

**IDSN recommendations at the 19th session of the Human Rights Council
(27 February – 23 March 2012)**

Urgent Global Call for Action to Eliminate Caste Discrimination to all UN Member States

We, over hundred Dalit activists and social movement leaders from caste affected countries, solidarity networks, International Organizations, and researchers, appeal to all UN Member States to respond to the [Urgent Global Call for Action to Eliminate Caste Discrimination](#), which was adopted at the International Consultation on Good Practices and Strategies to Eliminate Caste Based Discrimination (29 Nov – 1 Dec). Specifically, we call on all UN Member States to support the Global Call in statements at the 19th Human Rights Council session by:

- **Calling for leadership, cooperation, and constructive engagement** at the local, national, regional and international levels to achieve a caste-free world in a Joint Statement by concerned states, supporting the words by the UN High Commissioner on Human Rights (2009): *“Other seemingly insurmountable walls, such as slavery and apartheid, have been dismantled in the past. We can and must tear down the barriers of caste too.”*
- **Addressing** human rights violations stemming from caste discrimination (e.g. access to justice, women’s rights, bonded labour, education, housing, water, torture, and health) in political statements, dialogues, and thematic discussions in the HRC, making systematic use of recommendations on the issue by UN human rights bodies;
- **Promotion joint action** in the HRC in the form of a resolution or joint statement to recommend the sharing of good practices to eliminate caste discrimination by governments, Special Procedures, UN agencies and country teams, the private sector, and civil society (possibly in a panel discussion or a study by the OHCHR);
- **Endorsing the draft UN Principles and Guidelines** for the Effective Elimination of Discrimination based on Work and Descent, published by the Human Rights Council in 2009 (A/HRC/11/CRP.3) as an effective framework to enhance human rights implementation and encourage specific anti-discrimination legislation and policy measures at national level, with a view to establishing a follow-up monitoring mechanism to promote and oversee human rights violations against persons affected by discrimination based on work and descent on a systematic basis.

Link to [Declaration, Global Call and Recommendations from the International Consultation](#)

Item 2: Annual report by the High Commissioner

In 2011 the Office of the High Commissioner for Human Rights continued to expand its work on the issue of caste-based discrimination as a priority in its work to *“counter discrimination, in particular racial discrimination, discrimination on the grounds of sex, religion and against others who are marginalized”*. Some of the initiatives and activities are mentioned in the High Commissioner’s annual report, and the report of the HC on the human rights situation and the activities of her office in Nepal (see references below). IDSN calls on UN Member States to recognize the OHCHR’s efforts and strategic priorities to address caste discrimination, and to encourage the office to promote the sharing of good practices, and the development of UN guidance to address caste-based discrimination in (UN) country programs keeping in recommendations by human rights bodies (see recommendations below).

References to OHCHR activities related to caste discrimination in HC’s annual report (A/HRC/19/21)

In para. 42 of the Annual Report, the UN High Commissioner for Human Rights refers to the launch of a report on access to justice for victims of caste-based discrimination in Nepal in December, as well as a consultation with United Nations country teams from the South Asia region on work- and descent-based discrimination, which was conducted by the OHCHR the same month. These activities, which formed part of the OHCHR’s work in Nepal to address caste discrimination, may be replicated in other countries with OHCHR field presence, as well as in the development of an overall UN framework to address caste discrimination.

OHCHR’s activities related to caste discrimination in Nepal (A/HRC/19/21/Add.4)

In paras. 21-23 in the sixth and final report on the human rights situation and activities of the OHCHR Office in Nepal, an entire section is dedicated to its efforts to combat caste discrimination. One of the main achievements in 2011 was the adoption of the Caste-Based Discrimination and Untouchability (Crime and Offences) Act by the Constituent

Assembly in May 2011. The law is the first in the world which serves to prohibit the commission or incitement of caste-based discrimination and untouchability in both the public and private spheres. The OHCHR supported this process, and also promoted an unprecedented campaign to disseminate information and encourage implementation of the Act in cooperation with the National Dalit Commission in Nepal. In September, a “100 Days” online signature campaign was launched with the slogan “I commit to end caste-based discrimination and untouchability”, endorsed by Nepal’s Prime Minister and the UN High Commissioner for Human Rights. As part of the campaign, OHCHR-Nepal published a detailed report analysing the obstacles encountered by victims of caste-based discrimination in accessing justice and highlighting the critical role of the police in properly filing complaints, investigating cases and providing protection to victims and witnesses in December 2011.

The efforts in Nepal to take measures to tackle caste discrimination and promote a culture of accountability, with the support of the OHCHR, represent examples of good practices, which could be replicated in other affected countries. In 2011 alone, such examples include the enactment of the Untouchability Act, the Government’s constructive approach to the UPR process, and the launch of the 100 Day Campaign. Furthermore, the Government has endorsed the draft UN Principles and Guidelines (Work and Descent) as a good reference in devising the ways and means to address the issue of caste-based discrimination in the constitution-making process in Nepal.

