

DALIT DISCRIMINATION CHECK



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THE PICTURE ON THE FRONT PAGE SHOWS the 14 year old Sukhwinder Singh. For the past six years Sukhwinder has been working to pay of his deceased father's debt to the landlord. He still has more than a year left before he has paid off the 474 Euro that his father borrowed. Unlike the situation for many other bonded labourers in India, the landlord and Sukhwinder has kept track of the payments so that Sukhwinder can eventually escape the debt trap.

(Photographer: Jakob Carlsen i Litani, Haryana)

INTRODUCTION TO THE DALIT DISCRIMINATION CHECK

The Dalit Discrimination Check is a tool developed specifically to help companies prevent discrimination and exploitation of Dalits in their Indian operations and suppliers. The tool is designed as a comprehensive checklist consisting of self-guided questions and indicators that highlight possible violations. The tool provides simple descriptions of what the components of Dalit discrimination looks like in the business context, and allows managers to check their company's policies, procedures and performance.

The tool is relevant for all companies operating in or sourcing from India and can help companies implement corporate social responsibility principles, such as the Global Compact principles or the Ambedkar Principles. The Dalit Discrimination Check comprises a total of 27 questions in two checklists; a Main Check and a Supplier Check. In addition, the tool provides suggestions for promotional activities and useful background information on caste-based discrimination. The check is the result of the cooperation between the Danish Institute for Human Rights, the International Dalit Solidarity Network and the Danish Ministry of Foreign Affairs.

Why a tool for caste discrimination?

Caste-based discrimination constitutes one of the most wide-ranging human rights problems of our time, affecting in its severest forms the lives of at least 260 million people globally, of which some 170 million live in India. Caste-based discrimination and 'untouchability' affect every facet and dimension of Dalits' lives. It includes segregation of living areas where Dalits are denied access to other caste villages and certain public areas. It includes a system of labour allocation that forces Dalits to undertake certain types of work, most often menial and degrading jobs for either very low pay or payment in kind. And it includes discrimination in employment where Dalits often serve in low level positions and suffer from both open and 'hidden' discrimination, drastically affecting their ability to amass and provide for their families.

Despite the fact that India has abolished untouchability and introduced formal protections by law, caste-based discrimination remains endemic and is accompanied by strong patterns of impunity. Dalits remain at the bottom of society when it comes to education, income, formal employment, health and political participation.

The number of foreign companies operating in and sourcing from India is increasing, and the majority of these companies will have limited knowledge of the scope and dynamics of caste discrimination. As an intrinsic element of the Indian society, caste-based discrimination and exclusion is often invisible to the outsider. As a consequence, companies may unknowingly contribute to and benefit from the discrimination and exploitation of Dalits. The purpose of the Dalit Discrimination Check is to provide companies with a practical tool that allows them to identify discrimination and abuse against Dalits and implement corrective actions.

The Dalit Discrimination Check

The Dalit Discrimination Check contains five parts:

- User's guide
- Dalit Discrimination Check (covering employment practices, community impact and utilities & services)
- Supplier Check
- Suggestions for promotional activities
- Background information on caste-based discrimination

User's guide

This guide gives practical instructions in how to use the Dalit Discrimination Check.

Dalit Discrimination Check

This part of the tool comprises questions which deal with the rights of individuals employed by the company or seeking employment within the company; individuals in local community affected by company operations; and individuals using essential goods and services from the company. The section contains general discrimination questions that also apply to other marginalised and vulnerable groups (e.g. women, disabled, indigenous people, ethnic and religious minorities) as well as questions that particularly confront the particularities of caste-based discrimination in India.

Supply Check

This part of the tool addresses exploitation and discrimination of Dalits in the supply chain. Dalits in general constitute the bottom of the Indian society and are often relegated to undertake the dirtiest and demeaning jobs. The fact that Dalits constitute the majority of child and bonded labourers in India is an illustration of this.

Suggestions for promotional activities

This part of the tool gives a number of suggestions for promotional activities that companies can engage in. The section does not constitute an integral part of the compliance check, but contains suggestions for how companies can promote and support the human rights of Dalits, within their sphere of influence.

Background information on caste discrimination

This section provides some basic background information on the history and current scope of caste discrimination in India.

The Dalit Discrimination Check and the Human Rights Compliance Assessment (HRCA)

The Dalit Discrimination Check uses as its basis the Human Rights Compliance Assessment (HRCA): a tool designed to help companies detect potential human rights violations caused by the effect of their operations on employees, local residents and all other stakeholders. The tool has been developed by the Human Rights & Business Project of the Danish Institute for Human Rights. The Dalit Discrimination Check is a specialised check that focuses on caste-base discrimination in India and is the result of a cooperation between the Danish Institute for Human Rights and the International Dalit Solidarity Network.

The Dalit Discrimination Check is only designed to identify human rights risk areas that pertain to discrimination and abuse of Dalits. For a broader and more comprehensive assessment of your company's human rights performance, please consult the full HRCA or the Quick Check.

The Dalit Discrimination Check exists in a booklet version and an on-line version, both which are accessible for free. For access to the on-line version please go to:

www.humanrightsbusiness.org

User's guide to the Dalit Discrimination Check

This User's guide will provide you with instruction on how to use the Dalit Discrimination Check. The guide addresses the following 11 questions:

1. What is the Dalit Discrimination Check?
2. How do I use the tool?
3. How do I answer the questions?
4. What are the suggested indicators?
5. How do my indicator answers relate to the main question?
6. What do the red, yellow and green- light scores mean to my company's performance?
7. Should answers be verified by third parties?
8. How does the tool link up with other initiatives and instruments?
9. How to get started? – using the tool in 10 steps
10. how do I get access to the computerized version of the tool?
11. Where can I find out more about this tool?

1. What is the Dalit Discrimination Check?

The Dalit Discrimination Check is a tool developed specifically to help companies prevent discrimination and exploitation of Dalits in their Indian operations and suppliers. The tool is designed as a comprehensive checklist consisting of self-guided questions and indicators that highlight possible violations. The tool comprises a total of 27 questions in two checklists; the main Dalit Discrimination Check and a Supplier Check. In addition, the tool provides suggestions for promotional activities and useful background information on caste-based discrimination.

The Dalit Discrimination Check constitutes a specialised check of the Human Rights Compliance Assessment (HRCA) tool, which is a self-assessment tool for companies to assess their compliance with international human rights. The HRCA has been developed by the Human Rights & Business Project of the Danish Institute for Human Rights.

The Dalit Discrimination Check is also available as a web-based computer programme, which can be accessed at: www.humanrightsbusiness.org

2. How do I use the tool?

The Dalit Discrimination Check is designed as a flexible tool with differentiated user possibilities. Before starting the assessment process, the company should decide the exact scope of the check, which will depend on the resources available and priorities set by the company. The broader the scope of the check test, the more resources (time) are needed.

The Dalit Discrimination Check contains two checklists:

1. Main Dalit Discrimination Check
2. Supplier Check

The company can decide to undertake a Main Dalit Discrimination Check, which will identify any risk areas in relation to the company's employment practices and community impact. The company can also decide to undertake a Supplier Check, which will identify risk areas in the supply chain. It should be emphasised that the Supplier Check cannot be used as a general supply chain tool since it focuses on areas where Dalits constitute particularly vulnerable groups. This means that other issues are excluded (e.g. trade union rights) and that the tool only can be used as a supplementary supply chain tool.

Finally, there is also the possibility to undertake a check that only focuses on one or two of the three levels of compliance which can be assessed through the tool. Since each question is accompanied by a set of policy, procedure and performance indicators, the company can decide to only conduct a compliance check at policy level, procedure level or a combination.

3. How do I answer the questions?

The Dalit Discrimination Check contains a total of 27 questions. Under each question, you will find a narrative description of the question, references to international law, references to India's international obligations and references to Indian law. The questions should be answered by using the pre-determined answer box categories of which there are four different types:

Yes/No and True/False: To be used when you agree or disagree with the question or statement presented. We encourage you to answer yes/no to the main question and true/false to the indicators as often as possible so that the results of the assessment and the improvements made by your company from year to year will be easier for you to monitor and measure.

Further Attention Required (FIA): To be used when your company is in the process of addressing the issue, such as correcting procedures on a particular question or indicator but the process is not yet complete, or when your desired answer doesn't fall squarely within any of the other answer categories.

Not Applicable (N/A): To be used when the particular question or indicator presented isn't relevant to your company's operations because the question applies more specifically to a different industry or area of operation.

No Info: To be used when you lack the information necessary to respond to the indicator or question presented.

5. What are the suggested indicators?

Each question is accompanied by a set of suggested indicators. The indicators are guidelines designed to help you determine whether or not your company complies with the main question. There are three types of indicators in the tool: policy, procedure and performance.

The Policy indicators seek to determine whether your company has policies or guidelines in place to address the human rights issue of concern in the main question.

The procedural indicators inquire whether your company has appropriate and sufficient procedures in place to effectuate the policies.

The performance indicators ask for verification of your company's performance on the issue. It is important for the validity of the assessment that you contemplate the policy, procedure and performance guidelines contained in the indicators before attempting to answer the main question, to ensure that you fully understand the underlying concepts of the question. While the number of indicators may seem overwhelming at first, the categories of pre-determined answers were designed with enough flexibility so that you should, after some familiarity with the tool, be able to answer all the indicators quickly and without difficulty.

6. How do my indicator answers relate to the main question?

The relevance and importance of each of the indicators in the tool varies slightly for each company depending on the industry, risks, and type of operation involved. To accommodate those differences and provide for flexibility, the tool allows each user to determine the relevance and weight of the indicators and how they should correspond to the main question. In other words, it is up to you to determine how your indicator answers should correspond to your answer to the main question. Your company is not necessarily out of compliance if you fail to answer affirmatively on all the indicators, but you should nevertheless make an effort to understand the point of the indicator and seek to determine whether your company complies in principle. If, for example, you are able to answer 'true' (indicating compliance) to all but one of the indicators for a particular question, and your company has an alternative method of compliance for the remaining indicator, you should describe the alternative method of compliance next to the indicator and then answer 'yes' (for compliance) to the main question. If, on the other hand, you answer 'false' (for non-compliance) to all of the indicators, but still answer 'yes' to the main question, you should either question the result of your answer to the main question, or make a note as to why all the indicators for that question are irrelevant to your business. For those indicators that your company does not have the information to answer, you can simply click the 'unknown' answer category for that indicator. Please note that you cannot answer the main question without having answered all the corresponding indicators first.

7. What do the red, yellow and green- light scores mean to my company's performance?

Red light scores indicate that your company is not in compliance with the particular question and you should take immediate steps to remedy the problem area within your company's operations, after consulting your company's legal counsel for specific guidance. A yellow light score indicates that you are aware of the problem and are in the process of addressing the issue, but you need to take further steps to change your company's performance to a green light. Finally, a green light score indicates that you are in compliance with the question as it is phrased.

8. Should answers be verified by third parties?

While the tool primarily has been developed as a self-assessment tool, there is an element of verification built-in. In most questions there are performance indicators included that ask the company to verify information with civil society actors (trade unions, NGOs), workers and/or local communities. It is advisable when consulting these actors to verify carefully who they represent. It is also advisable to consult several actors to get the full picture. It is not obligatory but commendable to also verify information collected on the performance of the company in cases where this is not specifically demanded by the indicators with (representatives of) workers, NGOs and/or the local community. Even though this may be a bit more time consuming, it does give the company a more balanced view on its human rights performance, in particular in relation to its practice. Some companies find it useful to have assistance by a third party when doing the check, such as a specialised NGO, research institution or accountancy office.

9. How does the tool link up with other corporate social responsibility (CSR) initiatives?

The tool operationalises voluntary initiatives such as *the Ambedkar Principles*, *the Global Compact Principles*, *the Amnesty International Human Rights Principles for Companies* and *the future ISO 26000*, which all contain human rights principles, including the principle of non-discrimination based on international standards such as the

International Bill of Human Rights and the ILO Conventions and Declarations.

Furthermore the tool, while being a self-assessment on non-discrimination aspects of corporate human rights responsibilities, complements certification and monitoring processes such as the *SA 8000*, *Ethical Trading Initiative*, *Business Social Compliance Initiative*, which focus on labour conditions in the supply chain only. The tool could be used for self-assessment prior to audits as well as for corrective action after audits.

When identifying and prioritising issues for reporting on human rights as well as when reporting on human rights, the tool could be used prior to and together with the G3 Guidelines of the *Global Reporting Initiative*.

10. How to get started? – using the tool in 10 steps

The following 7 steps will give you an example of how you could start the process of using the Dalit Discrimination Check.

Using the tool in 7 steps

Step 1

Read the User's guide and have a look at the issues covered by the Dalit Discrimination Check. Define the scope of the assessment; which parts of the company will be assessed - will the supply chain be involved?

Step 2

- Appoint an 'assessment person' to conduct the assessment. Depending on the scope of the assessment, this person will liaise and interview persons from other departments within the company to get answers to all the questions in the Check.
- Possibly, an outside party can be invited to facilitate the assessment, such as a specialised NGO or research institution.

Step 3

Conduct the assessment: the 'assessment person' evaluates the questions and indicators and when/if necessary meets with people from other departments to get their feedback.

Step 4

Verification of findings with relevant actors: workers, civil society actors (trade unions, NGOs) and/or local communities. It is advisable when consulting civil society actors to verify carefully who they represent.

Step 5

Finalisation and adjustments of the findings on the basis of the verification process. The assessment is completed.

Step 6

- Follow-up and action plan. Discuss with management what will be done with the findings? Were any high-risk areas detected? Should certain adaptations be made to policies, procedures or practice? What will be the timeline for this? Which actors will be involved? Who will be responsible for what?
- Determine which information will be made public. It could be very useful to share honest information about the result from the Dalit Discrimination Check and follow up activities, to demonstrate your commitment to human rights to the different stakeholders of the company.

Step 7

Determine a date for the next assessment to take place, for example after 1 year. This will assist the company in measuring its improvements.

11. How do I get access to the computerized version of the tool?

Go to www.humanrightsbusiness.org and click on 'HRCA portal' on the right-hand side of the webpage. You must then create a user account to get access to the tool. To begin, click on the 'your account' menu located to the left of the username login and select 'create an account' from the submenu list. From there you will be asked to provide your contact information, choose a password and agree to our 'terms of service'. Once you've opened your account, you can use the password to enter the system. Then select the 'Dalit Discrimination Check' option from the 'checks' drop down menu of the tool, and the tool will automatically generate a numbered matrix with the list of questions for you to answer.

12. Where can I find more information?

More information about the aim and development of the Human Rights Compliance Assessment (HRCA), of which the Dalit Discrimination Check constitutes a specialised check, can be found on the website of the Human Rights & Business Project: www.humanrightsbusiness.org

More information about caste-based discrimination can be acquired at the International Dalit Solidarity Network: <http://www.idsn.org/>

DALIT DISCRIMINATION CHECK

A. EMPLOYMENT PRACTICES

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

The employment practice questions concern the rights of individuals employed by the company, or seeking employment with the company. We recommend that these questions are reviewed by the company's human resource department. It should be noted that the Dalit Discrimination Check focus on addressing the specifics of caste discrimination and may not adequately address other types of discrimination. For a complete assessment, the company should consult the full Human Rights Compliance Assessment (HRCA).

A.1. NON-DISCRIMINATION AND EQUAL OPPORTUNITIES PROGRAMME

Does the company have an internal system in place designed to prevent employment discrimination against Dalits?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Discrimination in India is a culturally-embedded phenomenon that targets a large number of people, particularly Dalits. Approximately 170 million Dalits live in India (or 16 percent of the population), and they are victims of gross discrimination and harassment on a daily basis. Dalit women experience gender-based discrimination in addition to caste-based discrimination and constitute an even more vulnerable group. When operating in India, the company should formulate a policy on anti-discrimination and equal opportunities that specifically addresses discrimination against Dalits. The policy should cover all aspects of employment (e.g. hiring procedures, terms and conditions of work, training and education, promotion and dismissal).

