

CASTE DISCRIMINATION AND UN HUMAN RIGHTS BODIES

A comprehensive compilation of how caste discrimination and similar forms of discrimination based on work and descent have been addressed by the UN treaty bodies, Universal Periodic Review, and the Special Procedures

Prepared by the International Dalit Solidarity Network (IDSN)

Second edition – November 2011

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INTRODUCTION

Caste discrimination is a chronic human rights condition, which involves massive violations of civil, political, economic, social and cultural rights. Several UN human rights bodies have expressed serious concern about the human rights situation of Dalits and other persons affected by similar forms of discrimination based on work and descent. Over the years, a substantial number of observations have been issued. In fact, this compilation contains a total of 150 observations and recommendations. It is the first of its kind to provide a comprehensive overview of references made by the following bodies: UN treaty bodies (1997-2011), the Universal Periodic Review (2008-2011), and the UN Special Procedures (2005-2011).¹

The aim of this compilation is to create an instrument for enhanced monitoring and follow-up to UN recommendations on the issue of caste discrimination at international, national, and local level, and to make such information easily accessible to all concerned stakeholders. The compilation reflects the overwhelming body of recommendations on a significant number of countries across regional groups. It provides a unique opportunity to document how and to what extent the issue has been addressed by different UN bodies.

The compilation is intended for use by governments, UN agencies and experts, international organisations, donors, civil society, researchers, and media. By providing an overview of concrete recommendations, it serves as an instrument for follow-up and implementation by governments, and for enhanced monitoring by civil society and other concerned stakeholders. Furthermore, this compilation may serve as a guide and inspiration for international agencies and organisations that wish to mainstream their interventions and programming in affected communities according to the recommendations issued by the UN human rights bodies.

The compilation has been prepared by the International Dalit Solidarity Network (IDSN) in June 2011. While this first edition offers some perspectives of the overall findings, a more comprehensive analysis is expected to be presented in the second edition, which will be published later in 2011.

Caste discrimination and human rights

Caste discrimination is a serious and pervasive human rights problem that is estimated to affect more than 260 million people in all geographical regions, in particular Asia and Africa.² It is a distinct form of discrimination which warrants separate attention by UN human rights mechanisms, because of its unique nature, the severity of violations, and the high number of persons affected by this form of discrimination. The caste system is a strict hierarchical social system based on underlying notions of purity and pollution.

¹ The aim has been to include all relevant references to caste discrimination by these bodies in the selected time periods. However, due to the very high number of documents issued by these bodies, there is a possibility that some references have been missed. IDSN takes full responsibility for such omissions and welcomes inputs on additional references (info@idsn.org). For further explanation on selection criteria and search methods, see the "Methodology" chapter.

² Progress report of Mr. Yozo Yokota and Ms. Chin-Sung Chung, Special Rapporteurs on the topic of discrimination based on work and descent, A/HRC/Sub.1/58/CRP.2, para. 16.

Those at the bottom of the system suffer discrimination influencing all spheres of life and violating a cross-section of basic human rights including civil, political, social, economic and cultural rights. Caste discrimination entails social and economic exclusion, segregation in housing, denial and restrictions of access to public and private services, and lack of equal access to education and employment, to mention some effects.

Those who fall outside the caste system are considered “lesser human beings”, “impure” and thus “polluting” to other caste groups. Caste-affected communities are subjected to so-called “untouchability practices” in both public and private spheres, and are often forcibly assigned the most dirty, menial and hazardous jobs, such as cleaning human waste. The exclusion of ‘caste-affected communities’ by other groups in society lead to high levels of poverty among affected population groups and exclusion from development processes, and generally precludes their involvement in decision making and meaningful participation in public and civil life.

Caste discrimination is found in varying degrees in India, Nepal, Pakistan, Bangladesh, Sri Lanka, Japan, Yemen, Senegal, Burkina Faso, Mali, Cameroon, Mauritania, Sierra Leone, Nigeria, Kenya, Ethiopia, Somalia, Yemen and Micronesia and possibly more countries. It also occurs in Diaspora communities in Europe, North America, and Asia.

Caste discrimination in international human rights law

While the term “caste” does not appear in the non-discrimination provision of the Universal Declaration on Human Rights (UDHR) or any of the international human rights treaties, subsequent practice by UN treaty and charter-based bodies has affirmed that caste-based discrimination fall under the purview of international human rights instruments. Indeed, an examination of the *travaux préparatoires* of the UDHR shows that caste was explicitly contemplated by the drafters as being encompassed in some of the more general terminology in the UDHR’s foundational non-discrimination provision.³ Furthermore, several treaty body committees have stated that caste discrimination falls under the terms “descent”, “social origin”, “birth”, and/or “other status” in recommendations and general comments.⁴ In particular, the UN Committee on the Elimination of Racial Discrimination (CERD) has reaffirmed in General Recommendation 29 that discrimination based on “caste and analogous systems of inherited status” falls within the scope of descent in article 1(1) of the Convention.⁵

Caste discrimination has been defined as “discrimination based on work and descent” by the UN Sub-Commission on the Promotion and Protection of Human Rights, which has undertaken a comprehensive study on the issue.⁶ Discrimination based on work and descent is defined as “any distinction, exclusion, restriction, or preference based on inherited status such as caste, including present or ancestral occupation, family, community or social origin, name, birth place, place of residence, dialect and accent that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal

³ “Caste and the Universal Declaration of Human Rights” by Mr. Peter Prove, 2003: http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/CasteandDescent.pdf

⁴ UN treaty bodies have referred to ‘caste’ as a prohibited form of discrimination in the following general comments: CERD No. 29 on descent (2002), CESCR No. 20 on non-discrimination (2009), CEDAW No. 25 on temporary measures (2004), and CEDAW No. 28 on core obligations (2010).

⁵ In CERD General Recommendation 29 (2002) the Committee states that “discrimination based on “descent” includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights.”

⁶ In the period 2000-2006, the Sub-Commission entrusted some of its members with the task of preparing a total of two working papers and three reports on the topic. In 2005 the Commission on Human Rights mandated two Special Rapporteurs with the task of preparing a comprehensive study on the issue in resolution 2005/109. The final report was submitted in 2007 and published by the Human Rights Council in 2009. For more information, see: <http://idsn.org/international-advocacy/un/sub-commission-study/>

footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life.”⁷

A set of draft UN principles and guidelines for the effective elimination of discrimination based on work and descent, which were drafted as a result of the Sub-Commission study, constitutes the first comprehensive framework to prevent and address this form of discrimination globally. It offers a strong tool to encourage specific anti-discrimination legislation and relevant policy measures for governments and their agencies, UN and other international agencies, educational institutions, non-governmental organizations and the private sector. These principles and guidelines were published by the Human Rights Council in May 2009.⁸

METHODOLOGY

The objective of this compilation has been to gather all observations and recommendations on the issue of caste discrimination and similar forms of discrimination based on work and descent by the following three UN human rights monitoring bodies:

- UN Treaty Bodies: Concluding observations and general comments of relevance (1997-2011)
- Universal Periodic Review: Reports of the UPR Working Groups under the Human Rights Council from the first cycle (2008-2011)
- UN Special Procedures: Relevant annual reports, mission reports, and communications by thematic mandate holders (2005-2011)

The observations and recommendations included in this compilation have been selected on the basis of specific words that characterize caste discrimination, such as “caste”, “Dalit” and “Scheduled Castes” which are common to the South Asian region. The compilation also refers to the situation of communities affected by similar forms of discrimination, such as the “Buraku” community in Japan, the “Osu” community in Nigeria, and the “Al-Akhdam” community in Yemen. It has been a criterion that the selected paragraphs should refer explicitly to the situation of these caste-affected communities. However, a few exceptions have been made to this rule (e.g. in the UPR compilation) to provide a basis for monitoring and follow-up to relevant reviews. Keywords from the recommendations have been highlighted in the left column of each country review.

The selection of data for the three parts of the compilation (Treaty Bodies, Special Procedures, and UPR) had to be obtained through different search methods. This is due to the fact that the UN search tool which is available online, the Universal Human Rights Index (UHRI), does not cover all these three mechanisms in a single database. The UHRI contains all concluding observations issued by the Treaty Bodies from 2000 and onwards, as well as all reports published by the Special Procedures since 2006 according to the information on the website.⁹ It was therefore used to collect all data from the Treaty Bodies since 2000 for this compilation. Additional data on reviews undertaken before 2000 was found in the UN treaty body database.¹⁰ At the time of writing the Index does not appear to be fully updated, nor does it seem to include all reports by UN Special Procedures. This is partly why the time periods do not correspond. For the two remaining parts (UN Special Procedures and UPR), IDSN has monitored the content of individual

⁷ Draft principles and guidelines on the effective elimination of discrimination based on work and descent, para. 2 (A/HRC/11/CRP.3)

⁸ In March 2009 the Human Rights Council adopted [decision A/HRC/10/117](#) to publish the completed Sub-Commission studies. The draft UN principles and guidelines were contained in an annex to the final report, which was published on 18 May 2009 in connection with the 11th session of the Human Rights Council ([A/HRC/11/CRP.3](#)).

⁹ <http://www.universalhumanrightsindex.org/en/about.html>

¹⁰ <http://tb.ohchr.org/default.aspx>

reports by UN Special Procedure mandate holders and the UPR Working Group on a case-by-case basis, as they have been published. Once the Index is fully functioning, and includes data from other important mechanisms such as the UPR, it will provide a solid basis for effective monitoring for concerned stakeholders.

REVIEW OF FINDINGS

UN Treaty Bodies (1997-2011)

The UN Treaty Bodies monitor the implementation of the core international human rights treaties by States Parties on a regular basis.¹¹ They have been instrumental in bringing attention and recognition to the issue of caste-based discrimination as a global human rights concern. A total number of 43 Concluding Observations have addressed the issue of caste discrimination in the period 1997-2011 (Table I).

The UN Committee on the Elimination of Racial Discrimination (CERD), which has issued nearly half of these recommendations (20 in total), has played a particularly important role in monitoring governments' obligations related to caste discrimination. In 2002, CERD adopted UN General Recommendation 29 on descent-based discrimination, which recommends that all states take "steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status [...]."¹² This General Recommendation constitutes an effective framework to improve analysis and reporting on governments' implementation of their obligations on this issue, and has been used as a reference in many country reviews and thematic debates by treaty- and charter-based bodies.

The Treaty Body recommendations concern a relatively large group of countries in the following regions: 28 refer to countries in Asia, 9 to Africa, 5 to the Middle East, and 1 to Europe. The issue of caste discrimination among the South Asian Diaspora population has only been addressed in one country, the United Kingdom (2003). Whereas CERD has addressed the issue in many different countries, other treaty bodies have mainly focused on caste discrimination in Asian countries (India, Nepal, Bangladesh, Pakistan, and Japan). As such, the CERD General Recommendation 29 has played a critical role in providing a common framework for enhanced monitoring on this issue by CERD and other treaty bodies.

Civil society has submitted a large number of reports on the issue, which has led to increased attention by the Treaty Body Committees. In many cases, governments are however far behind in their reporting obligations, which postpone critical reviews of certain countries. This is particularly relevant to the Human Rights Committee. Finally, some governments are not yet signatories to some of core human rights treaties.

¹¹ States Parties are examined by UN Treaty Bodies approximately every 4-5 years, provided that governments live up to their reporting obligations and the treaty bodies do not have a backlog of reports for consideration.

¹² CERD General Recommendation 29 (2002)

Table I: Treaty Body Concluding Observations with reference to caste discrimination (1997-2011)

Country	Treaty Body	Year(s) of Concluding Observations
India (8)	CERD	2007; 1996
	CESCR	2008
	CEDAW	2007; 2000
	CRC	2004; 2000
	CCPR	2000
Nepal (8)	CERD	2004; 2001
	CESCR	2008; 2001
	CEDAW	2004; 2011
	CRC	2005
	CAT	2005
Pakistan (4)	CERD	2009; 1997
	CRC	2009; 2003
Bangladesh (4)	CERD	2001
	CEDAW	2011
	CRC	2009; 2003
Japan (5)	CERD	2010; 2001
	CEDAW	2009
	CESCR	2001
	CRC	2004
United Kingdom (2)	CERD	2003; 2011
Yemen (5)	CERD	2006; 2011
	CESCR	2011; 2003
	CRC	2005
Nigeria (1)	CERD	2005
Mauritania (2)	CERD	2004
	CRC	2009
Madagascar (1)	CERD	2004
Senegal (1)	CERD	2002
Chad (1)	CERD	2009
Mali (1)	CERD	2002
Ethiopia (1)	CERD	2003
Ghana (1)	CERD	2003
Total number of recommendations: 43	CERD (20); CRC (10); CESCR (6); CEDAW (5); CAT (1); CCPR (1)	Asia (28); Africa (9); Middle East (5); Europe (1)

Universal Periodic Review

The Universal Periodic Review, which is a newly established mechanism under the Human Rights Council, is unique because it involves a state-driven review of the human rights records of all UN member states. The data in this compilation refer to the first UPR cycle in the period 2008-2011. Excerpts are only taken from the adopted outcome reports of the UPR Working Group, which include accepted and refused observations and recommendations by the State under Review. These are the recommendations that reviewed States are recommended to implement in follow up to the review.

Some of the UN compiled reports with information from “other stakeholders”, such as NGOs and human rights experts and bodies, contained extensive references to caste-based discrimination, e.g. in the reports on India, Pakistan, Bangladesh, Sri Lanka, and Nepal. However, if this information was not raised by other states during the review – or was not reflected in full length by the drafters of the report – it does not appear in the outcome reports. Outcome reports do not reflect written questions and recommendations submitted in advance of the review either.

The overview of reports of the UPR working group demonstrates that 41 states have made observations and recommendations on the issue of caste discrimination and Dalits in the following country reviews: India, Pakistan, Sri Lanka, Mauritania, Madagascar, and Nepal (Table II). Concerns for minority groups were also raised in the reviews of Japan and Bangladesh, however without explicit references to the situation of the Buraku and Dalit communities respectively. They are still included in the compilation, as they constitute the basis for follow-up by governments and monitoring by civil society.

Compared to the UN treaty body reviews of caste-affected countries, the UPR exercise has secured more public attention to the issue and has increase the involvement of other states on this matter. It has been particularly useful in reviews of countries which have taken a cooperative approach, such as Pakistan and Nepal. Most notably, the UPR process lead to a change in the official position by the Government of Pakistan after it was confronted with critical questions on the protection of the so-called Scheduled Caste Hindu population in the country.

Table II: References to caste discrimination in the outcome reports of the UPR Working Group

Country	UPR session, 1st cycle	No. of observations/recommendations by states
India	1 st session, April 2008	10
Pakistan	2 nd session, May 2008	2
Bangladesh	2 nd session, May 2008	0
Sri Lanka	2 nd session, May 2008	1
Japan	2 nd session, May 2008	0
Bangladesh	4 th session, February 2009	0
Mauritania	9 th session, November 2010	3
Madagascar	10 th session, January 2011	1
Nepal	10 th session, January 2011	24
Total		41

UN Special Procedures

The UN Special Procedures is a monitoring mechanism, which is established under the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. The compilation includes all relevant references in annual and thematic reports, mission reports, and summaries of cases transmitted to governments in the period 2005-2011.¹³ As demonstrated in the compilation, the following 13 thematic mandate holders have specifically addressed the issue of caste discrimination and Dalits since 2005:

UN Special Procedure mandate holder	No. of documents
Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance	19
Special Rapporteur on contemporary forms of slavery, including its causes and consequences	5
Independent Expert on minority issues	5
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	11
Special Rapporteur on the right to food	5
Special Rapporteur on the right to education	2
Special Rapporteur on the situation of human rights defenders	7
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	3
Special Rapporteur on violence against women, its causes and consequences	6
Special Rapporteur on freedom of religion or belief	1
Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation	4
Independent Expert on human rights and extreme poverty	1
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health	1
Total no. of UN Special Procedures mandate holders: 13	70

Some mandate holders have been particularly active on the issue. The Special Rapporteur on contemporary forms of racism has played an especially critical role, as this mandate has repeatedly voiced concern about the persistence of caste discrimination and has reiterated the view of CERD that racial discrimination encompasses caste and analogous forms of discrimination based on inherited states. Other mandate holders, who have raised particular concern about the issue, include the Special Rapporteur on violence against women, the Special Rapporteur on contemporary forms of slavery, the Special Rapporteur on adequate housing, and the Independent Expert on minority issues, to mention some. Due to the lack of response by governments, many mandate holders have however not been given the opportunity to study

¹³ Due to the high activity level and large number of reports published by the UN Special Procedures, the compilation may not be fully comprehensive as relevant references may have been missed in the monitoring of their activities.

the in-country situation for themselves. In principle, the issue of caste discrimination is an aspect which influences the rights monitored by all thematic mandate holders.

The UN Special Procedures have also issued a large number of communications on the situation of caste-affected communities, however, mostly with reference to the situation of Dalits in India and Nepal. While the compilation includes references to such cases, it does not provide the full length of all relevant paragraphs due to space constraints.

Many UN Special Procedures have requested to visit affected countries, but the vast majority of these requests are pending acceptance from governments.¹⁴ Some visits have however been undertaken, which has often been an effective way to bring attention to the human rights situation of caste-affected groups.¹⁵

In 2009, the Special Procedures mandate holders expressed “serious concern about discrimination on grounds of caste and other systems of inherited status” in a joint contribution to the Durban Review Conference.¹⁶ Two mandate holders, the Special Rapporteur on racism and the Independent Expert on minority issues, have welcomed the draft UN principles and guidelines on the effective elimination of discrimination based on work and descent.¹⁷

¹⁴ Link to OHCHR website: <http://www2.ohchr.org/english/bodies/chr/special/countryvisitsa-e.htm>

¹⁵ For a list of country visits to caste-affected countries, go to: <http://idsn.org/international-advocacy/un/special-procedures/country-visits/>

¹⁶ A/CONF.211/PC/WG.1/5

¹⁷ The Special Rapporteur on racism has recommended States to engage in substantive discussions on this topic and rally around them (A/64/271), and the Independent Expert on minority issues has welcomed and urged further discussions on the framework (A/HRC/13/23).

UN TREATY BODIES

INDIA	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – India 2007 <u>CERD/C/IND/CO/19</u></p> <p>Keywords:</p> <p>Interpretation of ‘descent’, CERD general recommendation XXIX, ‘untouchability’, caste-based discrimination, Dalit, disaggregated data, segregation, public education, violence against Dalit women, inter-caste marriage, post-tsunami relief, political participation, devadasi, impunity, manual scavenging, bonded labour, child labour, education, SC/CT Act, impunity, caste bias</p>	<p>3. The Committee notes with appreciation the comprehensive constitutional provisions and other legislation of the State party to combat discrimination, including discrimination based on race and caste.</p> <p>4. The Committee welcomes the special measures adopted by the State party to advance the equal enjoyment of rights by members of scheduled castes and scheduled tribes, such as reservation of seats in Union and State legislatures and of posts in the public service.</p> <p>5. The Committee welcomes the establishment of institutions responsible for the implementation of anti-discrimination legislation such as the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act (1989) and for the monitoring of acts of discrimination and violence against members of scheduled castes and scheduled tribes, including the Ministry of Social Justice and Empowerment, the Union and State Parliamentary Committees on Social Justice, the Ministry of Tribal Affairs, and the National Commissions on Scheduled Castes and on Scheduled tribes.</p> <p>6. The Committee notes with appreciation the declaration of the Indian Prime Minister before the Dalit- Minority International Conference in New Delhi on 27 December 2006 that “the only parallel to the practice of ‘Untouchability’ was Apartheid in South Africa.” Such a declaration underlines the renewed commitment to address the discriminatory practice of “Untouchability”.</p> <p>8. The Committee takes note of the State party’s position that discrimination based on caste falls outside the scope of article 1 of the Convention. However, after an extensive exchange of views with the State party, the Committee maintains its position expressed in general recommendation No. 29 “that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights.” Therefore, the Committee reaffirms that discrimination based on the ground of caste is fully covered by article 1 of the Convention.</p> <p>9. The Committee regrets the lack of information in the State party’s report on concrete measures taken to implement existing anti-discrimination and affirmative action legislation, as well as on the de facto enjoyment by members of scheduled castes and scheduled and other tribes of the rights guaranteed by the Convention. (arts. 2 and 5) Notwithstanding the above-mentioned legal position of the State party, the Committee invites it to include in its next periodic report detailed information on measures taken to implement anti-discrimination and affirmative action legislation, disaggregated by caste, tribe, gender, State/district and rural/urban population. The State party should also provide disaggregated data on the percentages of the Union, State and district budgets allocated for that purpose and on the effects of such measures on the enjoyment by members of scheduled castes and scheduled and other tribes of the rights guaranteed by the Convention.</p> <p>13. The Committee notes with concern that, despite the formal abolition of “Untouchability” by article 17 of the Indian Constitution, de facto segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. (arts. 3 and 5)The Committee urges the State party to intensify its efforts to enforce the Protection of Civil Rights Act (1955), especially in rural areas, including by effectively punishing acts of</p>

“Untouchability”, to take effective measures against segregation in public schools and residential segregation, and to ensure equal access for Dalits places of worship, hospitals, water sources and any other places or services intended for use by the general public.

14. The Committee is concerned about reports of arbitrary arrest, torture and extrajudicial killings of members of scheduled castes and scheduled tribes by the police, and about the frequent failure to protect these groups against acts of communal violence. (arts. 5 (b) and 6) The Committee urges the State party to provide effective protection to members of scheduled castes and scheduled and other tribes against acts of discrimination and violence, introduce mandatory training on the application of the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act (1989) for police, judges and prosecutors and take disciplinary or criminal law measures against police and other law enforcement officers who violate their duty of protection and/or investigation in relation to crimes against scheduled castes and scheduled and other tribes.

15. The Committee is concerned about the alarming number of allegations of acts of sexual violence against Dalit women primarily by men from dominant castes, in particular rape, and about the sexual exploitation of Dalit and tribal women who are being trafficked and forced into prostitution. (art. 5 (b))The Committee urges the State party to effectively prosecute and punish perpetrators of acts of sexual violence and exploitation of Dalit and tribal women, sanction anyone preventing or discouraging victims from reporting such incidents, including police and other law enforcement officers, take preventive measures such as police training and public education campaigns on the criminal nature of such acts, and provide legal, medical and psychological assistance, as well as compensation, to victims. The State party should also consider adopting victim-sensitive rules of evidence similar to that of Section 12 of the Protection of Civil Rights Act (1955) and establishing special court chambers and task forces to address these problems.

17. The Committee notes with concern reports that Dalit candidates, especially women, are frequently forcibly prevented from standing for election or, if elected, forced to resign from village councils or other elected bodies or not to exercise their mandate, that many Dalits are not included in electoral rolls or otherwise denied the right to vote, and that public service posts reserved for scheduled castes and scheduled tribes are almost exclusively filled in the lowest category (e.g. sweepers). The Committee is also concerned that scheduled castes and scheduled and other tribes are underrepresented in the Union, State and local governments and legislatures, as well as in the public service. (arts. 5 (c) and 2 (2))The Committee recommends to the State party to effectively enforce the reservation policy; to ensure the rights of members of scheduled castes and scheduled and other tribes to freely and safely vote and stand for election and to fully exercise their mandate if elected to their reserved seats; to apply the reservation policy to all categories of public service posts, including the highest, and to extend it to the judiciary; to ensure adequate representation of scheduled castes, scheduled and other tribes and ethnic minorities in Union, State and local governments and legislatures; and to provide updated statistical data on such representation in its next periodic report.

18. The Committee is concerned about the persistence of social norms of purity and pollution which de facto preclude marriages between Dalits and non-Dalits; it is also concerned about violence and social sanctions against inter-caste couples and the continuing practices of child marriage and dowry, and devadasi whereby mostly Dalit girls are dedicated to temple deities and forced into ritualized prostitution. (art. 5 (d) (iv) and 5 (b))The Committee urges the State party to effectively enforce the prohibition of child marriage, the Dowry Prohibition Act (1961) and State laws prohibiting the practice of devadasi. The State party should punish such acts and acts of discrimination or violence against inter-caste couples and rehabilitate victims. Furthermore, it should conduct training and awareness-raising campaigns to sensitize police, prosecutors, judges, politicians, teachers and the general public as to the criminal nature of such acts.

