

IDSN note on the observations and recommendations on caste-based discrimination presented at the 34th session of the Human Rights Council	
Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on her mission to India A/HRC/34/51/Add.1	B. Scheduled castes and scheduled tribes 67. In India, the legacy of scheduled castes and so-called “backward classes” remains. Scheduled castes and scheduled tribes comprise 22 per cent of the population of India, but are overrepresented among the poor. Despite affirmative action programmes and “reservations”, those groups continue to be subject to stigmatization and discrimination, including in relation to housing. According to the 2011 census, scheduled castes and scheduled tribes have, on average, lower quality housing, made with inadequate materials, with only 22 per cent of households of scheduled tribes made with brick or concrete walls. Figures concerning the lack of access to latrines were more alarming than for the general population, with 66 per cent of members of scheduled castes lacking access to latrines, and 77 per cent of scheduled tribes.¹ 68. In 2007, the Committee on the Elimination of Racial Discrimination urged India to intensify its efforts to effectively punish acts of “untouchability”, to take effective measures against residential segregation and to ensure equal access for Dalits to places of worship, water sources and any other places or services intended for use by the general public (see CERD/C/IND/CO/19, para. 13). 69. Although specific provisions to protect scheduled tribes are included in the Constitution and in numerous policies, the reality is less than satisfactory. Entire tribal communities remain excluded from benefits essential to them, like the tea plantation workers in Assam, who were forcibly brought from central India, but have not been given the status of scheduled tribe. Furthermore, their housing and living conditions, and the insecurity of tenure that they endure, are cause for concern.² 70. The Special Rapporteur heard testimonies about the impact of displacement on scheduled tribes. They underscored her concerns about the construction of the Mapithel Dam as part of the Thoubal Multipurpose Project in the state of Manipur and the evictions resulting from the dam, which threaten the right to an adequate standard of living, including food and housing, and the way of living and livelihood of members of several tribal communities.³

¹ See <http://censusindia.gov.in/default.aspx>.

² See FIAN International and others, “A life without dignity — the price of your cup of tea: abuses and violations of human rights in tea plantations in India” (Heidelberg, Global Network for the Right to Food and Nutrition, 2016)

³ A/HRC/30/27, p. 18 (case No. IND 4/2015).

	D. Muslims 72. Muslims represent 14 per cent of the overall population. Discrimination against Muslims in housing manifests itself in different ways in different parts of the country. For example, studies on access to private rental accommodation in the capital show that discrimination against Muslims (as well as Dalits) can at times be a barrier to access to housing.⁵¹ Private landlords, real estate brokers and property dealers will often refuse to rent to someone who is Muslim, or impose unfair conditions on them. The Special Rapporteur was informed that in some parts of the country, Muslims have felt compelled to leave their neighbourhoods and move to places where other Muslims are living, often in informal settlements. The Special Rapporteur visited one such settlement where the conditions were extreme owing to overcrowding, the absence of sanitation facilities and electricity and the lack of garbage collection.⁴ E. Manual scavengers 73. Efforts to end manual scavenging in India are decades old, with various options having had limited success. Most recently, the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 was followed by a Supreme Court decision requiring state intervention to end manual scavenging and “rehabilitate” all people engaged in the practice, in line with the Constitution. Nonetheless, deeply-rooted caste and gender- workers in Assam, who were forcibly brought from central India, but have not been given the status of scheduled tribe. Furthermore, their housing and living conditions, and the insecurity of tenure that they endure, are cause for concern.⁵ VI. Conclusions and recommendations 83. In the Special Rapporteur’s view, the existing schemes seem to emphasize and focus primarily on homeownership as the key housing model to respond to the current needs of India. However, even when well regulated, that model may be ill-suited to ensuring adequate housing for those most in need, including women, religious minorities, and scheduled castes and scheduled tribes. In the light of the diverse housing needs across the country, the Government must consider investing more in alternative housing policies that better suit those who have scarce or no resources: people who are homeless, living on pavements and informal settlements and those who face traditional practices of exclusion and discrimination, as well as members of the growing middle-class in urban areas
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⁴ Sukhadeo Thorat and others, “Urban rental housing market: caste and religion matters in access”, Economic and Political Weekly, vol. L, nos. 26 and 27 (June 2015), p. 47.