To give effect to the policy, the policy should be accompanied by an action plan that describes the different steps of implementation and allocates responsibility for implementing the different steps. Moreover, a system of monitoring should be included in the action plan in order to regularly evaluate the implementation process.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	INFO
1. The company has a policy on anti-discrimination and equal opportunities that specifically addresses caste discrimination.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company has formulated an action plan, which outlines implementation steps and allocates responsibility for implementation of the policy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The policy is communicated to all employees and managers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The company has established procedures for monitoring the implementation of the policy, and an individual/unit in the company is responsible for monitoring.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	INFO
5. The action plan is regularly improved and revised using learning experiences from the implementation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. When questioned, employees and managers show awareness about the anti-discrimination and equal opportunities policy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2, and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).*
- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

[THE QUESTION RELATES
TO THE RIGHT TO FREE-
DOM FROM DISCRIMINA-
TION AND THE RIGHT TO
WORK AND JUST AND
FAVOURABLE CONDITIONS
OF WORK]

A.2. EDUCATION AND TRAINING ON CASTE DISCRIMINATION

Does the company provide all company employees and managers with education and training on Dalit discrimination?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Dalit discrimination is deeply ingrained in the Indian society and culture and adopting non-discriminatory policies is usually not sufficient to ensure a non-discriminatory work place for Dalits, but will have to be supported by additional measures. The company should therefore provide regular education and training on discrimination to all employees, including line managers and executives. In addition to providing a general introduction to discrimination and equal opportunities, the training should have a component that specifically focuses on caste-based discrimination that informs trainees about how discrimination and prejudice against Dalits negatively affects their opportunities for obtaining work, promotion, recognition and respect. Moreover, the training should clarify what type of behaviour is considered unacceptable in the workplace. All staff must be informed about how the company deals with breaches of the non-discrimination and equal opportunity policy. The training should also cover issues of harassment and degrading treatment. See further question no. 8 which specifically deals with harassment.

Staff with special responsibilities in relation to discrimination and equal opportunities, such as staff working with recruitment and dismissal, should receive special training in relation to their area of responsibility.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a training course to address discrimination and equal opportunity issues, which has a specific component dedicated to caste discrimination.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The training material is developed in cooperation with NGOs, discrimination experts, or human rights organisations. All employees and line managers are provided training in non-discrimination on a regular basis.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Personnel with special responsibilities in relation to discrimination are provided special training.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. When interviewed, employees confirm that they receive training in non-discrimination, including caste discrimination.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following:
Universal Declaration of Human Rights (1948), Articles 1, 2, and 23; International

Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).*
- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

A.3. NON-DISCRIMINATION IN HIRING PROCEDURES

When hiring new employees, does the company ensure that it uses recruitment and selection procedures that are based only on relevant and objective criteria (such as the nature of the work tasks, skills, experience and qualifications of the employees)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
YES		NO	F/A	N/A	NO INFO

TICK BOX AS APPROPRIATE

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

The allocation of labour on the basis of the caste is a fundamental structure of the caste system, and Dalits have traditionally been assigned to perform certain types of jobs, most often the most menial and degrading tasks that are regarded as impure for people of other castes. Even though Dalits often have less education than people from other castes because of lack of access to education, some Dalits are well-educated and

hold the same qualifications as people of other castes. However due to preconceived perceptions of the abilities of Dalits to undertake other types of work than the ones prescribed in the caste system, Dalits are likely to be screened out in the very early stages of the recruitment process.

Unlike discrimination based on gender, race or disability, caste discrimination is a non-descriptive form of discrimination, and the caste background of a person cannot be identified via objective criteria, such as gender or skin colour. However the caste identity of an individual can be revealed via information on place of origin, last name, parent's occupation, educational institution, dialect, and in rare cases, also skin colour.

To avoid discrimination based on caste in the recruitment process, it is essential that the company ensures that all steps in the process of new employees are carried out in a non-discriminatory manner and that the selection procedures are based on relevant and objective criteria only. This implies the following:

Employment advertisements must not refer to irrelevant characteristics and must not contain criteria that directly or indirectly discriminate against Dalits. The advertisement should refer to the company's non-discrimination and equal opportunity policies and the company should take measures to distribute job advertisements widely so that information about vacancies reaches a diverse pool of possible candidates.

Job descriptions must be clearly defined and regularly updated and must only refer to requirements that are necessary to perform the required job functions to ensure that employees are hired on the basis of skills, qualifications and experience required for the position.

Unless the company has a policy on special measures (i.e. actions of positive differential treatment) towards Dalits, no questions should be asked that directly or indirectly relate to the caste identity of the candidate, such as place of origin or the occupation of one's parents. Personal information about the candidate's background or appearance must only be asked if it is of direct relevance for the job position. If the company has a policy on special measures and conducts enquiries on the caste identity of potential employees, the reason for doing so must be clearly explained to the applicant. The information must be kept strictly confidential and staff involved in the collection of this type of information must be competent in dealing with sensitive data. Importantly, it must be emphasised that providing the information is voluntary. *See further questions A11-A13 that specifically deal with special measures.*

The company must ensure that non-discriminatory procedures are applied consistently in the selection process and the short-listing of candidates. The selection must be based on objective information about the candidate's ability to perform the job, and not on preconceived assumptions about what the candidate is capable of doing.

If the company is recruiting new employees via a recruitment agency, the recruitment agency should be required to comply with the company's non-discrimination and equal opportunity policies, and be instructed in how to apply these in the different stages in the recruitment process.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. Employment advertisements do not reference irrelevant characteristics.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Job descriptions are clearly defined, used by all hiring managers, and frequently updated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The company has guidelines that instruct hiring managers in how to avoid engaging in discriminatory practices when hiring new employees.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The staff responsible for the recruitment receive training in the policy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Unless it is with the purpose of implementing special measures toward Dalits, no questions are asked that directly or indirectly relate to the caste identity of the candidate when conducting interviews.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. An individual/unit in the company is responsible for monitoring company compliance with non-discrimination and equal opportunity standards and policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Workers and their representatives confirm that the company's employment practices are non-discriminatory towards Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2, and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in pub-*

lic spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).

- The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).
- The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).
- In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO FREEDOM FROM TORTURE, CRUEL, INHUMAN, DEGRADING TREATMENT OR PUNISHMENT, AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

A.4. NON-DISCRIMINATION IN JOB ALLOCATION

Does the company ensure that the allocation of labour functions/occupations is based on objective criteria and relevant qualifications and not on traditional caste-based exclusions?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

The caste system is based on the underlying principle that each caste has a fixed hereditary occupation by birth. Occupations under the caste system are compulsory and endogenous, resulting in the exclusion of one caste from carrying out the occupations that belong to another caste. One of the consequences of the system is that Dalits traditionally have been prohibited from engaging in certain types of work, such as food production, because they are considered polluting and therefore allocated to do certain types of work that are regarded as impure for people of other castes, such as manual scavenging and leather work.

Even though India's law abolishes the caste system, the principles underlying the caste system continue to determine the division of labour in the Indian society. Norms of purity and pollution still govern social norms and relations, particularly in rural areas, and Dalits are often stigmatized as 'unclean'. In a company context, this can have two effects. Firstly, Dalits will often be the ones performing the low status occupations in the company. Secondly, Dalits will often experience restrictions in transferring to other occupations and in advancing.

The company must take measures not to reproduce this pattern in the workplace. Dalits must not be restricted from undertaking any specific types of jobs (e.g. food production and sale of consumer goods and food to people of other caste status) and the company

must not have any restrictions on Dalits transferring to occupations that, according to the caste system, are prohibited for Dalits. Allocation of labour should be based on objective criteria only (e.g. task, skills, experience and qualifications) and the company should encourage and support occupational mobility within the company and attempt to actively break down such barriers of discrimination. When addressing the issue, the company should note that Dalit women experience double discrimination based on caste as well as their gender.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy that prohibits any occupational restrictions placed on employees due to their caste identity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The nature of task, skills, experience and qualifications of the employees are the only factors that influence what type of work the employee is involved in, not their caste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The company encourages and supports occupational mobility within the company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. An analysis of the composition of the workforce shows that Dalits hold jobs at all levels in the company, including advanced positions, or if not, the company has a remediation plan in effect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Convention Concerning Discrimination (Employment and Occupation) (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence*

or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).

- The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).
- In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.
- The Constitution provides for the right to freely practice any profession, or to carry out any occupation, trade or business (art. 19 (g)).

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

A.5. NON-DISCRIMINATION IN DISMISSAL

Does the company seek to ensure that the dismissal or discipline of Dalits is not conducted in a discriminatory manner?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Once hired by a company, Dalits are at risk of being subjected to discriminatory treatment by managers who have preconceived notions about the capabilities of Dalit workers and the appropriate placement for Dalits within a company structure. This is a particularly relevant problem in the Indian context, since Dalits traditionally have been allocated to perform low status work, and are sometimes seen as incompetent to perform more advanced job functions. Dalit women are often targets for both caste-based and gender-based discrimination making them even more vulnerable.

The manager's ability to discipline or dismiss an employee could result in discrimination against Dalits if efforts aren't made to avoid preconceived notions about Dalits and if workplace expectations aren't communicated effectively to employees. To prevent discriminatory dismissals, the company must ensure that all employees clearly understand workplace expectations and that staff responsible for discipline and dismissal receives training in the company's discriminatory and equal opportunities policy. Discipline and dismissal policies must be applied consistently and uniformly throughout the organisation. Discharge and discipline policies should clearly state that retaliation for any reason is strictly forbidden.

Since Dalits are often regarded as low status workers with lesser qualifications than people of other caste status, they will often be the first to be laid off if the company is facing economic difficulties or mergers/takeovers. The company must ensure that layoff, recall and termination procedures do not favour any particular caste disproportionately, but are based on objective criteria only.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has an official policy outlining the grounds upon which it can and cannot dismiss or discipline its employees.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Workplace expectations are clearly communicated to all employees and the expectations are applied uniformly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A written policy defines the consequences of failure to comply with workplace expectations and the policy is applied consistently to all workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The company maintains a record of disciplinary decisions for the purpose of establishing an internal body of factual precedent so that decisions are made uniformly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Company personnel regularly review company records to evaluate the appropriateness of disciplinary decisions and to ensure the non-discriminatory application of workplace consequences.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Company personnel reviewing the disciplinary decisions include senior Dalit officers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Dismissal due to layoffs that occur as a result of the company's poor economic performance or mergers/takeovers are based strictly on job-related criteria and are not used to selectively dismiss Dalits, or other marginalised groups.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Employees and employee representatives confirm that company managers strictly adhere to internal dismissal policies when it seeks to dismiss an employee for misconduct, so as to prevent discriminatory dismissals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Employees, the Staff Committee and labour unions confirm that any dismissal due to layoffs occurring as a result of the company's poor economic performance or mergers/take-overs, are based strictly on job-related criteria and are not used to selectively terminate certain groups of employees.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. A review of dismissals and layoffs during the past year show that the percentage of Dalits is no higher than people of other castes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); Article 26; ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Termination of Employment Convention (C158, 1982), Part II, Articles 4, 5 and 6; ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Articles 22 and 27.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).*
- *A permanent worker can only be removed from service for proven misconduct or for habitual absence due to ill health, alcoholism and the like. When following Indian law with regard to dismissals, the company must keep in mind that the International Labour Organisation prohibits dismissal for temporary absence due to illness or injury (ILO C158, Articles 6). What constitutes a 'temporary illness' is a matter for further definition by national law, collective bargaining agreements and the like. India has however not signed ILO C158.*
- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

A.6. NON-DISCRIMINATION IN REMUNERATION AND BENEFITS

Does the company ensure that Dalits are provided remuneration and benefits that are comparable to those received by other employees for work of equal value?

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION, THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Labour market research indicates that earning differentials exist between Dalits and employees of other castes with Dalits typically earning less. The greatest pay difference exists in the private sector. International human rights principles prohibit the artificial distinction in compensation between different types of workers for work of equal value. Differential rates of remuneration between workers must correlate only to objective job criteria, not any other distinguishing characteristics, such as caste. Likewise, the company must ensure that all employees, including Dalits, are equally included in social security schemes and provided equal access to company benefits.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a formal policy prohibiting discriminatory remuneration on the basis of caste, and/or any other distinctions which are not related to the essential functions of the job.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Before conducting interviews or hiring applicants for positions within the company, the company prepares and publishes job descriptions and salary ranges for each of the positions to be filled. Those requirements are followed regardless of the caste identity or other characteristic of the worker.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The nature of the tasks and the skills, experience and qualifications of the employees are the only factors that influence differences in job placement, remuneration and promotions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The company has conducted a comparative pay analysis for the purposes of identifying the existence of any artificial pay distinctions between employees of different castes. If a disparate distinction in pay exists, the company has evaluated whether its remuneration criteria are appropriately based on objective factors or whether there is an impermissible connection between the pay and the caste identity of the individual worker.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
5. All employees have equal access to company benefits, such as maternity leave and social security schemes.					
6. An individual/unit in the company is responsible for monitoring company compliance with international non-discrimination standards regarding pay and company benefits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7(a); International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); Article 26; ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Equal Remuneration Convention (C100, 1951); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958); ILO Equal Remuneration Convention (C100:1951).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution upholds the principle of equal pay for equal work (Article 39 (d)), and the principle is also codified in the Equal remuneration Act of 1976.*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of the educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI). In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

A.7. NON-DISCRIMINATION IN TRAINING AND CAREER DEVELOPMENT

Does the company ensure that Dalits are provided with equal training and promotion opportunities as other employees?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Employee promotion must be based only on the nature of the work tasks, skills, experience and qualifications of the workers. To ensure that advancement opportunities are carried out in a non-discriminatory manner and do not lead to a pattern where certain groups are excluded, the company should ensure that promotion opportunities are announced widely so that all employees are made aware of them and that a job description is available, specifying the requirements for the job. All workers should be able to apply for the job. When selecting a candidate, the company must ensure that the selection is based on objective criteria and demonstrable merit only.

Lack of access to training opportunities can severely inhibit a worker's opportunities for advancement and create artificial promotional barriers for less privileged groups. Therefore, it is essential that the company provide fair and equal skills and career development opportunities to all employees. The company should note that Dalit women experience gender-based discrimination in addition to caste-based discrimination, so it is particularly relevant for Dalit women to be included in skills and career development.

Strengthening the training and education of Dalits and other disadvantaged groups is one of the most important ways to help eradicate Dalit discrimination in the labour market. See furthermore question A11 on special measures/affirmative action and the importance of training.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a formal policy prohibiting discriminatory promotional practices on the basis of caste, and/or any other distinctions which are not related to the essential functions of the job.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. When a position is vacant and open for employment, all employees are informed about the vacancy and all employees have the opportunity to apply.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Before conducting interviews or hiring applicants for positions within the company, the company prepares job descriptions and salary requirements for each of the positions to be filled.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Staff training and education is provided on a non-discriminatory manner to all employees, regardless of caste or any other personal distinguishing criteria irrelevant for the job position.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. An individual or a department within the company is responsible for reviewing training and promotion policies to prevent non-discriminatory application.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. A review of the company internal promotions during the past year shows that employees of different castes are promoted and that promotion is not exclusively granted to non-Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
6. A review of participants in company provided training and education during the past year shows that employees of different castes are participating, including Dalit women.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7(c); International Covenant on Civil and Political Rights (1966), Article 2; Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Articles 22 and 30.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).*
- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

A.8. HARASSMENT AND ABUSIVE TREATMENT

Does the company make every effort to prohibit verbal and physical harassment or any other form of degrading treatment in the workplace?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO FREEDOM FROM TORTURE, CRUEL, INHUMAN, DEGRADING TREATMENT OR PUNISHMENT, AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

Dalits constitute a particularly vulnerable group in terms of harassment and degrading treatment from both fellow workers and managers. Verbal abuse and derogatory language against Dalits have in some cases become the norm, which is even accepted/expected by the Dalits themselves. To protect Dalits against abuse, the company should develop prevention policies, facilitate open communication, and provide training. Dalit women experience double discrimination based on both gender and caste and constitute an even more vulnerable group. They are often subjected to sexual harassment and degrading treatment by men of other castes.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy prohibiting all forms of harassment, including sexual harassment, and degrading treatment in the workplace.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company ensures, through training programmes that all employees are aware of the internal company policy on harassment, the definition of harassment, and the consequences of engaging in such acts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The training programme specifically notifies employees that caste-based harassment is also prohibited.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Employees and managers confirm that they have received training in workplace harassment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Article 5; International Covenant on Civil and Political Rights (1966), Article 7; International Convention on Economic, Social and Cultural Rights (1966), Article 7 (b); International Convention on the Elimination of All Forms of Racial Discrimination (1966); International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Articles 10, 12 and 13; ILO Indigenous Peoples Convention (169: 1989), Article 36(d).*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958); India has signed the Convention against Torture, but has abstained from ratifying the Convention on the grounds that*

domestic mechanisms available in the country are capable of preventing brutality and inhuman treatment.