	<p>20. The Committee is concerned about reports that Dalits are often denied access to and evicted from land by dominant castes, especially if it borders land belonging to such castes, and that tribal communities have been evicted from their land under the 1980 Forest Act or in order to allow private mining activities (art. 5 (d) (v) and 5 (e) (i) and (iii)).The Committee recommends that the State party ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act (1989). The State party should also ensure that tribal communities are not evicted from their lands without seeking their prior informed consent and provision of adequate alternative land and compensation, that bans on leasing tribal lands to third persons or companies are effectively enforced, and that adequate safeguards against the acquisition of tribal lands are included in the Recognition of Forest Rights Act (2006) and other relevant legislation.</p> <p>21. The Committee notes with concern that Dalits who convert to Islam or to Christianity to escape caste discrimination reportedly lose their entitlement under affirmative action programmes, unlike converts who become Buddhists or Sikhs. (arts. 5 (d) (vii) and 2 (2))The Committee recommends that the State party restore the eligibility for affirmative action benefits of all members of scheduled castes and scheduled tribes having converted to another religion.</p> <p>22. The Committee is concerned about reports that Dalits were denied equal access to emergency assistance during the post-tsunami relief, while noting that, according to the State party, those allegations merely concern isolated cases. (arts. 5 (e) and 2 (1) (a))The Committee recommends to the State party to investigate all alleged cases in which Dalits were denied assistance or benefits equal to that received by caste fishermen or cases in which they were otherwise discriminated against during the post-tsunami relief and rehabilitation process and to compensate or retroactively grant such benefits to the victims of such discrimination.</p> <p>23. The Committee notes with concern that very large numbers of Dalits are forced to work as manual scavengers and child workers and are subject to extremely unhealthy working conditions and exploitative labour arrangements, including debt bondage. (art. 5 (e) (i) and (iv))The Committee recommends that the State party effectively implement the Minimum Wages Act (1948), the Equal Remuneration Act (1976), the Bonded labour (System) Abolition Act (1976), the Child Labour (Prohibition and Regulation) Act (1986) and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act (1993). The State party should also adopt measures to enhance Dalits' access to the labour market, e.g. by extending the reservation policy to the private sector and issuing job cards under the National Rural Employment Guarantee Scheme to Dalit applicants, and report on the effects of the measures taken on the employment and working conditions of Dalits in its next periodic report.</p> <p>24. The Committee is concerned about reports that members of scheduled castes and scheduled and other tribes are disproportionately affected by hunger and malnutrition, infant, child and maternal mortality, sexually transmitted diseases, including HIV/AIDS, tuberculosis, diarrhoea, malaria and other water borne diseases and that health care facilities are either unavailable in tribal areas or substantially worse than in non-tribal areas. (art. 5 (e) (iv)) The Committee recommends that the State party ensure equal access to ration shops, adequate health care facilities, reproductive health services, and safe drinking water for members of scheduled castes and scheduled and other tribes and to increase the number of doctors and of functioning and properly equipped primary health centres and health sub-centres in tribal and rural areas.</p> <p>25. While noting the constitutional guarantee of free and compulsory education for all children up to the age of 14 and the rapid growth of the literacy rate among Dalits, in particular girls, the Committee remains concerned about the high dropout rate among Dalit pupils at the primary and secondary levels, reports of classroom segregation and discrimination against Dalit pupils, teachers and mid-day meal cooks, and the poor infrastructure, equipment, staffing and quality of teaching in public schools attended by</p>
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	<p>Dalit and tribal children. (art. 5 (e) (v))The Committee recommends that the State party take effective measures to reduce dropout and increase enrolment rates among Dalit children and adolescents at all levels of schooling, e.g. by providing scholarships or other financial subsidies and by sensitizing parents as to the importance of education, combat classroom segregation and discrimination against Dalit pupils and ensure non-discriminatory access to the Mid-Day Meal Scheme, adequate equipment, staffing and quality of teaching in public schools, as well as physical access by Dalit and tribal pupils to schools in dominant caste neighbourhoods and armed conflict areas.</p> <p>26. The Committee notes with concern allegations that the police frequently fail to properly register and investigate complaints about acts of violence and discrimination against members of scheduled castes and scheduled tribes, the high percentage of acquittals and the low conviction rate in cases registered under the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act (1989), and the alarming backlog of atrocities cases pending in the courts. (art. 6)The Committee urges the State party to ensure that members of scheduled castes and scheduled and other tribes who are victims of acts of violence and discrimination have access to effective remedies and, to that effect, encourage victims and witnesses to report such acts and protect them from acts of retaliation and discrimination; ensure that complaints under the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act (1989) and other criminal law provisions are properly registered and investigated, perpetrators prosecuted and sentenced and victims compensated and rehabilitated; and establish and make operational special courts trying atrocity cases as well as committees monitoring the implementation of the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act in all States and districts, as mandated by the Act. In this regard, the State party is invited to include in its next periodic report information on the number and nature of complaints registered, the convictions and sentences imposed on perpetrators, and the remedies and assistance provided to victims of such acts.</p> <p>27. The Committee notes with concern that caste bias as well as racial and ethnic prejudice and stereotypes are still deeply entrenched in the minds of wide segments of Indian society, particularly in rural areas. (art. 7)The Committee recommends that the State party strengthen its efforts to eradicate the social acceptance of caste-based discrimination and racial and ethnic prejudice, e.g. by intensifying public education and awareness-raising campaigns, incorporating educational objectives of inter-caste tolerance and respect for other ethnicities, as well as instruction on the culture of scheduled castes and scheduled and other tribes, in the National Curriculum Framework, and ensuring adequate media representation of issues concerning scheduled castes, tribes and ethnic minorities, with a view to achieving true social cohesion among all ethnic groups, castes and tribes of India.</p> <p><i>The Government of India is requested to submit its next periodic reports to CERD before 4 January 2012.</i></p>
<p>CERD Concluding Observations – India 1996 <u>CERD/C/304/Add.13</u> Keywords: Interpretation of ‘descent’, caste-based discrimination, non-implementation, impunity, compensation, reparation, National Commission on Scheduled Castes, education campaign</p>	<p>2. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party on the basis of its tenth to fourteenth periodic reports. It regrets the brevity of the report, all the more so since 10 years have passed since the previous report was submitted. It also regrets that the report does not provide concrete information on the implementation of the Convention in practice; it furthermore regrets that the report and the delegation claim that the situation of the scheduled castes and scheduled tribes does not fall within the scope of the Convention.</p> <p>4. It is noted that India is a large multi-ethnic and multicultural society. It is also noted that the extreme poverty of certain groups in the population, the system of castes and the climate of violence in certain parts of the country are among the factors which impede the full implementation of the Convention by the State party.</p> <p>5. The leading role played by India in the struggle against racial discrimination and apartheid at the international level is welcomed by the Committee. The Committee also acknowledges the far-reaching measures adopted by the Government to combat</p>

	<p>discrimination against members of scheduled castes and scheduled tribes.</p> <p>10. Articles 15 (i) and 15 (ii) of the Constitution of India, prohibiting all forms of discrimination by the State and its agents, or between individuals, including discrimination based on race and castes, as well as article 153, paragraphs (a) and (b), and article 505 of the Penal Code, which prohibit actions that promote disharmony, hatred, feelings of enmity and ill-will on grounds of race or religion, are found to be mainly in conformity with article 2, paragraph 1, of the Convention.</p> <p>14. Noting the declaration in paragraph 7 of the report, reiterated in the oral presentation, the Committee states that the term "descent" mentioned in article 1 of the Convention does not solely refer to race. The Committee affirms that the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention. It emphasizes its great concern that within the discussion of the report, there was no inclination on the side of the State party to reconsider its position.</p> <p>18. It is regretted that no information has been provided to the Committee on the effective implementation of the penal provisions referred to in paragraph 10 above. In this regard, concern is expressed at numerous reports of acts of discrimination based on race, colour, descent or national or ethnic origin, although it was stated that no such case has yet been brought before the courts; this leads the Committee to wonder whether individuals are sufficiently informed about their rights.</p> <p>23. It is noted that although constitutional provisions and legal texts exist to abolish untouchability and to protect the members of the scheduled castes and tribes, and although social and educational policies have been adopted to improve the situation of members of scheduled castes and tribes and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. The Committee is particularly concerned at reports that people belonging to the scheduled castes and tribes are often prevented from using public wells or from entering cafés or restaurants and that their children are sometimes separated from other children in schools, in violation of article 5 (f) of the Convention.</p> <p>25. Although it is noted that the Supreme Court and the high courts have the jurisdiction to award compensation to victims of human rights violations, including in the field of racial discrimination, concern is expressed that there exists no specific statute providing for the right of individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, as required by article 6 of the Convention.</p> <p>26. The Committee recommends that the State party continue and strengthen its efforts to improve the effectiveness of measures aimed at guaranteeing to all groups of the population, and especially to the members of the scheduled castes and scheduled tribes, the full enjoyment of their civil, cultural, economic, political and social rights, as mentioned in article 5 of the Convention. In this regard, the Committee recommends that the next report to be submitted by the State party contain full and detailed information on the legislative aspects and the concrete implementation of the Directive Principles of the State Policy of the Constitution.</p> <p>27. The Committee recommends that special measures be taken by the authorities to prevent acts of discrimination towards persons belonging to the scheduled castes and scheduled tribes, and, in cases where such acts have been committed, to conduct thorough investigations, to punish those found responsible and to provide just and adequate reparation to the victims. In this regard, the Committee particularly stresses the importance of the equal enjoyment by members of these groups of the rights to access to health care, education, work and public places and services, including wells, cafés or restaurants.</p> <p>29. The Committee recommends that the next periodic report of the State party include information on the powers and functions, as well as on their effective implementation, of the National Commission on Scheduled Castes and Scheduled tribes</p>
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	<p>and of the National Commission on Minorities.</p> <p>30. The Committee also recommends that the Government provide in its next periodic report information, including the number of complaints lodged and sentences passed, about the implementation in practice of the legal provisions prohibiting acts of racial discrimination and organizations which promote and incite racial discrimination, in accordance with articles 2 and 4 of the Convention.</p> <p>31. The Committee recommends a continuing campaign to educate the Indian population on human rights, in line with the Constitution of India and with universal human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination. This should be aimed at eliminating the institutionalized thinking of the high-caste and low-caste mentality.</p> <p>32. The Committee reaffirms that the provisions of article 6 of the Convention are mandatory and that the Government of India should adopt legal provisions making it easier for individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, including acts of discrimination based on belonging to a caste or a tribe.</p> <p><i>The Committee recommends that the State party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in these concluding observations.</i></p>
Committee on Economic Social and Cultural Rights (CESCR)	
<p>CESCR Concluding Observations – India 2008 <u>E/C.12/IND/CO/5</u> Keywords: Caste-based discrimination, access to justice, non-implementation, SC/ST Act, women, displacement and forced evictions, compensation and rehabilitation, primary education, disaggregated data, poverty and food insecurity, affordable and adequate housing, homelessness, sexual exploitation</p>	<p>13. The Committee is deeply concerned that in spite of the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and often socially accepted discrimination, harassment and/or violence persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and scheduled tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities such as the Muslim population, persons with disabilities and persons living with HIV/AIDS. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long delays in court proceedings and the non-implementation of court decisions by government authorities.</p> <p>14. The Committee notes with concern the lack of progress achieved by the State party in combating the persistent de facto caste-based discrimination that continues to prevail in spite of the legal prohibitions in place, most notably the 1989 Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act. The Committee is particularly concerned at the low rate of prosecution of crimes against persons belonging to scheduled castes and scheduled tribes, and that discriminatory attitudes and prejudices in the enforcement of the law, especially by the police, is a serious obstacle in the victims' access to justice.</p> <p>27. The Committee notes with concern that trafficking in persons remains a serious problem faced by the State party. The Committee is particularly concerned that women and children belonging to scheduled castes and scheduled tribes make up a large proportion of victims of trafficking and sexual exploitation. The Committee is also concerned that victims of trafficking and sexual exploitation, rather than being afforded protection and rehabilitation, are prosecuted under the Immoral Trafficking Prevention Act (ITPA), and that there is no legislation that specifically criminalizes trafficking in persons.</p> <p>31. The Committee, while noting that the draft resettlement and rehabilitation bill is currently before Parliament, remains deeply concerned about the reports of displacement and forced evictions in the context of land acquisition by private and state actors for the purposes of development projects, including constructions of dams and mining, and that the members of disadvantaged and marginalized groups, in particular, the scheduled castes and scheduled tribes, are adversely affected by such displacement</p>

	<p>from their homes, lands and their sources of livelihood. The Committee is also concerned that urban renewal projects, sporting events, infrastructure expansion, environmental projects and more recently, the designation of large areas as tax-free special economic zones, have resulted in the displacement of millions of families, most of whom have not received adequate compensation and rehabilitation. Furthermore, the Committee is concerned about the lack of effective consultations and legal redress for persons affected by displacement and by forced evictions, and the inadequate measures to provide sufficient compensation or alternative housing to those who have been removed from their homes and/or their ancestral lands.</p> <p>40. The Committee is concerned that, despite the efforts made by the State party to achieve universal primary education, including the adoption of the Constitution (86th Amendment) Act in 2002 which makes the right to primary education a fundamental right, and the “Sarva Shiksha Abhiyan” (Education for All) programme, aimed at achieving 100 per cent primary enrolment, the wide disparity in enrolment and dropout rates in primary schools continue to persist, negatively affecting, in particular, girls, Muslim children and children belonging to scheduled castes and scheduled tribes.</p> <p>51. The Committee requests the State party to submit, in its next periodic report, updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also requests the State party to include, in its next periodic report, annual comparative data, disaggregated by sex, age, caste, ethnicity, religion and by region, the percentage of the gross domestic product allotted for education, health and housing programmes in the country.</p> <p>53. The Committee stresses the need for a determined enforcement of the criminal justice system, and recommends that the State party strengthen procedures for prompt and impartial investigations and effective prosecutions of all allegations of violations under the 1989 Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act. The Committee also recommends that the State party improve awareness-raising and training programmes regarding the treatment of caste-based and other crimes related to discriminatory attitudes and prejudices, for professionals engaged in the administration of justice including judges, public prosecutors, lawyers and law enforcement officials, in particular members of the police, and remove any other existing obstacles faced by victims in accessing justice. The Committee further encourages the State party to expand throughout the State, preventive programmes to curb violence against persons belonging to scheduled castes and scheduled tribes, especially women.</p> <p>68. The Committee recommends that the State party, in the context of the Eleventh Plan (2007-12), take urgent measures to address the issue of poverty and food insecurity. In this regard, the Committee recommends that the State party review its national poverty threshold, taking into account its Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII) and establish specific mechanisms to monitor the implementation of poverty-reduction strategies and evaluate the progress achieved. The Committee requests the State party to provide, in its next periodic report, detailed annual data on the incidence and depth of poverty, disaggregated by gender, caste, ethnicity and by region.</p> <p>70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and by building or providing low-cost rental housing units, especially for the disadvantaged and low income groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under article 11 of the Covenant and refers to its general comment No. 4 (1991) on the right to adequate housing to guide the Government’s housing policies. The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, inter alia, sex, caste, ethnicity and</p>
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	<p>religion.</p> <p><i>The State party is requested to submit its sixth periodic report by 30 June 2011.</i></p>
Committee on Elimination of Discrimination Against Women (CEDAW)	
<p>CEDAW Concluding Comments – India 2007</p> <p><u>CEDAW/C/IND/CO/3</u></p> <p>Keywords:</p> <p>Dalit women, disaggregated data and statistical data, non-implementation, access to justice, atrocities and impunity, action plan against domestic violence, impunity, SC/ST Act, primary education, manual scavenging, devadasi.</p>	<p>8. The Committee is concerned that the State party has not taken adequate steps to implement the recommendations in regard to some concerns raised in the Committee’s previous concluding comments adopted in 2000.[1] In particular, the Committee finds that its recommendations in paragraphs 67 (to introduce a sex discrimination act in order to make the standards of the Convention applicable to non-State action and inaction), 70 (to develop a national plan of action to address the issue of gender-based violence in a holistic manner), 75 (to enforce laws preventing discrimination against Dalit women) and 81 (to take affirmative action to increase women’s participation in the judiciary) have been insufficiently addressed. The Committee is also concerned that it has not been provided with any information on the report of the committee established to review the Armed Forces Special Powers Act in response to its previous concluding comments.[2]</p> <p>14. The Committee regrets that the report does not provide sufficient statistical data, disaggregated by sex, caste, minority status and ethnicity, on the practical realization of equality between women and men in all areas covered by the Convention and does not provide information on the impact of, and results achieved by, various legal and policy measures described in the report.</p> <p>15. The Committee requests the State party to set benchmarks and to include adequate, appropriate and comparative statistical data and analysis, disaggregated by sex, caste, minority status and ethnicity, in its next report so as to provide a full picture of the implementation of all the provisions of the Convention and trends over time in the practical realization of equality between women and men. In particular, it calls upon the State party to review and monitor the fulfilment of the provisions of the Convention in respect of scheduled caste, scheduled tribe, backward class and minority women in all sectors. It also recommends that the State party regularly conduct impact assessments of its legislative reforms, policies and programmes to ensure that measures taken lead to the desired goals and that it inform the Committee about the results of these assessments in its next periodic report.</p> <p>19. The Committee urges the State party to provide free legal services to poor and marginalized women in rural and tribal areas in addition to urban areas and to monitor the quality and impact of such services in regard to ensuring women’s access to justice. It requests the State party to provide information about access of women, including scheduled caste, scheduled tribe, backward class and minority women, to free legal services and the scope and effectiveness of such services in its next periodic report.</p> <p>21. The Committee calls upon the State party to develop, in consultation with women’s groups, a coordinated and comprehensive plan to combat all forms of violence against women taking a life cycle approach. It urges the State party to take steps in partnership with states and union territories to fully and consistently implement and enforce the Domestic Violence Act and to ensure that all women victims of domestic violence, including scheduled caste, scheduled tribe, backward class and minority women, are able to benefit from the legislative framework and support systems in place and that perpetrators are effectively prosecuted under the Penal Code and adequately punished. It recommends that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women, including domestic violence. It requests that adequate statistics on all forms of violence against women be collected in a consistent manner. In particular, it requests the State party to provide information, disaggregated by caste, minority status and ethnicity, in its next periodic report, on the number of cases of domestic violence reported to the police and other relevant authorities, the number of protection and other orders granted under the Domestic Violence Act and the number of</p>

	<p>convictions of perpetrators of domestic violence under the Penal Code.</p> <p>28. The Committee is concerned about the ongoing atrocities committed against Dalit women and the culture of impunity for perpetrators of such atrocities. The Committee is concerned that, despite a law banning manual scavenging, this degrading practice continues with grave implications for the dignity and health of the Dalit women who are engaged in this activity.</p> <p>29. The Committee recommends that the State party put in place a mechanism to monitor effective enforcement of the Scheduled Castes and Scheduled tribes Prevention of Atrocities Act in order to ensure accountability and end impunity for crimes committed against Dalit women. It calls upon the State party to increase Dalit women's legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights. It requests the State party to report specifically on the impact of such initiatives in its next periodic report. The Committee also urges the State party to study the health implications of manual scavenging on Dalits engaged in this profession and on the community as a whole, and to address all the impediments to eradicating this practice, including by putting in place modern sanitation facilities and providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood.</p> <p>32. While appreciating the additional data provided by the State party during its dialogue with the Committee, which indicates improvements in enrolment rates of women in primary education, and while commending the State party's future plans of focusing efforts on education of marginalized sections of the population, the Committee is concerned about the continuing disparities in the educational status of scheduled caste, scheduled tribe and Muslim women and the limited access of these groups of women to higher education. It is also concerned about the educational performance disparities among regions and states, the continuing gap in literacy rates between men and women and the lack of information on the budgetary allocation to adult literacy programmes.</p> <p>33. The Committee recommends that the State party provide, in its next periodic report, comparable data disaggregated by sex, caste, minority status and ethnicity, on the enrolment and retention rates of girls and women at all levels of education, and trends over time. Given the particularly disadvantaged situation of Muslim women and girls, the Committee requests the State party to provide information in its next periodic report about the action taken on the recommendations of the Sachar Committee with regard to the education of Muslim women and girls. It urges the State party to increase efforts to enable scheduled caste, scheduled tribe and Muslim women to access higher education. The Committee calls upon the State party to strengthen its efforts, at the national, state and union territory levels, to close the gap in literacy rates between men and women, establish benchmarks in this regard and create mechanisms to monitor the achievement of such benchmarks. It also urges the State party to provide, in its next periodic report, information on the budgetary allocation to adult education programmes and the impact, and trends over time, of such programmes. Moreover, it calls upon the State party to meet its commitment of allocating 6 per cent of its gross domestic product to education in its eleventh five-year plan.</p> <p>37. The Committee calls upon the State party to ensure that rural women benefit de facto from the National Rural Employment Guarantee Act, 2005. It requests the State party to provide data disaggregated by sex, caste, minority status and ethnicity of the beneficiaries under this Act. The Committee recommends that the State party take proactive measures to bring financial institutions on board with the agenda of development and empowerment of women through issuance of microcredit. It urges the State party to establish, after consultation with women's groups, appropriate mechanisms to regulate the functioning of microcredit finance institutions that protect interests of poor women. The Committee also urges the State party to establish programmes, with goals and timelines, to issue credit to poor women who are not able to participate in the self-help groups and do not otherwise have access to credit.</p> <p>75. The Committee urges the Government to enforce laws preventing</p>
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	<p>discrimination against Dalit women and prohibiting the devadasi system. It urges the Government to introduce affirmative action programmes in such areas as education, employment and health so as to provide life chances to Dalit women and girls and create an environment conducive to their progress. The Committee calls upon the Government to set a time-frame for those interventions and provide information on the progress made in the next report.</p> <p><i>The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. It invites the State party to submit its fourth periodic report, which was due in August 2006, and its fifth periodic report, which is due in August 2010, in a combined report in 2010.</i></p>
<p>CEDAW Concluding Comments –India 2000 A/55/38 Keywords: Dalit women, devadasi, affirmative action</p>	<p>74. The Committee is concerned with the continuing discrimination, including violence, suffered by women of the Dalit community, despite the passage of the Scheduled Castes and Scheduled Tribes (prevention of atrocities) Act of 1989.</p> <p>75. The Committee urges the Government to enforce laws preventing discrimination against Dalit women and prohibiting the devadasi system. It urges the Government to introduce affirmative action programmes in such areas as education, employment and health so as to provide life chances to Dalit women and girls and create an environment conducive to their progress. The Committee calls upon the Government to set a time-frame for those interventions and provide information on the progress made in the next report.</p>
Committee on the Rights of the Child (CRC)	
<p>CRC Concluding Observations – India 2004 CRC/C/15/ADD.228 Keywords: Data collection and indicators, social discrimination, Untouchability, SC/ST Act, access to justice, manual scavengers, public education campaigns</p>	<p>22. The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, social status (Scheduled Castes and Tribes, or religious community), and urban and rural area and make it publicly available. This system should cover all children up to the age of 18 with specific emphasis on those who are particularly vulnerable. It further encourages the State party to use these indicators and data for the formulation of policies and programmes for the effective implementation of the Convention. The Committee recommends that the State party seek technical assistance from UNICEF, UNDP and UNFPA, among others.</p> <p>25. In light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by girls, children living in certain states, rural areas and slums, and children belonging to certain castes and tribal and indigenous groups.</p> <p>27. The Committee is deeply concerned at persistent and significant social discrimination against children belonging to Scheduled Castes and Tribes and other tribal groups, reflected, inter alia, by the many violations of the 1989 Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act, the low number of such violations dealt with by the courts, and the fact that a majority of the states have failed to set up the special courts provided for under this Act.</p> <p>28. The Committee recommends that the State party, in accordance with article 17 of its Constitution and article 2 of the Convention, take all necessary steps to abolish the discriminatory practice of “untouchability”, prevent caste- and tribe-motivated abuse, and prosecute State and private actors who are responsible for such practices or abuses. Moreover, in compliance with article 46 of the Constitution, the State party is encouraged to implement, inter alia, special measures to advance and protect these groups. The Committee recommends the full implementation of the 1989 Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act, the 1995 Scheduled Castes and Scheduled tribes Rules (Prevention of Atrocities) and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Committee encourages the State party to continue its efforts to carry out comprehensive public</p>

	<p>education campaigns to prevent and combat caste-based discrimination with a view to changing social attitudes, by involving, inter alia, religious leaders.</p> <p>32. The Committee recommends that all existing and future special temporary programmes be provided with specified goals and timetables, in order to evaluate their success and justify their continuation, expansion and dissemination. The Committee further recommends that the State party start to develop special programmes for the allocation of educational and other benefits that are based on the child's needs and rights rather than on the basis of sex, caste or tribe, or any other characteristic that may result in unjustifiable discrimination.</p> <p>65. The Committee recommends that the State party:</p> <p>(a) Improve the education system with a view to achieving the aims mentioned in article 29, paragraph 1 of the Convention and the Committee's general comment No. 1 on the aims of education, and introduce human rights, including children's rights, into the school curricula;</p> <p>(b) Strengthen its efforts to progressively ensure that that all girls and boys, in urban, rural and least developed areas and children belonging to Scheduled Castes and Tribes, have equal access to educational opportunities;</p> <p>(c) Raise awareness of the importance of early childhood education and introduce it into the general framework of education;</p> <p>(d) Encourage the participation of children at all levels of school life;</p> <p>(e) Take the necessary measures to improve the quality of education and to ensure better efficiency in the management of education, including by decreasing the dropout rate;</p> <p>(f) Hire more qualified teachers and provide them with more opportunities for training;</p> <p>(g) Take all necessary measures to curb teachers' absenteeism;</p> <p>(h) Build better infrastructure for schools; and</p> <p>(i) Seek assistance from UNICEF and UNESCO.</p> <p><i>The State party should submit its next 3rd and 4th periodic reports on 10 July 2008. The dates for the examination of India before the CRC has not yet been scheduled, but is expected to take place in 2010 or 2011.</i></p>
<p>CRC Concluding Observations – India 2000 CRC/C/15/ADD.115 Keywords: Caste-based discrimination, caste-motivated abuse, 'untouchability', bonded labour, affirmative measures, SC/ST Act, manual scavenging, public education, child labour, bonded labour, trafficking and sexual exploitation, rehabilitation, equal employment, devadasi/ritual prostitution</p>	<p>28. In the light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by children living in different states, living in rural areas, living in slums and belonging to different castes, tribal and indigenous groups.</p> <p>30. In the light of article 2 of the Convention, the Committee is concerned at the existence of caste-based discrimination and discrimination against tribal groups, despite these practices being prohibited under the law.</p> <p>31. In accordance with article 17 of the Constitution and article 2 of the Convention, the Committee recommends that the State party take steps to ensure states abolish the discriminatory practice of "untouchability", prevent caste- and tribe-motivated abuse, and prosecute State and private actors who are responsible for such practices or abuses. Moreover, in compliance with article 46 of the Constitution, the State party is encouraged to implement, inter alia, affirmative measures to advance and protect these groups. The Committee recommends the full implementation of the 1989 Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act, the 1995 Scheduled Castes and Scheduled tribes Rules (Prevention of Atrocities) and the 1993 Employment of Manual Scavengers Act. The Committee encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat</p>