Links: [Access to Justice in Nepal report – Speech by Marcia Kran, OHCHR, at the launch of the report \(14 Dec 2011\) – 100 Day Campaign against Caste discrimination and Untouchability](#)

IDSN recommendations and questions related to statements under item 2

- Welcome the High Commissioner’s continued commitment to addressing caste discrimination as a priority in the OHCHR’s global work to combat discrimination, including in the Strategic Management Plan 2012-2013.
- Urge the High Commissioner to develop UN guidance to address caste-based discrimination in (UN) country programs keeping in mind treaty body concluding observations, Special Procedures and Universal Periodic Review recommendations, as well as the UN Development Group’s guidance on the human rights based approach to development, based on the existing frameworks such as the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent.
- Ask how the High Commissioner intends to intensify efforts to combat caste discrimination globally and effectively use the recommendations of the UN Human Rights system – including the Treaty Bodies, Special Procedures, and the UPR – to implement the strategic focus on caste discrimination as a global human rights concern as part of OHCHR activities in the next biennium.
- Ask what the High Commissioner can do to support the sharing of good practices demonstrated at national and international level, as called for by a number of States, UN Special Procedure mandate holders, and NGOs.

More information:

[Recommendations related to caste discrimination by UN human rights bodies \(thematic and country level\)](#)

[UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent](#)

Item 3: Reports by UN Special Procedures

Special Rapporteur on Human Rights Defenders, Ms. Margarat Sekkagya

The Special Rapporteur visited India from 10 to 21 January 2011. In a statement concluding her visit, the Rapporteur raised particular concern for the situation of Dalit human rights defenders. While congratulating the Government of India on the comprehensive and progressive legal framework, which guarantees human rights and fundamental freedoms, the Special Rapporteur also noted widespread deficiencies in their full implementation at both central and state levels, adversely affecting the work and safety of human rights defenders. The Rapporteur expressed particular concern “*at the plight of human rights defenders working for the rights of marginalized people, i.e. Dalits, Adavasis (tribals) religious minorities and sexual minorities, who face particular risks and ostracism because of their activities. Collectivities striving for their rights have in fact been victimized.*” At the nineteenth session of the Human Rights Council, the Rapporteur will present a mission report with final her final conclusions and recommendations (A/HRC/19/55/Add.1 – not yet published by the time that these recommendations were prepared).

Dalit human rights defenders are at high risk of physical assaults and other reprisals in caste-affected countries. As noted by the Special Rapporteur problem is widespread in India, but the risks and violations also persist in other countries such as Pakistan, Bangladesh, Nepal, and Yemen to mention some. Cases have been documented by the Asian Legal Resource Centre, where atrocities committed against the Dalits in India were refused to be registered as crimes at police stations ([ref: ALRC UPR report on India, 5 Dec 2011](#)). This is also reflected in the low number of cases registered across India for offenses punishable under the national law, the Scheduled Caste & Scheduled Tribe Act. The general failure of the law-enforcement mechanism in India, coupled with the caste prejudice of the officer who runs the system, poses a double challenge to a complainant who would want to register and investigate his complaint and prosecute a person who has committed a crime that is covered under the Act.

Most notably, **Dalit women** are at high risk of sanctioned impunity on behalf of the offenders. In 2009, the UN Special Rapporteur on Violence against Women reported an overwhelming number of cases of Dalit women in India being raped and beaten by higher castes, when attending their daily doings ([A/HRC/11/6/Add.5](#)). Almost all cases show that the Dalit women are punished by police officers when trying to file a complaint or threatened to remain silent, also by means of physical assaults and rape and threats of further recourses. The perpetrators are usually released on bail without arrest, police investigation or prosecution. The CEDAW committee has similar expressed concern about the atrocities committed against Dalit women and the culture of impunity for perpetrators of such atrocities in India (CEDAW/C/IND/CO/3).

Suggestions for inputs to the interactive dialogue with the Special Rapporteur (item 3):

- In the Special Rapporteur's view, what can be done to improve the conditions for Dalit human rights defenders in order to enforce the laws and prevent attacks and reprisals against them, giving special attention to the vulnerable position of Dalit women's rights defenders?
- Does the Special Rapporteur believe that measures to counter the problems encountered by marginalised people, such as Dalit human rights defenders, are adequately addressed in existing guidelines such as the EU Guidelines on Human Rights Defenders? Could the Special Rapporteur use the draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent as a tool and reference to enhance the promotion and protection of Dalit human rights defenders in this regard?
- Has the Special Rapporteur encountered any good practices which can be shared and replicated concerning the protection of Dalit human rights defenders, e.g. by governments, regional institutions, UN agencies, and civil society?

Independent Expert on Minority Issues, Ms. Gay McDougall

In her annual report to the Human Rights Council (A/HRC/19/56), the Independent Expert recognises that women and girls belonging to minorities frequently face **multiple or intersecting forms of discrimination** emanating from their status as members of minorities and as women or girls. This may make minority women and girls particularly vulnerable to violations and the denial of their rights in both public and private life. Without explicit recognition of the different life experiences of minority women and men, such discrimination will often go unnoticed and not be addressed adequately.