The above question is based on the following principles in Indian law:

- The State is obligated to take efforts to secure just human conditions at work (Constitution, Articles 42 and 43).
- The Constitution provides for legal remedies if the liberty and dignity of an individual are encroached upon by inhuman or degrading treatment (Articles 32 and 226).
- The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex and place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).
- The Constitution imposes the duty upon every citizen to renounce practices derogatory to the dignity of women (Article 51 A(e)).
- The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis.
- In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993
- In 1997, the Supreme Court announced that sexual harassment of working women amounts to violation of gender equality rights. The judgment laid ground for a definition of sexual harassment, some preventive steps, and a complaint mechanism, under which state institutions and all workplaces with over 50 employees have to have complaints committees to deal with sexual harassment issues. In January 2006 the Court followed up on this judgment, and instructed all Chief Secretaries to inform the Court whether complaints committees have been set up.
- The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; specifically prohibits the intentional insult to or intimidation of Dalits; the assault or use of force to any Dalit women with the intent to dishonour or outrage her modesty; and the sexual exploitation of any Dalit women (offence no. 10-12).

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO FREEDOM FROM TORTURE, CRUEL, INHUMAN, DEGRADING TREATMENT OR PUNISHMENT, AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

A.9. GRIEVANCE PROCEDURES

Has the company established a grievance mechanism for hearing, processing, and settling the grievances of employees, including grievances related to harassment and other forms of discriminatory and degrading treatment?

YES <input type="checkbox"/>	NO <input type="checkbox"/>	F/A <input type="checkbox"/>	N/A <input type="checkbox"/>	NO INFO <input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Workers must be able to submit grievances regarding workplace concerns without the threat of suffering adverse employment action or prejudice as a result of the grievance. To facilitate the expression of these complaints, the company must establish and maintain an effective grievance procedure through which employees can anonymously report workplace-related concerns. Complaints might range from dissatisfaction with work hours and rest periods to claims of coercion, intimidation, harassment and degrading treatment.

If a complaint is made, the company must respond to the complaint in an efficient,

timely and responsible manner, and ensure that the employee does not suffer retaliation as a result of the complaint. Any worker who files a grievance must receive notification of the company's findings regarding his or her particular complaint and whether corrective action will be taken. If the worker disagrees with the decision, he or she must have recourse to some reasonable form of independent arbitration or dispute resolution process to settle the claim with the company. All employees should be informed about the grievance mechanism and encouraged to use it when applicable. It should be emphasised to employees that filing a complaint will not result in any kind of sanctions from the company.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has an anonymous grievance mechanism in place through which employees can report workplace concerns, including grievances related to harassment and discrimination. The grievance mechanism has an equal representation of employers and employees and also includes Dalit representatives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. All employees are informed about the grievance mechanism and its mandate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Each complaint is fully investigated, documented and resolved in a reasonable time period.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The company has a policy strictly prohibiting retaliation against a worker as a response to his or her complaints and this policy is strictly enforced against all co-workers, alleged perpetrators of harassment, and managers of the complaining worker.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The company engages in a dialogue with harassment/discrimination victims and implements a conciliation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Employees, including Dalit employees and labour unions report that the company is responsive to complaints of discrimination and harassment in the workplace and takes appropriate measures to remedy the problem.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Article 7; International Covenant on Civil and Political Rights (1966), Article 7; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Convention Concerning Discrimination (Employment and Occupation) (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Articles 22 and 57.*

India has ratified the following conventions relevant to the question: *International*

Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).

The above question is based on the following principles in Indian law:

- *The State is obligated to take efforts to secure just human conditions at work (Constitution, Articles 42 and 43).*
- *The Constitution provides for legal remedies if the liberty and dignity of an individual are encroached upon by inhuman or degrading treatment (Articles 32 and 226).*
- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex and place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution imposes the duty upon every citizen to renounce practices derogatory to the dignity of women (Article 51 A (e)).*
- *In 1997, the Supreme Court announced that sexual harassment of working women amounts to violation of gender equality rights. The judgment laid ground for a definition of sexual harassment, some preventive steps, and a complaint mechanism, under which state institutions and all workplaces with over 50 employees have to have complaints committees to deal with sexual harassment issues. In January 2006 the Court followed up on this judgment, and instructed all Chief Secretaries to inform the Court whether complaints committees have been set up.*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis (Articles 17 and 46).*

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO FREEDOM FROM TORTURE, CRUEL, INHUMAN, DEGRADING TREATMENT OR PUNISHMENT, AND THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK]

A.10 ELIMINATION OF SEGREGATION AND EXCLUSION IN THE WORKPLACE

Does the company ensure that traditional segregation and exclusionary practices are eradicated in the workplace?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Due to the principle of untouchability, the caste system involves the physical exclusion of Dalits from people of caste status. Dalits often live in special areas and communities, segregated from the rest of the society. Moreover, the practices of social exclusion often prohibit Dalits from drawing water from the same wells, attending the same temples, using the same transport and eating together with people of other castes. Even though the law prohibits this kind of segregation, the practice continues in many parts of the country. The company must make sure that this pattern is not reproduced at company facilities and make sure that all employees are provided free access to all areas and facilities, including water source, canteen facilities, toilet facilities, transport facilities, housing, health facilities etc. There should be no segregation of employees based on caste and any movement restrictions that may exist in the workplace should apply equally to all employees.

In order to proactively support the intermingling of people of different castes at company facilities, the company should strive to provide facilities and services that have the effect of supporting and encouraging the intermingling of people of different castes.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy that prohibits the segregation of employees based on caste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. All employees, regardless of caste are able to draw water from the same wells and eat at the same canteen facilities, use the same sanitary facilities, buy food from the same shop etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The company offers vegetarian food as well as non-vegetarian food, including beef and pork in their canteens.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If the company offers worship facilities, all employees are allowed access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. If the company provides housing facilities to employees and/or relatives, there is no caste-based segregation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. An examination of the workplace and work facilities and services offered to employees and/or relatives show that Dalits are not segregated from other employees in any way.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Convention Concerning Discrimination (Employment and Occupation) (C111, 1958); ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958); ILO Equal Remuneration Convention (C100:1951); India has signed the Convention against Torture, but has abstained from ratifying the Convention on the grounds that domestic mechanisms available in the country are capable of preventing brutality and inhuman treatment.*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex and place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis (Articles 17 and 46).*
- *In addition to the Constitutional provisions, India has issued several laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, such as the Protection of Civil Rights Act of 1955; the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

Special measures for DALITS

Due to the nature and persistency of caste discrimination in the Indian society, we recommend that the company engages in affirmative action measures, also called 'special measures'. Special measures are means by which present effects of past and historic discrimination are sought to be overcome, with the aim of establishing a level playing field for disadvantaged groups. The main argument for special measures for Dalits is that discrimination against Dalits is so deeply engrained in the Indian society that failing to take proactive action is likely to lead to ongoing discrimination in the workplace and contributing to the ongoing perpetuation of discrimination and exclusion of Dalits in the Indian society. International law does, in rare circumstances, allow for positive differential treatment of groups that need special protection or assistance under the prerequisite that the measures are of temporary character and that they stop when the reasons for them have ended and equality has been achieved. The special measures recommended in the Dalit Discrimination Check focus on providing special training and encouragement to Dalits with the aim of giving Dalits the opportunities to compete with others.

However, since the normative framework upon which the tool is based, does not obligate the company to undertake special measures for Dalits and since there are currently no legal requirements in India to undertake special measures for Dalits in the private sector, abstaining from special measures will not be categorised as an area of non-compliance. Therefore, when going through the following 3 questions, the company should not tick the 'No' box even though it has to answer negatively to the overall question, implying that it has not engaged in any type of special measures. Instead, the company should tick the 'F/A' box, which indicates that this is an area that requires further attention and holds the potential for developing into a human rights violation if not addressed adequately. *For more information on special measures, see the Background Sheet.*

Caste monitoring

Actions of special measures require that the company gather direct information about the caste identity of employees or potential employees. If the company decides to inquire about the caste identity of employees or potential employees, the company should recognise the sensitivity of the caste monitoring and take certain precautionary measures to ensure that the information gathering is carried out with the respect for the privacy rights of employees and ensure that information is used in a proper way. This implies that the purpose of collecting the information should be clearly explained to the potential employee and that the reasons for collecting the information are made clear before making the inquiry. Providing the information should be voluntarily and anonymous, which means that those who choose to provide information may be rewarded with special measures advantages, while those who don't receive the same treatment as other candidates. Information about caste identity must be kept strictly confidential and kept in the human resource department, who also should be responsible for determining whether the person is entitled to additional consideration and whether Dalits are underrepresented in that particular job class where she/he is applying. Staff involved in the collection of data should receive training in the protection of sensitive data.

Monitoring of the caste identities of employees is furthermore useful when measuring the implementation of the company's policy on non-discrimination and equal opportunities.

A.11. INCREASE DALIT REPRESENTATION IN THE WORKFORCE

Has the company taken steps to increase the representation of Dalits in the workforce in all occupational categories and throughout all levels in the workforce?

[THE QUESTION RELATES TO
THE RIGHT TO FREEDOM
FROM DISCRIMINATION]

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

To ensure equal opportunities within the company, the company should work towards not only increasing representation of Dalits in the workforce at a general level, but also ensure fair Dalit representation throughout all levels in the workforce. To fully respect the principles of non-discrimination and equal opportunity, it is not enough to have Dalits represented in low level positions; they must also be represented equally in highly paid and executive level positions as well.

One way of ensuring this is by setting equality targets for the workforce, basing the targets on the caste composition of the area from where the company is recruiting and on the caste composition of the current workforce. Since Dalit women experience double discrimination based on both caste and gender, a focus on gender should be included in the target setting. Setting targets requires that the company establishes a set of procedures for identifying and assessing disparities between people of different castes in the workforce and at the different levels in the company. It also requires that the company carry out caste monitoring.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy that supports and promotes special measures/affirmative action for Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company has special procedures in place for recruiting among Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Placement and advancement opportunities within the company are based on objective factors and are not connected to the caste status of the worker or other personal distinguishing criteria that are irrelevant for the job position.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The company has an effective diversity programme in place, where training opportunities are made available to help Dalits, as well as other underrepresented groups, achieve the qualifications necessary to acquire executive and highly paid positions within the company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. An analysis of the composition of the workforce shows that there is a fair representation of Dalits in the workforce at all levels in the company, including in the executive management.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
6. Dalit employees confirm that the company provides appropriate training and advancement opportunities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Article 2; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966), Articles 1(4) and 2(2); ILO Convention Concerning Discrimination (Employment and Occupation) (C111, 1958), Article 5; ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).*
- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*
- *There are currently no provisions in Indian law that obligate the private sector to engage in affirmative action.*

A.12. SPECIAL TRAINING AND EDUCATION PROGRAMMES

Has the company established training and education programmes aimed at preparing potential applicants from Dalit groups for vacant job positions, both when recruiting externally and internally?

[THE QUESTION RELATES TO
THE RIGHT TO FREEDOM
FROM DISCRIMINATION]

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

To support and encourage the employment of Dalits in the company, the company should facilitate the establishment of a level playing field by offering special training and education programs that will train and improve the skills of Dalits so that they can compete equally with people of other caste when applying for a vacant job position. Depending on the specific requirements of the position, the training could involve drafting applications, language courses, computer skills, etc. The company could also offer apprenticeships, internships, or other types of specialised skills training that will strengthen the capacities of Dalits. Since Dalit women experience double discrimination based on both caste and gender, the company should take extra measures also to include Dalit women in the training and education programmes.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy that supports and promotes special measures/affirmative action for Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company provides training and education that offer special skills training to Dalits when vacancies appear within the company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The company offers assistance with drafting applications for Dalit groups.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Dalit employees confirm that the company provides training and advancement opportunities, specifically for Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Article 2; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966), Articles 1(4) and 2(2); ILO Convention Concerning Discrimination (Employment and Occupation) (C111, 1958), Article 5; ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).
- The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).
- The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).
- The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).
- In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.
- There are currently no provisions in Indian law that obligate the private sector to engage in affirmative action.

[THE QUESTION
RELATES TO THE RIGHT TO
PRIVACY AND RIGHT TO
FREEDOM FROM DISCRIMI-
NATION]

A.13. ADVERTISING JOB OPENINGS

Does the company ensure that all job openings are advertised publicly and special recruitment efforts are made to attract applicants from under-represented groups (e.g. Dalits)?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

To increase the representation of Dalits in the workforce, the company should take measures to advertise all job openings widely and not restrict the information to certain publications, recruitment agencies, job centres, educational institutions etc., which may result in disproportionately excluding the number of applicants from Dalit communities. To attract applicants from Dalit groups, the company should take extra measures to announce job openings in educational institutions, job centres and universities that host large number of Dalits. Job advertisements should specifically encourage Dalits to apply, and refer to the company's policy of promoting special measures for Dalits. Other ways of encouraging Dalits to apply for positions in the company could be to have open days or career days focusing on including Dalits into the company.

As a general rule, employers should avoid recruitment solely on the basis on recom-

mendations from existing staff since the staff composition may favour individuals from a certain caste.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a clear privacy policy, outlining its data collection practices.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company has a policy that supports and promotes special measures/affirmative action for Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. When a job position is open, the company distributes the information as widely as possible at a variety of locations, including educational institutions, job centres and universities that host a large number of Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. All job advertisements refer to the company's policy on supporting and promoting special measures for Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2 and 23; International Covenant on Economic, Social and Cultural Rights (1966), Article 2; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966), Articles 1(4) and 2(2); ILO Convention Concerning Discrimination (Employment and Occupation) (C111, 1958), Article 5; ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958).*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirm-*

ative action (Articles 17 and 46 and part XVI).

- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*
- *There are currently no provisions in Indian law that obligate the private sector to engage in affirmative action.*

DALIT DISCRIMINATION CHECK

B. COMMUNITY IMPACT

The questions under community impact are concerned with the rights of individuals residing in communities (including communities defined by political, cultural or geographic boundaries) affected by company activities or products. The questions in the Dalit Discrimination Check for this category relate to land management and environmental health and safety. It should be noted that the Dalit Discrimination Check focuses on the issues that specifically affect Dalits and will not gauge other risks. For a full assessment, the company should consult the full Human Rights Compliance Assessment (HRCA).

B.1. LAND ACQUISITION

Before purchasing land, does the company consult with all affected parties, including both legal and customary owners to seek their prior informed consent?

[THE QUESTION RELATES TO THE RIGHT TO OWN PROPERTY AND RIGHT TO FREEDOM OF MOVEMENT]

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

In spite of land reforms during the 1970s and 1980s, distribution of land in India remains unequal. More than 250 million rural residents live in households that own less than 0.2 hectares of land. Particularly in the rural areas, people are landless or have very limited holdings. Among Dalits, landlessness is a problem that keeps them poor and marginalised. Traditionally, Dalits have not been allowed to own land, and even though they are entitled to own land, landlessness among them is increasing. There are cases where local governments have deliberately withheld allotted land from Dalit communities, and Dalits are sometimes denied access to land by communities of other caste.

