, “low-caste people receive the land, but the upper caste enjoys it”. These are crimes punishable by imprisonment and fine under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, but the law is not enforced.</p> <p>Recommendations (of relevance):</p> <p>(e) All Indians should be treated equally before the law. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, should be fully implemented, and atrocities committed should be prosecuted and brought to justice; (m) Implementation of all food-based schemes must be improved by incorporating the human rights principles of non-discrimination, participation, transparency and accountability. Monitoring of all food-based programmes, including PDS, must include monitoring of impacts on malnutrition and undernourishment;</p>
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