The Independent Expert recommends in para. 34 that States take efforts to ensure that the **Millennium Development Goals** are met for the poorest and most disadvantaged communities, such as people of African descent, Roma, **Dalits** and others, should be intensified including via interventions targeted at particular minority communities. Initiatives may otherwise fail to benefit them due to discrimination, lack of adequate attention to their unique circumstances of poverty, or neglect. She encourages States to recognize that one-size-fits-all solutions to achieve the MDGs will often not be effective for minorities who are frequently the poorest of the poor, who may live in remote or isolated localities and who may experience widespread discrimination in society resulting in entrenched exclusion and poverty.

IDSN underlines that an example of this problem is the multiple forms of discrimination experienced by millions of **Dalit women** of South Asia, where an estimated total of 200 million Dalits live. Dalit women are placed at the absolute bottom of the social hierarchy as they face systemic and structural discrimination, because the caste system declares Dalit women to be intrinsically impure, 'untouchable', which sanctions social exclusion and exploitation. The causal links result in the deprivation of political, civil, economic and social rights of Dalit women in all spheres of life. Compared to other women their status of health and education is low, because they are denied access to services. They are also restricted in employment opportunities and confined to 'unclean' occupations, such as manual scavenging, due to the notion of purity and impurity embedded in the caste system. Special measures must therefore be taken to address the human rights situation of Dalit women, in order to effectively fight this form of discrimination and to realistically meet the realisation of the MDGs.

Suggestions for inputs to the interactive dialogue with the Independent Expert (item 3):

- What special measures does the Independent Expert recommend affected governments to take to effectively address multiple forms of discrimination against Dalit women? In the Independent Expert's view, how can recommendations on Dalit women by UN human rights bodies (e.g. treaty bodies, UPR, and Special Procedures) be used more effectively to enhance implementation of human rights obligations in this regard?
- How does the Independent Expert think that a framework such as the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent provide a useful tool to enhance the promotion and protection of persons affected by discrimination based on work and descent, and as an instrument to work towards the realisation of the MDGs?
- Has the Independent Expert encountered any good practices which can be shared and replicated concerning the promotion and protection of Dalit women rights by e.g. governments, UN agencies, international organisations, and civil society?

More information

[IDSN key issue paper on multiple forms of discrimination against Dalit women \(prepared for the UN Forum on Minority Issues, 2011\)](#)

Link to [Recommendations from the IDSN International Consultation, 2011 \(multiple forms of discrimination\)](#)

Special Rapporteur on adequate housing, Ms. Raquel Rolnik

In her report to the Human Rights Council (A/HRC/19/53), the UN Special Rapporteur on Adequate Housing analyses legal and policy advancements in the area of women's right to adequate housing, including issues related to inheritance, land and property, as well as strategies for overcoming persistent gaps in implementation of those laws and policies. In para. 23 of the report, the Special Rapporteur notes that *"women's right to adequate housing is often denied or ignored within the broader context of family and marriage law. Equality in matters of inheritance is often denied for women and girls on the basis of custom and tradition, whether within the context of the death of a spouse, parent or other relative. [...] To be excluded from the process of inheritance reinforces women's lack of autonomy and equality, and jeopardizes in a very direct way their right to adequate housing."*

This observation is particularly true for Dalit women who encounter multiple forms of discrimination based on gender, class and caste. The vast majority of Dalit women are poor; many are landless wage labourers and lack access to resources. As women they are subjugated by patriarchal structures, both in the community and within their own family. As a result, Dalit women are often subjected to inhumane living conditions and systematic human rights violations which deny them access to land and housing, and equal employment and education opportunities.

A violent case resulting from protests against land grabbing demonstrated this alarming trend in India in 2011. On 5 April 2011 a young Dalit woman, Ms. Belwanti Devi, was shot to death during a protest in Patna, Bihar. The protest was spurred by a land grab in a Mussahar Dalit community where she lived with her family. When the construction company (Jai Niwas Constructions) began the process of erecting a building on the community graveyard, Devi joined her neighbors and marched on the site. In response, the developers fired at the crowd which resulted in the tragic death of Ms. Devi. Community witnesses maintain that during the incident, area police stood by and made no efforts to stop the violence or to protect unarmed protesters (source: [India Unheard, Video Volunteers](#)).

Suggestions for questions to be raised in the interactive dialogue with the Special Rapporteur (item 3):

- When land grabbing and forced evictions take place, which special measures do you recommend local and national governments to take in order to protect the rights of the most vulnerable, such as Dalit women? Could the Special Rapporteur use the draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent as a tool and reference to enhance the protection of Dalit rights in this regard?
- Has the Special Rapporteur encountered any good practices which can be shared and replicated concerning Dalit women's access to land and adequate housing, e.g. by governments, UN agencies, and civil society?
- What is the responsibility of business corporations to prevent human rights violations of the most vulnerable, including Dalit women, when developing new construction sites? What positive measures can they take to protect these groups at risk?

More information

[IDSN key issue paper on multiple forms of discrimination against Dalit women \(2011\)](#)