Even though securing equal access to land and eliminating landlessness among Dalits is the responsibility of the state, the company must ensure not to be complicit in acts of misappropriation when purchasing land. In a government's eagerness to attract foreign investment, it may use its powers of eminent domain to take desirable property from inhabitants and then sell the land title to a corporation. If the purpose of the taking is not in the public interest, the company could be complicit in a violation of the right to own property. Even if the taking is in the public interest, the government must follow the appropriate procedures, including providing sufficient warning to the people, adequate compensation and suitable alternative land elsewhere.

In all land transactions, the company must make sure to investigate land ownership properly and consult with all affected groups before purchasing. Considering that Dalits constitute a particularly vulnerable group in terms of land rights, the company must be especially diligent in respecting the rights of Dalits and include Dalits in the consultation process, including Dalit women.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a method in place to verify all existing claims and titles to land, under state law (including colonial and post-colonial treaties) and the law and customs of indigenous peoples.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company is committed to clarifying	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
and settling all existing claims and conflicts of land title in compliance with international human rights law or state law, whichever is more protective of the rights of the claimants.					
3. Company guidelines ensure that no coercive measures are taken to affect land use by local people, in order to obtain transfer of their property interests.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Company guidelines include consultations with all affected parties (including Dalits and Dalit women) prior to acquiring their property through a third party, and if indigenous peoples (Adivasis) are involved, it requires their free, prior informed consent.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. NGO's, including Dalit and women organisations confirm that the company is respectful of the land rights of local and indigenous people whenever it leases or purchases land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: Universal Declaration of Human Rights (1948), Articles 17 and 25; Convention on the Elimination on All Forms of Discrimination against Women (1979), Article 15 (2) and 16 (h); ILO Indigenous and Tribal Peoples Convention (C169:1989), Article 14.

India has ratified the following conventions relevant to the question:

Convention on the Elimination of All Forms of Discrimination against Women; India has signed the ILO Indigenous and Tribal Populations' Convention (C107:1957), however India has not ratified the ILO Indigenous and Tribal People's Convention (C169:1989).

The above question is based on the following principles in Indian law:

- The Constitution covers certain aspects of the right to own property, stating that "no person shall be deprived of his property save by the authority of the law" (art. 300 A). However, it is considered a legal right and not a fundamental right.*
- The Innerline Regulations enacted in 1873 provide a basis for the safeguarding of indigenous communities' rights in most of the North-eastern Border States. The regulations provide that any person from another state shall have a valid permit to go beyond an inner boundary, and that no outsiders are allowed to own land in the tribal areas without approval from tribal authorities.*
- The Draft National Policy on Tribals was issued in order to address concerns of indigenous people (Adivasis) on traditional wisdom, intellectual property rights and traditional agricultural practices like shifting cultivation. However, the Policy has been criticised by human rights groups for not addressing the needs of Adivasis adequately. Importantly, the Policy fails to suggest any measures to provide compensation to past victims of forced evictions and prevent future evictions.*
- No specific regulations exist on the property rights of Dalits.*

B.2. DISRUPTIONS/DAMAGE TO LAND

Does the company consult with the local inhabitants and take measures to address and mitigate any disruptive effects that its operations may have on company land, the local community, and the natural resources in the area?

[THE QUESTION RELATES TO THE RIGHT TO OWN PROPERTY, THE RIGHT TO HEALTH, THE RIGHT TO AN ADEQUATE STANDARD OF LIVING AND THE RIGHT TO ADEQUATE FOOD]

YES		NO		F/A		N/A		NO INFO	
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TICK BOX AS APPROPRIATE

Environmental pollution due to industrial production is a well-known problem in India, and water pollution and land degradation are only some of the consequences of inadequate enforcement of environmental legislation, which have serious consequences for the local population. The company must remain alert and mitigate any negative effects its operations may have on company land and the surrounding areas in order to ensure the health of the local inhabitants, as well as their access to clean water and land that is suitable for the production of food. This includes respecting the needs of the people with whom it shares public services (such as water and electricity). If public resources are scarce in an area, the energy consuming operations of a company may result in a shortage of public resources for local residents. Other disruptions that might force individuals to relocate include activities that produce substantial air, water or land pollution and affect wildlife and farming; loud and disturbing noises; disruptions to natural land use patterns, etc. During the course of its operations, the company should monitor its pollution output and regularly control its work processes in order to prevent harmful pollutants and other detrimental effects from damaging the land and neighbouring residential areas. When leaving company land, it must also take all measures to ensure that the land is made suitable for future habitation and farming.

Environmental pollution affects everybody whether Dalit or not, however the consequences can in some cases be even more grave for Dalits communities since they constitute a particularly vulnerable group characterized by lack resources and alternatives. Thus, consequences can be catastrophic if the company overuses local resources or if the company damages the land so that is it useless for habitation and farming.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy on land management covering environmental protection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The company continually monitors its pollution output and maintains the highest level of environmental safety standards related to its particular industry sector.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Before initiating new operations, or when changing or extending operations, the company discusses its plans and activities with all affected parties and relevant experts to measure the impact and to determine how to avoid or mitigate any harmful effects. Dalit groups are included in the consultation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If community resources are scarce, the company develops a schedule defining the amount, location and timing of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
resources needed for its activities, so that the local authorities know when to expect rising demand and have sufficient time to prepare.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The company continually monitors its use of local resources, and if necessary, it arranges for alternative resources from outside to make sure that its activities do not deprive local inhabitants of basic services such as water or electricity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. When leaving land, the company has an action plan in place to ensure that there are no harmful and disruptive effects left on the land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Relevant NGOs, including Dalit groups and women organisations, and local inhabitants confirm that the company consults with them concerning all disruptive activities and addresses any concerns raised by them.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sources in international law: Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Articles 11 (1) and 12; the Convention on the Elimination of All Forms of Discrimination against Women, art. 11; the International Convention on the Rights of the Child, Articles 24 and 27; Convention against Racial Discrimination, art. 5(e); ILO Social Policy (Basic Aims and Standards) Convention (C117:1962), Articles 1, 2 and 4 (c); ILO Indigenous and Tribal Peoples Convention (C169:1989), Articles 14 and 15.

India has ratified the following conventions relevant to the question:

International Convention on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child; Convention against Racial Discrimination. India has signed the Indigenous and Tribal Populations Convention (C107:1957), however, it has not ratified the Indigenous and Tribal People's Convention (C169:1989). Moreover, India is a State party to several major international agreements on environmental protection including: Antarctic-Environmental Protocol, Antarctic-Marine Living Resources, Antarctic Treaty, Biodiversity, Climate Change, Desertification, Endangered Species, Environmental Modification, Hazardous Wastes, Law of the Sea, Ozone Layer Protection, Nuclear Test Ban, Ship Pollution, Tropical Timber 83, and Tropical Timber 94, Wetlands, Whaling.

The above question is based on the following principles in Indian law:

- *The right to health is protected in the Constitution, Article 47, by which the State is obligated to regard the improvement of the public health as among its primary duties.*
- *The Hazardous Waste (Management and Handling) Rules of 1989 define standards for the generation, collection, treatment, import, storage and handling of hazardous waste.*
- *The Public Liability Insurance Act and Rules and Amendment of 1991 provide for public liability insurance for the purpose of providing immediate relief to persons affected by accidents while handling any hazardous substance.*
- *The National Environmental Tribunal Act of 1995 awards compensation for damages to persons, property and the environment arising from activities involving hazardous substances.*

DALIT DISCRIMINATION CHECK

C. PROVIDING UTILITIES AND SERVICES

The questions in this section deal with the rights of individuals using essential goods and services provided by the company, such as company educational, housing, and medical facilities. We recommend that these questions be reviewed by the company's human resource department.

C.1. NON-DISCRIMINATION WHEN OFFERING SERVICES

If the company offers services for employees, such as healthcare services, childcare or housing facilities, does it ensure that the benefits are provided in a non-discriminatory manner and that Dalits are not excluded as beneficiaries?

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION, THE RIGHT TO HEALTH AND THE RIGHT TO ADEQUATE HOUSING]

YES <input type="checkbox"/>	NO <input type="checkbox"/>	F/A <input type="checkbox"/>	N/A <input type="checkbox"/>	NO INFO <input type="checkbox"/>
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TICK BOX AS APPROPRIATE

When providing benefits and services to employees, such as health care services, housing facilities, transport facilities, educational services and/or training facilities, the company must ensure that the services and facilities provided are equally accessible to all persons, irrespective of caste identity.

Moreover, when providing services and facilities, the company must make sure not to segregate people based on caste identity. For instance, if the company provides housing or transportation, employees and/or relatives must not be separated on the basis of their caste.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has non-discriminatory guidelines for providing services and facilities for employees that include a reference to caste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. All employees are informed about the services and facilities provided by the company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Educational services are not selectively marketed to exclude certain groups from participation, such as Dalits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Company health care plan applies equally to all employees regardless of the employee's caste background.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Housing assignments are transparent so that it is clear that the assignment is on a first-come-first served or needs based priority.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. A review of company offered services and facilities confirm that the coverage is non-discriminatory and that all employees have equal access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



The above question is based on general principles contained in the following: Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 (2), 7 (b) and 12; Convention on the Elimination of All Forms of Discrimination against Women (1979), Articles 10, 12 and 14; Convention on the Elimination of All Forms of Racial Discrimination (1965), Article 5 (e iv); ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962), Article 14 (f); ILO Equality of Treatment (Social Security) Convention (C118, 1962), Articles 2 and 3; ILO Workers' Housing Recommendation (R115, 1961, Article 12 (1).

India has ratified the following conventions relevant to the question:

International Convention on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Racial Discrimination; ILO Equality of Treatment (Social Security) Convention (C118:1962).

The above question is based on the following principles in Indian law:

- The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex and place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).
- The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of the educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).
- In addition to the Constitutional provisions, India has issued several laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, such as the Protection of Civil Rights Act of 1955; the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO EDUCATION]

C.2. NON-DISCRIMINATION IN COMPANY EDUCATION

Are the educational services and activities of the company available on a non-discriminatory basis?

YES <input type="checkbox"/>	NO <input type="checkbox"/>	F/A <input type="checkbox"/>	N/A <input type="checkbox"/>	NO INFO <input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Equal access to education and training is one of the most important elements in combating against caste-based discrimination. Companies directly involved in the provision of primary educational services, either at the community level, or within the company, must ensure that the education is made available, accessible and affordable to all relevant participants, including Dalits and women. The principle of non-discrimination extends to all persons of school age residing in the company or area of concern.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The company has a policy of non-discrimination relating to all its educational services.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
2. Educational services are not selectively marketed to exclude certain groups, such as Dalits, from participation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If the company operates in areas where male and female students are taught separately, the company offers courses of equal quality and content to both groups and allows female students to be taught by a female.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The educational services and activities include positive representation of Dalit culture, way of life and values.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The educational services and activities are located in Dalit habitations, which provide greater access to Dalits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. A school council is established with representation of the school management, parents, and other relevant stakeholders in the local area, including Dalit groups. This council discusses any reports received of discriminatory treatment committed by the school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Employees and/or people from the local community confirm that the company provides equal access to educational services and that admission criteria are not based on caste, or any other distinguishing irrelevant criteria.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Article 26; International Covenant on Economic, Social and Cultural Rights (1966), Article 13 (1); Convention on the Elimination of All Forms of Racial Discrimination (1956, Article 5 (e); Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 10; Convention on the Rights of the Child (1989), Articles 28 and 29; Convention on the Protection of All Migrant Workers and Members of their Families (1990), Articles 30, 43(1a) and 45(1a); ILO Indigenous and Tribal Peoples Convention (C169, 1989), Article 3; ILO Paid Educational Leave Convention (C140, 1974), Article 8; UNESCO Convention against Discrimination in Education (1960).*

India has ratified the following conventions relevant to the question:

International Convention on Economic Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Racial Discrimination.

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex and place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promo-*

tion of the educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).

- *In addition to the Constitutional provisions, India has issued several laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, such as the Protection of Civil Rights Act of 1955; the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

DALIT DISCRIMINATION CHECK

SUPPLIER CHECK

The questions supplier check in the concern the violations committed by the company's business partners. Such violations are commonly called 'indirect' violations. Most companies maintain numerous business partners, and risk being indirectly connected to literally hundreds of violations. Companies cannot always be held responsible for the practices of their suppliers, as they may not have reasonable foreseeability and the ability to control bad practices in all cases. Ultimately what is expected is 'due diligence' – ensuring that all reasonable measures are undertaken to avoid complicity in violations. As a general rule, companies are advised to inform local partners of their concern for good human rights practices, and reinforce the message with standard human rights clauses in contractual agreements, regular questionnaires, and on-site monitoring.

The Dalit Discrimination Check contains this specific section on supply chain because Dalits, due to the occupational requirements of the caste system and due to the fact that Dalits constitute the bottom of the Indian society, are often relegated to undertake the most dirty and demeaning jobs. For instance, Dalits constitute the vast majority of workers who are subjected to forced labour in India and Dalits also constitute the majority of child labourers.

Even though India has comprehensive labour regulation with standards that in many areas meet international standards, 92 percent of the workforce in India is employed in the informal sector where the regulation of human rights and labour standards often is inadequate. This means that companies who use Indian suppliers may unknowingly be involved in and benefiting from the discrimination and abuse of Dalits and other marginalised and vulnerable groups in India.

The supply chain section of the Dalit Discrimination only contains questions that address issues where Dalits constitute a particularly vulnerable group, i.e. forced and bonded labour; worst forms of child labour; exposure of employees to life-threatening work environments; harsh, inhumane or degrading treatment or punishment of employees; living wage, and discrimination. This does not mean that other groups are not victims in regard to the above areas and that the section *cannot* be applied to address these groups. Furthermore, the focus on issues that specifically pertain to Dalits implies that a number of essential issues that a company should check and monitor its suppliers for compliance with are excluded. This means that the section cannot function as an adequate checklist for Indian suppliers, but must be supplemented by additional tools that address the whole spectrum of relevant supply chain issues.

For a comprehensive supply chain management tool, we recommend the company to consult the supply section of the Human Rights Compliance Assessment (HRCA), the Quick Check version of the HRCA, or the CSR compass developed by the Danish Institute for Human Rights in cooperation with the Danish Confederation of Industries and the Danish Commerce and Companies Agency.

FORCED AND BONDED LABOUR

[THE QUESTION RELATES TO
THE RIGHT TO FREEDOM
FROM FORCED LABOUR
AND SERVITUDE AND THE
RIGHT TO FREEDOM OF
MOVEMENT]

1. FORCED LABOUR AND DEBT BONDAGE

Does the supplier ensure that it does not participate in, or benefit from, any form of forced labour, including bonded labour, forced prison labour, slavery, servitude, or human trafficking?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Forced labour and debt bondage are widespread problems in India. It occurs when a recruited worker is unable to leave a poorly paid job because of debt owed to the company or a recruitment agency, often for fees paid to secure the job, and the worker must continue to work at the company (or for the recruiting agency) in order to pay off the debt. Unpaid debts can be transferred between family members and can cause enslavement to the same employer for generations. India is known to host a large number of bonded labourers; the exact number is unknown, but Human Rights Watch estimated in 1999 that 40 million bonded labourers existed, of which 15 million were children. Bonded labour is largely confined to Dalits and Adivasis (according to numbers from the Indian Ministry of Labour in 2000/2001, app. 86 percent of the bonded labourers in India are either Dalits or Adivasis), and is particularly prevalent in agricultural industries, but has also spread to manufacturing industries, mines, stones quarries, brick kilns, weaving, carpet industry, garment industry, cutting of semi-precious stones, manufacture of footballs, foot wears, domestic work and cottonseeds. One of the origins of bonded labour in India lies in the caste system and the requirement that Dalits should perform certain types of work for the community, often without payment. Refusal to do so is likely to lead to harassment and violence from other caste members.