	<p>caste-based discrimination. In line with the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.13), the Committee stresses the importance of the equal enjoyment by members of these groups of the rights in the Convention, including access to health care, education, work, and public places and services, such as wells.</p> <p>56. Welcoming the 83rd Constitutional Amendment Bill concerning the fundamental right to education, the Committee, however, expresses its concern at the prevailing poor situation in the State party with respect to education, which is characterized by a general lack of infrastructure, facilities and equipment, insufficient numbers of qualified teachers and a drastic shortage of text books and other relevant learning materials. There is serious concern regarding the striking disparities in terms of access to education, attendance at primary and secondary levels and drop-out rates between: different states, rural and urban areas, boys and girls, the affluent and poor, and children belonging to scheduled castes and tribes. The Committee emphasizes the importance of focusing attention on improving the provision and quality of education, especially in view of its potential benefit for addressing various concerns, including the situation of girls and reducing the incidence of child labour.</p> <p>66. The Committee encourages the State party to withdraw its declaration with respect to article 32 of the Convention, as it is unnecessary in the light of the efforts the State party is making to address child labour. The Committee recommends that the State party ensure the full implementation of the 1986 Child Labour (Prohibition and Regulation) Act, the 1976 Bonded labour (System Abolition) Act and the 1993 Employment of Manual Scavengers Act.</p> <p>74. The Committee notes the Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children. However, in view of the scale of the problem, the Committee is concerned about the sexual abuse and exploitation of children especially those belonging to the lower castes and from poor urban and rural areas, in the contexts of: religious and traditional culture; child domestic workers; children living and/or working on the streets; communal violence and ethnic conflict; abuse by the security forces in areas of conflict, such as Jammu and Kashmir, and the north-eastern states; and trafficking and commercial exploitation, especially girls from neighbouring countries, particularly Nepal. It is also concerned about the absence of adequate measures to combat this phenomenon and the lack of adequate rehabilitation measures.</p> <p>75. The Committee recommends that the State party ensure that legislation criminalizes the sexual exploitation of children and penalizes all the offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalized. While noting that Devadasi, or ritual prostitution, is prohibited under the law, the Committee recommends that the State party take all necessary measures to eradicate this practice. In order to combat trafficking in children, including for commercial sexual purposes, the Penal Code should contain provisions against kidnapping and abduction. The Committee recommends that the State party ensure that laws concerning the sexual exploitation of children are gender neutral; provide civil remedies in the event of violations; ensure that procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; include provisions to protect from discrimination and reprisals those who expose violations; and vigorously pursue enforcement.</p>
Human Rights Committee (CCPR)	
<p>CCPR Concluding Observations – India 2000 CCPR/C/79/Add.81 Keywords: Traditional practices and customs, National</p>	<p>5. It notes, moreover, that the size of the country, its huge population, the massive poverty and the great disparities in the distribution of wealth among various social groups affect the advancement of rights. The persistence of traditional practices and customs, leading to women and girls being deprived of their rights, their human dignity and their lives, and to discrimination against members of the underprivileged classes and castes and other minorities, and ethnic, cultural and religious tensions constitute impediments to the implementation of the Covenant.</p>

<p>Commission for Scheduled Castes and Scheduled Tribes, social discrimination, inter-caste violence, bonded labour, education programmes</p>	<p>8. The Committee also welcomes the establishment of the National Commission for Scheduled Castes and Scheduled tribes and the National Commission for Women in 1992, and the National Commission for Minorities in 1993. These commissions have initiated some improvements, in particular in the levels of education and in the representation of the various groups concerned within elected bodies and other authorities.</p> <p>10. The Committee has noted that positions in elected bodies are reserved for members of scheduled castes and tribes and that a constitutional amendment has reserved one third of the seats in elected local bodies (Panchayati Raj) for women. The Committee also notes the introduction of a bill to reserve one third of the seats for women in the Federal Parliament and in state legislatures.</p> <p>15. The Committee notes with concern that, despite measures taken by the Government, members of scheduled castes and scheduled tribes, as well as the so called backward classes and ethnic and national minorities continue to endure severe social discrimination and to suffer disproportionately from many violations of their rights under the Covenant, inter alia inter-caste violence, bonded labour and discrimination of all kinds. It regrets that the de facto perpetuation of the caste system entrenches social differences and contributes to these violations. While the Committee notes the efforts made by the State party to eradicate discrimination: it recommends that further measures be adopted, including education programmes at national and state levels, to combat all forms of discrimination against these vulnerable groups, in accordance with articles 2, paragraph 1, and 26 of the Covenant.</p> <p><i>The Committee draws to the attention of the Government of India the provisions of paragraph 6 (a) of the guidelines regarding the form and content of periodic reports from States parties, and requests that, accordingly, its next period report, due on 31 December 2001, should contain material which responds to all these concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of India.</i></p>
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NEPAL

Committee on the Elimination of Racial Discrimination (CERD)

<p>CERD Concluding Observations – Nepal 2004 <u>CERD/C/64/CO/5</u></p> <p>Keywords:</p> <p>National Dalit Commission, caste-based discrimination, impunity, inter-caste marriage, segregation in public and private places, enforcement of criminal justice system, police abuse, Badi, forced prostitution, bonded labour, discriminatory traditional customs and societal attitudes, due representation in the mass media</p>	<p>4. The Committee welcomes the adoption of several action plans within the framework of the State party’s Ninth and Tenth Periodic Plans, in particular the programmes for Dalits, nationalities and indigenous peoples of Nepal.</p> <p>5. The Committee notes with satisfaction that a number of institutions have recently been established with the aim of promoting human rights and combating discrimination, including the National Dalit Commission, the National Committee for the Upliftment of the Depressed, the Oppressed and Dalits Community, the Academy to Uplift Nationalities and Indigenous Peoples, and the National Foundation for the Development of Indigenous People and Nationalities.</p> <p>11. While the Committee welcomes the establishment of the National Dalit Commission, it is concerned that the Commission lacks a statutory basis, as long as the Parliament is not restored and a necessary act is not adopted. The Committee recommends that the State party consider, as a priority, the adoption of the relevant statutory law to enable the National Dalit Commission to carry out its mandate effectively.</p> <p>12. The Committee remains deeply concerned at the persistence of the de facto caste-based discrimination and the culture of impunity that apparently permeates the higher strata of a hierarchical social system. In particular, it is concerned at information on the existence of segregated residential areas for Dalits, social exclusion of inter-caste couples, restriction to certain types of employment, and denial of access to public spaces, places of worship and public sources of food and water, as well as at allegations</p>
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that public funds were used for the construction of separate water taps for Dalits. The Committee recommends that the State party, as a matter of priority, take measures to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, and make determined efforts to ensure the practical and effective implementation of these measures. The Committee further requests that information be included in the next periodic report on any follow-up measures taken by the State party to general recommendation XXIX on descent-based discrimination.

14. The Committee regrets the lack of information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination, and the role of the National Human Rights Commission and the National Dalit Commission in dealing with such cases. The Committee stresses the need for a determined enforcement of the criminal justice system, and reminds the State party that the absence of complaints and legal action by victims of racial discrimination may be the result of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests that the State party include in its next periodic report statistical information on complaints lodged, prosecutions launched and penalties imposed in cases of offences which relate to racial or ethnic discrimination. In particular, the Committee would welcome further information on cases invoking article 88 and article 11, paragraph 4, of the Constitution and the Miscellaneous Chapter of the Country Code. The Committee also requests information on legal measures that prohibit activities and organizations which promote or incite discrimination, or participation in them.

15. The Committee is concerned at the allegations of ill-treatment and ineffective protection of and discrimination against Dalits and other vulnerable groups in society, by law enforcement officials, especially the police. The Committee stresses that prompt and impartial investigations are paramount in counteracting discriminatory attitudes and practices. The Committee recommends that the State party intensify its efforts to end such discriminatory practices. It further recommends that the procedure relating to the investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the police.

16. The Committee notes the lack of information in the periodic report on the situation of women belonging to disadvantaged groups who are victims of multiple discrimination, and expresses concern over the situation of forced prostitution of girls and women of the Badi caste. The Committee recommends that the State party consider issues of political representation, personal security, employment and education, in line with general recommendations XXV (2000) on gender-related dimensions of racial discrimination and XXIX (2002) on descent-based discrimination, in taking measures to eliminate multiple discrimination against women who belong to vulnerable groups. The Committee further requests the State party to include in its next report the measures taken in this regard, including specific action taken to eradicate forced prostitution of Badi girls and women.

18. The Committee is concerned that, although the system of agricultural bonded labour known as Kamaiya was abolished in July 2000, the emancipated Kamaiyas are facing many problems, including lack of housing, land, work and education for their children. The Committee recommends that the State party ensure effective enforcement of the Bonded labour Prohibition Act 2002 and programmes adopted to put an end to the practice and discrimination against Kamaiyas. It further requests the State party to include information on the implementation of the act in its next periodic report.

20. The Committee notes that governmental action has been taken to sensitize the general public, including members of vulnerable groups, against discriminatory traditional customs and societal attitudes. The Committee recommends that the State party take further measures to ensure the training and education of teachers, social workers and law enforcement officials, especially those deployed against the insurgents as well as the political segments of the society. The Committee encourages the State party to carry out comprehensive public education campaigns and to include

	<p>intercultural education in school curricula.</p> <p>21. The Committee notes that the Government broadcasts in several national languages. The Committee is concerned, however, with the lack of representation of disadvantaged groups in the State-owned media, and that issues such as racial discrimination and human rights receive little coverage by the media in general. The Committee invites the State party to consider introducing special measures to ensure due representation in the mass media of members of disadvantaged groups, including Dalits.</p> <p><i>The Committee recommends that the State party ensure the timely submission of its seventeenth, eighteenth and nineteenth periodic reports, combined in one document, due on 1 March 2008, and that it be an updating report, addressing all the points raised in the present observations.</i></p>
<p>CERD Concluding Observations – Nepal 2001 <u>CERD/C/304/ADD.108</u></p> <p>Keywords: Caste system, disaggregated data, caste-based discrimination, caste-motivated abuse public education campaigns</p>	<p>5. The Committee welcomes the adoption of the State party’s Ninth Plan, containing important policies, strategies and programmes, which aim inter alia, to eradicate racial discrimination against disadvantaged groups by addressing their socio-economic development.</p> <p>6. In light of the multi-ethnic and multicultural society of the State party, the Committee notes that the existence of certain traditional customs, i.e. the caste system, and social attitudes are obstacles to efforts to combat discrimination. The Committee further notes that extreme poverty, which affects a significant part of Nepal’s population, and the presence of a large number of refugees from neighbouring countries are factors which represent serious difficulties in the fulfillment of the State party’s obligations under the Convention.</p> <p>9. The Committee expresses concern about the absence in the report of disaggregated data on the population, including by age, sex, nationality, ethnic origin, religion, including caste, and language. The Committee recommends that the State party provide these data in subsequent reports.</p> <p>11. The Committee remains concerned at the existence of caste-based discrimination, and the denial which this system imposes on some segments of the population of the enjoyment of the rights enshrined in the Convention. The Committee reiterates its previous recommendation that the State party provide information in its next periodic report on the implementation of practical and substantive measures to eradicate the practice of the caste system, including measures for the prevention of caste-motivated abuse and the prosecution of State and private actors responsible for such abuse. Moreover, the State party is encouraged to implement, inter alia, affirmative measures to advance and protect persons subjected to caste-based discrimination.</p> <p>14. In connection with the implementation of article 7 of the Convention, the Committee reiterates its previous recommendation that the State party take all necessary measures to ensure the training and education of law enforcement officials, teachers and social workers, and include the teaching of human rights in school curricula. The Committee encourages the State party to carry out comprehensive public education campaigns to combat discriminatory traditional customs and societal attitudes. The Committee would welcome information in subsequent reports on the effectiveness of these measures.</p> <p><i>The Committee recommends that the State party ensure the submission of its fifteenth periodic report, and that it be an updating report, addressing all the points raised in the present observations.</i></p>
Committee on Economic Social and Cultural Rights (CESCR)	
<p>CESCR Concluding Observations – Nepal 2008 <u>E/C.12/NPL/CO/2</u></p>	<p>7. The Committee welcomes the measures taken by the State party to abolish discrimination on the basis of caste and feudal practices detrimental to the enjoyment of economic, social and cultural rights of traditionally marginalized groups, including the Dalit, Kamaiya, Madhesi, Tharu and others. In this regard, it welcomes the prohibition</p>

<p>Keywords:</p> <p>Dalits, Untouchability, bonded labour, child labour, caste-based discrimination, access to justice, impunity, Badi caste, poverty, food, land rights, access to public wells, women at risk, primary education, disaggregated data, judicial and administrative remedies, political participation, food security and access to water, segregation</p>	<p>of untouchability and other discrimination on the basis of caste in the Interim Constitution and the enactment of the Bonded labour (Prohibition) Act of 2002.</p> <p>11. The Committee regrets that most of its 2001 recommendations in relation to the initial report have not been implemented, and that the State party has not addressed in an effective manner the following principal subjects of concern, which continue to be relevant:</p> <p>The extent of poverty in Nepal, in particular in rural areas where poverty and discrimination against women are most pronounced, and the lack of disaggregated data on the incidence and depth of poverty;</p> <p>The continuing inequalities that exist between men and women in Nepali society, despite legislative guarantees of equality, as reflected in the low representation of women in public service, the high female illiteracy rate and the unequal wages for equal work;</p> <p>The large number of women and girls being trafficked for prostitution, and the absence of a demonstrably effective response from the State party with regard to this practice;</p> <p>The high rate of domestic violence and the absence of specific legislation in this field;</p> <p>The high unemployment and underemployment rates in Nepal and the lack of skills-oriented education;</p> <p>The problems faced by emancipated Kamaiyas, including lack of housing, land, work, and education for their children;</p> <p>The inadequacy of the legal minimum wage to provide an adequate standard of living for workers and their families, in particular in the agricultural sector;</p> <p>The high incidence of child labour in Nepal, especially in rural areas.</p> <p>13. The Committee notes with concern that, in spite of the provisions in the Interim Constitution prohibiting caste-based discrimination, such discrimination persists with impunity. The Committee is particularly concerned about the obstacles that victims of caste-based discrimination reportedly face in accessing justice.</p> <p>15. Although certain harmful traditional practices have been prohibited by law, the Committee expresses its continuing concern about the persistence of such practices that violate the rights of women and girls as deuki (dedicating girls to a god or goddess), badi (widespread practice of prostitution among the Badi caste), chaupadi (isolating a woman during menstruation because she is considered to be impure), marrying child brides, and witchcraft,. In this regard, the Committee regrets the lack of information contained in the State party's second periodic report about the full extent of such practices and the efforts being made to eradicate them.</p> <p>18. The Committee is concerned that, in spite of the abolition in 2002 of the system of bonded labour, there are still significant difficulties faced by the freed bonded labourers regarding their access to work and livelihood and appropriate education for their children. The Committee is also concerned that the lack of employment opportunities in the State party hinders the advancement from feudal relations to relations based on equality, particularly for ex-Kamaiyas and ex-Haliyas, many of whom have returned to the same condition of bonded labour from which they were supposedly freed.</p> <p>19. The Committee is concerned that despite the efforts of the State party to abolish the worst forms of child labour, the prevalence of child labour remains high, particularly in hazardous conditions of work in agriculture and in manual crafts and in industrial work, domestic work, and ragpicking. The Committee notes with grave concern that children continue to work in conditions of bonded labour.</p> <p>21. The Committee is deeply concerned that, in spite of the State party's progress</p>
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made in its Ninth Development Plan to reduce poverty, there remains a high level of poverty in the State party where over 30 per cent of the population lives under the official poverty line. The Committee also regrets the absence of detailed annual data on the incidence and depth of poverty, disaggregated by gender, caste, ethnicity and region, as requested in the list of issues prepared by the Committee in relation to the State party's second periodic report.

22. The Committee is deeply concerned that as much as a quarter of the population is undernourished. The seasonal food deficits experienced in most of the mountain and hill districts by the majority who are farmers engaged in low-productivity subsistence farming on small plots of land, are exacerbated by the rigid social structures that prevent the lower castes from benefiting from communal lands and public services and from engaging in other kinds of business activities. Freed bonded labourers, often denied work by the landlords from whom they were freed and unable to claim their entitlements under the Land Reform Act and other programmes intended to help them adjust to free life, are particularly vulnerable to food insecurity.

24. The Committee is concerned by the denial of access of persons belonging to the lower castes to public wells, thereby directly threatening their right to an adequate standard of living and their right to the highest attainable standard of health.

26. The Committee is deeply concerned that the inadequate number, quality, staffing and supplies of health posts and the cost of reproductive health services continue to place women at risk, and that traditional attitudes among some castes and ethnic groups contribute to reproductive health problems of women.

27. The Committee is concerned that in practice primary education is not completely free due to various fees charged to parents, such as for school supplies and uniforms. The Committee notes with concern that the State party has yet to adopt a policy of compulsory education. It further notes the great disparity in enrolment in primary schools between girls and boys and between the Brahmin and other castes, ethnic or indigenous groups, the high repeat and dropout rate among pupils, and the generally low quality of education in public schools.

30. The Committee requests the State party to provide in its next periodic report detailed, updated information including disaggregated data on a comparative basis, on the effective measures undertaken to implement its treaty obligations. The Committee urges the State party to ensure that, in the Constitutional process currently underway, all sectors of society, including disadvantaged and marginalized groups, in particular the Dalit, the Madhesi and indigenous communities, and especially women within these groups, are represented in decision-making bodies at all levels. It recommends that concrete and active efforts be made to promote the participation of these groups in the Constituent Assembly, which, following the election of its members in 2007, will embark on the drafting of a new Constitution.

32. The Committee recommends that a thorough review of national laws be undertaken with a view to identifying and rectifying all provisions that directly or indirectly permit discrimination on the basis of caste and multiple discrimination of women from certain groups. It urges the State party to strengthen its efforts to make widely known the prohibition of such discrimination and to improve effectively access to judicial and administrative remedies in cases of alleged violations. The Committee further recommends that special units be established to monitor the implementation of programmes to protect and promote the full enjoyment without discrimination of their economic, social and cultural rights by disadvantaged and marginalized groups, in particular the Dalit, the Madhesi and indigenous communities, and especially women within these groups.

37. The Committee recommends that the State party strengthen its efforts to promote labour-intensive industries and increase productivity in the agricultural sectors. The Committee also recommends that special programmes for ex-Kamaiyas and ex-Haliyas, Dalits, indigenous persons and groups, and particularly women belonging to

	<p>these groups, be expanded in the rural areas as a matter of priority.</p> <p>42. The Committee recommends that the State party take urgent steps to ensure food security and access to water for all, particularly those who belong to the most disadvantaged and marginalized groups. It recommends that agricultural policies aim effectively at improving not only productivity and commercialization but also access and distribution. In this regard, the Committee urges that specific measures be implemented with a view to enhancing the participation of the lower castes in the production, distribution and consumption of food. The Committee requests the State party to provide in its third periodic report detailed information about the extent of food insecurity, the groups most vulnerable to it, and the concrete measures envisaged to address it. In this regard, the Committee draws the attention of the State party to its general comment No. 12 (1999) on the right to adequate food and general comment No. 15 (2002) on the right to water.</p> <p>43. The Committee recommends the immediate application of the Interim Constitution and laws prohibiting caste-based discrimination and segregation in cases of denial of access to public water sources. It recommends that access to public wells be closely monitored by the District Development Committees or by another appropriate local body.</p> <p>49. The Committee requests the State party to include in its next periodic report a specific section on the results of the measures taken to combat discrimination and enhance respect, protection and fulfilment of all economic, social and cultural rights. The Committee further requests the State party to include in its next periodic report, annual data, disaggregated by caste, ethnicity and sex, as well as specific benchmarks, to enable adequate monitoring and evaluation of the progress achieved.</p> <p>The Committee requests the State party to submit its third periodic report by 30 June 2011 and to include in that report, detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.</p>
<p>CESCR Concluding Observations – Nepal 2001 E/C.12/1/Add.66</p> <p>Keywords: Caste, Dalit, Discrimination, Education, customary practices, Badi caste, temple prostitution, trafficking, effective enforcement, primary and basic education, access to water</p>	<p>10. The Committee notes that the State party has adopted measures to abolish and punish the practices of polygamy, dowry, Deuki (a tradition of dedicating girls to a god or goddess; the girls become “temple prostitutes”) and prostitution among the Bedi caste.</p> <p>18. The Committee is deeply concerned at the high number of women and girls being trafficked for prostitution. The Committee also regrets the continuation of polygamy and the practices of dowry, Deuki and prostitution among the Bedi caste, particularly in rural areas.</p> <p>22. The Committee is concerned that although the system of agricultural bonded labour known as Kamaiya was abolished in July 2000, the emancipated Kamaiyas are facing many problems, including lack of housing, land, work, and education for their children.</p> <p>43. The Committee urges the State party to enact or enforce legislation prohibiting customary practices, such as polygamy, dowry, Deuki and prostitution among the Bedi caste, and restricted ownership by women of land and family property, which violate the rights of women and girl children and to take measures to combat such practices by all means, including national educational programmes.</p> <p>46. The Committee urges the State party to enforce effectively legislation and programmes to put an end to discrimination, in particular with regard to access to housing, work and education, against persons belonging to the Dalits and the liberated Kamaiyas.</p> <p>57. The Committee recommends that primary and basic education be made free and compulsory for all without discrimination on the grounds of gender, ethnicity, religion or social status.</p> <p>60. The Committee recommends that the State party ensure that projects involving</p>

	<p>privatization of water supply provide for continued, assured and affordable access to water by local communities, indigenous people, and the most disadvantaged and marginalized groups of society.</p> <p>The Committee requests the State party to submit its second periodic report by 30 June 2006 and to include in the report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.</p>
Committee on the Elimination of Discrimination against Women (CEDAW)	
<p>CEDAW Concluding Comments – Nepal 2011</p> <p><u>CEDAW/C/NPL/CO/4-5</u></p> <p>Keywords: temporary special measures, de facto or substantive equality, health, employment, education, housing, land ownership, public life, punishment for marital rape, sexual exploitation, trafficking and prostitution, participation in political and public life, multiple forms of discrimination, stereotypes and harmful traditional practices</p>	<p>Discriminatory laws</p> <p>11. The Committee notes with appreciation the efforts of the State party to review and revise discriminatory legislation, including in the Interim Constitution as well as in the 2006 Gender Equality Act which revised discriminatory provisions in the areas of property, marital rape and age of marriage. However, the Committee remains concerned at the persistence of a significant number of discriminatory laws and provisions.</p> <p>12. The Committee calls upon the State party to repeal all the remaining discriminatory laws and provisions and ensure that the new Constitution does not contain any discriminatory provisions.</p> <p>Temporary special measures</p> <p>15. The Committee welcomes the measures ensuring the presence of 33 per cent of women in the Constituent Assembly, special inclusive measures in the recruitment process in the public service, economic empowerment programmes for women and the favouring of women’s access to land, and notes with appreciation that the State party acknowledges the need for additional temporary special measures to reach de facto equality. However, the Committee is concerned that temporary special measures in accordance with article 4 (1) of the Convention and the Committee’s general recommendation No. 25 are not systematically applied as a necessary strategy to accelerate the achievement of de facto or substantive equality between men and women, in particular women facing multiple forms of discrimination, in all areas of the Convention, including health, employment, education, housing, land ownership and public life.</p> <p>16. The Committee encourages the State party to:</p> <p>(a) Adopt temporary special measures to accelerate the advancement of women in areas in which women, in particular women facing multiple forms of discrimination, are underrepresented or disadvantaged, including in political representation, the administration and the judiciary, and access to health, education, employment, housing and land ownership; and</p> <p>(b) Include in its legislation specific provisions on the adoption of temporary special measures that encourage their use in both the public and private sectors.</p> <p>Stereotypes and harmful traditional practices</p> <p>17. The Committee is concerned that patriarchal attitudes and deep-rooted stereotypes that discriminate against women remain entrenched in the social, cultural, religious, economic and political institutions and structures of the Nepali society, as well as in the media. The Committee is concerned at the persistence of harmful traditional practices in the State party, such as child marriage, dowry system, son preference, polygamy, widows accused of witchcraft, Chaupadi, Jhuma, Deuki and Dhan-Khaane.</p> <p>18. The Committee recommends that the State party:</p> <p>(a) Put in place without delay a comprehensive strategy, with concrete goals and timetables, to eliminate patriarchal attitudes and stereotypes that discriminate against women, in conformity with articles 2 (f) and 5 (a) of the Convention;</p>

