

## **IDSN comments and recommendations on agenda items of relevance to be considered at the 36th session of the UN Human Rights Council**

**(11 -29 September 2017)**

In connection with their participation in the 36<sup>th</sup> Human Rights Council session, states are encouraged to consider the ongoing and systemic practice of discrimination based on work and descent, also known as caste-based discrimination, affecting more than 260 million people globally.

Caste discrimination is found in various regions of the world including the Americas, Africa, Asia and Europe and continues to be addressed by the UN High Commissioner for Human Rights and the Special Procedures' mandate holders. Nonetheless, more needs to be done to ensure the caste-based discrimination is recognised by the Council and mainstreamed into UN resolutions.

**In the context of the reports presented at the 36th Council session, IDSN urges states to pay particular attention to caste-based discrimination being included on a par with other forms of discrimination in thematic HRC resolutions.**

Please find [linked here](#) an IDSN overview of all references to caste in reports and statements from the current session.

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### **ITEM 3. PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS**

#### **Interactive Dialogue with the Special Rapporteur on the human rights to safe drinking water and sanitation (Monday, 11 September, between 12:00 -15:00)**

The Special Rapporteur's report on safe drinking water and sanitation is to be presented at the Human Rights Council 36<sup>th</sup> session ([A/HRC/36/45](#)) and highlights the role of regulation in water and sanitation services. The report mentions the additional challenges that marginalized groups face, based on their 'race, gender, age, disability, ethnicity, culture, religion, national or social origin or any other grounds'. Although caste-based discrimination or discrimination based on work and descent is not mentioned in the report, the Special Rapporteur's recommendations 89 (c), (d), (e), (f), and 90 (d) are of high relevance to caste-affected communities:

*89(c) Ensure that the mission, mandate and objectives of regulatory actors incorporate the principle of progressive realization of the human rights to water and sanitation without discrimination of any kind;*

*(d) Ensure that regulatory frameworks provide a multifaceted and differentiated interpretation of affordability, capturing the specific needs of those living in vulnerable situations;*

*(e) Ensure that access to water and sanitation services is not conditioned by land tenure in law and in regulatory frameworks;*

*(f) Ensure through adequate regulation that, when extending formal services to informal settlements, these services are affordable and do not interfere with people's access;*

*90(d) Ensure non-discriminatory service coverage by service providers, including to poorer neighbourhoods, informal settlements and rural areas;*

IDSN recommends states to:

- Attend the Interactive Dialogue with the Special Rapporteur on water and sanitation and ask about discrimination against caste affected groups with specific regard to their access to water and sanitation;
- Encourage the Rapporteur to visit Dalit and manual scavenging communities in India as part of his upcoming official visit to India;
- Suggest to the Rapporteur to include specific recommendations to prevent de facto caste discrimination as a barrier to access to water and sanitation and emphasise the need to address caste-based discrimination in order to reach the primary Goal of the 2030 Agenda – ‘to ensure access to water and sanitation for all’;
- Include caste in their recommendations on a par with other forms of discrimination.

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**Interactive Dialogue with the Special Rapporteur on contemporary forms of slavery (Tuesday, 12 September, between 12:00 -15:00)**

The Special Rapporteur on contemporary forms of slavery will be presenting her report ([A/HRC/36/45](#)) to the Human Rights Council on access to justice for the victims of slavery. IDSN members - National Dalit Movement for Justice (NDMJ) from India, and Dalit NGO for Federation of Nepal (DNF) and Nepal National Dalit Social Welfare Organization (NNDSWO) from Nepal, made submissions to the report outlining some of the challenges that Dalits face in Nepal and India. In addition, the Dalit Solidarity Network UK with their South India partner READ highlighted the lack of access to justice for forced labour victims in the textile mill supply chains.

*‘Considered polluted, [Dalits] are forced to have separate wells; live on the periphery of villages; they are excluded from worshipping or entering temples, schools, public places; not given access to or use of basic resources and services; they were insulted and beaten, forced to do manual scavenging, forced to do forced labour /bonded labour and Begar, Dalit children are engaged in hazardous industries etc. Serious crimes are committed against Dalits for various historical, social and economic reasons. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Caste persons eat inedible substances like human excreta, attacks, grievous hurt, arson and mass killings of Dalits and rape of women belonging to the Dalit community’(NDMJ).*

*‘Landlessness in Nepal has made Dalits economically vulnerable and dependent upon so-called upper caste landlords. Such dependency is often exploited by the landlords, allowing for many abuses against Dalits. Most Dalit victims of violence and discrimination are agricultural and occupational labourers who are generally landless. The root causes of Haliya, Lagi, Phokatto, Balighare, Khalo,Doli, Haruwa, Charuwa, and other such systems are associated with the issue of landlessness and small holding. In Nepal, the term Haliyas specifically refers to bonded labour and despite having been officially abolished in 2008, the system remains today. As the Haliya are agricultural labourers in the hills of Nepal they are most inaccessible to protective laws and remedy’ (DNF and NNDSWO).*