Even if not directly involved in bonded labour itself, a supplier can still violate the right to freedom from forced labour or servitude if it uses or benefits from labour of workers who are the victims of bonded labour by others, such as through temporary employment agencies, business partners, or government actors.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier has a policy or procedure in place to ensure that it does not participate in, or benefit from, any form of forced labour, including debt bondage .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The supplier ensures that employment contracts are fair, transparent, and understood by all workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. All workers are allowed to terminate their employment after reasonable notice.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. All workers are allowed to leave the supplier's premises at the end of their shifts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
5. The supplier ensures, by proper investigation, that it does not use labour from agencies or firms involved in trafficking, debt bondage, or kidnapping.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The supplier (or its recruiting agencies) does not charge workers recruiting or hiring fees that require the worker to be indebted to the supplier (or recruiting agency), or to work for the supplier (or recruiting agency) to pay off the debt.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The supplier does not compel its employees to purchase basic goods and supplies from company stores.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The supplier does not withhold wages or threaten to withhold wages to compel overtime (or work itself), but makes payments on a regular basis, and in a timely manner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The supplier does not coerce or compel employees to work overtime (or work itself) by the use of threat or force, including threats to withhold wages.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The supplier does not use prison labour, unless the prisoner has been convicted by a court of law, and labour voluntarily under the supervision and control of a public authority.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. The supplier does not require workers to lodge money deposits with the supplier.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. The supplier has a system in place to systematically check and monitor that its suppliers and contractors do not impose work conditions on workers that amount to forced and bonded labour and/or do not engage in bonded labour schemes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Employees, local unions or NGOs confirm that the supplier respects the right to freedom from forced labour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sources in international law: *Universal Declaration of Human Rights (1948), Article 4; International Covenant on Civil and Political Rights (1966), Article 8; International Covenant on Economic, Social and Cultural Rights (1966), Article 7 (b); Convention on the Rights of the Child, Articles 32 and 36; Convention on the Protection of the Rights of the Migrant Worker and Members of Their Families (1990), Article 11 (2); ILO Forced Labour Convention (C29, 1930), Articles 12 and 13; ILO Declaration on Fundamental*

Principles and Rights at Work (1998), Article 2(b), Convention on the Elimination of All Forms of Discrimination Against Women (1979), Article 6; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2001), Article 3(a); ILO Protection of Wages Convention (C95, 1949), Article 9.

India has ratified the following conventions relevant to the question:

International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention on the Rights of the Child; ILO Forced Labour Convention (C29: 1930); ILO Abolition of Forced Labour Convention (C105: 1957).

The above question is based on the following principles in Indian law:

- *The Constitution prohibits trafficking in human beings and other forms of forced labour (Article 23).*
- *The 1976 Bonded Labour System (Abolition) Act and the 1989 Scheduled Castes and the Schedules Tribes (Prevention and Atrocities) Act explicitly prohibit forced and bonded labour.*
- *The Bonded Labour System (Abolition) Act (1976) unilaterally frees all bonded labourers from bondage with simultaneous liquidation of their debts. The Act criminalizes the use of the bonded labor system with penalties including up to three years in jail and 2,000 rupees (\$45) in fines. Moreover, the Act provides for the establishment of "Vigilance Committees" throughout the country, which are administrative mechanism for the identification, release, and rehabilitation of bonded labourers.*

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM FORCED LABOUR AND SERVITUDE AND THE RIGHT TO FREEDOM OF MOVEMENT]

2. DEBT BONDAGE THROUGH SALARY ADVANCEMENTS

Does the supplier avoid hiring workers into bonded labour relationships involving salary advancements/loans?

YES		NO		F/A		N/A		NO INFO	
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TICK BOX AS APPROPRIATE

Advancing salary in the form of a loan is widespread practice in India that frequently leads to debt bondage, often with Dalits as the victims. Very often the debt repayment cycle is never-ending; the debt is excessive; interest rates are high and unfair; and the repayment terms are so unfair that the employee must continue to work for the company in order to pay off the loan. Unpaid debts are transferred between family members and can cause enslavement to the same employer for generations. Even though advancing salary in the form of loans not necessarily result in bonded labour employment relationship, the supplier should be wary of any advancements that create a debtor relationship where the employee or his or her family is constrained from leaving the company, unable to pay his or her own living expenses or incapable of repaying the debt in a reasonable amount of time. Each case is fact specific, however, and should be analyzed in the context of the indicators listed below.

SUGGESTED INDICATORS:

1. The supplier has guidelines in place regarding the proper use of loan/

YES	NO	F/A	N/A	NO INFO
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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(continued) SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
advancements. The loan/advancement repayment terms are carefully explained to the worker – in a language understood by the worker – and codified in an agreement signed by the worker.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The loan/advancement is not made to purchase items needed to hold the job, such as uniforms or other work-related supplies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The loan/advancement is not made to pay for training, transportation or other work-related expenses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The loan/advancement is not made to pay recruitment/agency fees or relocation expenses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The rate of interest on the loan/advancement is in accordance with prevailing market rates if the prevailing market rate is reasonable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The terms of repayment on the loan/advancement do not restrict the employee's ability to change jobs or employers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The loan/advancement does not affect other members of the employee's family or force family members to work with the supplier to pay off the debt.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The employees are paid a living wage and are able to afford their own living expenses while making payments on the loan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Loans/advancements are not made on a cyclical basis, thereby subjecting employees to a never-ending process of debt and repayment with the supplier. If employees continually incur loans from the employer to pay necessary expenses, the supplier re-evaluates its living wage policies and/or institutes a program to rehabilitate long-term indebted employees.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Employees and local trade unions/NGOs confirm that they approve of the supplier's loan advancement policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sources in international law: *Universal Declaration of Human Rights (1948), Article 4; International Covenant on Civil and Political Rights (1966), Article 8; International*

Covenant on Economic, Social and Cultural Rights (1966), Article 7 (b); Convention on the Rights of the Child, Articles 32 and 36; Convention on the Protection of the Rights of All Migrant Worker and Members of Their Families (1990), Article 11 (2); ILO Forced Labour Convention (C29, 1930), Articles 12 and 13; ILO Declaration on Fundamental Principles and Rights at Work (1998), Article 2(b), Convention on the Elimination of All Forms of Discrimination Against Women (1979), Article 6; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2001), Article 3(a); ILO Protection of Wages Convention (C95, 1949), Article 9.

India has ratified the following conventions relevant to the question:

International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention on the Rights of the Child; ILO Forced Labour Convention (C29: 1930); ILO Abolition of Forced Labour Convention (C105: 1957).

The above question is based on the following principles in Indian law:

- *The Constitution prohibits trafficking in human beings and other forms of forced labour (Article 23).*
- *The 1976 Bonded Labour System (Abolition) Act and the 1989 Scheduled Castes and the Schedules Tribes (Prevention and Atrocities) Act explicitly prohibit forced and bonded labour.*
- *The Bonded Labour System (Abolition) Act (1976) unilaterally frees all bonded labourers from bondage with simultaneous liquidation of their debts. The Act criminalizes the use of the bonded labour system with penalties including up to three years in jail and 2,000 rupees (\$45) in fines. Moreover, the Act provides for the establishment of "Vigilance Committees" throughout the country, which are administrative mechanism for the identification, release, and rehabilitation of bonded labourers.*

CHILD LABOUR

[THE QUESTION RELATES TO
THE RIGHT TO WORK AND
JUST AND FAVOURABLE
CONDITIONS OF WORK
AND THE RIGHT TO EDUCA-
TION]

3. MINIMUM AGE REQUIREMENTS

Does the supplier comply with international minimum age standards?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Children must not be hired to work before completing their compulsory education. The age of completion of compulsory education and entry into employment varies by state, but according to the ILO, the minimum age for entry into employment should be no younger than 15. Indian law, however, falls below international standards as it allows for the employment of children at the age of 14. Companies operating in India must follow ILO standards.

Child labour is a most serious and widespread problem in India, but due to differing

definitions and methods of estimation, the total number of estimated child labourers varies. The 1991 national census estimated the number of working children to be 11, 3 million, out of a total of 210 million children (age 5-14). In 1983 the Operations Research Group of Baroda (ORGB) estimated the number to be 44 million, a figure which since then has secured benchmark status with NGOs and UN agencies. In line with the growth in population, the number has recently been upgraded to 55 million. Finally, Human Rights Watch estimated in 1996 the number of child workers to be somewhere between 60-115 million. The reasons for the high number of child labourers include parental poverty, illiteracy, unemployment, deeply ingrained cultural traditions, and lack of access to basic education.

According to the ILO, 90 percent of the children in rural India are employed in agriculture, with an estimated 2 million working in hazardous industries. Other typical occupations for child labourers include picking rags, making bricks, mining, polishing gemstones, rolling beedi cigarettes, packing firecrackers, footwear, working as domestics, and weaving silk and carpets.

As with forced and bonded labour, Dalits constitute the majority of child labourers in India.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier has a policy regarding the minimum age for employment, which complies with ILO standards (no less than 15 years of age) and not Indian law.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The supplier requires candidates to provide copies of birth certificates or other official forms of identification verifying their age before being hired by the company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If certificates are not common, or are frequently falsified, the supplier has an alternative procedure for estimating the age of employment for young candidates (e.g. medical examinations).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Supplier provided apprenticeship programmes are limited in duration, are performed in conjunction with a school programme, are educational to the student, and do not interfere with the child's compulsory education.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Workers representatives, unions, NGOs, and local schools confirm that the supplier does not employ children of school age if this interferes with their education.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sources in international law: *Universal Declaration of Human Rights (1948), Article 26; International Covenant on Economic, Social and Cultural Rights (1966), Article 13 (2a); Convention on the Rights of the Child (1989), Articles 28 (1) and 32; ILO Minimum Age Convention (C138, 1973), Articles 1, 2, 3 and 7.*

India has ratified the following conventions relevant to the question:

International Convention on Economic Social and Cultural Rights; Convention on the Rights of the Child; ILO Minimum Age (underground Work) Convention (C123:1965). India has not ratified the Minimum Age Convention (C138: 1973) nor the Worst Forms of Child Labour Convention (C182: 1999).

The above question is based on the following principles in Indian law:

- *The Constitution contains several provisions that prohibit child labour:

 - *Article 24 prohibits the employment of any child below the age of 14 in any factory or mine or other hazardous employment;*
 - *Article 39 (e) affirms that the State is obligated to ensure that no citizens are forced by economic necessity to enter into vocations unsuited to their age and strength; and*
 - *Article 39 (f) provides that children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth shall be protected against moral and material abandonment.**
- *Moreover, prohibition of child labour is found in the Child Labour (Prohibition and Regulation) Act of 1986, which prohibits the employment of children below the age of 14 in certain listed occupations and processes that are hazardous to children's lives and health. In 2006, the Child Labour (Prohibition and Regulation) Act 1986 was amended. The new act added to the list of occupations in which employment of children is prohibited the employment of children as domestic workers or servants and the employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centers.*
- *The Factories Act of 1948 prohibits the employment of children below the age of 14 years (Section 67). Adolescents between the ages of 14 and 18 can be employed in a factory only if he/she obtains a certificate of fitness from an authorised doctor; is in the custody of manager of the factory; or carries with him/her a token giving a reference to such certificate (section, 68). The Act also prescribes 4½ hours of work per day for children between the ages of 14-18 years and prohibits their working at night (section 71). Indian law falls slightly below ILO standards, which sets the minimum age at 15 years, rather than 14, and forbids forms of hazardous work for all children under 18.*
- *The prohibitions against bonded labour found in the Constitution (Article 23) and in the Bonded Labour System (Abolition) Act of 1976 also cover bonded child labour.*

[THE QUESTION RELATES TO THE RIGHT TO WORK AND JUST AND FAVOURABLE CONDITIONS OF WORK AND THE RIGHT TO EDUCATION]

4. EDUCATIONAL REMEDIATION PROGRAMME

If the supplier becomes aware that it is employing children of school age, does it ensure that the children are enrolled in a remediation/education programme, rather than being instantly dismissed from employment?

YES <input type="checkbox"/>	NO <input type="checkbox"/>	F/A <input type="checkbox"/>	N/A <input type="checkbox"/>	NO INFO <input type="checkbox"/>
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TICK BOX AS APPROPRIATE

If a supplier becomes aware that it has hired workers below 15 years of age, it must take action to remedy the situation. Since lack of access to education and poverty and lack of social services are the main causes for child labour in India, simply dismissing underage workers may be harmful and disruptive to their lives, forcing them into dangerous work, prostitution, a life on the streets, or starvation. Instead, the supplier must make efforts to enrol the children in an educational programme and assist them in making the transition from work to school, while ensuring that the overall income of the family of the

child is not reduced due to this transition. The supplier should consider collaborating with local authorities, NGOs or other companies operating in the same location to collectively address the problem of child labour.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier has a procedure on the remediation of child labourers found to be working at its premises.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The supplier offers to hire the parents, guardians, elder siblings or other adult members of the extended family of any child found to be working for the supplier.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The supplier establishes apprenticeship programs (or other such measures) that ensure the basic education of the child worker, while concurrently providing practical experience and financial support.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The supplier provides income-compensation to families of children removed from the workplace.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. When enrolling children in a remediation programme, the supplier makes sure to consult with the child and its parents.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Local schools records demonstrate that former child labourers are enrolled in an education programme.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. NGOs and local community representatives confirm that the supplier has not summarily terminated the employment of any child labourers found to be working for the supplier.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sources in international law *Universal Declaration of Human Rights (1948), Article 26; International Covenant on Economic, Social and Cultural Rights (1966), Article 13 (1); Convention on the Rights of the Child (1989), Articles 28 (1) and 32; ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962), Article 15*

India has ratified the following conventions relevant to the question:

International Convention on Economic Social and Cultural Rights; Convention on the Rights of the Child; ILO Minimum Age (underground Work) Convention (C123:1965). India has not ratified the Minimum Age Convention (C138: 1973) nor the Worst Forms of Child Labour Convention (C182: 1999).

The above question is based on the following principles in Indian law:

- *The Constitution contains several provisions that prohibit child labour:*
 - *Article 24 prohibits the employment of any child below the age of 14 in any fac-*

- tory or mine or other hazardous employment;
- o Article 39 (e) affirms that the State is obligated to ensure that no citizens are forced by economic necessity to enter into vocations unsuited to their age and strength; and
 - o Article 39 (f) provides that children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth shall be protected against moral and material abandonment.
- Moreover, prohibition of child labour is found in the Child Labour (Prohibition and Regulation) Act of 1986, which prohibits the employment of children below the age of 14 in certain listed occupations and processes that are hazardous to children's lives and health. In 2006, the Child Labour (Prohibition and Regulation) Act 1986 was amended. The new act added to the list of occupations in which employment of children is prohibited the employment of children as domestic workers or servants and the employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centers.
 - The Factories Act of 1948 prohibits the employment of children below the age of 14 years (Section 67). Adolescents between the ages of 14 and 18 can be employed in a factory only if he/she obtains a certificate of fitness from an authorised doctor; is in the custody of manager of the factory; or carries with him/her a token giving a reference to such certificate (section, 68). The Act also prescribes 4½ hours of work per day for children between the ages of 14-18 years and prohibits their working at night (section 71). Indian law falls slightly below ILO standards, which sets the minimum age at 15 years, rather than 14, and forbids forms of hazardous work for all children under 18.
 - The prohibitions against bonded labour found in the Constitution (Article 23) and in the Bonded Labour System (Abolition) Act of 1976 also cover bonded child labour.

[THE QUESTION RELATES TO
THE RIGHT TO WORK AND
JUST AND FAVOURABLE
CONDITIONS OF WORK
AND THE RIGHT TO EDUCA-
TION]

5. YOUNG WORKERS

Does the supplier ensure not to hire young workers (below 18 years of age) to perform any type of work, which is likely to jeopardise their health, safety or morals?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

The supplier must not hire minors (below the age of 18) to perform work that is hazardous or harmful to their health, safety, or morals, and it must also take efforts to ensure that it does not benefit directly or indirectly from such labour (see question on supply chain management). For international guidance regarding harmful activities, the supplier must consult the indicators attached to this question, which are taken in part from International Labour Organisation Recommendation 190 regarding the Worst Forms of Child Labour.