⁵ Human Rights Watch, “Cleaning human waste: manual scavenging: caste and discrimination in India”, 25 August 2014. Available from www.hrw.org/report/2014/08/25/cleaning-humanwaste/manual-scavenging-caste-and-discrimination-india.

	who are not able to access affordable rentals owing to the lack of availability. 85. In the light of those conclusions, the Special Rapporteur makes the following recommendations to the central and state governments: (g) Enact legislation to curb all forms and practices of de facto housing discrimination against any individuals or groups, in particular religious and ethnic minorities, women, scheduled castes and scheduled tribes, internal migrants and manual scavengers in relation to their right to housing. Enhance monitoring and protection against discrimination in relation to rental accommodation, access to credit, inheritance and ownership. Specific measures must be found to enforce existing legislation, including in villages and panchayati;
Rights of persons belonging to national or ethnic, religious and linguistic minorities - Annual report of the United Nations High Commissioner for Human Rights A/HRC/34/21	III. United Nations network on racial discrimination and protection of minorities 30. In 2016, as coordinator of the United Nations network, OHCHR finalized the development of a guidance tool on descent-based discrimination that takes into consideration the key challenges and strategic approaches involved in combating caste based and analogous forms of discrimination. A launch event, to be held to design strategies for strengthening advocacy efforts and thus to promote and protect rights, is planned for early 2017. IV. Human Rights Council and its mechanisms A. Special procedures Thematic rapporteurs 31. In March 2016, the Special Rapporteur on minority issues presented her annual thematic report (A/HRC/31/56), which dealt with minorities and discrimination based on caste and analogous systems of inherited status, to the Human Rights Council at its thirtyfirst session. 32. The Special Rapporteur identified a number of areas of particular concern in relation to caste and analogous systems: the right to life and physical integrity, access to justice and policing, the right to political participation, freedom of religion or belief, the right to work, intersectionality between caste and contemporary forms of slavery, the right to housing and the right to water and sanitation, the right to health, the right to education and humanitarian assistance. In particular, she highlighted the situation of caste-affected women and girls, as caste is a factor that leads to multiple and intersecting forms of discrimination,

	and women and girls from low castes are particularly vulnerable to violation and denial of their rights. The Special Rapporteur also recommended initiatives and good practices to address caste based discrimination. They included the focus by the United Nations system, including human rights treaty bodies and special procedures, on caste-based and similar forms of discrimination; the adoption of national legislation and special measures to enable States to take steps to protect caste-affected communities; and civil society efforts to advance the cause of caste-affected communities through advocacy, networking and specific programmes and campaigns.
Report of the Special Rapporteur on minority issues A/HRC/34/53	II. Activities of the Special Rapporteur in 2016 D. Events and conferences 14. On 16 March, she participated as a keynote speaker in a side event organized by OHCHR, held in Geneva during the session of the Human Rights Council, on minorities and caste-based discrimination. III. Reflections on the six-year tenure of the Special Rapporteur A. Introduction 33. During her tenure, from August 2011 to December 2016, the Special Rapporteur focused her thematic reports to the Human Rights Council and the General Assembly on the following topics: the role and activities of national institutional mechanisms in promoting and protecting minority rights; the rights of linguistic minorities; minority rights-based approaches to the protection and promotion of the rights of religious minorities; ensuring the inclusion of minority issues in post-2015 development agendas; preventing and addressing violence and atrocities against minorities; hate speech and incitement to hatred against minorities in the media; minorities in the criminal justice system; minorities and discrimination based on caste and analogous systems of inherited status; and minorities in situations of humanitarian crises. At the invitation of the Council, she prepared a comprehensive study on the human rights situation of Roma worldwide, with a particular focus on the phenomenon of anti Gypsyism. C. Major challenges identified 1. Major barriers to the effective promotion and protection of minority rights 66. Furthermore, the Special Rapporteur acknowledges that in order to avoid protection gaps, the minority rights framework can and should be applied to groups that, although belonging to the same ethnic, religious or linguistic group as the larger community are in a non-dominant (and often marginalized) position and suffer stigma, self-identify as minorities and have historically used the minority rights framework to claim their rights. This is the case of many caste-affected groups worldwide, to which the Special Rapporteur devoted her previous thematic report to the Human Rights Council (A/HRC/31/56).

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