	<p>(b) Strengthen its awareness-raising and educational efforts, targeted at both women and men, with the involvement of civil society, as well as community and religious leaders, to eliminate harmful traditional practices, and collaborate with the media to enhance a positive, non-stereotypical and non-discriminatory portrayal of women; and</p> <p>(c) Promptly enact the draft law on social harmful practices, ensure that it covers all forms of harmful practices and ensure full implementation of this law without delay as well as monitoring of its effective implementation.</p> <p>Violence against women</p> <p>20. The Committee urges the State party to give priority attention to combating violence against women and girls and to adopt comprehensive measures to address such violence, in accordance with its general recommendation No. 19. To this end, the Committee recommends that the State party:</p> <p>[...]</p> <p>(d) Continue to provide the police, public prosecutors, the judiciary and other relevant Government bodies, as well as healthcare providers, with the necessary training on domestic and sexual violence and undertake wider awareness-raising programs in all communities, including Dalit community, specifically targeting men and boys; and</p> <p>(f) Adopt and enact without delay the draft law under preparation which significantly increases the punishment for marital rape, as mentioned during the dialogue, and undertake an awareness-raising campaign on the new provisions in this regard.</p> <p>Trafficking and exploitation of prostitution</p> <p>21. The Committee welcomes the adoption of the National Plan of Action against trafficking in children and women for sexual and labour exploitation. However, the Committee is concerned about the lack of specific data on trafficking of women and girls, the lack of effective implementation of the Human Trafficking and Transportation Act 2007, the persistence of sexual exploitation, in particular among the Dalit community, and the persistence of the root causes of trafficking and prostitution, including poverty.</p> <p>Participation in political and public life</p> <p>23. The Committee welcomes the 33 percent representation of women in the Constituent Assembly. However, the Committee is deeply concerned about the very low representation of women, in particular Dalit and indigenous women, in high-level decision-making positions, the public service, the judiciary and the diplomatic service, in the National Human Rights Commission and at the local level.</p> <p>24. The Committee recommends that:</p> <p>(a) The quota system for women representation in the Constituent Assembly is increased in the future Parliament; and</p> <p>(b) The State party fully utilize the Committee's general recommendation No. 23 and adopt temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, in order to accelerate the full and equal participation of women in public and political life. To this end, the Committee recommends that the State party:</p> <p>(i) Establish concrete goals and timetables so as to accelerate the increase in the representation of women, including Dalit and indigenous women, in elected and appointed bodies in all areas of public life from local level, including at the Village Development Committee level, to national and diplomatic levels; and</p> <p>(ii) Implement awareness-raising activities on the importance of the participation of women in decision-making for society as a whole, and develop targeted training and mentoring programmes for women candidates and women elected to public office, as well as programmes on leadership and negotiation skills for current and future women</p>
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	<p>leaders.</p> <p>Education</p> <p>27. While welcoming the overall increase in gender parity in primary and secondary education, the Committee is concerned about the minimal increase in female enrolment, the very high rate of drop out among girls, the urban/rural disparities in access to education and illiteracy rates, and the low literacy rate of female adults. The Committee is further concerned about the very low number of female teachers at all levels of education.</p> <p>28. The Committee urges the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a human right and as the basis for the empowerment of women. To this end, it urges the State party to:</p> <p>(a) Strengthen its efforts to achieve universal provision of quality education for girls at each level of the education system in urban, rural and remote areas, provide access to education to girls with disabilities through improvement of infrastructures and provision of support systems, with special attention to girls from Dalit, Indigenous and other disadvantaged groups;</p> <p>Women facing multiple forms of discriminations</p> <p>39. The Committee is deeply concerned about the multiple forms of discrimination against disadvantaged groups of women such as Dalit and indigenous women, widows and women with disabilities.</p> <p>40. The Committee urges the State party to prioritize combating multiple forms of discrimination against women from various disadvantaged groups through the collection of data on the situation of these women, and the adoption of legal provisions and comprehensive programs, including public education and awareness raising campaigns involving the mass media as well as community and religious leaders, to combat multiple discriminations.</p> <p><i>The Government is asked to submit its sixth periodic report to CEDAW in July 2015.</i></p>
<p>CEDAW Concluding Comments – Nepal 2004</p> <p><u>A/59/38 (SUPP)</u></p> <p>Keywords:</p> <p>National Dalit Commission, implementation, disadvantaged castes, education, badi, forced prostitution, traditional harmful practices, domestic violence, marriage laws, public awareness-raising campaigns</p>	<p>193. The Committee commends the State party for establishing the Ministry of Women, Children and Social Welfare and for creating several other institutional mechanisms, including the National Commission on Women, gender focal points in other ministries, a National Human Rights Commission, the National Dalit Commission and a national committee to monitor the implementation of the Convention.</p> <p>205. The Committee urges the State party to intensify its efforts to address the literacy gap between men and women so that the goals established in the National Plan on Education in regard to equality in education can be achieved, particularly in rural areas and among disadvantaged castes and ethnic groups. The Committee also recommends that the State party strengthen its efforts to ensure equal access of girls and women to all levels of education and to take all appropriate measures to prevent girls from dropping out of school. The Committee calls on the State party to allocate more financial and human resources to the education sector, to recruit more women teachers and to ensure that school textbooks do not carry stereotyped images of women.</p> <p>208. The Committee is concerned at the continuing existence of child marriage and polygamy and other practices, including the institution of dowry, <i>deuki</i> (dedicating girls to a god and goddess), <i>jhuma</i> (in some communities, second sisters remain unmarried and spend their life in monasteries), <i>kumari pratha</i> (having a girl child as living goddess) and <i>badi</i> (ethnic practice of prostitution among young girls), that are contrary to the Convention and constitute discrimination against women. The Committee is also concerned that the enactment of the draft bill on domestic violence has been delayed indefinitely.</p> <p>209. The Committee recommends action without delay by the State party to enforce its marriage laws, particularly as they relate to the prohibition of child marriage</p>

	<p>and polygamy, in the light of general recommendation 21 on equality in marriage and family relations, and urges the State party to take steps to abolish other harmful and discriminatory traditional practices, such as dowry deuki, jhuma, kumari pratha, and badi. The Committee also recommends that the State party take comprehensive and effective measures, including the training of the judiciary and law enforcement officials and public awareness-raising campaigns aimed at eliminating these practices. The Committee requests the State party to adopt immediately measures on domestic violence and to provide in its next report information about progress in relation to the draft bill on domestic violence.</p> <p><i>The Committee invites the State party to submit its fourth periodic report, which is due in 2004, and its fifth periodic report, due in 2008, in a combined report in 2008.</i></p>
Committee on the Rights of the Child (CRC)	
<p>CRC Concluding Observations – Nepal 2005 CRC/C/15/ADD.261</p> <p>Keywords:</p> <p>Implementation, National Dalit Commission, armed conflict, caste system, de facto discrimination against girls and children, education, Badi, Halilya, harmful traditional practices , public information campaigns, poverty, compulsory primary education, child’s right to education and leisure activities, sexual exploitation of children, bonded labour, child trafficking</p>	<p>7. The Committee further welcomes the establishment of the following bodies whose mandates include enhancing the implementation of the Convention: (a) the National Human Rights Commission, in 2000, in particular, the Child Rights Desk; (b) the National Commission on Women, in 2002; (c) the national Dalit commission, in 2002; (d) the children’s clubs, established in more than 20 districts; and (e) the national poverty alleviation fund.</p> <p>9. The Committee acknowledges challenges faced by the State party with regard to the general state of insecurity and violence due to the armed conflict. The Committee also notes the very high levels of poverty which are exacerbated by the heavy debt burden and the existence of many traditional beliefs and customs and the caste system, all of which impede progress to the full realization of children’s rights enshrined in the Convention.</p> <p>35. While noting that discrimination is prohibited under the Constitution and other relevant legislation, as well as the various efforts undertaken by the State party to eliminate discrimination, the Committee reiterates its deep concerns about the widely prevailing de facto discrimination against girls and children belonging to the most vulnerable groups such as the Dalit community, children belonging to indigenous or ethnic minority groups, refugee and asylum-seeking children, street children, children with disabilities and children living in rural areas. The Committee notes with grave concern that as a consequence of prevailing discriminatory attitudes, children belonging to vulnerable groups are particularly likely to fall victim to abuse and exploitation.</p> <p>36. With reference, inter alia, to the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/64/CO/5) regarding the persistent de facto caste-based discrimination against Dalit in education, employment, marriage, access to public places including water sources and places of worship, the Committee expresses serious concern about the harmful effects of this prevailing form of discrimination on the physical, psychological and emotional well-being of the Dalit children in the State party.</p> <p>37. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the right to non-discrimination, and to adopt appropriate legislation, where necessary, to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. In this regard, the Committee urges the State party to prioritize and target social services for children belonging to the most vulnerable groups, and to take all effective measures to ensure their protection from exploitation. The Committee encourages the State party to launch comprehensive public information campaigns to prevent and combat all forms of discrimination.</p> <p>61. The Committee also notes with concern that little has been done to address the particular health vulnerabilities and needs of children at risk, including street children, child labourers, child sex workers and Dalit children.</p> <p>67. The Committee notes with concern that certain harmful traditional practices</p>

	<p>continue to prevail in the State party, most notably the caste system and traditions such as the Deuki, Kumari, Jhuma, Badi, Kamlari and Chaupadi, causing extreme insecurity, health hazards and cruelty to girl children. The Committee regrets the absence of legal prohibition and sufficient interventions on the part of the State party to address the harmful effects of these traditional practices on the enjoyment of rights by children who are affected by these practices.</p> <p>71. The Committee expresses concern about the high level of prevailing poverty in the State party, which hampers the respect for, and fulfillment of, the rights of children, particularly those living in rural areas, those living in slums and squats, and among the lower castes and ethnic minorities, and the ability of their families to provide them with adequate protection.</p> <p>75. While welcoming the development of the National Plan of Action on Education for All, and the Basic and Primary Education Master Plan (1997-2002) and the Basic and Primary Education Master Plan II (1999-2004), the Committee is seriously concerned that primary education has not been made compulsory and that the target set by the State party to achieve universal primary education by 2000 was never met and has been extended to 2015. The Committee also remains concerned about the low public expenditure in education and structural lack of resources, largely responsible for the shortage of qualified teachers, poor physical infrastructure, overcrowding in schools and material shortages in school. The Committee is also concerned about the high dropout rate, and that significant inequality exists in access to education, in part due to the hidden costs associated with schooling, and that a large proportion of girls and children from disadvantaged backgrounds such as Dalit children and children with disabilities remain deprived of educational opportunities.</p> <p>76. The Committee recommends that the State party carefully examine the budget allocations and measures taken within the field, with regard to their impact on the progressive implementation of the child's right to education and leisure activities. In particular, the Committee recommends that the State party:</p> <ul style="list-style-type: none"> (a) Make primary education compulsory and free for all children and for more years than just the five years of primary school; (b) Continue to strengthen measures aimed at increasing enrolment rates and school attendance, as well as reducing the high dropout rate in primary and secondary education and ensure that children receive the full schooling to which they are entitled; (c) Undertake additional efforts to increase the budget allocated to education; (d) Take further measures to improve the accessibility, in particular for girls, to education of all children, with a view to eliminating the prevailing disparities between girls and boys, as well as between urban and rural areas; (e) Take measures to improve the quality of education, inter alia, by building more schools, improving physical infrastructures and ensuring schools are adequately equipped; (f) Prioritize efforts at teacher training and expand recruitment of qualified teachers, in particular women and persons from all ethnic groups; (g) Introduce and fully implement targeted programmes for children from poor families and children from marginalized groups; (h) Continue to strengthen public provision of early childhood education, in particular in rural areas, and increase the number of trained preschool teachers, and raise awareness amongst parents about the value of early childhood education; (i) Adopt appropriate legislative measures to combat the use of corporal punishment in schools; (j) In the light of the Committee's general comment No. 1 (2001) on the aims of education, include human rights education, including the rights of children, in the school
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	<p>curriculum at all levels of education;</p> <p>(k) Ratify the Convention against Discrimination in Education (1960) and the Convention on Technical and Vocational Education (1989);</p> <p>(l) Seek further technical assistance from, inter alia, UNICEF and UNESCO.</p> <p>87. While noting the efforts taken by the State party to eliminate the phenomenon of sexual exploitation of children, the Committee is gravely concerned about the large number of children in the State party who are sexually exploited. The Committee is of the view that insufficient efforts have been taken to protect the particularly vulnerable groups of children from sexual exploitation. Specifically, the Committee notes with concern that children of lower castes are disproportionately represented among sex workers, and about the persistence of the customary practice known as Badi, whereby young girls of the Bedi caste are forced into prostitution.</p> <p>89. The Committee recommends that the State party, allocate resources as a matter of priority to:</p> <p>(a) Enact appropriate legislation that ensures protection from sexual abuse and exploitation for boys and girls under 18 years;</p> <p>(b) Undertake a comprehensive study to examine the sexual exploitation of children, gathering accurate data on its prevalence;</p> <p>(c) Take appropriate legislative measures and develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation, in particular children belonging to the Bedi and other lower castes;</p> <p>(d) Avoid criminalizing child victims of sexual exploitation and ensure proper prosecution of perpetrators;</p> <p>(e) Implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims, including establishment of rehabilitation centres in all regions, in accordance with the Declaration and Agenda for Action adopted at the First World Congresses against Commercial Sexual Exploitation of Children and the Yokohama Global Commitment 2001 adopted at the Second World Congress;</p> <p>(f) Seek assistance from, inter alia, UNICEF.</p> <p>92. While welcoming the abolition in 2000 of the Kamaiya system of bonded labour and the enactment in 2002 of the Kamaiya Prohibition Act, the Committee is concerned that a large number of Kamaiya children remain unreleased and continue to work as bonded labourers, and that many thousands of Dalit bonded labourers (haliya), including children, are reported to be working in agriculture in Western Nepal and in the plains. The Committee is particularly concerned that they continue to face serious difficulties in the areas of the right to housing, land, work and education.</p> <p>95. The Committee takes note of the various efforts undertaken by the State party to combat child trafficking and welcomes the information that police officers are being trained in issues relating to sexual exploitation and trafficking of women and children. However, the Committee remains deeply concerned about the perversity of the phenomenon of trafficking and sale of children within Nepal and across the border for the purposes of sexual exploitation and bonded labour. The Committee notes with grave concern that certain groups of children are at a particularly higher risk of being sold and trafficked, including girls, internally displaced children, street children, orphans, children from rural areas, refugee children and children belonging to more vulnerable castes. The Committee further expresses concern that the existing legal protection for victims of trafficking, most notably the Human Trafficking Control Act, is inadequate, and that its implementation is seriously inadequate. The Committee is also concerned that the child victims of sexual exploitation do not receive adequate protection and recovery assistance.</p>
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	<i>The Committee invites the State party to submit its third, fourth and fifth reports in one consolidated report by 13 March 2010, the due date of the fifth report.</i>
Committee Against Torture (CAT)	
<p>CAT Concluding Recommendations – Nepal 2005</p> <p><u>CAT/C/NPL/CO/2</u></p> <p>Keywords:</p> <p>National Dalit Commission, deeply rooted discriminatory practices caste-based abuse, caste representation in police and security forces, statistical data on caste, compensation and rehabilitation</p> <p>Shadow Report:</p> <p><u>Missing Piece of the Puzzle</u> by the Center for Human Rights and Global Justice, NYU School of Law</p>	<p>5. The Committee notes the establishment of a number of human rights coordination and monitoring mechanisms, such as the National Human Rights Commission, the National Commission on Women and the National Dalit Commission, the Human Rights Protection Committee and the National Coordination Committee, and the human rights cells in the Police, the Armed Police Force and the Royal Nepalese Army.</p> <p>26. Despite the State party’s acknowledgment that caste discrimination exists in the country and the creation of the National Dalit Commission, the Committee is gravely concerned about the continued deeply rooted discriminatory practices committed on a large scale against marginalized and disadvantaged groups or castes such as the Dalits. The Committee is also concerned that the long-standing pattern of caste discrimination is being further entrenched by the current conflict in the country. The Committee reaffirms that it is the duty of the State party to protect all members of society, in particular citizens belonging to marginalized and disadvantaged groups or castes, such as the Dalits. The State party should take specific steps to safeguard their physical integrity, ensure that accountability mechanisms are in place guaranteeing that caste is not used as a basis for abuses, unlawful detention and torture, and take steps to ensure more diverse caste and ethnic representation in its police and security forces. The State party should include information on caste discrimination in its next periodic report.</p> <p>36. The Committee requests the State party to provide in its next periodic report detailed statistical data regarding cases of torture and other forms of cruel, inhuman or degrading treatment or punishment reported to administrative authorities and the related investigations, prosecutions and penal and disciplinary sentences, including details of courts martial, disaggregated by, inter alia, gender, ethnic group, caste, geographical region, and type and location of place of deprivation of liberty, where it occurred, paying particular attention to juveniles in detention. In addition, information is also requested on any compensation and rehabilitation provided to victims.</p> <p><i>The State party is invited to submit its next periodic report, which will be considered as the combined third, fourth and fifth report, by 12 June 2008, the due date of the fifth periodic report.</i></p>
PAKISTAN	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Pakistan 2009</p> <p><u>CERD/C/PAK/CO/20</u></p> <p>Keywords:</p> <p>Definition regarding minorities, anti-discrimination law, descent, caste-based discrimination, de facto segregation of and discrimination against Dalits, CERD general recommendation 29,</p>	<p>10. While appreciating the State party’s laws for the protection of recognized religious minorities, the Committee reiterates its concern about the absence of similar protection for relevant ethnic or linguistic groups. It welcomes the delegation’s acknowledgment of the intersectionality, to a certain extent, of ethnicity and religion in the State party. (art. 1) The Committee reiterates its recommendation that the State party broaden its understanding and constitutional definition regarding minorities, so as to take into account all the grounds of discrimination included in article 1, paragraph 1 of the Convention.</p> <p>11. Notwithstanding the existing legislation aimed at ensuring the principle of nondiscrimination in the State party, the Committee reiterates its concern that no comprehensive anti-discrimination law has been adopted. It also expresses concern about the lack of information on concrete measures taken to implement the existing antidiscrimination laws and special measures, in spite of reports of persisting de facto discrimination against members of certain minority groups. (art. 2) The Committee recommends that the State party adopt a comprehensive law on the elimination of</p>

<p>education, statistical data, violence against women, right to freedom of thought, conscience and religion, bonded labour, non-implementation of laws, distribution of land, combating prejudices, public education and awareness-raising campaigns</p>	<p>discrimination on the grounds of race, colour, descent or national or ethnic origin, taking into consideration all elements of the Convention. It also wishes to receive detailed information on the measures taken to implement anti-discrimination legislation with a view to eliminating de facto discrimination.</p> <p>12. While the Committee welcomes the steps taken by the State party to address caste-based discrimination, such as a range of development schemes and the appointment of a member of a scheduled caste as advisor to the Sindh Province Senate, it is concerned that the State party has not yet adopted a law prohibiting discrimination on the basis of caste. It is further concerned about the lack of information in the State party's report on concrete measures taken to combat caste-based discrimination. The Committee is also concerned about the persisting de facto segregation of and discrimination against Dalits regarding their enjoyment of all economic, civil, political, and social rights (arts. 2, 3 and 5). The Committee refers the State party to its general recommendation 29 (2002), on descent-based discrimination, and recommends that the State party adopt legislation aimed at the prohibition of caste-based discrimination and take effective and immediate measures to ensure its effective implementation. The State Party is also invited to provide, in its next periodic report, statistical data on persons belonging to scheduled castes in the territory of the State party, including their enjoyment of all rights protected under article 5 of the Convention.</p> <p>17. Notwithstanding the measures taken by the State party such as the amendments of the Criminal Law Act 2004 and the Protection of Women Act 2006, the Committee CERD/C/PAK/CO/20 page 5 expresses concern about acts of violence against women, especially those of minority background. (art. 5 (b)) In the light of its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party ensure the effective implementation of the laws aimed at protecting women from violence and provide information on the measures taken and their results in its next report. It also encourages the State party to adopt the Bill on domestic violence without delay.</p> <p>18. The Committee welcomes the steps taken by the State party to ensure adequate political participation of minorities, such as the reservation of seats for minority members in the National Assembly, as well as the introduction of quotas to admit members of minorities to Government services. However, the Committee notes that minorities are comprehended by the State party exclusively as religious minorities other than Muslims and that no specific policy or legislative framework appear to exist to ensure appropriate representation of all ethnic groups. (arts. 5 (c) and 2, para. 2) The Committee encourages the State party to provide information on the representation of ethnic groups in Government and public services in its next periodic report. The Committee further urges the State party to legislate and mainstream the existing policy on the provision of adequate political participation of all ethnic groups.</p> <p>19. The Committee, acknowledging the complex relationship between ethnicity and religion in Pakistan, notes the State party's commitment to freedom of religion and the safeguards established therefore. That notwithstanding, it expresses concern about reported infringements of the right to freedom of religion and the risk that blasphemy laws may be used in a discriminatory manner against religious minority groups, who may also be members of ethnic minorities. (art. 5 (d) (iv)) The Committee recalls the State party's obligation to ensure that all persons enjoy their right to freedom of thought, conscience and religion, without any discrimination based on race, colour, descent or national or ethnic origin, in accordance with article 5 (d) of the Convention.</p> <p>21. While welcoming the steps taken to abolish the practice of bonded labour, including the adoption of the Bonded labour System Abolition Act, the Committee is concerned about the persistent existence of bonded labour in the State party, which appears to be related to, inter alia, the unequal distribution of land. It also expresses concern that such practice mainly affects marginalized groups such as scheduled castes. (5 (e) (i) and (iv)). The Committee urges the State to intensify its efforts to implement the laws and programmes adopted to put an end to bonded labour and discrimination</p>
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	<p>against marginalized groups such as the scheduled castes. It further encourages the State party to carry out the national survey on this practice without delay and to continue cooperation with the International Labour Organization in combating this phenomenon.</p> <p>24. The Committee notes with concern the lack of information on the steps taken to comply with article 7 of the Convention regarding measures taken with a view to combating prejudices which lead to racial discrimination and to promoting tolerance and friendship among its ethnic groups. (art. 7) The Committee recommends the State party to provide in its next periodic report information on article 7 such as measures taken to eradicate the social acceptance of racial and ethnic prejudice, e.g. by intensifying public education and awareness-raising campaigns, incorporating educational objectives of tolerance and respect for other ethnicities, as well as instruction on the culture of all minorities in the State party, and ensuring adequate media representation of issues concerning all ethnic and religious minorities, with a view to achieving true social cohesion among all ethnic groups, castes and tribes of Pakistan.</p> <p><i>The Committee recommends that the State party submit its twenty-first and twenty-second periodic reports in a single document, due on 4 January 2012, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.</i></p>
<p>CERD Concluding Observations – Pakistan 1997</p> <p>CERD/C/304/Add.25</p> <p>Keywords:</p> <p>Definition of minorities, fundamental non-discrimination principle (caste and descent), disaggregated information education, just and adequate reparation or satisfaction</p>	<p>6. The information provided by the State party on minorities living in Pakistan, in response to questions asked during the consideration of the previous report, is welcomed by the Committee. It notes that the State party’s definition of minorities is based on the religious affiliation of the persons concerned and not on ethnic, racial or linguistic grounds. Although the Committee is aware that religious minorities as such do not fall under the scope of the Convention, it notes that religious differences may coincide with ethnic differences and therefore welcomes the institutions and measures that have been established to promote and protect minority rights, such as the Minorities Affairs Division, the National Commission for Minorities, the Federal Advisory Council for Minorities Affairs, the Districts Minority Committees, the National Committee on the Kalash People and the monthly holding of meetings with minority members of the National Assembly.</p> <p>8. The repeal of the separate electoral system, which allowed members of minorities to vote only for certain reserved seats in elections, is welcomed. The fact that members of minorities are now entitled to participate directly in the general election process, in addition to electing their own representatives, is a positive development.</p> <p>12. Concern is expressed that the policy of the State party to recognize only religious minorities excludes ethnic, linguistic or racial groups living in the country from any specific protection under the Convention that would derive from their official recognition as minorities.</p> <p>13. The fact that the fundamental rights of citizens, irrespective of their race, religion, caste, sex, residence or place of birth, are guaranteed by the Constitution is welcomed, although it is stressed that article 1, paragraph 1, of the Convention is broader, in that it prohibits discrimination based on race, colour, descent, or national or ethnic origin.</p> <p>18. It is regretted that there is not sufficient disaggregated information on the participation in public life as well as economic and social indicators, especially in connection with access to employment, housing, education and health, of the various ethnic, racial or linguistic groups living in the country, including non-citizens; this hampers the assessment of the progress made in the implementation of article 5 of the Convention.</p> <p>25. The Committee, while appreciating the concern not to promote ethnic or group distinctions, suggests that the State party explore the possibility of granting the same status as that of the religious minorities to other ethnic and linguistic groups, to ensure their full protection under the national laws and institutions relating to minorities as well</p>

	as relevant international human rights instruments.
Committee on the Rights of the Child (CRC)	
<p>CRC Concluding Observations – Pakistan 2009</p> <p><u>CRC/C/PAK/CO/3-4</u></p> <p>Keywords:</p> <p>Discriminatory social attitudes and discrimination against minority children, children belonging to a religious or other minority group, children living in rural areas</p>	<p>30. The Committee is concerned at the persistence of discriminatory societal attitudes and discrimination against children belonging to a religious or other minority group, children with disabilities, children living in poverty and children living in rural and remote areas.</p> <p>31. The Committee recommends that the State party take all appropriate measures, such as comprehensive public education programmes, to combat and prevent discrimination and negative societal attitudes and mobilize political, religious and community leaders to support efforts to eradicate traditional practices and attitudes which discriminate against children belonging to religious or other minority groups, children with disabilities, and children living in poverty and in rural and remote areas.</p> <p>41. While noting the many efforts made by the State party to promote timely birth registration, the Committee is concerned that more than 70 per cent of children are not registered at birth, especially girls, children belonging to a religious or minority group, refugee children and children living in rural areas. The Committee is further concerned at the practice of denying birth registration when parents cannot prove their citizenship.</p> <p>42. The Committee recommends that the State party ensure the full implementation of measures taken to remove structural obstacles to birth registration, launch a mass cost-free birth registration campaign and simplify the procedures for birth registration in order to cover all persons in the country, regardless of sex, religion, status or nationality, in accordance with article 7 of the Convention. The Committee recommends that the State party harmonize birth registration systems across the country and consider linking the system with the National Registration Act 1973.</p> <p><i>The Committee invites the State party to submit its fifth periodic report by 11 December 2012.</i></p>
<p>CRC Concluding Observations – Pakistan 2003</p> <p><u>CRC/C/15/Add.217</u></p> <p>Keywords:</p> <p>Discriminatory social attitudes and discrimination against minority children, children belonging to a religious or other minority group, children living in rural areas</p>	<p>Non-discrimination</p> <p>29. While acknowledging the actions taken to address discrimination against girls in education, the Committee is concerned at the persistence of discriminatory social attitudes and discrimination against minority children and against girls, early and forced marriages, low school enrolment and high dropout rates, honour killings, mutilation and violence. Furthermore, the Committee is concerned at the disparities in the enjoyment of rights and the social discrimination experienced by children belonging to the most vulnerable groups, including children with disabilities, children belonging to a religious or other minority group and children living in rural areas.</p> <p>30. The Committee recommends that the State party:</p> <p>(a) Make greater efforts to ensure that, in accordance with article 2, all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, particularly girl children, children belonging to a religious or other minority group, children with disabilities and other vulnerable groups of children; and</p> <p>(b) Target social services at children belonging to the most vulnerable groups.</p>
BANGLADESH	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Bangladesh 2001</p>	<p>7. Though information has been given on representation of ethnic minorities in Parliament, the Committee notes the lack of details in the report on the demographic composition of the population. The Committee reiterates its recommendation to the State party to provide in its next report information on the composition of the</p>