The prohibitions described in this question should not be confused with minimum age standards. Companies are expected to comply with minimum hiring ages (as explained in question in the question on minimum ages), regardless of whether the work to be performed is harmful or not.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier has guidelines in place defining what tasks are prohibited as hazardous or harmful to the health, safety, or morals of workers under the age of 18.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The supplier does not hire or contract workers under the age of 18 to perform work that exposes them: A. psychological or sexual abuse. B. work underground, under water, at dangerous heights or in confined spaces. C. work with dangerous machinery, equipment and tools, or to manhandle or transport heavy loads. D. work which exposes them to hazardous substances, agents or processes or to temperatures, noise levels, or vibrations damaging to their health. E. work for long hours, during the night, or in a position that requires them to be unreasonably confined to the premises.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Young workers are subject to medical examinations to ensure their fitness for the form of employment they are to undertake.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Managers are aware of the above limitations concerning the work tasks of workers below the age of 18.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Worker representatives or NGOs confirm that the supplier does not hire workers under the age of 18 to perform work that may be hazardous or harmful to their health, safety, educational, or moral development.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 4, 23, 24 and 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 7; Convention on the Rights of the Child (1989), Article 32; ILO Worst Forms of Child Labour Convention (C182, 1999); Article 3; ILO Worst Forms of Child Labour Recommendation (R190, 1999); ILO Minimum Age for Admission to Employment Recommendation (R146, 1973), Part IV.*

India has ratified the following conventions relevant to the question:

International Convention on Economic Social and Cultural Rights; Convention on the Rights of the Child; ILO Minimum Age (underground Work) Convention (C123:1965). India has not ratified the Minimum Age Convention (C138: 1973) nor the Worst Forms of Child Labour Convention (C182: 1999).

The above question is based on the following principles in Indian law:

- *The Constitution contains several provisions that prohibit child labour: Article 24 prohibits the employment of any child below the age of 14 in any factory or mine*

or other hazardous employment; Article 39 (e) affirms that the State is obligated to ensure that no citizens are forced by economic necessity to enter into vocations unsuited to their age and strength; and Article 39 (f) provides that children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth shall be protected against moral and material abandonment.

- Moreover, prohibition of child labour is found in the Child Labour (Prohibition and Regulation) Act of 1986, which prohibits the employment of children below the age of 14 in certain listed occupations and processes that are hazardous to children's lives and health. In 2006, the Child Labour (Prohibition and Regulation) Act 1986 was amended. The new act added to the list of occupations in which employment of children is prohibited the employment of children as domestic workers or servants and the employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centers.
- The Factories Act of 1948 prohibits the employment of children below the age of 14 years (Section 67). Adolescents between the ages of 14 and 18 can be employed in a factory only if he/she obtains a certificate of fitness from an authorised doctor; is in the custody of manager of the factory; or carries with him/her a token giving a reference to such certificate (section, 68). The Act also prescribes 4 ½ hours of work per day for children between the ages of 14-18 years and prohibits their working at night (section 71). Indian law falls slightly below ILO standards, which sets the minimum age at 15 years, rather than 14 and forbids all forms of hazardous work for children below 18.
- India has no laws prohibiting dangerous work for children under 18.

EXPOSURE OF EMPLOYEES TO LIFE-THREATENING WORK ENVIRONMENTS

[THE QUESTION RELATES TO
THE RIGHT TO LIFE, LIBERTY
AND SECURITY OF PERSON
AND THE RIGHT TO
HEALTH]

6. WORKPLACE HEALTH AND SAFETY

Does the supplier ensure that its workers are afforded safe, suitable and sanitary work facilities?

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Industrial accidents are widespread at many Indian workplaces and health and safety are often substandard. This is particularly characteristic of the informal sector, where 92 percent of the Indian workforce is employed and where implementation of occupational health and safety standards is inadequate. Constituting the bottom of society, Dalits are generally more exposed to substandard working conditions.

The supplier must ensure that workers are offered a safe and healthy work environment and take appropriate precautionary measures to protect employees from work-related hazards and anticipated dangers in the workplace. The actual type and number of safety precautions necessary will differ depending upon the industry of operation and unique concerns of the company, as well as the location of operation and the particular needs of vulnerable workers, such as pregnant women. The supplier must employ the highest applicable industry and national standards required for

its operations, but at a minimum, must comply with the following indicators, which are taken from international labour conventions.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier has effective health and safety prevention and remediation policies and procedures in place which comply with industry, national and international standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. supplier's health and safety standards are made available to employees in a language they understand.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The supplier has a disciplinary plan which applies to all violations of the company's health and safety standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The supplier documents accidents and adjusts its processes to prevent recurring problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The supplier has a procedure or process for receiving and responding to health and safety complaints, such as a health and safety representative or committee.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Responsibilities for health and safety tasks are clearly outlined at all levels of the company and there is a system for monitoring the accountability of the tasks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The supplier routinely monitors its production processes, machinery and equipment to ensure that they are safe and in good working order.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Workers and managers are trained to respond to workplace emergencies and first aid kits are readily available.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Escape exits are free from obstruction.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. There are fully functional fire extinguishers and fire escapes on all workplace premises.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Work premises and equipment are maintained and kept clean.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. The workplace has sufficient and suitable ventilation, with fresh or purified air, appropriate for the climate and industry of operation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
13. Workplace temperature is comfortable and steady.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. The workplace has sufficient and suitable lighting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Potable water is available for all workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Sufficient and suitable washing facilities and sanitary conveniences are provided and properly maintained	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Sufficient, suitable and comfortable seats/chairs are supplied to the workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. If employees use uniforms or other work-specific clothing, the supplier provides suitable facilities for changing, storing, and drying their clothing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Clean and sanitary food storage facilities and designated eating areas are available for all employees.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Residential or overnight facilities are clean and sanitary and meet the basic needs of the workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. The supplier provides clean and sanitary toilet facilities appropriate for both genders.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Special attention is paid to the health and safety of pregnant women, disabled employees and other vulnerable workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23. Employees are given access to health and safety information about the company.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24. Health and safety inspections confirm that the workplace is safe, clean, comfortable and hygienic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Articles 7 (b) and 12 (2b); Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 11 (1f); ILO Hygiene (Commerce and Office) Convention (C120, 1964); ILO Occupational Health*

and Services Convention (C161, 1985), Article 5 (b).

India has ratified the following conventions relevant to the question:

International Convention on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination. India has not signed the ILO Occupational Safety and Health Convention (C155,1981); the ILO Hygiene (Commerce and Office) Convention (C120, 1964); or the ILO Occupational Health and Services Convention (C161, 1985).

The above question is based on the following principles in Indian law:

- *The Constitution, Article 39 (e), affirms that the State is obligated to direct its policies to ensure that the health and strength of workers, men and women, and the tender age of children, are not abused and that citizens are not forced by economic necessity to enter into vocations unsuited to their age and strength.*
- *India has a large and specialised body of law concerning OHS, however the principal health and safety laws are based on the Factories Act of 1948, which defines the OHS obligations of employers as follows:*
 - o *The Factories Act requires employers to ensure a clean and healthy work environment and defines standards for cleanliness; disposal of wastes and effluents; ventilation and temperature; dust and fume; artificial humidification; overcrowding; lighting; drinking water; latrines and urinals; and spittoons (Chapter 3, sections 11-20);*
 - o *The Factories Act requires employers to provide basic safety measures, such as equipment maintenance/repair, protective gear, emergency procedures, and fire detectors (Chapter 4, section 20-41) ;*
 - o *The Factories Act requires the employer to a) disclose information about dangers and health hazards; b) take measures to protect workers from substances and materials; c) develop health and safety policies; d) quantify and characterise substances and waste; e) develop emergency plans; and f) safeguard the handling, use, transportation, storage and disposal of hazardous waste (Chapter 4, sections 41-42).*
- *The Factories Act also requires employers to maintain up-to-date health records of workers and to appoint a person experienced in handling hazardous substance to supervise handling. Employers are also required to provide protective measures and regular medical examinations.*
- *In addition to the Factories Act, industry specific OHS legislation defines the health and safety standards for specific industries*

7. HEALTH AND SAFETY EQUIPMENT AND TRAINING

Does the supplier provide its employees with the protective equipment and training necessary to perform their tasks safely?

[THE QUESTION RELATES TO THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON AND THE RIGHT TO HEALTH]

YES		NO		F/A		N/A		NO INFO	
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TICK BOX AS APPROPRIATE

All workers must be trained on all tasks for which they are responsible prior to beginning a new assignment and this must be followed by regular health and safety training. In general, workers should not be exposed to harmful processes, chemicals, substances or techniques; however, if it is impossible to avoid exposure, all workers who are exposed to hazardous substances or conditions must be provided with all protective equipment necessary, at no cost to him/her. The type of protective equipment necessary will vary depending upon the

nature of the work, but may include specialised suits, gloves, helmets, goggles, steel-toe boots, safety harnesses, ropes, etc. Undue burden or expense to the company must not be used as a justification for failing to provide appropriate safety equipment.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. Policies and procedures dictate that all employees are provided with the protective equipment and training necessary to safely perform the functions of their position.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Workers and managers are trained to respond to workplace emergencies and first aid kits are readily available.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. All workers are protected against processes, substances and techniques, which are obnoxious, unhealthy, toxic or harmful (International Labour Organisation Convention 120, (120, 1964) Article 17), including the following: <ul style="list-style-type: none"> A. exposure to harmful chemicals or biological agents B. exposure which can cause undesired physical, physiological or psychological changes C. exposure to loud noise D. exposure to toxic fumes, emissions, smoke, gases, smells, or other forms of air pollution E. exposure to vibration F. exposure to radiation G. exposure to electrical shocks and currents H. exposure to flames I. exposure to incendiary or explosive agents J. exposure to snow, ice, or other slippery surfaces K. exposure to extreme temperatures L. exposure to falling objects (e.g. on construction sites or oil platforms) M. exposure to asbestos, coal, and other substances that cause respiratory ailments if inhaled or ingested N. exposure to bright light or sun O. exposure to dangerous machinery (e.g. saws, presses) P. exposure to lead and benzene Q. exposure to cigarette or cigar smoke (e.g. bars and restaurants) R. exposure to flying debris, particles or sparks S. exposure to any other harmful, chemical, agent, or threats Emergency procedures are rehearsed with managers and workers, at least on an annual basis.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Supplier-provided safety gear takes into account gender differences and the special needs of pregnant women.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
5. Workers and their representatives are given access to information about the supplier's health and safety risks and the need for protective equipment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Qualified instructors provide hands-on demonstrations in a language that is understandable to the employees on how to use each new machine, substance, or work technique that will be introduced to the working environment before they become incorporated into the work routine.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Workers receive periodic updates on their training to refresh their knowledge and update their skills.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. All individuals who are reassigned to different work tasks receive hands-on training from a qualified instructor in a language they understand before commencing their new tasks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. An accurate record is kept by the supplier detailing who has been trained, for what tasks the employee has been trained, how he/she has been trained (duration, method), and by whom (name of instructor).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. If an accident occurs, the supplier evaluates the incident, implements appropriate corrective measures, and provides an internal educational campaign on the risks associated with the injury causing activity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Workers do not show injuries or illnesses that are a result of improper exposure and lack of protective gear.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Employees, workers' unions and safety inspectors confirm that employees are adequately trained and provided with the necessary protective equipment to carry out all their work-related tasks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Articles 7 (b) and 12 (2b and c); ILO Occupational Safety and Health Convention (C155, 1981), Articles 16 (3) and 21], ILO Hygiene (Commerce and offices) Convention (C120, 1964), Article 17.*

India has ratified the following conventions relevant to the question:

International Convention on Economic, Social and Cultural Rights; Convention on the

Elimination of All Forms of Discrimination. India has not signed the ILO Occupational Safety and Health Convention (C155,1981); the ILO Hygiene (Commerce and Office) Convention (C120, 1964); or the ILO Occupational Health and Services Convention (C161, 1985).

The above question is based on the following principles in Indian law:

- *The Constitution, Article 39 (e), affirms that the State is obligated to direct its policies to ensure that the health and strength of workers, men and women, and the tender age of children, are not abused and that citizens are not forced by economic necessity to enter into vocations unsuited to their age and strength.*
- *India has a large and specialised body of law concerning OHS, however the principal health and safety laws are based on the Factories Act of 1948, which defines the OHS obligations of employers as follows:*
 1. *The Factories Act requires employers to ensure a clean and healthy work environment and defines standards for cleanliness; disposal of wastes and effluents; ventilation and temperature; dust and fume; artificial humidification; overcrowding; lighting; drinking water; latrines and urinals; and spittoons (Chapter 3, sections 11-20);*
 2. *The Factories Act requires employers to provide basic safety measures, such as equipment maintenance/repair, protective gear, emergency procedures, and fire detectors (Chapter 4, section 20-41) ;*
 3. *The Factories Act requires the employer to a) disclose information about dangers and health hazards; b) take measures to protect workers from substances and materials; c) develop health and safety policies; d) quantity and characterise substances and waste; e) develop emergency plans; and f) safeguard the handling, use, transportation, storage and disposal of hazardous waste (Chapter 4, sections 41-42).*
- *The Factories Act also requires employers to maintain up-to-date health records of workers and to appoint a person experienced in handling hazardous substance to supervise handling. Employers are also required to provide protective measures and regular medical examinations.*
- *In addition to the Factories Act, industry specific OHS legislation defines the health and safety standards for specific industries.*

HARSH, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT OF EMPLOYEES

[THE QUESTION RELATES TO THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK, RIGHT TO FREEDOM FROM DISCRIMINATION, AND THE RIGHT TO FREEDOM FROM TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT]

8. TREATMENT OF EMPLOYEES

Does the supplier take measures to protect workers from acts of physical, verbal, sexual, or psychological harassment, abuse, or threats in the workplace, including when determining and implementing disciplinary measures?

YES		NO		F/A		N/A		NO INFO	
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TICK BOX AS APPROPRIATE

Violence, harassment and humiliating treatment of Dalits are widespread problems in India and an inherent part of the caste system. Dalit women are furthermore often victims of sexual harassment carried out by male members of other castes. To protect workers from acts of physical, verbal, sexual or psychological harassment, abuse or threats in the workplace, committed by co-workers or management, the supplier

should implement prevention policies, facilitate open communication, provide training, and allow workers to report such incidents to a complaint mechanism that fully investigates the reports and responds accordingly.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier distributes a prevention policy on workplace violence and harassment, which notifies employees of their obligations to refrain from violent, threatening or abusive conduct towards others.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The supplier has a mechanism to receive reports of workplace violence, harassment and threats, which is specifically designed to competently address all types of workplace misconduct, including harassment of Dalits and sexual harassment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The supplier promptly investigates all complaints of workplace violence, harassment, and threats and takes appropriate preventative and disciplinary action.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Managers are trained to use appropriate management techniques, including proper disciplinary measures, and instructed to refrain from harassing, violent, threatening and abusive conduct.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The company promptly addresses stress and tensions (such as tension between Dalits and members of other castes) in the workplace which can later lead to abusive, violent or harassing conduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The company facilitates open communication and problem-solving groups designed to deter, monitor, prevent and report workplace violence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The company takes special measures to protect workers from the harassing, violent and threatening conduct of outsiders, such as customers, vendors and clients.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. When there is sufficient evidence that an employee has engaged in an act of violence, the company reports the individual to the appropriate government authority.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Workers' representatives and employees confirm that the company has appropriate measures in place to protect employ-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



<i>(continued)</i> SUGGESTED INDICATORS:	YES	NO	F/A	N/A	NO INFO
ees from harassing, abusive and threatening behaviour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Workers' representatives and employees confirm that the company refrains from using corporal punishment, physical or mental coercion, and verbal abuse when implementing disciplinary decisions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Article 5; International Covenant on Civil and Political Rights (1966), Article 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Articles 2 (1), 4 and 10; Convention on the Protection of All Migrant Workers and Members of Their Families (1990), Article 10; Indigenous and tribal Peoples Convention (C169, 1989), Article 3(d).*

India has ratified the following conventions relevant to the question:

International Convention on Civil and Political Rights; Convention on the Rights of the Child; Convention against Racial Discrimination; India has signed the Convention against Torture, but has abstained from ratifying the Convention on the grounds that domestic mechanisms available in the country are capable of preventing brutality and inhuman treatment; India has not ratified the Indigenous and tribal Peoples Convention (C169, 1989).