In her report the Special Rapporteur on slavery included a recommendation addressing caste-based discrimination and urged States to:

*61. (a) Take all steps necessary to tackle the root causes and manifestations of discrimination against minority groups that are vulnerable to contemporary forms of slavery, including women, children, indigenous people, people of “low” caste status and migrant workers;*

IDSN recommends states to:

- Voice their support for Ms. Bhoola's recommendation to tackle the root causes and manifestations of discrimination against people vulnerable to contemporary forms of slavery, including people of "low" caste status.
  - Express their support to the UN Human Rights Council ratifying the draft UN Guidelines and hold an international Convention on Elimination of all forms of Discrimination based on work and Descent.
  - Include caste in their recommendations on a par with other forms of discrimination.
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## ITEM 6. UNIVERSAL PERIODIC REVIEW

### UPR OUTCOMES

India and the United Kingdom were reviewed at the 27<sup>th</sup> session of the Universal Periodic Review, on 4 May 2017. IDSN and its members submitted reports highlighting caste-based discrimination in [the UK](#) and [India](#) ahead of the reviews as well as the [UPR fact sheet on caste-based discrimination](#) produced by the National Campaign on Dalit Human Rights in India and the [key facts and recommendations](#) by Dalit Solidarity Network UK, offering recommendations and questions to be raised at the review.

### UPR report of the United Kingdom of Great Britain and Northern Ireland

During the third UPR of the UK, no specific recommendations addressing caste-based discrimination were made. However, several states, including Georgia, Paraguay, USA, Kazakhstan, Bangladesh and Netherland, recommended further measures to combat all forms of discrimination:

*134.81 Further reinforce measures to combat all forms of discrimination and inequality (Georgia);*

*134.83 Ensure equality and non-discrimination in the current legislation through due compliance with measures to fight against prejudices, xenophobia and violence against women and girls (Paraguay);*

*134.87 Review and strengthen current policies and initiatives to combat societal discrimination against members of racial, religious and ethnic minority groups (United States of America);*

*134.95 Take effective measures to address inequalities experienced by ethnic minority groups and combat discrimination (Kazakhstan);*

*134.118 Address racial discrimination, xenophobia and hate crimes by further strengthening effective legislative and judicial measures (Bangladesh);*

*134.154 Ensure the accessibility of appropriate legal aid to safeguard access to justice for all, particularly for the most marginalized groups in society (Netherlands);*

IDSN recommends states to:

- Ask the UK Government on its plans to implement the above mentioned recommendations and combat all forms of discrimination and inequality, including based on caste.
- Ask the UK Government the status of the caste discrimination legislation and their plans for implementation.

## UPR report of India

In the outcome report from the third UPR of India ([A/HRC/36/10](#)), thirteen recommendations specifically relate to caste-based discrimination and the situation of Dalits in India. These recommendations were made by a cross-regional group of states, including Ireland, France, Czech Republic, Germany, Peru, Argentina, Mexico, USA, the Holy See, Pakistan, Bahrain and Kyrgyzstan. In addition, Norway, Germany, USA, Czech Republic, Norway, Switzerland and Canada raised issues surrounding the Foreign Contribution (Regulation) Act, and Guatemala and Sweden made observations related to caste and inclusive society.

A full summary of recommendations addressing caste-based discrimination is available [here](#). Below are five recommendations to give an overview:

*161.72 Ensure that laws are fully and consistently enforced to provide adequate protections for members of religious minorities, scheduled castes, tribes and other vulnerable populations (United States of America);*

*161.81 Continue the fight against discrimination, exclusion, dehumanization, stigmatization and violence suffered by scheduled castes (Peru);*

*161.99 Prevent and pursue through the appropriate judicial means all violent acts against religious and tribal minorities, Dalits and lower castes (Holy See);*

*161.101 Step up its efforts against caste-based violence, discrimination and prejudice, including by eradicating all forms of caste-based discrimination in the educational system (Czechia);*

*161.135 Amend the Foreign Contribution (Regulation) Act to ensure the right to freedom of association, which includes the ability of civil society organizations to access foreign funding, and protect human rights defenders effectively against harassment and intimidation (Germany);*

### IDSN recommends states to:

- **Encourage the Government of India to accept and implement all 13 recommendations referring to caste-based discrimination.**

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Please note that some HRC36 reports have yet to be published, but could prove relevant. An overview of all reports for the HRC36 can be found [here](#).

For more recommendations on caste discrimination within the UN framework see the [draft United Nations Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent](#) (2009)

For a full compilation of references to caste-based discrimination in UN human rights bodies see: [IDSN compilation of UN reference to caste discrimination](#) (July 2017).

Launched in March 2017, by the OHCHR, [Guidance tool on descent-based discrimination: key challenges and strategic approaches to combat caste-based and analogous forms of discrimination](#) offers concrete suggestions for actions to address caste-based discrimination in caste affected countries.