<p><u>CERD/C/304/Add.118</u></p> <p>Keywords:</p> <p>Disaggregated information on the economic and social status of all ethnic, racial discrimination, religious and tribal minorities, interpretation of ‘descent’ including caste.</p>	<p>population. In particular, the Committee wishes to receive disaggregated information on the economic and social status of all ethnic, religious and tribal minorities, as well as their participation in public life. Information in respect of ethnic minorities should cover not only the Chittagong Hill Tracts, but other areas of the country as well.</p> <p>8. The Committee notes the information given about the constitutional prohibition of racial discrimination, but is concerned that racial discrimination as such is not explicitly and adequately prohibited and penalized in criminal law. The Committee recommends that the State party consider giving full effect to the provisions of article 4 of the Convention in its domestic legal order, ensure penalization of acts of racial discrimination, and ensure access to effective protection and remedies under article 6 of the Convention through competent national tribunals and State institutions besides the High Court Division of the Supreme Court, in respect of acts of racial discrimination.</p> <p>11. With regard to the interpretation of the definition of racial discrimination contained in article 1 of the Convention, the Committee considers that the term “descent” does not refer solely to race or ethnic or national origin, and is of the view that the situation with respect to castes falls within the scope of the Convention. The Committee therefore recommends that the State party include in its next report relevant information about the enjoyment of the rights contained in article 5 of the Convention by all groups, including castes.</p> <p><i>The State party’s next periodic report is due on 11 July 2002.</i></p>
<p>Committee on the Rights of the Child (CRC)</p>	
<p>CRC Concluding Observations – Bangladesh 2009</p> <p><u>CRC/C/BGD/CO/4</u></p> <p>Keywords:</p> <p>Non-discrimination, discrimination against children on the basis of social origin, or other status of their parents, marginalized and excluded children.</p>	<p>32. While noting the commitment taken by the State party in its Constitution and “Vision 2021” to create an equitable, just and non-discriminatory society, the Committee is nevertheless concerned that the principle of non-discrimination contained in article 2 of the Convention is not fully respected in practice. Girls continue to face discrimination and disparities, particularly with regard to health care, nutrition and early marriage, as do particular groups of children, including refugee children, children with disabilities, children in slums and rural areas and children of ethnic and religious minorities. The Committee is also concerned that children face discrimination on the basis of social origin, or other status of their parents.</p> <p>33. The Committee strongly recommends that the principle of non-discrimination, as provided for under article 2 of the Convention, be fully and vigorously applied by the State party and integrated into the implementation of all other articles to guarantee, without discrimination, the rights set out in the Convention. The Committee further recommends that the State party take the necessary measures to ensure that efforts to address persistent discrimination and reduce disparities are adequate and effective in the family, schools and other settings, and in particular among marginalized and excluded children, including girls, children of ethnic minorities and refugee children.</p> <p>The Committee invites the State party to submit the fifth periodic report, by 20 October 2012. This report should not exceed 120 pages (see CRC/C/118) and should include information on the implementation of the Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.</p>
<p>CRC Concluding Observations – Bangladesh 2003</p> <p><u>CRC/C/15/Add.221</u></p> <p>Keywords:</p> <p>Discrimination against other vulnerable groups,</p>	<p>28. The Committee welcomes the measures undertaken by the State party to enhance the situation of girls, especially in relation to education. It remains deeply concerned about persistent discriminatory attitudes towards girls, which are deeply rooted in traditional stereotypes and limit access to resources and services. The Committee is also concerned about discrimination against children with disabilities, street children, child victims of sexual abuse and exploitation, tribal children and other vulnerable groups.</p> <p>29. The Committee recommends that the State party take adequate measures to</p>

<p>discrimination on any grounds and against all vulnerable groups</p>	<p>ensure implementation of the principle of non-discrimination in full compliance with article 2 of the Convention, and strengthen its proactive and comprehensive efforts to eliminate discrimination on any grounds and against all vulnerable groups. The Committee also recommends that the State party undertake an education campaign for boys and men on gender issues and sex discrimination.</p> <p>79. The Committee is deeply concerned about the poor situation of children of the Chittagong Hill Tracts, and other religious, national and ethnic minorities, tribal groups or similar marginalized groups and the lack of respect for their rights, including the rights to food, to health care, to education and to survival and development, to enjoy their own culture and to be protected from discrimination.</p> <p>80. The Committee urges the State party to gather additional information on all minorities or similar marginalized groups of the population, and to elaborate policies and programmes to ensure the implementation of their rights without discrimination, taking into account the Committee’s recommendations adopted at its day of general discussion on the theme “The rights of indigenous children”.</p> <p><i>The Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 1 September 2007, the date on which the fourth report is due.</i></p>
<p>Committee on Elimination of Discrimination against Women (CEDAW)</p>	
<p>CEDAW Concluding Observations – Bangladesh 2011</p> <p><u>CEDAW/C/BGD/CO/7</u></p> <p>Keywords:</p> <p>Multiple forms of discrimination, Dalit women, disadvantaged groups of women, disaggregated data, special measures, access to justice, protection from violence and abuse</p>	<p>Disadvantaged groups of women</p> <p>37. The Committee is concerned at the very limited information and statistics provided on disadvantaged groups of women and girls, including minority women such as Dalit women, migrant women, refugee women, older women, women with disabilities and girls living on the streets. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, housing, protection from violence and access to justice.</p> <p>38. The Committee recommends that the State party:</p> <p>a. Collect disaggregated data on the situation of disadvantaged groups of women facing multiple forms of discrimination and adopt pro-active measures, including temporary special measures, to eliminate such discrimination and protect them from violence and abuse.</p> <p><i>The Committee invites the State party to submit its next periodic report in February 2015.</i></p>
<p>JAPAN</p>	
<p>Committee on the Elimination of Racial Discrimination (CERD)</p>	
<p>CERD Concluding Observations – Japan 2010</p> <p><u>CERD/C/JPN/CO/3-6</u></p> <p>Keywords:</p> <p>descent-based discrimination, Burakumin, national anti-discrimination</p>	<p>8. While noting existing national and local provisions guaranteeing equality before the law, including article 14 of the Constitution, the Committee highlights that the grounds of discrimination in article 1 of the Convention are not fully covered. Further, while the Committee regrets the State party’s interpretation of racial discrimination based on descent, it is encouraged by information on steps taken by the State party in the spirit of the Convention to prevent and eliminate discrimination against Burakumin (art. 1). The Committee maintains its position expressed in general recommendation No. 29 (2002) “that discrimination based on ‘descent’ has a meaning and application which complement the other prohibited grounds of discrimination and includes discrimination against members of communities based on forms of social stratification and analogous</p>

<p>law, Dowa special measures law, social and economic rights</p>	<p>systems of inherited status which nullify or impair their equal enjoyment of human rights.” Moreover, the Committee reaffirms that the term "descent" in article 1, paragraph 1, the Convention does not solely refer to "race" and that discrimination on the ground of descent is fully covered by article 1 of the Convention. The Committee, therefore, urges the State party to adopt a comprehensive definition of racial discrimination in conformity with the Convention.</p> <p>9. The Committee notes the State party’s view that a national anti-discrimination law is not necessary and is concerned about the consequent inability of individuals or groups to seek legal redress for discrimination (art. 2). The Committee reiterates its recommendation from previous concluding observations (2001) and urges the State party to consider adopting specific legislation to outlaw direct and indirect racial discrimination, in accordance with article 1 of the Convention, and to cover all rights protected by the Convention. It also encourages the State party to ensure that law enforcement officials approached with complaints of racial discrimination have adequate expertise and authority to deal with offenders and to protect victims of discrimination.</p> <p>10. While noting with interest that the State party held consultations and informal hearings with non-governmental organizations and other groups in the drafting of the report, the Committee regrets the limited opportunities for collection and exchange of information with such organizations and groups. The Committee notes the positive contributions made in the field of human rights and the role played by non-governmental organizations (NGOs) in Japan and encourages the State party to ensure the effective participation of NGOs in the consultation process during the preparation of the next periodic report.</p> <p>13. While noting the explanations provided by the State party, the Committee is concerned by the reservations to articles 4 (a) and (b) of the Convention. The Committee also notes with concern the continued incidence of explicit and crude statements and actions directed at groups including children attending Korean schools as well as harmful, racist expressions and attacks via the Internet aimed, in particular, against Burakumin (arts. 4a, 4b). The Committee reiterates its view that the prohibition of the dissemination of ideas based upon racial superiority or hatred is compatible with freedom of opinion and expression and in this respect, encourages the State party to examine the need to maintain its reservations to article 4 (a) and (b) of the Convention with a view to reducing their scope and preferably their withdrawal. The Committee recalls that the exercise of the right to freedom of expression carries with it special duties and responsibilities, in particular the obligation not to disseminate racist ideas and calls upon the State party once again to take into account the Committee’s general recommendations No. 7 (1985) and No. 15 (1993), according to which article 4 is of mandatory nature, given the non-self-executing character of its provisions. It recommends that the State party:</p> <ul style="list-style-type: none"> (a) remedy the absence of legislation to give full effect to the provisions against discrimination under article 4; (b) ensure that relevant constitutional, civil and criminal law provisions are effectively implemented, including through additional steps to address hateful and racist manifestations by, inter alia, enhancing efforts to investigate them and punish those involved; and (c) increase sensitization and awareness-raising campaigns against the dissemination of racist ideas and to prevent racially motivated offences including hate speech and racist propaganda on the Internet. <p>18. While acknowledging the State party’s position on the family registration system, and noting the legislative changes made to protect personal information (2008), the Committee reiterates its concern about the difficulties in the system and that invasion of privacy, mainly of Burakumin, continues (art. 2, 5). The Committee recommends the enacting of a stricter law, with punitive measures, prohibiting use of the family registration system for discriminatory purposes, particularly in the fields of employment,</p>
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	<p>marriage and housing, and to effectively protect privacy of individuals.</p> <p>19. Noting with interest the State party's recognition of discrimination against Burakumin as a social problem as well as the achievements of the Dowa Special Measures Law, the Committee is concerned that the conditions agreed between the State party and Buraku organizations upon termination in 2002 regarding full implementation of the Convention, the enactment of a law on human rights protection and a law on the promotion of human rights education, have not been fulfilled to date. The Committee regrets that there is no public authority specifically mandated to deal with Burakumin discrimination cases and notes the absence of a uniform concept used by the State party when dealing with or referring to Burakumin and policies. Further, the Committee notes with concern that although socio-economic gaps between Burakumin and others have narrowed for some Burakumin, e.g., in the physical living environment and education, they remain in areas of public life such as employment and marriage discrimination, housing and land values. It further regrets the lack of indicators to measure progress in the situation of Burakumin (art. 2, 5).</p> <p>The Committee recommends that the State party:</p> <ul style="list-style-type: none"> (a) assign a specific government agency or committee mandated to deal with Buraku issues; (b) fulfil the commitments made upon the termination of the Special Measures Law; (c) engage in consultation with relevant persons to adopt a clear and uniform definition of Burakumin; (d) supplement programmes for the improvement of living conditions of Buraku with human rights education and awareness-raising efforts engaging the general public, particularly in areas housing Buraku communities; (e) provide statistical indicators reflecting the situation and progress of the above-mentioned measures; and (f) take into account general recommendation No. 32 (2009) on special measures, including the recommendation that special measures are to be terminated when equality between the beneficiary groups and others has been sustainably achieved. <p><i>The Committee recommends that the State party submit its seventh, eight and ninth periodic reports, due on 14 January 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.</i></p>
<p>CERD Concluding Observations – Japan 2001</p> <p>CERD/C/304/Add.114</p> <p>Keywords:</p> <p>Definition of descent-based discrimination, ethnic composition, Burakumin</p>	<p>4. The Committee welcomes the legislative and administrative efforts made by the State party in order to promote the human rights and the economic, social and cultural development of some ethnic and national minorities, in particular (a) the 1997 Law for the Promotion of Measures for Human Rights Protection; (b) the 1997 Law for the Promotion of the Ainu Culture and for the Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture; and (c) the series of Special Measures Laws for Dowa projects with the aim of eliminating discrimination against Burakumin.</p> <p>7. While taking note of the State party's point of view on the problems involved in determining the ethnic composition of the population, the Committee finds that there is a lack of information on this point in its report. It is recommended that the State party provide in its next report full details on the composition of the population, as requested in the reporting guidelines of the Committee, and, in particular, information on economic and social indicators reflecting the situation of all minorities covered by the Convention, including the Korean minority and the Burakumin and Okinawa communities. The population on Okinawa seeks to be recognized as a specific ethnic group and claims that the existing situation on the island leads to acts of discrimination against it.</p>

	<p>8. With regard to the interpretation of the definition of racial discrimination contained in article 1 of the Convention, the Committee, unlike the State party, considers that the term “descent” has its own meaning and is not to be confused with race or ethnic or national origin. The Committee therefore recommends that the State party ensure that all groups including the Burakumin community are protected against discrimination and afforded full enjoyment of the civil, political, economic, social and cultural rights contained in article 5 of the Convention.</p> <p>23. The State party is also invited to provide in its next report further information on the impact of:</p> <p>(a) the 1997 Law for the Promotion of Measures for Human Rights Protection and the work and powers of the Council for Human Rights Promotion;</p> <p>(b) the 1997 Law for the Promotion of the Ainu Culture and for the Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture; and</p> <p>(c) the Law concerning Special Government Financial Measures for Regional Improvement Special Projects and envisaged strategies to eliminate discrimination against Burakumin after the law ceases to apply, i.e. in 2002.</p> <p><i>The Committee recommends that the State party submit its third periodic report jointly with its fourth periodic report, due on 14 January 2003, and that it address all points raised in the present observations.</i></p>
Committee on Elimination of Discrimination against Women (CEDAW)	
<p>CEDAW Concluding Observations – Japan 2009</p> <p>CEDAW/C/JPN/CO/6</p> <p>Keywords:</p> <p>Minority women, comprehensive study on minority women including Buraku women.</p>	<p>Paragraphs 31, 32, 37, 38, 39, 40, 41, 42, 51, 52, 53 and 54 of the Concluding Observations explicitly touch on the issue of minority women. Below is one paragraph which mentions Buraku women.</p> <p>52. The Committee urges the State party to take effective measures, including the establishment of a policy framework and the adoption of temporary special measures, to eliminate discrimination against minority women. To this end, the Committee urges the State party to appoint minority women representatives to decision-making bodies. The Committee reiterates its previous request (A/58/38, para. 366) that the State party include information on the situation of minority women in Japan, especially with regard to education, employment, health, social welfare and exposure to violence, in its next periodic report. In this context, the Committee calls upon the State party to conduct a comprehensive study on the situation of minority women, including indigenous Ainu, Buraku and Zainichi Korean and Okinawa women.</p> <p><i>The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its combined seventh and eighth periodic report in July 2014.</i></p>
Committee on the Rights of the Child (CRC)	
<p>CRC Concluding Observations – Japan 2004</p> <p>CRC/C/15/Add.231</p> <p>Keywords:</p> <p>Societal discrimination against Buraku children, children born out of wedlock, public education</p>	<p>24. The Committee is concerned that legislation discriminates against children born out of wedlock and that societal discrimination persists against girls, children with disabilities, Amerasian, Korean, Buraku and Ainu children and other minority groups, and children of migrant workers.</p> <p>25. The Committee recommends that the State party amend its legislation in order to eliminate any discrimination against children born out of wedlock, in particular, with regard to inheritance and citizenship rights and birth registration, as well as discriminatory terminology such as “illegitimate” from legislation and regulations. The Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination and ensure access to basic services, in particular, for girls, children with disabilities, Amerasians, Koreans, Buraka, Ainu and other minorities,</p>

<p>and awareness campaigns</p>	<p>children of migrant workers and refugee and asylum-seeking children, through, inter alia, public education and awareness campaigns.</p> <p><i>The Committee expects to receive the third periodic report from the State party, which should not exceed 120 pages (see CRC/C/118), by 21 May 2006, date on which the report is due.</i></p>
<p>Committee on Economic, Social and Cultural rights (CESCR)</p>	
<p>CESCR Concluding Observations – Japan 2001</p> <p>E/C.12/1/Add.67</p> <p>Keywords:</p> <p>De jure and de facto discrimination against minority groups including Buraku communities, housing, education, employment</p>	<p>13. The Committee is concerned about the persisting <i>de jure</i> and de facto discrimination against minority groups in Japanese society, and in particular against the Buraku and Okinawa communities, the indigenous Ainu people and people of Korean descent, especially in the fields of employment, housing and education.</p> <p><i>The Committee requests the State party to submit its third periodic report by 30 June, 2006, and to include in that report detailed information on the steps undertaken to implement the recommendations contained in the present concluding observations.</i></p>
<p>UNITED KINGDOM</p>	
<p>Committee on the Elimination of Racial Discrimination (CERD)</p>	
<p>CERD Concluding Observations – UK 2011</p> <p>CERD/C/GCR/CO/18-20</p> <p>Keywords:</p> <p>Equality Act 2010, caste, descent</p>	<p>30. While noting the assertion of the State party that there is no evidence in the State party of the existence of caste-based discrimination to any significant extent in the fields covered by the Convention, the Committee has received information from nongovernmental organizations and from recent research studies commissioned by State party institutions that such discrimination and harassment in violation of the rights to work, to education and to the supply of goods and services does exist in the State party (article 2).</p> <p>Recalling its previous concluding observations (CERD/C/63/CO/11 para. 25) and its General Recommendation 29 (2002) on descent, the Committee recommends that the Minister responsible in the State party invoke section 9(5)(a) of the Equality Act 2010 to provide for “caste to be an aspect of race” in order to provide remedies to victims of this form of discrimination. The Committee further requests the State party to inform the Committee of developments on this matter in its next periodic report.”</p> <p><i>The Committee recommends that the State party submit its combined 21st to 23rd periodic reports in a single document, due on 6 April 2014.</i></p>
<p>CERD Concluding Observations – UK 2003</p> <p>CERD/C/63/CO/11</p> <p>Keywords:</p> <p>Caste, descent-based discrimination, CERD General Recommendation XXIX</p>	<p>25. The Committee recalls its general recommendation XXIX, in which the Committee condemns descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention, and recommends that a prohibition against such discrimination be included in domestic legislation. The Committee would welcome information on this issue in the next periodic report.</p> <p><i>The Committee recommends that the State party submit a combined eighteenth and nineteenth periodic report, due on 6 April 2006, and that the report address all points raised in the present concluding observations.</i></p>
<p>YEMEN</p>	

Committee on the Elimination of Racial Discrimination (CERD)

<p>CERD Concluding Observations – Yemen 2011</p> <p><u>CERD/C/YEM/CO/17-18</u></p> <p>Keywords:</p> <p>Descent-based discrimination, Al-Akhdam, CERD general recommendation 29</p> <p>The “Al-Akhdam” are Yemen’s most marginalized ethnic minority also referred to as the “Yemeni minority of African Descent”</p>	<p>15. While noting the State party’s efforts to introduce safety net programmes aimed at improving the livelihoods of marginalized groups, the Committee is concerned at the persistent and continued social-economic exclusion of descent-based communities such as the Al-Akhdam, some of whom are understood to be of African descent. The Committee also expresses its concern at the failure by the State party to acknowledge that the Al-Akhdam have different ethnic characteristics (articles 2(2) and 5).</p> <p>Bearing in mind its General Recommendation No. 29 (2002) on Descent, the Committee recommends that the State party should study the root causes of the marginalization of the Al-Akhdam people. The Committee further recommends that the State party should strengthen its efforts to improve the welfare of all marginalized and vulnerable descent-based groups, particularly the Al-Akhdam, in the fields of education, access to health, housing, social security services and property ownership.</p> <p><i>The Committee recommends that the State party submit its 19th and 20th periodic reports in a single document, due on 17 November 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.</i></p>
<p>CERD Concluding Observations – Yemen 2006</p> <p><u>CERD/C/YEM/CO/16</u></p> <p>Keywords:</p> <p>Descent-based discrimination, Al-Akhdam, economic, self-identification, CERD general recommendation 29, employment, housing, equal access to health care and social security services, right to own property</p>	<p>8. The Committee takes note of the discrepancy between the assessment of the State party, according to which Yemeni society is ethnically homogenous, and credible information the Committee has received regarding descent-based and/or culturally distinguishable groups including the Al-Akhdam. In light of its general recommendation 4 (1973) as well as of paragraph 8 of its reporting guidelines, the Committee reiterates its recommendation to the State party that information on the ethnic composition of the population be provided in its next periodic report. It also recalls its general recommendation 8, which states that identification of ethnic or racial groups shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned, and draws the attention of the State party to general recommendation 29 (2002) on article 1 (1) of the Convention, regarding descent.</p> <p>9. The Committee remains concerned at the absence of a definition of racial discrimination in domestic legislation (art. 1). The Committee recommends to the State party that it incorporate in its domestic law a definition of racial discrimination that includes all elements set forth in article 1 of the Convention, which defines racial discrimination as discrimination on the grounds of race, colour, descent or national or ethnic origin.</p> <p>15. The Committee is deeply concerned at the persistent reports of de facto discrimination against descent-based, culturally distinct communities, among others, the Al-Akhdam. The Committee is particularly concerned about discrimination that interferes with or impairs the enjoyment of their economic, social and cultural rights (arts. 2 (2) and 5). In light of its general recommendation 29, the Committee recommends that the State party develop and put into action a national strategy with the participation of members of affected communities, including special measures to be adopted in accordance with article 2 (2) of the Convention, in order to eliminate discrimination against members of marginalized and vulnerable descent-based groups. In particular, the Committee recommends that the State party develop legislation and practice prohibiting all discriminatory practices based on descent in employment, housing and so as to ensure equal access to health care and social security services for members of affected communities, in particular the Al-Akhdam.</p> <p>16. The Committee notes with concern reports it has received that indicate that members of the Al-Akhdam community allegedly face difficulties in, if not outright barriers to, effectively exercising their right to own property (art. 5 (d) (v)). The Committee requests the State party to provide further information regarding the</p>

	right of all persons within its territory, including members of marginalized or vulnerable groups to obtain and own property.
Committee on Economic, Social and Cultural rights (CESCR)	
<p>CESCR Concluding Observations – Yemen 2011</p> <p><u>E/C.12/YEM/CO/2</u></p> <p>Keywords: Al-Akhdam, CESCR GC No. 20, social and economic marginalization, employment, child labour, school drop-out, adequate housing, water and sanitation, electricity</p>	<p>7. The Committee is deeply concerned about the widespread manifestations of discrimination in Yemen against disadvantaged and marginalized individuals and groups, in particular women, which often bear a structural character.</p> <p>The Committee recommends that the State party adopt a comprehensive anti-discrimination law, addressing all disadvantaged and marginalized sectors of the society. The Committee invites the State party to draw guidance in these endeavors from its General Comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.</p> <p>8. The Committee is concerned that the Al-Akhdam people continue to face social and economic marginalization and discrimination, especially concerning access to employment, conditions of work, extensive level of child labour, extremely high levels of school drop-out, lack of adequate housing, water and sanitation, as well as electricity, (art.2).</p> <p>The Committee calls on the State party to combat the social discrimination and marginalization faced by the Al-Akhdam people, including through temporary special measures, in line with the Committee’s General Comment No.20 on Non-Discrimination in Economic, Social and Cultural Rights, and to adopt a national action plan for this purpose, elaborated with the participation of Al-Akhdam people and equipped with an effective, participatory and transparent monitoring and implementation mechanism. The Committee also recommends that the planned measures focus on access to employment, adequate conditions of work, enrolment of children in education and prevention of school drop-outs, access to medical care, and reduction of child mortality, as well as access to adequate housing, water, sanitation and electricity.</p> <p><i>The Committee emphasized the importance that the State party include statistical data on all Covenant rights, paying particular attention to disadvantaged and marginalized groups of society, in their next report which is due in June 2013.</i></p>
<p>CESCR Concluding Observations – Yemen 2003</p> <p><u>E/C.12/1/Add.92</u></p> <p>Keywords: Al-Akhdam</p>	<p>27. The Committee urges the State party to undertake effective measures, such as awareness-raising campaigns and educational programmes, to combat de facto discrimination, in particular against marginalized and vulnerable groups in society commonly referred to as Akhdam, Ahjur or Zubud.</p> <p><i>The Committee requests the State party to submit its second periodic report by 30 June 2008.</i></p>
Committee on the Rights of the Child (CRC)	
<p>CRC Concluding Observations – Yemen 2005</p> <p><u>CRC/C/15/Add.267</u></p> <p>Keywords: Al-Akhdam children</p>	<p>Non-discrimination</p> <p>27. The Committee urges the State party to undertake effective measures, such as awareness-raising campaigns and educational programmes, to combat de facto discrimination, in particular against marginalized and vulnerable groups in society commonly referred to as Akhdam, Ahjur or Zubud.</p> <p>32. The Committee is deeply concerned at the persistence of discriminatory social attitudes against girls. Furthermore, the Committee is concerned at the disparities in the enjoyment of rights and at the social discrimination experienced by children belonging to the most vulnerable groups, inter alia, children who are also addressed as Akhdam children, children born out of wedlock, children with disabilities, street children and children living in rural areas.</p>

	<p>33. The Committee recommends that the State party:</p> <p>Strengthen its efforts to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, particularly with regard to girl children, in accordance with article 2;</p> <p>Prioritize and target social services for children belonging to the most vulnerable groups, including those children referred as Akhdam children, children with disabilities, street children and children living in rural areas;</p> <p>Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family;</p> <p>Train school teachers, media and members of the legal profession, particularly the judiciary, to be gender-sensitive; and</p> <p>Mobilize religious leaders to support such efforts.</p> <p>34. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in 2001 and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education).</p> <p><i>The Committee invites the State party to submit its fourth periodic report by 30 May 2008, which should not exceed 120 pages (see CRC/C/148).</i></p>
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NIGERIA

Committee on the Elimination of Racial Discrimination (CERD)