The above question is based on the following principles in Indian law:

- *The Employment of Manual Scavengers and Construction of Dry Latrines Act (Prohibition Act) of 1993 prohibits the practice of manual scavenging.*
- *The Constitution provides for legal remedies if the liberty and dignity of an individual are encroached upon by inhuman or degrading treatment (Articles 32 and 226).*
- *The Constitution imposes the duty upon every citizen to renounce practices derogatory to the dignity of women (Article 51A (e)).*
- *In 1997, the Supreme Court announced that sexual harassment of working women amounts to violation of gender equality rights. The judgment laid ground for a definition of sexual harassment, some preventive steps, and a complaint mechanism, under which state institutions and all workplaces with over 50 employees have to have complaints committees to deal with sexual harassment issues. In January 2006 the Court followed up on this judgment, and instructed all Chief Secretaries to inform the Court whether complaints committees have been set up.*
- *The Prevention of Atrocities Act of 1989 specifically prohibits the intentional insult to or intimidation of Dalits; the assault or use of force to any Dalit women with the intent to dishonour or outrage her modesty; and the sexual exploitation of any Dalit women (offence no. 10-12)*

REMUNERATION

9. LIVING WAGE

Does the supplier provide a living wage, which enables workers to meet the basic needs of themselves and their dependents?

[THE QUESTION RELATES TO THE RIGHT TO AN ADEQUATE STANDARD OF LIVING]

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

There is no national minimum wage standard in India and the prescribed minimum wage varies from state to state and from sector to sector. No minimum wage for the apparel and footwear industries is prescribed in any of the states where these products are being manufactured. The general picture is that the minimum wage is often defined so low that it is not enough to maintain an adequate standard of living. Moreover, the employees working in the informal sector are even paid below the minimum wage.

The supplier shall, at a minimum, comply with legal minimum standards or industry benchmark standards concerning wages and benefits, whichever is higher. In any event, the supplier shall always provide living wage, which enables workers to meet the basic needs of themselves and their dependents and to provide some discretionary income. This may imply paying more than the legally prescribed minimum wage. Overtime shall be remunerated at a premium rate. Wages shall be paid in legal tender and on a regular basis. Deductions from wages shall be transparent and must never be used as a disciplinary measure.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier recognises that its workers are entitled to a living wage, sufficient to meet basic food, clothing and housing needs, as well as provide for some discretionary income.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The supplier knows whether the minimum wage for the sector and the state of operation is sufficient to meet basic needs and to provide discretionary income.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If the prescribed minimum wage standard is insufficient to meet the basic needs of employees and their dependents, the supplier dialogues with relevant stakeholder, such as local trade unions, to seek guidance on the proper standard of pay for the region.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Prior to employment, the supplier informs workers of its policy on remuneration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) **SUGGESTED INDICATORS:**

	YES	NO	F/A	N/A	NO INFO
eneration, including overtime compensation rates.					
5. Overtime hours are not required in order for workers to earn a living wage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The supplier pays its employees a minimum of 1.25 times the normal rate for overtime hours.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Piece-rate payment systems are monitored to ensure that the total salary paid meets living wage requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The supplier pays wages at regular times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The supplier pays wages in legal tender.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The supplier pays wages directly to the workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. The supplier does not take deductions from wages for disciplinary measures, and other deductions which are not authorised by national law without the freely given consent of the employee.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Employees, local unions or NGOs confirm that the supplier pays workers a living wage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Article 25; International Covenant on Economic, Social and Cultural Rights (1966), Article 7 (a) and 11 (1); International Covenant on Civil and Political Rights, Article 23; Convention on the Elimination of All Discrimination Against Women (1979), article 11; Convention on the Protection of All Migrant Workers and Members of Their Families (1990), Article 25; ILO Minimum Wage Fixing Convention (C131, 1970), Article 3; ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962), Article 5; ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977), Article 34.*

India has ratified the following conventions relevant to the question: *International Convention on Economic, Social and Cultural Rights; International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; and Convention on the Elimination of All Discrimination Against Women.*

The above question is based on the following principles in Indian law:

- *There is no national minimum wage standard in India; the minimum wage varies from state to state and from sector to sector. The Minimum Wage Act of 1948 governs the method for fixing minimum wages in scheduled industries by using either a committee or a notification method. It is the responsibility of the state govern-*

ments to set the minimum wage and a tripartite Advisory Committee advises the governments on the minimum wage. If less than 1000 employees in the state are employed in any particular category of employment specified in the schedule, it is not necessary to fix a minimum wage for such employment.

- There is no prescribed minimum wage for either the apparel or footwear industry in any of the states where these products are being manufactured.

NON-DISCRIMINATION

10. NON-DISCRIMINATION

Does the supplier ensure that its compensation, benefits plans, and employment-related decisions are based on relevant and objective criteria?

[THE QUESTION RELATES TO THE RIGHT TO FREEDOM FROM DISCRIMINATION AND THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK]

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	F/A	<input type="checkbox"/>	N/A	<input type="checkbox"/>	NO INFO	<input type="checkbox"/>
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TICK BOX AS APPROPRIATE

Discrimination in India is a culturally-embedded phenomenon that targets a large number of people, particularly Dalits. Approximately 170 million Dalits live in India (or 16 percent of the population), and they are victims of gross discrimination and harassment on a daily basis. Dalit women experience gender-based discrimination in addition to caste-based discrimination and constitute an even more vulnerable group.

The supplier must ensure that its hiring, remuneration, benefits, training, advancement, discipline, termination, retirement or any other employment-related decisions are based only on relevant and objective criteria, and not connected to caste as well as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, union affiliation, sexual orientation, age, health status, and disability or any other distinguishing characteristics.

SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
1. The supplier has policies and procedures in place to ensure that all employment-related decisions are based only on relevant and objective factors.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Workers have access to a complaints mechanism where they can report complaints of discrimination, and they are familiar with the mechanism.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The supplier has a method for ensuring that benefits and services, such as sick leave, holiday, housing, health care, and transportation are provided in a non-discriminatory manner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(continued) SUGGESTED INDICATORS:

	YES	NO	F/A	N/A	NO INFO
4. The supplier has a method for ensuring that employees are hired and granted promotions only on the basis of the skills, qualifications and experience required for the position.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The supplier has a method for ensuring that pay is based on objective factors and is implemented in a non-discriminatory way.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Employment advertisements do not reference irrelevant characteristics, such as caste, unless listed as part of an equal opportunities promotion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Hiring managers receive training regarding the supplier's non-discrimination policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. An individual or department in the supplier is responsible for monitoring compliance with non-discrimination standards and policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Wage records do not show pay discrepancies for work of equal value.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Employees include members from the diverse social and ethnic groups that compose the local population, including Dalits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. The supplier has not been involved in lawsuits or government criticism for discriminatory practices.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Worker and worker's representatives confirm that the supplier's employment practices are non-discriminatory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above question is based on general principles contained in the following: *Universal Declaration of Human Rights (1948), Articles 1, 2, and 23; International Covenant on Economic, Social and Cultural Rights (1966), Articles 2 and 7; International Covenant on Civil and Political Rights (1966), Article 2; International Convention on the Elimination of All Forms of Racial Discrimination (1966); ILO Discrimination (Employment and Occupation) Convention (C111, 1958); ILO Equal remuneration Convention (100, 1951), Articles 1; ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977), Article 22.*

India has ratified the following conventions relevant to the question: *International Convention on Civil and Political Rights; International Convention on Economic, Social and Cultural Rights; Convention against Racial Discrimination; ILO Discrimination (Employment and Occupation) Convention (C111:1958); ILO Equal Remuneration Convention.*

The above question is based on the following principles in Indian law:

- *The Constitution prohibits discrimination by the State on grounds of religion, race, caste, sex or place of birth. The prohibition also extends to discrimination committed by private persons (Article 15).*
- *The Constitution allows for affirmative action and for positive discrimination in public spheres, such as employment and education and empowers the State to make special provisions for women, children, socially and educationally disadvantaged classes of citizens, or the Scheduled Castes (Dalits) and the Scheduled Tribes (Adivasis) (Article 15 (3-5)).*
- *The Constitution upholds the principle of equal opportunity in matters relating to employment or appointment to any office under the State and affirms that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State (Article 16). The Constitution also permits the State to make necessary provisions in favour of inadequately represented groups for better representation in services under the State (Article 16 (3-5)).*
- *The Constitution abolishes the practice of 'untouchability' and provides for special protection of Dalits and Adivasis. Furthermore, the Constitution calls for the promotion of educational and economic rights of Dalits and Adivasis and allows for affirmative action (Articles 17 and 46 and part XVI).*
- *In addition to the provisions in the Constitution, India has issued a number of laws to eradicate caste-based discrimination and to protect Dalits and Adivasis from injustice and exploitation, most importantly the Protection of Civil Rights Act of 1955; the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.*

SUGGESTIONS FOR PROMOTIONAL ACTIVITIES

The following suggestions are directly drawn from the Ambedkar Principles. The suggestions focus on how the company – within its sphere of influence – can help to promote and strengthen the human rights and living conditions of Dalits in India beyond the company's basic obligation.

If the company engages in community development programmes or other charitable activities in a region in India where there is a large concentration of Dalits, the company could require that these activities include the participation of Dalits in both planning and implementation, and that Dalits receive at least an equal share in any benefits.

The caste system involves the physical exclusion of Dalits from people of other castes due to the principle of pollution and untouchability. Dalits are often living in special areas and communities segregated from the rest of the society. Development programmes and other philanthropic activities are often directed towards marginalised groups in general, and in such situations, Dalits risk being left out due to their imputed pollution and untouchability. If the company chooses to engage in philanthropic activities in areas where there is a large concentration of Dalits, the company should take extra measures to ensure that Dalits are included. For instance, the company could in consultation with the local Dalit community take up programmes that have high priority for the Dalit communities and locate the programmes in Dalit habitation. Moreover, if the company supports local development programmes, it should put forward requirements for their support of Dalit participation in the whole process. Finally, if the company take part in philanthropic activities, the company should require that the benefits are divided equally and on a non-discriminatory basis.

The company could seek to place a proportion of supply and/or service contracts with local enterprises from socially excluded groups

Even though the caste system is abolished by law, it still has implications on the lives of Dalits. The remaining traditions of the caste system limit the possibilities of Dalits to be economically active and to make a living by earning an income or being self employed. Dalits risk being hindered from opening their own business due to the traditional beliefs of occupations, tasks, and contacts between the different castes. Therefore, Dalits in general run less business than other caste members and are, to a lesser extent, self employed. For example, Dalits that have managed to grow or produce their own agriculture products are often subjected to discrimination when selling their products due to their untouchability. To work towards the eradication of this kind of socio-economic exclusion and discrimination and support the human rights of Dalits and other underprivileged groups, the company should actively seek to engage enterprises run by socially excluded communities. If entering into contracts with such enterprises, the company will not only make sure that the enterprise economically survives, but also increase and make visible the liability and quality of the enterprise and its products or services.

The company could promote and support the teaching of English to Dalit communities, and encourage state and government authorities to do the same, as the use of English greatly increases employment potential for excluded sectors

Dalits suffer discrimination in their access to education, or in the quality of the education provided. The high drop-out rate of Dalit children also means that few of them receive any education in English, and due to the societal segregation, Dalits often do not use English in their daily lives or otherwise have any contact with English speakers. Dialect is a way of identifying the caste of a person. In addition to becoming more attractive on

the labour market, learning English might be a way for a Dalit not to directly be identified as such. If a Dalit learns English, that would increase his/her possibilities of finding employment.

When having Dalit employees, the company can make a difference by providing English education for the employees or their children. The company can also contribute by supporting existing programmes of learning English to Dalits, and by promoting such programmes in the local community.

BACKGROUND INFORMATION ON THE DALIT DISCRIMINATION CHECK

The background sheet will provide companies with an understanding of the difficulties and dilemmas entailed in caste-based discrimination as well as guidance on how to go about implementing policies and practices that are sensitive to the caste issue in India.

You will find information on the following issues:

- Caste discrimination in India today
- An explanation of discrimination
- Special measures/affirmative action
- Discrimination and affirmative action in India
- Monitoring of Caste
- The complexities of special measures for the private sector
- Discrimination of other marginalised groups
- Background information about the caste system
- International legal provisions affecting Dalits
- Indian legislation that affect Dalits

Caste discrimination in India today

Approximately 170 million Dalits live in India, meaning that approximately one out of every five people in India is a Dalit. Even though the caste system has been abolished in law, the system still permeates Indian society and the practice of 'untouchability' continues in many places throughout India. The Dalits experience discrimination across the whole spectrum of human rights, including stigmatization, segregation and social and economic exclusion due to their status as untouchables. Despite constitutional guarantees, and special provisions for the protection of Dalits, they are subject to widespread violence, including beatings, killings and rape committed by upper caste members. These atrocities are sometimes committed in complicity with the authorities. Police and military forces are reported to be especially brutal to Dalits during protests, which in extreme cases have resulted in the deaths of hundreds of people. Impunity for atrocities against Dalits in India is widespread and the inequality before the justice system is well-documented.

The caste-system and the practice of untouchability has fostered discrimination and exclusion of Dalits in specific areas. For instance, Dalits are prohibited from drawing water from the same water source as people from other castes. Similarly, Dalits are prohibited from using the same temples as people from other castes. They are often prohibited from using public transportation, wearing shoes, and working in certain occupations. Occupational options are strictly regulated depending on what they may produce and sell to other castes.

The situation in the countryside where the majority (more than 80 percent) of the Dalits live is worse than in urban areas, in part because Dalits often live in segregated colonies away from other caste Hindus. Very often Dalits have restricted access to land and land ownership, and they face social segregation in housing and public transport. The resistance of caste people to Dalits owning agricultural land has resulted in widespread landlessness among Dalits.

The discrimination, segregation and harassment of Dalits are particularly evident in the labour market. Due to the requirements of the caste system, Dalits carry out the dangerous, demeaning and dirty jobs that are regarded as ritually polluting. In general, they are engaged in the most exploitative forms of work, such as agricultural labour, manual scavenging and sewerage. The vast majority of workers who are subjected to bonded or forced labour are Dalits, and Dalits also constitute the majority of child labourers.

In addition to the structural exclusion of most Dalits from many occupations, those Dalits who do manage to secure employment in other occupations also experience discrimination. Research has shown that Dalits, if recruited, often serve in low positions, even if they are highly educated, and they experience both stigmatisation and hidden and open discrimination by co-workers and managers, including discrimination in remuneration, employment benefits and other company services. The problem of access to the labour market and access to other than low-level positions is also interlinked with corruption and favouritism towards private networks both of which constitute key characteristics of the Indian labour market. Dalits very often lack the network, contacts and resources for job opportunities, which ultimately restricts their access to more privileged positions and creates a serious barrier for change.

Dalits are often also hindered from setting up their own businesses due to the traditional designation of occupations, tasks and contacts between the different castes. This means that the percentage of Dalits who own their own businesses, or are otherwise self-employed, is much lower than that of other castes. In 2001 for example, 12 percent of Dalits in rural areas and 27 percent in urban areas were self-employed, compared to 41 percent and 36 percent respectively of non-Dalits. Dalits that have managed to grow or produce their own agricultural projects are subjected to severe discrimination when selling their products due to their untouchability.

As a result, Dalits constitute an extremely poor and stigmatized underclass in India; their social and economic indicators are significantly lower than people from other castes. They suffer more from unemployment or under-employment; they lack access to basic healthcare and education and are more often malnourished than other groups of the society. Moreover, in spite of government quotas, they remain under-represented in political life. Dalit women suffer triple discrimination on grounds of caste, gender and class and experience the worst forms of discrimination in workplaces. They are subject to less pay for the same job as men, they often work without contracts or in unqualified jobs and suffer sexual harassment.

What is discrimination?

Discrimination refers to any distinction, exclusion or preference made on the basis of a distinguishing personal characteristic – such as, gender, age, nationality, ethnicity, race, colour, creed, caste, language, mental or physical disability, organisational membership, opinion, health status (including HIV/AIDS), marital status, sexual orientation, birth, or civic, social, political characteristics of the worker, etc. – which negatively impacts a person's employment opportunities or otherwise results in unequal treatment in the workplace.

Discrimination can be direct or indirect. Direct discrimination occurs whenever a company policy, practice or procedure specifically targets a particular group of people because of a distinguishing personal characteristic, and treats that group differently than the others for the worse. To avoid direct discrimination, the company must seek to treat workers fairly with respect to all policies, conditions and benefits of employment, such as advancement, placement, training and remuneration.

Indirect discrimination occurs when the practical application of a company policy, procedure or practice negatively impacts a group of people, even if the policies, procedures or practices appear neutral. The best way to avoid indirect discrimination is by making certain that employment-related decisions are based on relevant and objective factors (such as merit, experience, tasks, skills, etc), and that consistent procedures are followed in decision-making processes.

Discrimination is not only something that companies should be concerned with in an employment context; it is also relevant in other areas of company practices and the company's relations to the wider community. For instance, if the company is consulting with the local community on the impacts of company operations, it may risk excluding certain groups that are disadvantaged and discriminated in the consultation process and thereby fail to measure company impacts on these particular groups.

The type of discrimination that Dalits are victims of is called discrimination based on work and descent and is defined as follows: "Discrimination based on work and descent is any distinction, exclusion, restriction or unfavourable treatment based on occupation, present or ancestral, and family or community origin, or any other related factors such as name, birth place, place of residence, and language, including dialect and accent".

What are 'special measures' and affirmative action?

Affirmative action measures, which in international human rights language are termed as 'special measures', constitute ways of compensating for past discrimination and counteracting a present unfairness by establishing a level-playing field to help ensure equality and diversity. Various types of affirmative action/special measures exist around the world. India has established a reservation policy for the public sector, demanding that a certain quota of jobs be reserved for Dalits and other marginalised groups. The United States provides for certain outreach activities to ensure that members of under-represented communities have equal access to employment and education opportunities. Affirmative action in South Africa consists of measures designed to ensure that all groups have equal employment opportunities and are equitably represented in all occupational categories and at all levels in company.

There are different ways of implementing special measures for certain disadvantaged groups; however, relatively few countries have affirmative action measures for the private sector. So far, only countries like South Africa, Malaysia, the Netherlands and Northern Ireland require affirmative action in the private sector.

Several instruments in international law call for the use of special measures towards groups that need special protection, such as in the International Convention on the Elimination of Racial Discrimination (Arts. 1(4) and 2(2)) and ILO Employment and Discrimination Convention (Art. 5). According to these instruments, special measures must only be of a temporary nature and must be terminated when equality has been achieved and the reasons for implementing special measures have ceased to exist.

Discrimination and affirmative action in India

The Dalit Check uses the same methodology that was used to develop the Human Rights Compliance Assessment (HRCA). This methodological framework builds on the division of negative and positive duties under human rights law. Most human rights give rise to 4 complementary duties: respect, protect, promote and fulfil. Whereas governments are the primary duty bearers in relation to protecting, promoting and fulfilling human rights (the positive duties), companies have their responsibility termed in negative terms i.e. they must refrain from violating the rights of others through their activities. However, in 4 areas in particular, companies do have positive obligations: 1) in relation to their workers; 2) in relation to the use of their products;

3) in relation to people residing on company land; and 4) in those cases where the company de facto replaces the government. The 4 areas of more extensive responsibilities derive from the requirement that companies must ensure that the more far-reaching effects of their operations do not negatively affect people or communities. When determining the degree of responsibility for any particular human right, it is essential that the company assess the proximity of company operations to these effects. For more information, see “Defining the Scope of Business Responsibility for Human Rights Abroad”, Margaret Jungk 2001.

Considering the level of systemic discrimination in India against Dalits, we recommend that companies engage in ‘special measures’. The main argument for special measures for Dalits is that discrimination against the Dalits in India is deeply engrained in the Indian society so failing to take proactive action is likely to lead to ongoing discrimination in the workplace. In other words, even though the normative framework referred to above does not obligate companies to undertake special measures for Dalits, and even though there currently are no legal requirements for the private sector in Indian legislation with regard to special measures for Dalits, it is nevertheless a highly recommended practice. The failure to implement special measures places the company at risk of contributing to the ongoing perpetuation of discrimination and exploitation of Dalits.

Although it is highly recommended that companies engage in special measures regarding Dalits, it is concurrently recognized that the main responsibility for correcting the structural inequality and imbalance of the caste system rests on the Indian state. The state’s obligations, do not, however, serve to excuse companies from acting within their sphere of influence to implement anti-discriminatory policies and practices, including special measures, for the benefits of Dalits.

The complexities of special measures for the private sector

While special measures (in the form of reservation policies, based on statutory quotas for the public and education sector) have long been practice in India, special measures for the private sector are not a legal requirement. However, in 2004 the Indian Government introduced the idea of extending reservation policies to the private sector, and the subject has since been strenuously debated. With some exceptions, the private sector has resisted the idea, arguing that reservation policies will negatively affect economic growth and will primarily benefit the more prosperous groups of Dalits, while depriving the more disadvantaged Dalit groups that do not even have the resources to benefit from special measures. This resistance has focused primarily on reservation policies and the quota system, not other ways of implementing special measures. In fact, many Indian companies see the need for helping disadvantaged groups and both the Indian Confederation of Industries (CII) and the Indian Federation of Commerce and Industry (FICCI) have suggested alternatives to a mandatory reservation system that focus on organising special training and other skill-enhancement programmes.

Providing special measures for disadvantaged groups can be complicated and some of the arguments advanced serve to illustrate the complexity. For instance, it has been argued that supporting special measures for Dalits indirectly will reaffirm an identity marker and an unequal social stratification system, a practice that should be eradicated – not reinforced. Also, it has been noted that Dalits are only one out of many vulnerable groups in India that are in need of special protection, so it is illogical not to include the other disadvantaged and marginalised groups, such as women, disabled, indigenous people and religious minorities in special measures schemes as well. Moreover, the requirements of special measure policies pose concrete challenges and dilemmas at the more operational level. Since Dalits can rarely be recognised by their

appearance alone, companies would be required to inquire about the caste identity of employees or potential employees before they would be able to implement special measures. There is concern that this may infringe upon the privacy of the employees or potential employees. Caste enquiries therefore, must be carried out with respect for the sensitivity of the issue. For further instructions, please see the box following this section, called Monitoring of Caste.

While recognising the difficulties and dilemmas of introducing special measures in the private sector, the authors behind the Dalit Discrimination Check believe that the arguments in favour of special measures outnumber the arguments against special measures. The fact that the caste system is historically entrenched in the Indian culture, its social traditions and its socioeconomic structure, and the fact that discrimination and harassment of Dalits is so severe and ongoing, special measures are necessary to ensure effective non-discrimination practices, even if they are not a legal requirement.

In the following sections, some of the main complexities in applying special measures towards Dalits are elaborated upon.

Monitoring of caste

To have special measures in relation to Dalits will often require the company to know a person's caste. Under the Constitution, Dalits (Scheduled Castes) are reserved seats in the Parliament and in educational institutions in relation to their representative percentage in the population at large. In order to document their caste, caste members must possess a certificate or id-card specifying their caste. Besides this official registration, there is no defined set of objective criteria through which Dalits can be recognised. There are subtle ways in which other Indians recognise a Dalit, such as last name, occupation of their parents, origin, type and place of education, language, or sometimes even appearance (though not always). However these characteristics will rarely be perceptible to an outsider, so monitoring and registering the caste of a Dalit normally requires a personal inquiry.

If the company decides to inquire about the caste identity of employees or potential employees with the aim of implementing special measures toward Dalits, this process should be conducted with utmost care. The point is that the caste identities of employees or potential employees need to be known only for the purpose of implementing non-discriminatory and affirmative actions, such as when employing and promoting people and when assessing company performance on the implementation of policies on anti-discrimination and equal opportunities. It is essential that the purpose for providing the information is clearly explained to the employee or potential employee and that the reasons for collecting the information are made clear before the inquiry is made. Asking about the caste identity of an individual may be a sensitive issue and it must be emphasised that providing the information is voluntary and anonymous. This means that those who choose to give the information may be rewarded with affirmative action advantages, while those who don't receive the same treatment as other candidates. Moreover, it must be emphasised that the information is kept strictly confidential, and the company must ensure that staff involved in the collection of data receive training in the protection of sensitive data. The information concerning the individual's caste identity should be kept in the human resources department (or personnel office) who also should be responsible for determining whether the person is entitled to additional consideration and whether Dalits are underrepresented in that particular job class where he/she is applying.

Discrimination of other marginalised groups

Dalits are not the only disadvantaged group in India who are subjected to discrimination or human rights violations in India. Scheduled tribes, religious minorities, and disabled people also constitute vulnerable groups. As such, the standards in the present Dalit Check apply equally to these groups as well. However, in addition to experiencing discrimination, Dalits are also subject to other problems that other vulnerable groups do not suffer, especially in the field of labour. The concept of untouchability and being polluting to other cast Hindus is unique to Dalits and is the reason for much of the discrimination and human rights violation against them. Practice also shows that when included with other marginalised groups, the situation of Dalits does not improve and Dalits are the last group to experience any improvements in their situation.

This is the reason why we have drafted a tool that specifically focuses on Dalits and recommend that affirmative actions be directed specifically toward Dalits. This does not mean that other groups, such as Scheduled Tribes (Adivasis) or disabled persons are not in need of affirmative actions. To the contrary, discrimination of other groups needs to be addressed as well.

Dalits, which constitute app. 16 percent of the population i.e. app. 170 million people, are often grouped together with the Schedules Tribes in India, also called Adivasis. The Adivasis, which are recognised as an indigenous people in the Constitution, make up approximately 8 percent of the Indian population, i.e. over 80 million people. Similar to the Dalits, the Adivasis constitute the lower stratum of the Indian society. Even though Adivasis are not subjected to segregational discrimination from the principle of untouchability, social and economic indicators for the Adivasis are even lower than for the Dalits. Moreover, the Adivasis face discrimination and deprivation of customary rights over land, forests, cultural identity and heritage, and traditional knowledge. The company should be aware that indigenous people like Adivasis have special property rights according to international law as well as under Indian law. The Discrimination Check does address these issues of property rights, but focuses particularly on the problems that apply to Dalits and not the rights of indigenous people.

The remaining part of this background sheet offers a briefing about the background of the caste system and a section with provisions in international law that deal with discrimination.

Background information about the Caste system

The Caste system originated in the classic Hindu writing known as the 'Vedas'. The Vedas divides society into four major castes: Varnas (meaning colour), are all descendants from different parts of the body of Brahma. With time, another group was added: the out-castes or the untouchables, which consists of those who are too polluting to belong to any of the four original groups. This fifth group did not descend from the Brahma so Dalits traditionally have not always been considered Hindu. Even though Dalits are now regarded as Hindus, they also consist of persons belonging to other religions. This is partly due to the fact that persons belonging to other religions do not belong to any caste, hence they are outcastes. Another reason is that Dalits convert to other religions to get away from their status as untouchables.

The five major groups eventually broke down into hundreds of sub-castes, all with different religious and social roles ascribed to them from where on Brahma's body their group

was derived. The roles of each caste are connected to certain duties the group is expected to perform. All castes have different status, and the hierarchy is set in terms of 'purity' and 'pollution.' The higher up in the hierarchy, the purer. At the bottom of the hierarchy are the Dalits: they are regarded as ritually polluting and are therefore charged with tasks that purer castes may not perform. Because the pollution is believed to be contagious, those performing polluting tasks are subject to restrictions that will prevent incidental contact between Dalits and other caste Hindus. The ritual contagiousness of the pollution is the reason why Dalits can't enter temples; why they are required to sweep the street clean from their footprints, and why they are restricted from touching, or even letting their shadows touch Hindus from other castes.

The membership of a caste is determined by birth and is thus hereditary, so it is not possible to change one's caste. Apart from being a hierarchical segmented division of society, the structure is also characterised by restrictions on different actions of the groups. Each caste has its own restrictions on feeding and social intercourse; choice of occupation; ownership of property; civil and religious disabilities and privileges; and marriage. Each caste thus has a 'code of conduct' for what they can or cannot see, touch, or accept from someone of a different caste.

The word 'Dalit' was chosen to replace "untouchables" by a group of more politically aware untouchables. It literally means 'broken' or 'crushed' and is intended to and reflects their situation as oppressed. The term particularly gained importance and popularity under the leadership of Dr. B.R. Ambedkar who founded the All India Depressed Classes Federation and was involved in the drafting of the Indian Independence Constitution.

Even though the Dalit Discrimination Check only addresses caste discrimination in India, the existence of Dalits is not limited to India. Dalits live in many South East Asian countries, primarily India, Pakistan, Nepal, Bangladesh, and Sri Lanka. However, the same social and economic mechanisms affect groups in Somalia, Kenya, Mali, Senegal, Yemen and Japan. In general Dalits, or these similar groups based on descent, face comparable situations of discrimination in all these countries.

International legal provisions affecting Dalits

There are several general international instruments that contain provisions on discrimination that affect the treatment of Dalits. These instruments include:

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Cultural and Social rights
- International Convention on the Elimination of all Racial Discrimination
- International Convention on the Elimination of all Discrimination against Women
- International Convention on Rights of the Child
- International Convention on the Rights of Migrant Workers and Members of their Families
- ILO Convention Discrimination (Employment and Remuneration Convention) (C111, 1958)
- ILO Employment Policy Convention (C122, 1964)

In addition to these more general provisions, the Committee on the Elimination of Racial Discrimination issued in 2002 a General Recommendation (XXIX) on discrimination based on descent. The recommendation is divided into different sections dealing

with: multiple discrimination against women members of descent-based communities; segregation; dissemination of hate speech; administration of justice; civil and political rights; economic and social rights; and the right to education. The recommendation calls for the adoption of special measures (affirmative action) if needed to ensure the enjoyment of all their fundamental rights and freedoms by communities who are discriminated against by work and descent.

National provisions affecting Dalits

India has issued several laws that specifically address untouchability and caste discrimination. These laws include:

- The Constitution
- The Protection of Civil Rights Act, 1955
- The Untouchability Offences Act, 1955
- Prevention of Atrocities Act, 1989
- The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

In addition to these specific laws, the following general labour laws also affect Dalits:

- Bonded Labour System (Abolition) Act, 1976
- The Minimum Wages Act, 1948
- Equal Remuneration Act, 1976
- Child Labour (Prohibition and Regulation) Act, 1986
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service Act), 1979

The Dalit Discrimination Check is intended as a general guide to assist companies in respecting international human rights standards with regard to Dalits in India. It is not intended to serve as legal advice and must not be considered a substitute for legal counsel. While every effort has been made to ensure the accuracy of all information contained in the tool, errors can occur. Law, treaties and regulations cited in the Dalit Discrimination Check will change over time and questions regarding their interpretation and application to particular factual circumstances should be directed to the appropriate legal counsel. Any actions taken or omissions or alterations made to policies, practices or procedures on the basis of the Dalit Discrimination Check are done at your own risk. The Danish Institute for Human Rights and the International Dalit Solidarity Networks are neither responsible nor liable for any direct, indirect, consequential, special, exemplary, punitive or other damages arising out of or in any way related to the application or use of this tool.

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