<p>CERD Concluding Observations – Nigeria 2005</p> <p><u>CERD/C/NGA/CO/18</u></p> <p>Keywords:</p> <p>Caste system, Osu community, descent-based discrimination, slavery, CERD general recommendation XXIX, segregation, employment, housing and education, human rights education</p>	<p>15. While noting that the 1958 Osu Abolition Law legally abolished work- and descent-based discrimination, the Committee remains concerned about persistent allegations that members of the Osu and other similar communities are still subjected to social exclusion, segregation and mistreatment, as well as discrimination in employment and marriage (arts. 2, 3 and 5). The Committee draws the State party’s attention to its general recommendation XXIX (2002) concerning racial discrimination based on descent, and suggests that a detailed response on this issue should be included in the State party’s next report. It strongly recommends that the State party develop, in cooperation with non-governmental organizations and religious leaders, effective programmes to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, including a wide-ranging information and public-awareness campaign to put an end to these practices.</p> <p>18. The Committee is concerned about the persistence of discrimination against persons belonging to various ethnic groups in the fields of employment, housing and education, including discriminatory practices by people who consider themselves to be the original inhabitants of their region against settlers from other states. While noting the efforts taken by the State party to improve the representation of different ethnic groups in the public service, most notably by the Federal Character Commission, the Committee remains concerned about the reports of continuing practices of patronage and traditional linkages based on ethnic origin, leading to the marginalization of certain ethnic groups in Government, legislative bodies and the judiciary (arts. 2 and 5).</p> <p>The Committee recommends that the State party continue to promote equal opportunities for all persons without discrimination in order to ensure their full enjoyment of their rights, in accordance with article 2, paragraph 2, and article 5 of the Convention. In this connection, the Committee urges the State party to strengthen its Affirmative Action Plans in favour of underrepresented or marginalized groups, including women, in its</p>
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	<p>employment policies with regard to the public service, and to submit in its next periodic report more detailed information on achievements under these programmes.</p> <p>25. The Committee, while noting the information provided by the delegation, reiterates its previous concern that measures taken to educate the public, law enforcement officials, members of political parties and media professionals on the provisions of the Convention remain insufficient (art. 7). The Committee encourages the State party to expand and strengthen existing efforts regarding human rights education. Furthermore, particular attention should be paid to general recommendation XIII (1993), according to which law enforcement officials should receive specific training to ensure that, in the performance of their duties, they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour, descent or national or ethnic origin.</p> <p>Pursuant to article 9, paragraph 1, of the Convention and article 65 of the Committee's rules of procedure, as amended, the Committee requests the State party to inform it of its implementation of the recommendations contained in paragraphs 289, 291 and 294 above, within one year of the adoption of the present conclusions.</p> <p><i>The Committee recommends that the State party submit its nineteenth periodic report jointly with its twentieth periodic report on 4 January 2008, and that it address all points raised in the present concluding observations.</i></p>
MAURITANIA	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Mauritania 2004</p> <p><u>CERD/C/65/CO/5</u></p> <p>Keywords:</p> <p>Caste system, slavery-like practices, descent-based discrimination, CERD general recommendation XXIX, anti-poverty programme</p>	<p>15. The Committee notes with concern that vestiges of the caste system persist in Mauritania. While welcoming the fact that slavery was abolished by a law dated 9 November 1981, it remains concerned about information on the persistence of slavery-like practices, which constitute serious instances of discrimination based on descent. It is concerned that no implementing orders have been issued subsequent to the 1981 law and that there is no provision in criminal law that expressly punishes slavery.</p> <p>The Committee draws the State party's attention to its general recommendation XXIX concerning racial discrimination based on descent, and suggests that a detailed study of this issue should be included in the State party's next report. It strongly recommends that the State party launch, in cooperation with non-governmental organizations and religious leaders, a wide ranging information and public-awareness campaign to put an end to slavery-like practices. The State party should ensure that the perpetrators of such practices, which are already prohibited by law, are systematically prosecuted in the courts, including in cases where they have seized the property of deceased former slaves.</p> <p>16. The Committee notes that the information on the adoption of practical measures designed specifically to combat slavery-like practices remains inadequate.</p> <p>Taking note of the delegation's statement that the anti-poverty programme is helping to eradicate the legacy of slavery, the Committee considers that other actions specifically targeting the populations concerned should be taken. The State party should conduct a study, in cooperation with civil society, to determine the economic and social situation of the descendants of slaves, including how many of them have title to land.</p> <p><i>The Committee recommends that the State party submit its eighth, ninth and tenth periodic reports, due on 12 January 2008, in a single document and that it address therein all the points raised in the present concluding observations.</i></p>
Committee on the Rights of the Child (CRC)	
<p>CRC Concluding</p>	<p>36. While noting as positive the Act No. 2007-042 of 3 September 2007</p>

<p>Observations – Mauritania 2009 <u>CRC/C/MRT/CO/2</u> Keywords: Caste-based slavery</p>	<p>criminalizing slavery, the Committee is concerned over the lack of effective implementation of the law. The Committee is seriously concerned over reports indicating the continued existence of caste based slavery, which has a particular impact on girls in domestic service and boys forced to beg by marabouts. The Committee is especially concerned over the absence of services to free and reintegrate children victims of slavery and over the lack of measures to educate the public about traditional slavery practices in general.</p> <p>37. The Committee urges the State party to take all necessary measures to eradicate slavery and in particular to ensure that perpetrators of such practices are held accountable in accordance with the law. The Committee calls upon the State party to implement a national strategy against slavery, including an analysis of its root-causes, and take effective measures to free victims of slavery and provide them with psycho-social recovery as well as reintegration measures. The Committee recommends that the State party conduct specific awareness-raising campaigns on the legislation which criminalizes slavery.</p> <p><i>The Committee invites the State party to submit its combined third, fourth and fifth report, by 14 June 2013. This report should not exceed 120 pages (see CRC/C/118).</i></p>
MADAGASCAR	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Madagascar 2004 <u>CERD/C/65/CO/4</u> Keywords: No definition of racial discrimination, caste system, descent-based discrimination, slavery, CERD general recommendation XXIX</p>	<p>12. The Committee notes that there is no definition of racial discrimination in the legal domestic order. It also notes that several laws contain provisions concerning non-discrimination which do not expressly specify race, colour and descent as prohibited grounds.</p> <p>The Committee recommends that the State party should include a definition of racial discrimination in its legislation, drawing upon the elements contained in article 1 of the Convention. The State party should complete its legislation in order to prohibit racial discrimination in the same way as other forms of discrimination.</p> <p>17. The Committee regrets that despite the abolition of slavery and the caste system in 1896, discrimination against the descendants of slaves persists. The Committee recommends that the State party take the necessary steps to put an end to discrimination based on descent, including the steps enumerated in its general recommendation XXIX. Detailed information on the situation of descendants of slaves, and of the persistence of the caste system in general, should be included in the next periodic report.</p> <p><i>The Committee recommends that the State party submit its nineteenth and twentieth periodic reports as one document due on 9 March 2008, and respond therein to all the points raised in the present concluding observations.</i></p>
SENEGAL	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Senegal 2002 <u>A/57/18(SUPP)</u> Keywords: Caste-based system, access</p>	<p>445. The Committee notes with concern the continuing legacy in Senegal of aspects of a caste-based system, despite its having been banned by law. It recommends that the State party ensure that the existing provisions are effectively applied, including by taking steps to guarantee access to justice for victims, in accordance with its general recommendation XXVI.</p> <p><i>The Committee recommends that the State party submit its sixteenth and seventeenth periodic reports in a single report, due on 23 July 2004, and that it reply to all questions</i></p>

to justice	<i>raised in the present concluding observations.</i>
CHAD	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Chad 2009 <u>CERD/C/TCD/CO/15</u></p> <p>Keywords:</p> <p>Caste system, descent-based discrimination, legislation, CERD general recommendation XXIX, public awareness campaign</p>	<p>15. The Committee is concerned about the existence of a caste system in some ethnic groups of the State party, which leads to discrimination against certain categories of the population and serious violations of their rights, as mentioned by the State party in paragraph 152 of its report. The Committee recalls its general recommendation No. 29 (2002) on descent-based discrimination and recommends that the State party should:</p> <p>(a) take specific measures to combat and abolish the caste system, including the adoption of specific legislation prohibiting descent-based discrimination;</p> <p>(b) take steps to raise public awareness and educate the population about the negative effects of the caste system and the plight of victims; and</p> <p>(c) provide the Committee with additional detailed information on the nature and extent of this problem (art. 3).</p> <p><i>The Committee recommends that the State party should submit its sixteenth, seventeenth and eighteenth periodic reports in a single document by 16 September 2012, taking into account the guidelines for the preparation of reports to the Committee on the Elimination of Racial Discrimination adopted at the Committee’s seventy-first session (CERD/C/2007/1), and addressing all the issues raised in the present concluding observations.</i></p>
MALI	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Mali 2002 <u>A/57/18(SUPP)</u></p> <p>Keywords:</p> <p>Caste, descent-based discrimination, CERD General Recommendation XXIX</p>	<p>6. In light of its general recommendation XXIX of 22 August 2002 and bearing in mind the explanations provided by the delegation concerning the practice of sinangouya and the relative nature of the caste system, which does not hinder social mobility in Mali, the Committee would like to receive information on the approach the State party intends to take regarding the persistence of the consequences of a traditional caste system that could give rise to descent-based discrimination.</p> <p><i>The Committee recommends that the State party’s fifteenth and sixteenth periodic reports be submitted in one document, due on 15 August 2005, that it should be a complete report and that it should address all the issues raised in these concluding observations.</i></p>
ETHIOPIA	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Ethiopia 2003 <u>CERD/C/62/CO/4(CERD, 2003)</u></p> <p>Keywords: Caste-like forms of racial discrimination,</p>	<p>D. Concerns and recommendations</p> <p>15. The Committee is concerned that, notwithstanding the long history of State party’s commitment to fight racial segregation, there are reports that caste-like forms of racial discrimination persist on its territory, mainly affecting marginalized racial and ethnic minorities. (art. 3)</p> <p><i>The Committee recommends that the State party undertake a study of the spread and causes of the problem of castes and implement a strategy to eliminate it. The State party</i></p>

General Recommendation XXIX	<i>is further requested to provide information in its next periodic report on the results of its efforts to this effect. The Committee urges the State party to take into account general recommendation No. 29 (2002) on descent-based discrimination.</i>
GHANA	
Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD Concluding Observations – Ghana 2003</p> <p><u>CERD/C/62/CO/4(CERD, 2003)</u></p> <p>Keywords:</p> <p>Descent-based discrimination, General Recommendation XXIX</p>	<p>D. Concerns and recommendations</p> <p>22. The Committee wishes to know whether descent-based discrimination exists in Ghana, and draws the attention of the State party to its general recommendation XXIX on the matter.</p>

GENERAL COMMENTS (OF RELEVANCE)

Committee on the Elimination of Racial Discrimination (CERD)	
<p>CERD</p> <p><u>General Comment No. 29</u> on descent-based discrimination – 2002</p>	<p>In 2002, CERD adopted General Recommendation No.29 on the term "descent" in article 1(1) of the Convention. The General Recommendation reaffirmed that caste-based discrimination falls within the scope of the Convention and therefore constitutes an effective framework to improve analysis and reporting on governments' performance. Affected countries are now obliged to report to the CERD Committee taking into consideration the specific recommendations made by the Committee. Below are some abstracts from the General Recommendation:</p> <p>“The Committee on the Elimination of Racial Discrimination,</p> <p><u>Confirming</u> the consistent view of the Committee that the term "descent" in article 1, paragraph 1, the Convention does not solely refer to "race" and has a meaning and application which complement the other prohibited grounds of discrimination,</p> <p><u>Strongly</u> reaffirming that discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights,</p> <p><u>Strongly</u> condemning descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention,</p> <p><u>Recommends</u> that the States parties, as appropriate for their particular circumstances, adopt some or all of the following measures:</p> <p>I. Measures of a general nature</p> <ol style="list-style-type: none"> 1. Steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status, and whose existence may be recognized on the basis of various factors including some or all of the following: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality; 2. Consider the incorporation of an explicit prohibition of descent-based discrimination in the national constitution; 3. Review and enact or amend legislation in order to outlaw all forms of discrimination based on descent in accordance with the Convention; 4. Resolutely implement legislation and other measures already in force; 5. Formulate and put into action a comprehensive national strategy with the participation of members of affected communities, including special measures in accordance with articles 1 and 2 of the Convention, in order to eliminate discrimination against members of descent-based groups; 6. Adopt special measures in favour of descent-based groups and communities in order to ensure their enjoyment of human rights and fundamental freedoms, in particular concerning access to public functions, employment and education; 7. Establish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities; 8. Educate the general public on the importance of affirmative action programmes to address the situation of victims of descent-based discrimination; 9. Encourage dialogue between members of descent-based communities and

	members of other social groups;”
<p>CERD</p> <p><u>General Comment No.31:</u> Draft General Recommendation on the Prevention of Racial Discrimination in the Administration and Functioning of the criminal Justice System</p>	<p>“<i>The Committee on the Elimination of Racial Discrimination, [...]</i></p> <p><i>Bearing in mind</i> the observations relating to the functioning of the system of justice made in the Committee's conclusions concerning reports submitted by States parties and in general recommendations 27 on discrimination against Roma, 29 on discrimination based on descent and 30 on discrimination against non-citizens, [...]</p> <p><i>Determined</i> to combat all forms of discrimination in the administration and functioning of the criminal justice system which may be suffered, in all countries of the world, by persons belonging to racial or ethnic groups, in particular non-citizens - including immigrants, refugees, asylum-seekers and stateless persons - Roma/Gypsies, indigenous peoples, displaced populations, persons discriminated against because of their descent, as well as other vulnerable groups which are particularly exposed to exclusion, marginalization and non-integration in society, paying particular attention to the situation of women and children belonging to the aforementioned groups, who are susceptible to multiple discrimination because of their race and because of their sex or their age, [...]</p> <p>Formulates a series of recommendations for State parties.</p>
<p>CERD</p> <p><u>General Comment No. 32</u> on special measures – 2009</p>	<p>At its 75th session in August 2009 the UN Committee on the Elimination of Racial Discrimination (CERD) adopted General Recommendation No. 32 on Special Measures: The meaning and scope of special measures in the International Convention on the Elimination of Racial Discrimination. This General Recommendation affirms General Recommendation 29 on Article 1, paragraph 1, of the Convention (Descent), which makes specific reference to special measures.</p> <p>I. Introduction</p> <p><i>B) Principal Sources</i></p> <p>“2. The General Recommendation is based on the Committee’s extensive repertoire of practice referring to special measures under the Convention. Committee practice includes the concluding observations on the reports of States parties to the Convention, communications under Article 14, and earlier general recommendations, in particular General Recommendation 8 on Article 1, paragraphs 1 and 4 of the Convention, as well as General Recommendation 27 on Discrimination against Roma, and General Recommendation 29 on Article 1, paragraph 1, of the Convention (Descent), both of which make specific reference to special measures.</p> <p>II. Equality and Non-Discrimination as the Basis of Special Measures</p> <p><i>B) Direct and Indirect Discrimination</i></p> <p>7. The principle of enjoyment of human rights on an equal footing is integral to the Convention’s prohibition of discrimination on grounds of race, colour, descent, and national or ethnic origin. The „grounds“ of discrimination are extended in practice by the notion of “intersectionality” whereby the Committee addresses situations of double or multiple discrimination - such as discrimination on grounds of gender or religion – when discrimination on such a ground appears to exist in combination with a ground or grounds listed in Article 1 of the Convention. Discrimination under the Convention includes purposive or intentional discrimination and discrimination in effect. Discrimination is constituted not simply by an unjustifiable „distinction, exclusion or restriction“ but also by an unjustifiable „preference“, making it especially important that States parties distinguish „special measures“ from unjustifiable preferences.</p> <p><i>D) Conditions for the Adoption and Implementation of Special Measures</i></p> <p>17. Appraisals of the need for special measures should be carried out on the basis of accurate data, disaggregated by race, colour, descent and ethnic or national origin and incorporating a gender perspective, on the socio-economic and cultural status and</p>

	conditions of the various groups in the population and their participation in the social and economic development of the country.”
Human Rights Committee (CCPR)	
HRC <u>General Comment No.18</u> on Non-discrimination - 1989	6. The Committee notes that the Covenant neither defines the term "discrimination" nor indicates what constitutes discrimination. However, article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
HRC <u>General Comment No.25</u> on the Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service	15. The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person's candidacy.
Committee on Economic, Social and Cultural rights (CESCR)	
CESCR <u>General Comment No. 20</u> on Non-discrimination - 2009	<p>CESCR General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2) was adopted by the Committee at its 42nd session in May 2009. In the General Comment the Committee reaffirms that "the prohibited ground of birth also includes descent, especially on the basis of caste and analogous systems of inherited status." The Committee recommends States parties to "take steps, for instance, to prevent, prohibit and eliminate discriminatory practices directed against members of descent-based communities and act against dissemination of ideas of superiority and inferiority on the basis of descent.”</p> <p>Express grounds (of discrimination under article 2 of the Covenant)</p> <p>24. <u>National or social origin.</u> „National origin” refers to a person’s State, nation, or place of origin. Due to such personal circumstances, individuals and groups of individuals may face systemic discrimination in both the public and private sphere in the exercise of their Covenant rights [...] “Social origin” refers to a person’s inherited social status, which is discussed more fully below in the context of „property status, descent-based discrimination under „birth” and „economic and social status”.</p> <p>26. <u>Birth.</u> Discrimination based on birth is prohibited and Article 10(3) specifically states, for example, that special measures should be taken on behalf of children and young persons “without any discrimination for reasons of parentage”. Distinctions must therefore not be made against those who are born out of wedlock, born of stateless parents or are adopted or constitute the families of such persons. The prohibited ground of birth also includes descent, especially on the basis of caste and analogous systems of inherited status. States parties should take steps, for instance, to prevent, prohibit and eliminate discriminatory practices directed against members of descent-based communities and act against dissemination of ideas of superiority and inferiority on the basis of descent.</p>
Committee on Elimination of Discrimination against Women (CEDAW)	
CEDAW	General comment No.28 on the Core Obligations of State Parties under Article 2 of the Convention clarifies that protection from discrimination under the Convention

<p><u>General Comment No.28</u> on the Core Obligations of States Parties under Articles 2 - 2010</p>	<p>encompasses not only grounds explicitly mentioned but also grounds such as age, class, caste, race and ethnicity.</p> <p>18. Intersectionality is a basic concept for understanding the scope of the general obligations of states parties contained under article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status age, class, caste, and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways than men. States parties must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and General Recommendation No. 25.</p>
<p>CEDAW</p> <p><u>General Recommendation No. 25</u> on Temporary Special Measures - 2004</p>	<p>12. Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.</p>
<p>Committee on the Rights of the Child (CRC)</p>	
<p>CRC</p> <p><u>General Recommendation No.7</u> on Implementing Child Rights in early Childhood - 2005</p>	<p>(b) Article 2 also means that particular groups of young children must not be discriminated against. Discrimination may take the form of reduced levels of nutrition; inadequate care and attention; restricted opportunities for play, learning and education; or inhibition of free expression of feelings and views. Discrimination may also be expressed through harsh treatment and unreasonable expectations, which may be exploitative or abusive.</p> <p>For example: [...]</p> <p>(iv) Discrimination related to ethnic origin, class/caste, personal circumstances and lifestyle, or political and religious beliefs (of children or their parents) excludes children from full participation in society. It affects parents' capacities to fulfil their responsibilities towards their children. It affects children's opportunities and self-esteem, as well as encouraging resentment and conflict among children and adults;</p> <p>(v) Young children who suffer multiple discrimination (e.g. related to ethnic origin, social and cultural status, gender and/or disabilities) are especially at risk.</p>

UNIVERSAL PERIODIC REVIEW

INDIA - 1st UPR Session (April 2008)	
<p>Excerpts from the Report of the UPR Working group - India</p> <p><u>A/HRC/8/26</u></p> <p>Keywords: Dalits, caste and related discrimination, scheduled castes, caste-based discrimination, untouchability</p>	<p>I. Summary of the proceedings of the review process</p> <p>15. India has been deeply conscious of the need to empower the Scheduled Castes and Scheduled Tribes and is fully committed to tackle any discrimination against them at every level. The Constitution of India abolished “untouchability” and forbids its practice in any form. There are also explicit and elaborate legal and administrative provisions to address caste-based discrimination in the country. The caste system, which is unique to India, is not racial in origin, and therefore, caste based discrimination cannot be considered a form of racial discrimination.</p> <p>27. Canada recognized that India is a highly diverse country facing many challenges. It raised issues concerning the Armed Forces (Special Powers) Act (AFSPA), the situation of civil society and the situation of Dalits. Canada referred to reports of torture and abuse by and impunity of police and security forces acting under the AFSPA. Canada spoke about the commitment of the Prime Minister and the studies undertaken to reform the AFSPA and asked what measures had been taken to repeal or reform this Act. Canada referred to India as a model where civil society and democracy flourishes and the press actively reports on human rights abuses. However, it mentioned allegations about the use of the Foreign Contributions Regulations Act in limiting civil society’s work on sensitive issues and referred to reports that Amnesty International had to downsize its work on account of this Act. With reference to the follow-up of the 2007 concluding observations on India adopted by CERD, Canada recommended that India begin providing disaggregated data on caste and related discrimination.</p> <p>32. Malaysia congratulated India on putting in place an institutional, legislative and administrative framework aimed at improving the human rights situation of its people. It also noted the establishment of various institutions/national commissions which act as “watch dogs”, dealing with issues such as women rights, minorities, scheduled castes and tribes, backward classes and children rights. Additional information was requested on the implementation of their recommendations.</p> <p>36. Belgium commended India for the advancements made, in particular regarding the justiciability of certain social and economic rights in the context of the right to life. Regarding caste-based discrimination, in particular against Dalit women, Belgium wanted to know what actions were being taken to implement anti-discriminatory legislation and the role of the National Commission on Human Rights was in that regard. Belgium recommended that there be disaggregated data on caste-based discrimination so as to allow for targeted planning to improve the situation of the Dalits.</p> <p>39. While congratulating India for the important constitutional and legislative measures taken to combat discrimination, Luxembourg endorsed Belgium’s recommendation on disaggregated data. It asked for additional information on (a) statistics on jurisprudence related to discriminatory acts, (b) how recommendations from treaty bodies on scheduled castes and tribes were being implemented, (c) measures being taken to tackle discriminatory treatment in favour of males, including foeticide, and (d) right to food of the peasant population.</p> <p>40. Germany asked India to provide complementary information on (a) how recommendations made by the Committee on the Elimination of Racial Discrimination and CEDAW on Dalits and scheduled castes were being followed up on, (b) what the position of the Government was regarding the recommendation of several treaty bodies to repeal the Armed Forces (Special Powers) Act of 1958, and (c) what concrete steps were being taken to implement national laws abolishing child labour.</p>

	<p>41. The United States of America expressed its satisfaction to see a nation as diverse as India engaged in the UPR process. It asked for further details on (a) freedom of religion and expression and on the promulgation of state anti-conversion laws, (b) actions being undertaken to combat police and government corruption, (c) implementation of child labour laws, (d) crimes against women, including domestic violence, dowry-related deaths, honour crimes and sex-selective abortion of unborn girls, and (e) the social acceptance of caste-based discrimination.</p> <p>53. Italy asked for additional information on (a) human rights education relating to traditional practices and customs and scheduled castes and tribes and (b) the National Child Labour Project. Italy recommended the strengthening of human rights education specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination. It also recommended that steps be taken towards the ratification of the Convention against Torture.</p> <p>58. Azerbaijan asked India to elaborate on (a) what practical measures were being taken to fight poverty, (b) what are the difficulties experienced by Scheduled Castes and Tribes in terms of their human rights, (c) what national plans exist on Internally Displaced Persons and what access is given to international humanitarian organizations to internal displacement affected regions, (d) school attendance of children in rural regions, and (e) human rights training among police and security forces.</p> <p>74. Regarding castes and racial discrimination, India noted that both Canada and Germany mentioned India's position on the scope of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). India stated that their position on ICERD is unchanged and that while they recognize that caste-based discrimination exists in India, since the caste system, which is unique to India, is not racial in origin, caste based discrimination cannot be considered a form of racial discrimination.</p> <p>77. India noted that they do maintain statistics with regard to scheduled castes and scheduled tribes and that these statistics are in the public domain.</p> <p>II. Conclusions and/or recommendations</p> <p>86. In the course of the interactive dialogue the following recommendations were made: [...]</p> <p>3. Continue energizing existing mechanisms to enhance the addressing of human rights challenges (Ghana);</p> <p>5. Maintain disaggregated data on caste and related discrimination (Canada, Belgium, Luxembourg);</p> <p>13. Strengthen human rights education, specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination (Italy);</p>
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PAKISTAN - 2nd UPR session (May 2008)

<p>Excerpts from the Report of the Working group - Pakistan</p> <p><u>A/HRC/8/42</u></p> <p>Keywords: Caste discrimination, scheduled castes, discrimination on the basis of caste, descent and occupation, absence of laws, Dalit</p>	<p>I. Summary of the proceedings of the review process</p> <p>40. Luxembourg recommended that Pakistan bring an end to inequality between men and women, including with regard to access to property; continue to increase substantially public spending on health in order to increase access to health care; to take effective measures to allow women, in particular in rural areas, to have access to health care, education, clean water and sanitation; and to take measures to eliminate discrimination and severe poverty experienced by the castes. It asked about measures to end discrimination between men and women, in particular in connection with the right to property; and initiatives envisaged eliminating discrimination and acute poverty, from which the castes are suffering.</p> <p>67. Denmark referred to indications that the lower castes, Hindus officially known as</p>
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	<p>Scheduled Castes (Dalits), are exposed to caste-based discrimination. It noted the absence of specific laws and measures prohibiting discrimination against Scheduled Castes. It asked about a proper legal framework to prevent discrimination on the basis of caste, descent and occupation. Denmark recommended (a) that Pakistan take specific and targeted measures to effectively prevent discrimination against Scheduled Castes; (b) the repeal of laws discriminating against non-Muslims, if any; and (c) that ICCPR and CAT be ratified as a matter of priority.</p> <p>99. Pakistan stated that it is a Muslim country and does not have the concept of Dalit or Scheduled. Pakistan noted that it is free from such kind of prejudices, and the existing norms do not contain discrimination on the basis of caste or creed.</p> <p>II. Conclusions and/or recommendations</p> <p>106. In the course of the discussion, the following recommendations were made to Pakistan:</p> <p>31. To take measures to eliminate discrimination against castes and high degree of poverty suffered by castes (Luxembourg) and take specific and targeted measures to effectively prevent discrimination against Scheduled Castes (Denmark);</p>
SRI LANKA - 2nd UPR session (May 2008)	
<p>Excerpts from the Report of the Working group – Sri Lanka</p> <p>A/HRC/8/46</p> <p>Keywords: Caste-based discrimination</p>	<p>I. Summary of the proceedings of the review process</p> <p>61. Denmark was pleased to hear that Sri Lanka wants to focus attention on improving freedom of the press and enquired about the measures taken to that end. It recommended that (a) Sri Lanka undertake measures to improve safeguards for freedom of the press; it also recommended that (b) Sri Lanka accept the presence of an OHCHR field office. Noting steps taken by Sri Lanka to combat torture, torture is still widely practiced and, referring to 25 recommendations made by the Special Rapporteur on the question of torture, enquired what steps will be taken to implement them. Denmark recommended that (c) Sri Lanka immediately implement the Special Rapporteur’s recommendations. It further enquired about the measures Sri Lanka employs to combat caste-based discrimination.</p>
JAPAN - 2nd UPR session (May 2008)	
<p>Excerpts from the Report of the Working group – Japan</p> <p>A/HRC/8/44</p> <p>Keywords: Discrimination, minorities, legislative framework</p>	<p>I. Summary of the proceedings of the review process</p> <p>40. Guatemala noted that racism and discrimination still exist in the Japanese society, indicating that the fight against all forms of discrimination and the protection of minorities, and especially vulnerable groups, required an appropriate legislative framework and therefore urged Japan to consider introducing a definition of discrimination in its criminal law. [...]</p>
BANGLADESH - 4nd UPR session (February 2009)	
<p>Excerpts from the Report of the Working group – Bangladesh</p> <p>A/HRC/11/18</p> <p>Keywords: Discrimination, minority religions</p>	<p>I. Summary of the proceedings of the review process</p> <p>75. Holy See noted positive measures against human rights violations, including the establishment of institutions addressing violence against women and children. It noted a number of cases where people suffered from violence and discrimination, especially women of minority religions, including Hinduism and Christianity. It recommended that Bangladesh investigate complaints concerning discrimination against members of minority religions, while developing educational and awareness programmes addressing these human rights violations. It asked about measures envisaged to confront the plight</p>

	<p>of indigenous peoples.</p> <p>II. Conclusions and/or recommendations</p> <p>94. In the course of the discussion, the following recommendations were made to Bangladesh: [...]</p> <p>17. Investigate complaints concerning discrimination against members of minority religions, while developing educational and awareness programmes addressing these human rights violations (Holy See).</p>
MAURITANIA – 9th UPR session (November 2010)	
<p>Excerpts from the Report of the Working group – Mauritania</p> <p>A/HRC/16/17</p> <p>Keywords: caste-based slavery, traditional slavery, caste system</p>	<p>B. Interactive dialogue and responses by the State under review</p> <p>57. The United Kingdom of Great Britain and Northern Ireland welcomed progress in combating discrimination, particularly the law criminalizing slavery and slavery-like practices, while noting concern about the effective implementation of the anti-slavery legislation and the continued existence of caste-based slavery. Welcoming efforts to mainstream gender equality and the national strategy for eliminating female genital mutilation, it expressed concern about torture, prison conditions, violence against women and gender-based discrimination, including reported trafficking in women and girls; the continued practice of early marriage and forced feeding (<i>gavage</i>); child trafficking and the prevalence of child labour. It called on Mauritania to ensure access for detainees to independent and effective legal remedies. It made recommendations.</p> <p>92. The following recommendations will be examined by Mauritania, which will provide responses in due course, but no later than the 16th session of the Human Rights Council, in March 2011. The responses of Mauritania to these recommendations will be included in the outcome report adopted by the Council at its 16th session:</p> <p>92.35. Eradicate in law and in practice all forms of discrimination, including traditional slavery, the caste system, the racial and ethnic paradigm in State institutions and the use of ethnicity as a political tool, as noted by the Special Rapporteur on racism, and develop a national strategy on slavery, as recommended by the Special Rapporteur on slavery (Israel);</p> <p>92.38. Adopt the measures necessary to abolish the caste system, given that, in many cases, it is conducive to the enduring existence of various forms of slavery (Ecuador);</p>
MADAGASCAR – 10th UPR session (January 2011)	
<p>Excerpts from the Report of the Working group – Madagascar</p> <p>A/HRC/14/13</p> <p>Keywords: Caste system</p>	<p>73. The following recommendations will be examined by Madagascar, which will provide responses in due course. The responses made by Madagascar to those recommendations will be included in the outcome report to be adopted by the Human Rights Council at its fourteenth session:</p> <p>8. To consider adopting measures to counter discrimination against the descendants of slaves and the persistence of the caste system (Chile);</p>
NEPAL – 10th UPR session (January 2011)	
<p>Excerpts from the report of the Working Group - Nepal</p> <p>A/HRC/WG.6/10/L.3</p> <p>Keywords:</p>	<p>Summary of the proceedings of the review process</p> <p>Presentation by the State under review</p> <p>12. The National Human Rights Commission is a constitutional body with full autonomy. The National Foundation for the Development of Indigenous Nationalities, National Women Commission and National Dalit Commission are also the national</p>

<p>Caste-based discrimination, Dalits, National Dalit Commission, untouchability, UN principles and guidelines</p>	<p>human rights institutions established for the promotion and protection of the human rights of indigenous people, women and dalit respectively.</p> <p>16. Nepal is committed to the protection and promotion of rights of the indigenous nationalities, dalit and marginalized groups. Nepal referred to significant achievements in social development in recent years despite having emerged from over a decade long armed conflict.</p> <p>Interactive dialogue and responses by the State under review</p> <p>28. The Czech Republic appreciated that Nepal’s priorities include combating caste-based discrimination. It noted that journalists face threats from armed groups, noting that women human rights defenders and those representing sexual minorities were particularly at risk. It made recommendations.</p> <p>30. Slovenia recognized the difficult democratic transition in Nepal. It asked whether it intended to use the UN draft principles and guidelines for the effective elimination of discrimination on the basis of work and descent as a guiding framework in combating discrimination.</p> <p>33. Finland asked about the measures taken by Nepal to: ensure equal access to quality education to girls, Dalit children and children belonging to ethnic minorities; ensure that elements promoting gender and social equality in the Nepal Lands Act and other legislation would be enforced in practice. Finland made recommendations.</p> <p>37. Austria asked about steps taken to address discrimination and social exclusion related to gender, caste, class and ethnicity and how the Government intends to hold accountable public officials reported to practice torture... It asked about the return, rehabilitation and reintegration of internally displaced peoples. It made recommendations.</p> <p>59. Canada encouraged Nepal to pass the Caste-based Discrimination and Untouchability Crime Elimination and Punishment Act. It also encouraged Nepal to ensure effective investigation of all harassment complaints of journalists and to put an end to preventive detentions without charges or trials. Canada made recommendations.</p> <p>68. Slovakia commended Nepal for its: ratification of international human rights instruments, cooperation with OHCHR; and “A”-status National Human Rights Commission. Slovakia highlighted the long-standing discrimination and social exclusion associated with gender, caste, class, ethnicity, disability and geography. Slovakia made recommendations.</p> <p>71. Poland welcomed the establishment of the various bodies engaged in the defense of human rights but pointed out the challenges faced in practice. Poland asked about the steps taken to further improve the situation of women, children, Dalits, ethnic and linguistic communities.</p> <p>74. Italy welcomed the abolition of death penalty and establishment of its National Plan of Action on Women Peace and Security. Italy expressed concerns regarding arbitrary executions committed during the conflict and obstacles to freedom of religion, mainly due to the caste system. Italy made recommendations.</p> <p>83. Sweden noted the instances of police brutality and torture and the arrests without formal procedures and detentions- often under poor conditions- without charges. It noted that discrimination based on gender, caste, class, ethnicity, disability and geography continued to pose grave obstacles to the enjoyment of human rights. Sweden made recommendations.</p> <p>87. The Plurinational State of Bolivia noted the inclusion of women, dalits and indigenous peoples in the Legislative Assembly. It highlighted the strategy to fight poverty based on structural reform. It welcomed the establishment of the National Commissions for Human Rights, Women and Dalits.</p> <p>Nepal’s response:</p>
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	<p>96. The Constitution has several provisions against caste based discrimination and untouchability. Nepal has a caste-based discrimination control and punishment bill and also the National Dalit Commission to be converted as a statutory body. These two bills are in the Parliament.</p> <p>Conclusions and/or recommendations:</p> <p>106. The recommendations formulated during the interactive dialogue/listed below have been examined by Nepal and enjoy its support:</p> <p>106.8. Continue promoting the work of the National Commissions for Women and for Dalit, through the reinforcement of resources that allows them to work in an efficient manner (Bolivia);</p> <p>106.21. Make further efforts to overcome the difficult issue of discrimination on the grounds of religion, gender, race or otherwise (Japan); Continue its efforts to end discrimination on the grounds of religion, race or gender in law and practice (Pakistan); Continue its efforts to overcome discrimination and social exclusion on the basis of gender, caste, class, ethnic group, disability or geographic situation, in order to ensure the respect of civil, political, economic, social and cultural rights (Argentina);</p> <p>106.24. Eliminate all forms of discrimination and pass the bill on caste-based discrimination and untouchability (Denmark); While appreciating the fact that the Government's priorities include combating caste-based discrimination, ensure that the policy is fully implemented also by the local authorities in rural and remote areas (Czech Republic)</p> <p>106.49. Improve food safety of vulnerable groups , particularly indigenous people, former bonded labourers, Dalits, Muslims, persons with disabilities and those who are infected with HIV/AIDs (Hungary);</p> <p>106.53. Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland); 107. The following recommendations enjoy the support of Nepal which considers that they are already implemented or in the process of implementation:</p> <p>107.6. Provide the National Dalit Commission and the National Women's Commission with sufficient resources to effectively realize their mandate (Slovenia);</p> <p>107.11. Take the necessary legal and policy measures to end discrimination, including of women, children and dalits (Netherlands);</p> <p>107.12. Criminalize discrimination based on caste, gender, religion, ethnicity, political belief or disabilities (Germany);</p> <p>108. The following recommendations will be examined by Nepal, which will provide responses in due time, but no later than the 17th session of the Human Rights Council in June 2011:</p> <p>108.10. Take further steps to eliminate discrimination against vulnerable or marginalised groups, including on the basis of gender or caste, by enacting laws to criminalize all forms of discrimination (UK);</p> <p>108.11. Review and adopt relevant legislation and policies, including bills related to Caste-based discrimination, the Women's Commission, the Dalit Commission, the rights of Indigenous Peoples and the Rights of the Child, to ensure full compliance with international human rights standards (Norway);</p> <p>108.12. That the cases of caste-based discriminations are reported, investigated, perpetrators prosecuted and victims of such violence are compensated (Czech Republic);</p> <p>108.31. Formulate effective strategies and programmes in order to provide employment and income generating opportunities for the population, in particular, the rural population, Dalits and ethnic minorities (Malaysia);</p>
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	108.35. Pay special attention to helping Dalit children, girls, and children belonging to ethnic minorities to complete their education cycle, and to ensure their employment opportunities after education in order to enable them to claim their rights and work as agents of change for their communities (Finland);
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UN SPECIAL PROCEDURES

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance Mr. Mutuma Ruteere (Mr. Githu Muigai until September 2011), (Mr. Doudou Diène until July 2008)	
<p>Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 65/199</p> <p>A/HRC/18/44</p> <p>(HRC 18th session – July 2011)</p>	<p>8. A number of States have indicated that their Constitution and legislation prohibit racial discrimination. The Special Rapporteur welcomes such a step. The Special Rapporteur also notes with interest the information provided by States about non-citizens being guaranteed equality before the law and human rights without discrimination. He also welcomes the legislative measures taken to combat racism in sport. However, the Special Rapporteur notes that domestic law does not always fully cover the definition of racial discrimination as enshrined in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.</p> <p>Consequently, the Special Rapporteur urges States parties to this important instrument to ensure that the definition of racial discrimination under their domestic order complies with the provisions of article 1 and prohibit and eliminate any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.</p> <p>The Special Rapporteur also recalls that, under article 20 of the International Covenant on Civil and Political Rights, “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. Furthermore, paragraph 13 of the outcome document of the Durban Review Conference reaffirms that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law, as should be the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination as well as all acts of violence or incitement to such acts.</p>
<p>Combating racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of the follow-up to the Durban Declaration and Programme of Action - Interim report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance</p> <p>A/66/313</p> <p>(GA 66th session – August 2011)</p>	<p>3. In this report, the Special Rapporteur gives an overview of the issues of concern as addressed within the framework of his mandate since the submission of his previous report to the Assembly (A/65/295). These issues of concern for the mandate are presented in section II and include structural discrimination; incitement to national, racial or religious hatred; extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements; and victims of racism, racial discrimination, xenophobia and related intolerance, including people of African descent, Roma and the victims of discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status. The Special Rapporteur also highlights some best practices in the fight against racism, racial discrimination, xenophobia and related intolerance. [...]</p> <p>11. The Special Rapporteur further highlighted that structural discrimination can be the result of past historical injustices perpetrated against specific groups of individuals. Long after that formalized racial discrimination was dismantled, the inequalities that were created continued to have a disadvantage or disproportionate effect on the human rights of individuals of specific ethnic and racial groups. Indigenous peoples, Roma, members of communities based on caste or analogous systems of inherited status, ethnic minorities and people of African descent remain particularly affected by this historical legacy, notably in the areas of health, housing, employment, education, administration of justice as well as political representation and empowerment. Thus structural discrimination is one example of the negative impact of racism, racial discrimination, xenophobia and related intolerance on the</p>

full enjoyment of civil, cultural, economic, political and social rights. [...]

26. In this context, the Special Rapporteur would like to highlight the negative impact of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of the civil, cultural, economic, political and social rights of certain groups. Since his previous report to the General Assembly, the Special Rapporteur has discussed the situation of people of African descent (see subsection B.1), Roma (see subsection B.2) and those who face discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status (see subsection B.3).

3. Discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status

38. The Special Rapporteur has repeatedly raised the negative impact of discrimination based on work and descent on the full enjoyment of civil, cultural, economic, political and social rights. He reaffirms that States have to recognize that discrimination on the ground of descent constitutes a form of racial discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination. The Special Rapporteur has associated himself with the position taken by the Committee on the Elimination of Racial Discrimination which in its general recommendation No. 29: Article 1, paragraph 1, of the Convention (Descent) (2002), strongly reaffirmed that “discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights”.

39. The Special Rapporteur would like to stress that multiple discrimination compounds the severity of the plight of low castes, who sometimes form part of a religious minority. For instance, many Hindu members belonging to “scheduled castes” (Dalits) experience segregation in access to housing, live below the poverty line, earn less than the minimum wage and have no access to education. They suffer from numerous diseases, not least because of lack of access to safe drinking water and sanitation, and sometimes face discrimination in accessing public-health facilities. Pervasive discrimination keeps them poor, uneducated, in terrible living conditions and in menial jobs. Discriminated against in terms of education, children of lower castes are among the most vulnerable, facing recruitment as child labour, soldiers or as sex workers, and rampant torture and corporal punishment. Trafficking and the sale of children, especially young girls, and infanticide of female children are other multiple forms of discrimination. Women and girls face multiple discrimination, including through sexual exploitation, forced prostitution, violence in their family and communities, and from actors in other castes.

40. At the same time, the Special Rapporteur has identified good practices and challenges in the fight against discrimination based on work and descent at the international and national levels. He notes with satisfaction that some Governments have taken initiatives to address the problems facing communities affected by discrimination based on work and descent, and he encourages them to continue their efforts, share best practices and take the lead in regional and international initiatives to eliminate this form of discrimination.

41. However, despite Government efforts 41. However, despite Government efforts to eradicate this type of discrimination through constitutional guarantees, legislation and affirmative action programmes, the Special Rapporteur notes that caste-based discrimination remains deplorably widespread and deeply rooted. He would like to reiterate that, notwithstanding the existence of international legal obligations to protect against discrimination based on work and descent, certain Governments have failed to implement such

	<p>obligations effectively and have, in some instances, sidestepped the question of caste discrimination by claiming that it does not fall under the scope of the international conventions, such as the International Convention on the Elimination of All Forms of Racial Discrimination, in contrast to the opinion of the Committee on the Elimination of Racial Discrimination. In that regard, he again recommends that the general measures contained in general recommendation No. 29 (2002) of the Committee on the Elimination of Racial Discrimination be implemented.</p> <p>42. The Special Rapporteur recommends the continued use of the draft principles and guidelines for the elimination of discrimination based on work and descent⁷ as a guiding framework for the elaboration of effective measures to be taken by States to fulfil international legal obligations, and invites Governments to consider creating a consultative body of regional human rights institutions to study the issue and raise regional awareness. Furthermore, the Special Rapporteur recommends that measures with regard to the legal framework be taken hand-in-hand with awareness-raising measures. [...]</p> <p>62. Racism, racial discrimination, xenophobia and related intolerance unfortunately continue to have a negative impact on the full enjoyment of civil, cultural, economic, political and social rights. This is particularly blatant for people of African descent, Roma, members of communities based on caste or analogous systems of inherited status and ethnic minorities in general, including in the areas of education, employment, health, housing, access to citizenship, administration of justice, racial profiling as well as access to political decision-making and judicial systems. In addition, women and girls belonging to certain communities remain particularly vulnerable to exploitation, trafficking, racial abuse and violence.</p>
<p>Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai</p> <p><u>A/HRC/17/40</u></p> <p>(17th Human Rights Council session)</p>	<p>III. Discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status</p> <p>25. Over the past three years, the Special Rapporteur has recalled that racial discrimination affects individuals in all societies and regions of the world. While the manifestations of racism may vary in nature and degree depending on the historical, geographical and cultural context, all individuals, regardless of their race, colour, descent or national or ethnic origin, should be offered robust and effective protection against discrimination. In this regard, the Special Rapporteur highlighted last year at the General Assembly that since the 2001 World Conference against Racism, the issue of discrimination based on descent has been on the international agenda. He has noted that the main human rights bodies working in the area of racism and discrimination have clearly stated that the prohibition of this type of discrimination falls within the scope of existing instruments, particularly the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention). The Special Rapporteur has also referred to the draft principles and guidelines for the effective elimination of discrimination based on work and descent and have encouraged States to engage in substantive discussions on this topic and eventually rally around these draft principles.</p> <p>26. The Special Rapporteur has associated himself with the position taken by the Committee on the Elimination of Racial Discrimination, which, in its concluding observations, has stated that “the term ‘descent’ in article 1 of the Convention does not solely refer to race. The Committee affirms that the situation of scheduled castes and scheduled tribes falls within the scope of the Convention” (CERD/C/304/Add.13, para. 14). The Committee also stated that “discrimination on the grounds of caste constituted a form of racial discrimination” (A/64/271, para. 57) and that “the term ‘descent’ had its own meaning and was not to be confused with race or ethnic or national origin” (CERD/C/304/Add.114, para. 8). More broadly, in its general recommendation No. 29 (2002) on article 1, paragraph 1 (descent), the Committee further clarified its position by “strongly reaffirming that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment</p>

	<p>of human rights” (preamble).</p> <p>27. Within the context of the Durban Review Conference, the Special Rapporteur highlighted his serious concern about an estimated 250 million people around the world being at risk of human rights violations on the grounds of caste and other systems based on inherited status.⁵⁰ He expressed concern at reports of the prohibition of or limitations on the ability to alter inherited status; socially enforced restrictions on marriage outside the community; public and private segregation, including in housing and education, and access to public spaces and places of worship and public sources of food and water; limitations on the freedom to renounce inherited or degrading occupations or hazardous work; and subjection to debt and bondage.</p> <p>28. The Special Rapporteur reaffirmed that the legal framework on discrimination based on descent is unambiguous but is not properly implemented. The vital first step is for States to recognize that discrimination on the grounds of descent constitutes a form of racial discrimination prohibited by the Convention. Without such recognition it is not possible to effectively address the serious human rights violations and discrimination against individuals and groups on the grounds of caste and other systems of inherited status (A/64/271, para. 58). States should also raise awareness and challenge long-entrenched perceptions to help shape public opinion towards fairer and more equitable societies.</p> <p>29. Despite Government efforts to eradicate this type of discrimination through constitutional guarantees, legislation and affirmative action programmes, caste-based discrimination remains deplorably widespread and deeply rooted. Victims face structural discrimination, locking them in a persistent and vicious cycle of poverty and marginalization.</p> <p>30. The problem is neither confined to one geographical area nor exclusively practised within one particular religion or belief system. It is found in all geographical regions, including within diaspora communities.</p> <p>A. Manifestations</p> <p>31. Common denominators among victims of this kind of discrimination in the forthcoming examples include, inter alia, untouchability, which in some cases prevents them from using the same public wells or water taps, drinking from the same cups in tea stalls, or visiting the same temples as members of higher castes or of noble clans; occupational segregation, which impairs their access to employment, restricting them to traditionally assigned jobs (generally sweeping and manual scavenging); enforced endogamy, thus limiting intermarriage; severe restrictions on commensality; and social ostracism, including social boycotts and blockades.</p> <p>1. Caste-based occupations and untouchability</p> <p>32. Discrimination against members of the affected groups manifests itself in work or occupation. Designated tasks considered ritually polluting and unclean to others in the social system further marginalize them as they are considered “untouchables” based on their employment. Untouchability has been banned in many countries (along with caste-based discrimination), but notions of impurity and pollution linked to jobs continue to persist through descent-based discrimination. Therefore, the notion of pollution ascribed through work is intertwined with caste-based occupations, which include sweeping and manual scavenging (the cleaning of excreta from dry latrines).</p> <p>33. Bonded labour and forced prostitution disproportionately affect those in lower castes, with a large number of Dalits in South Asia making up the majority of people in domestic bonded labour. A large number of victims of human trafficking, sexual slavery and other forms of labour exploitation are members of low castes. Wage discrimination and discrimination in hiring are prevalent.</p> <p>2. Multiple discrimination</p> <p>34. Multiple discrimination compounds the severity of the plight of low castes.</p>
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Sometimes lower caste societies form part of a religious minority. For instance, in Pakistan victims of discrimination on the basis of caste, descent and occupation are also disadvantaged as they are members of the Hindu minority referred to as “scheduled castes” (Dalits).

35. Dalits also experience segregation in access to housing; most live below the poverty line, earn less than the minimum wage and have no access to education. They suffer from numerous diseases, not least because of lack of access to safe drinking water and sanitation, and sometimes face discrimination in accessing public-health facilities (A/HRC/15/55 and Corr. 1, para. 25). Pervasive discrimination keeps them poor, uneducated, in terrible living conditions and in menial jobs (ibid., para. 26).

36. Discriminated against in terms of education (CERD/C/IND/CO/19, para. 25), children of lower castes are among the most vulnerable, facing recruitment as child labour, soldiers or as sex workers, and rampant torture and corporal punishment. Trafficking (ibid) and the sale of children, especially young girls, and infanticide of female children are other multiple forms of discrimination.

37. Women and girls face multiple discrimination, including through sexual exploitation or forced prostitution (A/HRC/7/19 and Corr. 1, para. 71). Women are socio-economically positioned at the bottom of the caste, gender and class hierarchy, and face violence in their family and communities, and from actors in other castes. Women in Dalit Communities in Asia are subjected to physical abuse, sexual harassment, trafficking and sexual violence (E/CN.4/Sub.2/2001/16, para. 45). Violations of land and property rights also affect these women (A/HRC/10/7/Add.1, para. 52), who suffer disproportionately in terms of health care, education, and subsistence wages. Dalit women in India and Nepal make up the majority of landless labourers and scavengers.

38. The practice of devadasi (in which girls are pledged for life to temples at an early age by parents in return for heavenly favours and to placate the gods) continues in India. However, once women are ceremonially “dedicated”, they are forced to become prostitutes for upper-caste community members.⁵⁵ Recently, most devadasis have ended up working in the sex trade industry. In some cases, sexual violence is linked to debt bondage.⁵⁶ In Nepal, badis are viewed as a prostitution caste. Many Dalit women and girls, including badis, are trafficked into sex work. In Pakistan, it is reported that rape of female bonded labourers is one of the most pressing problems facing the movement to end debt bondage. In Mauritania, women referred to as “slaves” are often forced to remain with their “masters” as they are threatened with separation from their children if they escape.

Intermarriage

39. Discrimination based on caste and analogous systems of inherited status permeates all aspects of life, including marriage. Seen as a method of “status advancement” for some in the lower castes, intermarriage is a way to dispel the stereotypes and persistent artificial divisions between castes. However, this practice is condemned and socially discouraged (E/CN.4/Sub.2/2001/16, para. 8) in a number of countries including India, Japan, Senegal, Sri Lanka and among members of the South Asian diaspora (E/CN.4/Sub.2/2004/31, para. 37). Intermarriage can lead to violent reprisals from the families.

Religious conversion

40. Religious conversion is viewed as a way of escaping this kind of discrimination. However, in certain countries it permeates religious communities. Despite constitutional provisions and legal measures to protect the rights of members of scheduled castes and scheduled tribes, de facto segregation and discrimination persist.

41. In some countries, members of discriminated castes who convert to other religions lose out on the basic safeguards provided to them in policies of affirmative action, while the previous caste status and related social bias remains at the social level. Such is the case in India. Unlike converts who become Buddhists or Sikhs

(CERD/C/IND/CO/19, p. 21), Dalits who convert to Islam or to Christianity reportedly lose their entitlement under affirmative action programmes (A/HRC/10/8/Add.3, para. 28), including the system of reservation (a quota system of posts reserved in employment in Government, public sector units, and all public and private educational institutions).

B. Good practices and contemporary challenges

1. International

Sub-Commission on the Promotion and Protection of Human Rights

42. The Sub-Commission on the Promotion and Protection of Human Rights invested efforts to address discrimination based on work and descent. Four substantive reports and a draft set of principles and guidelines for the elimination of discrimination based on work and descent were considered by this body. These draft principles⁶¹ have been cited and referred to, on various occasions, by treaty bodies, special procedures, civil society and national human rights institutions.

2. National

43. To better illustrate manifestations of this form of discrimination, information has been collected from various sources and geographical regions. The identification of challenges and good practices has been done on the basis of publicly available information.

(a) Asia

44. The Special Rapporteur recognizes the efforts of countries that have adopted legislation to counter discrimination based on work and descent. A number of national constitutions list caste within their articles on non-discrimination.

45. The Constitution of India specifically provides for the abolition of the practice of untouchability. Constitutional bodies, special legislative measures and executive orders, a national commission and State institutions were established to protect scheduled castes and help them seek redress for violations. The Indian Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and the subsequent addition in 1995 were enacted to protect these castes. Despite this, the practice of untouchability remains a part of rural India.

46. The Government of India has committed itself to developing policies aimed at the advancement of the Dalit population. The Special Central Assistance to Scheduled Castes Sub Plan is an example, as is the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act of 1993. Despite this Act and Government investment, the National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents has failed to achieve its objectives.

47. In Nepal, discrimination based on caste and on ethnicity persists, particularly in less developed and more remote areas. The Interim Constitution and the Civil Code criminalize discrimination on the basis of caste and penalize acts that perpetuate untouchability with imprisonment or fines, but there are considerable gaps in enforcement and implementation of anti-discrimination laws. Marginalized groups, including Dalits, face socio-economic and cultural obstacles to access justice. The Government has reported increased expenditure on social measures at the local government level and has implemented awareness-raising programmes and legal safeguards (A/HRC/16/23, para. 41).

48. The current legal framework has proved inadequate to effectively curb caste-based discriminatory practices or to hold perpetrators accountable. Due to the vagueness of provisions of the Civil Code, Government officials fail to view specific acts of discrimination as crimes and to take appropriate action. The submission of the draft bill on caste-based discrimination and untouchability crime elimination and punishment to Parliament in July 2009 is a positive development (A/HRC/16/23, paras. 54-55).

49. The Constitution of Bangladesh prohibits discrimination on grounds of race, religion, caste or sex, and states that no one can be detrimentally affected in respect of life, liberty, body, reputation or property (part III, art. 31). The pattern of discrimination against occupational groups related to caste systems has been recognized in the National Strategies for Accelerated Poverty Reduction. In the strategies, the Government envisioned that disadvantaged and stigmatized groups could be included into the mainstream by allowing their participation in socio-economic activities. While this is a strong step, more practical action is needed to redress this discrimination, such as the enforcement of current laws and the creation of a commission mandated to address concerns related to the lower castes.

50. In Sri Lanka there are two caste systems: one for the Sinhalese and one for the Tamils (E/CN.4/Sub.2/2001/16, para. 28). Caste differentiation occurs in both of Sri Lanka's main Tamil communities.⁶⁴ Caste-based discrimination is sometimes applied to non-Hindus—including Tamil Christian and Muslim converts and members of other minority groups. Caste differences between Indian-origin Tamil plantation workers also remain prominent. Untouchables are made to perform specific tasks during Hindu rituals that are particular to their low-caste status.

51. In 1957, the Government passed the Prevention of Social Disabilities Act, making it an offense to deny access to various public places to persons by reason of their caste. A 1971 amendment imposed stiffer punishments for the commission of these offenses. The 1978 Constitution of Sri Lanka does not provide for community-based affirmative action, but does prohibit discrimination on the grounds of caste, including caste-based restrictions on access to public places, including places of worship of one's own religion. However, serious problems remain.

52. In Japan, discrimination against Buraku, also known as eta ("pollution abundant" or "unclean"), persists despite the official abolition of the Buraku system by the Emancipation Edict of 1871 and other Government measures. Nevertheless, the implementation of special policy measures, based on the Law on Special Measures of 1969 aimed at improving the living environment of Buraku districts and improving access to employment and education for Buraku (E/CN.4/2006/16/Add.2 and Corr. 1, para. 15), gave positive results. Other achievements include the increase in the rate of Buraku children going to senior high school, and a certain increase of public understanding of the problems facing Buraku.

53. The only provision in national legislation prohibiting racial discrimination is article 14 of the Constitution, but its provisions are not considered by courts to be self-executing. Since the provisions of the Convention are also considered to be not self-executing, there is no provision in national legislation that outlaws racial discrimination and provides for a judicial remedy for the victims (E/CN.4/2006/16/Add.2 and Corr. 1, para. 11).

54. The governmental strategy to fight discriminatory mentality against Buraku and other groups is carried out principally through human rights education policies promoted by the Ministry of Education (*ibid.*, para. 16). However, there is still no public authority specifically mandated to deal with burakumin discrimination.

55. The practice of hiring investigation or detective agencies to investigate the personal backgrounds of people to identify whether someone is of Buraku origin is not unusual in Japan. Some companies even continue to use "Buraku lists" (*ibid.*, para. 21).

(b) Africa

56. Descent-based discrimination is mainly of three types in Africa. First are caste systems based on "occupational specialization of endogamous groups, in which membership is based on ascription and between which social distance is regulated by the concept of pollution".⁶⁶ The second is discrimination based on real or perceived descent from slaves, leaving many in "virtual" slavery, unable to leave their owner's employ for fear of reprisals or starvation. The third is against the hunter-gatherer societies and their descendants. This marginalization may contain aspects of a purity-pollution dyad, as

	<p>well as degrees of real or perceived occupation specialization.</p> <p>57. Many African states have adopted measures to tackle caste-based discrimination. Some have adopted constitutional provisions guaranteeing freedom from discrimination. Others have enacted laws banning caste discrimination and slavery. However, these provisions have not been enforced.</p> <p>58. In Nigeria, discrimination against Osu descendants remains a concern. Osu people were historically “owned” by deities among communities in Igboland, in south-east Nigeria. They were dedicated and “sacrificed” to these gods and were forced to live on the outskirts of villages to be the target of any bad luck that might occur. Being an Osu is a position ascribed at birth, based on descent.</p> <p>59. Chapter IV, article 42, of the Constitution guarantees the right to freedom from discrimination for every citizen of Nigeria. In addition, the 1958 Osu Abolition Law legally abolished work- and descent-based discrimination. However, concerns remain about persistent allegations that members of Osu and other similar communities are still subjected to social exclusion, segregation and mistreatment, as well as discrimination in employment and marriage (CERD/C/NGA/CO/18, para. 15). Since the enactment of the Osu Abolition Law, no cases have been prosecuted in connection with the law because no claims of its violation have been made (CERD/C/SR.1720, para. 3). In this regard, the Committee on the Elimination of Racial Discrimination has made recommendations to Nigeria (CERD/C/NGA/CO/18, para. 15).</p> <p>60. Caste systems exist within several ethnic groups in Senegal. All characteristics of caste can be found among the Wolof community, principally divided between the geer and the neeno. The Constitution of Senegal proclaims the right of all citizens to equal protection of the law regardless of race, religion, sex, or origin, a reference to one’s caste background (art. 1), and prohibits all acts of racial, ethnic and religious discrimination (art. 5). However, the extent to which neeno castes approach the courts for legal redress on discrimination claims is negligible.</p> <p>61. In Somalia, society is divided into patrilineal segmented and ranked clan groups. Among Somalia’s minorities, the “occupational groups” include Midgan (or Madhiban), Tumal and Yibro.⁷¹ These groups are also known as “sab”, a collective term for “lowcaste”. Tumal are traditionally blacksmiths; Yibro, ritual specialists; and Midgan, traditionally hunters and leatherworkers, but who also undertook various arts and craft work, male circumcision and female genital mutilation. The few educated members of occupational groups work in any chosen field, but most work in manual and service jobs. The occupations of the sab groups are generally regarded as polluting. The sab groups are also feared and avoided as they have a reputation for occult practices. With the disappearance of their traditional lifestyles, and as a result of conflict, many have moved to urban settlements or internally displaced persons camps or fled to refugee camps in neighbouring countries. It is also reported that members of sab groups in the Somali refugee diaspora continue to suffer discrimination from members of other Somali clans.</p> <p>62. The situation of minorities varies in terms of geographical areas. In Somaliland, article 8, paragraph 1, of the Constitution of May 2001 states that all citizens “shall enjoy equal rights and obligations before the law, and shall not be accorded precedence on grounds of colour, clan, birth, language, gender, property, status, opinion, etc”. Under article 8, paragraph 2, “precedence and discrimination on grounds of ethnicity, clan affiliation, birth and residence is prohibited”; and “programmes aimed at eradicating long lasting bad practices shall be a national obligation”. However, there is no specific antidiscrimination legislation. Puntland has provided little protection or assistance to minorities and the parliament has no seats reserved for small minority communities, including for Madhiban.</p> <p>(c) Other parts of the world and the diaspora</p> <p>Middle East</p> <p>63. In Yemen, work- and descent-based discrimination affects the Akhdam (“servant”</p>
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or “the marginalized ones”) social group. Traditionally, land was the most important resource and those who did not own agricultural land worked in marginal occupations and services, and became part of the servant class (CERD/C/YEM/16, para. 159). Typical Akhdam occupational roles include garbage collection, street sweeping, and cleaning toilets and drains. They are often referred to generically as “sweepers” and are widely regarded as being dirty, immoral and dependent. The “low social status of this group stems from the members occupation as well as their [reputed] ethnic origins” (E/CN.4/Sub.2/2003/24, paras. 31-34). Dominant social opinion considers their men unscrupulous, lazy, unfit and unable to hold respectful jobs. The women are often stereotyped as promiscuous, unclean and leading lives as beggars and even prostitutes and children are considered to belong to a social category of so-called “servants” (E/CN.4/Sub.2/2004/31, para. 32).

64. The Yemeni Constitution maintains a bill of rights guaranteeing a wide range of rights and freedoms (arts. 41-61) to “all citizens”. It also provides for equal opportunities in all economic, social, political and cultural activities (art. 24) and guarantees equal treatment before the Law. According to article 5 of the Code of Criminal Procedure, “citizens are equal before the law and an individual may not be punished or harmed on grounds of nationality, race, origin, language, belief, occupation, standard of education or social status” (CCPR/C/YEM/2001/3, para. 9). However, de facto discrimination persists. The Constitution is neither implemented nor adequate to address the specific discrimination against this minority.

65. The Government looks at the issue of marginalization of the “servant class” from a socio-economic perspective, since the legislative framework does not discriminate among citizens (CERD/C/YEM/16, para. 160).

Diaspora communities

66. Discrimination on the basis of work and descent continues to affect diaspora communities whose original cultures and traditions include aspects of inherited social exclusion. For example, the caste system has migrated with the South Asian diaspora and is observed, to varying degrees, in different geographical regions. Some reports indicate ongoing discrimination against Midgan-Madibhan in the Somali diaspora, and in certain West African diaspora communities (E/CN.4/Sub.2/2004/31, para. 35).

67. Despite the limited information available on the issue, the Special Rapporteur has identified a good practice regarding the diaspora community in the United Kingdom, where the previous anti-discrimination legal regime has been replaced by the Equality Act 2010. This legislative framework aims to protect the rights of individuals and advance equality of opportunity for all. Initially, the Act covered nine protected characteristics (sex, gender reassignment, race, religion or belief, age, disability, sexual orientation, marriage and civil partnership, and pregnancy and maternity) in areas such as work, education and goods and services. It makes provision for the advancement of equality, through the public sector equality duty and through positive action.

68. During the passage of the Equality Bill through Parliament, the Government considered that available evidence did not indicate that caste discrimination was a significant problem in the United Kingdom in the areas covered by discrimination legislation; however, it acknowledged that the protected characteristics of race, religion and belief might not always allow an avenue of redress for caste discrimination. It accepted an amendment to the Equality Bill, inserting section 9 of the Act, which provides that a Minister may by order amend that section to provide for caste to be an aspect of race (and to provide for exceptions in the Act to apply, or not to apply, to caste).

V. Conclusions and recommendations

Discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status

85. The Special Rapporteur encountered difficulties in researching for the present

report, particularly in the area of discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status. These difficulties included the paucity of sources and lack of recent public information, in particular regarding affected communities outside Asia. Further study of this issue is necessary.

86. Notwithstanding the existence of international legal obligations to protect against discrimination based on work and descent, certain Governments have failed to implement such obligations effectively and have, in some instances, sidestepped the question of caste discrimination by claiming that it does not fall under the scope of the international conventions, such as the International Convention on the Elimination of All Forms of Racial Discrimination, in contrast to the opinion of the Committee on the Elimination of Racial Discrimination.

87. However, the Special Rapporteur notes with satisfaction that some Governments have taken initiatives to address the problems facing communities affected by discrimination based on work and descent, and encourage them to continue their efforts, share best practices and take the lead in regional and international initiatives to eliminate this form of discrimination.

88. In several cases, the Special Rapporteur notes that shortcomings do not stem only from Governments and institutions but from the population itself, including within communities considered of lower caste or status. He recommends that measures with regard to the legal framework be taken hand-in-hand with awareness raising,

with a special emphasis on the judiciary, police and civil service, to ensure effective implementation and enforcement of the law by the police and civil service to ensure access to justice and right to an effective remedy for victims.

89. The Special Rapporteur:

(a) Encourages the participation of Governments and civil society in broad local and national consultations on discrimination based on work and descent;

(b) Calls upon States to foster the empowerment of victims, and especially women;

(c) Recommends the collection of disaggregated data, on a regular basis, to be able to identify the number of people affected and design appropriate strategies to fight this kind of discrimination.

90. Moreover, the Special Rapporteur recommends:

(a) The enactment of laws and consistent implementation of existing laws, including the monitoring of domestic legal provisions as recommended by treaty bodies and other Special Rapporteurs. The general measures contained in general recommendation No. 29 (2002) of the Committee on the Elimination of Racial Discrimination should also be implemented. Specific legislation to outlaw direct and indirect racial discrimination against the affected groups is recommended;

(b) The continued use of the draft principles and guidelines on discrimination based on work and descent as a guiding framework for the elaboration of effective measures to be taken by States to fulfil international legal obligations, including the duty of Governments to engage in genuine efforts to dispel the prejudicial beliefs that constitute, support and reinforce discrimination based on work and descent, including notions of untouchability;

(c) That, where appropriate and taking into consideration the specific situation of each country, the design and implementation of affirmative action measures or programmes, including quota systems in the areas of education and employment, be considered.

91. The Special Rapporteur invites Governments:

(a) To engage in programmes promoting capacity-building and technical assistance through bilateral, regional and international cooperation aiming at the elimination of

	<p>discrimination based on work and descent, including discrimination based on caste and analogous systems of inherited status;</p> <p>(b) To implement recommendations of United Nations human rights mechanisms, civil society and NHRIs pertaining to patterns of human rights violations against the so-called lower castes, and, where necessary, to expand the mandates of NHRIs to ensure appropriate monitoring and follow up to recommendations;</p> <p>(c) To consider creating a consultative body of regional human rights institutions to study the issue and raise regional awareness;</p> <p>(d) To include information on the issue of discrimination based on caste and other analogous systems of inherited status in their reports to United Nations human rights bodies.</p> <p>92. The Special Rapporteur recommends that the full spectrum of special procedures address the issue of discrimination based on caste and other analogous systems of inherited status in the context of their respective mandates.</p>
<p>Statement by the Special Rapporteur on contemporary forms of racism</p> <p><u>Statement</u></p> <p>(8th session of the Intergovernmental Working Group on the Implementation of the Durban Declaration, October 2010)</p>	<p>At the 8th session of this Working Group in 2010, the Special Rapporteur made a statement on “Structural discrimination: definitions, approaches and trends.” He expressed his serious concern about the continuing existence of the caste system and described caste discrimination as a form of “societal” structural racial discrimination.</p> <p>”Furthermore, I would like to refer to the systems of inherited status such as caste, which may be a manifestation of what has been identified above as “societal” structural racial discrimination. In some cases for example, when a member of a Scheduled Caste left Hinduism and converted to Christianity or Islam, the previous caste status and related social bias would often remain at the social level while the person would legally no longer be eligible for government benefits for Scheduled Castes. In this respect, I would like to specifically refer to the Committee on the Elimination of Racial Discrimination (the CERD), which affirmed in its general recommendation No. 29 (2002) concerning discrimination on the grounds of descent, that: discrimination based on „descent“ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their enjoyment of human rights”.</p> <p>I am seriously concerned Mr President about the continued existence of such systems and I fully share the position taken by CERD in this respect (A/64/271). Indeed CERD has stated that discrimination on the grounds of caste constituted a form of racial discrimination and that “the term „descent“ has its own meaning and was not to be confused with race or ethnic or national origin”. These systems based on inherited status are good examples of cases where even when clear legislation exists to prohibit discrimination, individuals and groups of individuals continue to be so discriminated.” (...)</p> <p>”I also urge States to review and redesign legislation, policies and programmes that have a disproportionate effect on individuals of specific racial or ethnic group, including those legislation, policies and programmes that may discriminate directly or indirectly specific ethnic minorities, including Roma, Sinti, Gypsies, Travelers, and victims of inherited status systems.”</p>
<p>Report of the Special Rapporteur on contemporary forms of racism</p> <p><u>A/HRC/14/43</u></p> <p>(14th HRC session, June 2010)</p>	<p>The report (A/HRC/14/43) aims at providing an analysis of how racism, racial discrimination and conflict interrelate. Nepal is used as an example where the ethnic or racial dimension of a conflict has been acknowledged.</p> <p>IV. Racism, racial discrimination, xenophobia and related intolerance in post-conflict situations</p> <p>A. Acknowledging the ethnic or racial dimension of a conflict</p> <p>33. A conflict may be efficiently resolved only if its causes are adequately identified</p>

	<p>and addressed. Accordingly, the resolution of an ethnic conflict needs to acknowledge and address the ethnic or racial dimension of the conflict. Including those aspects will help to frame appropriate solutions and establish a clear mandate for those in charge of monitoring or contributing to the implementation of related peace agreements. In this regard, the peace agreements concluded in Burundi and in Nepal, described briefly below, are instructive. (...)</p> <p>37. The Comprehensive Peace Agreement concluded between the Government of Nepal and the Communist Party of Nepal (Maoist) is another example of an agreement in which the ethnic dimension of a conflict was recognized and addressed. The Parties agreed that</p> <p>the State would be restructured in an inclusive, democratic and forward-looking manner “in order to end discriminations based on class, ethnicity, language, gender, culture, religion and region and to address the problems of women, Dalit, indigenous people, ethnic minorities (Janajatis), Terai communities (Madheshis), oppressed, neglected and minority communities and the backward areas” (para. 3.5) and they reaffirmed that “no individual shall be discriminated on the basis of colour, gender, language, religion, age, race, nationality or social origin, property, disability, birth and other status and thought or belief” (para. 7.1.1).</p>
<p>Statement by the Special Rapporteur on contemporary forms of racism</p> <p><u>Statement</u></p> <p>(64th session of the UN General Assembly, November 2009)</p>	<p>At the 64th session of the UN General Assembly, the Special Rapporteur presented his Interim report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/64/271) – see abstract below. In his presentation on 2 November 2009, he expressed concern about caste discrimination, referred to the draft UN principles and guidelines to eliminate caste discrimination, and urged States to take action on them.</p> <p>“Racial discrimination unfortunately affects individuals in all societies and regions of the world. While the manifestations of racism may vary in degree and nature depending on the historical, geographical and cultural context, all individuals, regardless of their race, colour, descent or national or ethnic origin, should be offered robust and effective protection against racial discrimination. In this regard, I was particularly pleased at the recent positive developments within the United Nations on the question of discrimination based on work and descent. Allow me here to refer to the “Draft UN principles and guidelines to eliminate caste discrimination” which were presented in Geneva in last September, with the support of the Office of the High Commissioner for Human Rights and which were endorsed by the Government of Nepal. I have already expressed my serious concerns about this form of discrimination and have in this respect associated myself with the clear position taken by the Committee on the Elimination of Racial Discrimination. As said two weeks ago by the UN High Commissioner for Human Rights, “the time has come to eradicate the shameful concept of caste”. It is therefore my hope that in the coming months, States will engage in substantive discussions on this topic and will eventually rally around these draft principles and guidelines to eliminate caste-based discrimination.”</p>
<p>Interim report of the Special Rapporteur on contemporary forms of racism</p> <p><u>A/64/271</u></p> <p>(64th session of the UN General Assembly, 2009)</p>	<p>In an Interim report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/64/271) to the UN General Assembly, the Special Rapporteur made extensive references to descent-based discrimination as a thematic issue addressed through his participation in a side event at the Durban Review Conference. He also mentions that he has re-issued requests for country visits to India, Nepal and Bangladesh since he took over in 2008.</p> <p>Country visits</p> <p>10. Following his appointment in August 2008, the Special Rapporteur sent formal requests to visit Bangladesh, the Plurinational State of Bolivia, Bosnia and Herzegovina, Germany, India, Israel, Malaysia, Mexico, Nepal, South Africa, the Sudan and the United Arab Emirates. The Special Rapporteur would like to acknowledge the letters of</p>

	<p>invitations extended to him by the Plurinational State of Bolivia and by Bosnia and Herzegovina. While he has not been able to honour these invitations yet, the Special Rapporteur hopes that he will be able to do so in the near future.</p> <p>C. Thematic issues addressed by the Special Rapporteur through his participation in conferences, seminars and other meetings</p> <p>4. Discrimination based on descent</p> <p>54. During the Durban Review Conference, the Special Rapporteur participated in a side event on “Communities empowered to resist discrimination and exclusion”, organized by the International Movement against All Forms of Discrimination and Racism and Lutheran World Federation, on 22 April 2009.</p> <p>55. Recalling that the issue of discrimination based on descent was addressed by special procedures mandate holders in their joint contribution to the preparatory process of the Durban Review Conference (A/CONF.211/PC/WG.1/5), the Special Rapporteur highlighted that the mandate holders had already expressed their serious concern about this form of discrimination.</p> <p>56. The Special Rapporteur referred to the estimated 250 million people around the world being at risk of violations of civil, political, social, economic and cultural rights, including violence, marginalization and discrimination, on the grounds of systems based on inherited status. Human rights violations could occur in a wide array of areas, including prohibition or limitations on the ability to alter inherited status, socially enforced restrictions on marriage outside the community, public and private segregation, including in housing and education, and access to public spaces and places of worship and public sources of food and water, limitation of freedom to renounce inherited or degrading occupations or hazardous work, as well as subjection to debt and bondage.</p> <p>57. The Special Rapporteur recalled that since the 2001 World Conference against Racism, held in Durban, the issue of discrimination based on descent had been on the international agenda. Despite the objection of some States, the main human rights bodies working in the area of racism and discrimination had clearly stated that prohibition of this type of discrimination fell within the scope of existing instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination. In that regard, the Special Rapporteur specifically referred to the Committee on the Elimination of Racial Discrimination, which concluded at its forty-ninth session, that “the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention”. In addition, the Committee also stated that discrimination on the grounds of caste constituted a form of racial discrimination and that “the term ‘descent’ had its own meaning and was not to be confused with race or ethnic or national origin”. More broadly, in its general recommendation No. 29 (2002) concerning discrimination on the grounds of descent, the Committee further clarified its position by “strongly reaffirming that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights”.</p> <p>58. As such, the Special Rapporteur reaffirmed that the legal framework on discrimination based on descent is unambiguous. Yet, it remains to be implemented properly. Robust action was required from Governments in order to advance in the fight against discrimination based on descent. The vital first step in addressing this issue was for States to recognize that discrimination on the grounds of descent constituted a form of racial discrimination prohibited by the International Convention on the Elimination of All Forms of Discrimination. In the absence of such recognition it would not be possible to effectively address the serious human rights violations and discrimination suffered by individuals and groups on grounds of caste and other systems of inherited status.</p> <p>IV. Conclusions and recommendations</p> <p>59. In relation to the Durban Review Conference held from 20 to 24 April 2009, the Special Rapporteur hopes that the momentum gained during the review process will</p>
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	<p>maintain its strength and that all pledges and commitments made in the outcome document of the Review Conference will be effectively implemented by States, which bear the primary responsibility in this respect. The Special Rapporteur recommends that concrete measures be identified at the domestic level and that a road map with realistic benchmarks be established by States in cooperation with their civil society for the implementation of the outcome document of the Conference.</p> <p>63. In order to further clarify the existing links between race and poverty, the Special Rapporteur is of the view that it is necessary to collect ethnically disaggregated data. While he is fully aware of the arguments against the collection of such data, the Special Rapporteur recommends to shift from the debate on the need or not to collect ethnically disaggregated data to a thorough discussion on how to best collect them in order to comply with international standards and to avoid the misuse or manipulation of these data.</p> <p>67. In order to provide effective protection to individuals around the world being at risk of violations of civil, political, social, economic and cultural rights on the grounds of systems based on inherited status, the Special Rapporteur would like to encourage an international recognition that discrimination on the grounds of descent constitutes a form of racial discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination.</p>
<p>Annual report submitted by Mr. Githu Muigai <u>A/HRC/11/36</u> (11th HRC session, June 2009)</p>	<p>In his report presented to the Human Rights Council (A/HRC/11/36), the Special Rapporteur states that a central dimension of the fight against racism lies in the overlap between two key social indicators: class and race or ethnicity. Throughout his mandate, he intends to examine this question in depth in order to provide sound and policy-oriented recommendations to Member States (para. 16). He states that national data for many countries unambiguously show that racial or ethnic minorities are disproportionately affected by poverty; for example, in her report, the independent expert on minority issues (A/HRC/4/9) provides concrete examples of higher levels of poverty among some groups, including Dalits.</p> <p>The Special Rapporteur notes that the socio-economic vulnerability of minorities is generally the result of historic legacy, such as the impact of slavery in the American continent, systems of inherited status in other continents and also of systems of formalized and State-sponsored discrimination against minorities that were long in place in many parts of the world (para. 18).</p> <p>The Special Rapporteur intends to analyse specific measures further in future reports, in particular on three broad issues: the need for data-gathering that provides policymakers with reliable information concerning the socio-economic situation of minorities; the need to fully implement the obligation not to discriminate; and the need for special measures to redress historical imbalances (para. 19).</p> <p>The Special Rapporteur underlines the need for ethnically disaggregated data collection. “Without knowing which minority groups are more affected by poverty and lack of access to economic, social and cultural rights, devising specific public policies to redress these problems becomes virtually impossible. Lack of data means that minorities are officially “invisible” and that policies towards them, when existent, will be based on assumptions rather than on empirically sound information” (para. 21). We particularly welcome the Special Rapporteur’s suggestion to involve affected communities in all stages of the data collection exercise, including design and implementation.</p> <p>He also emphasizes the right to non-discrimination as a cornerstone and cross-cutting right that affects the enjoyment of all other human rights (para. 28). He mentions that discrimination on the provision of the right to education has also contributed to perpetuating imbalances among members of minorities, such as lower castes being prevented by schoolteachers from attending school.</p> <p>With regard to the promotion of non-discrimination, the Special Rapporteur welcomes the General Comment on non-discrimination drafted by the Committee on Economic,</p>

	Social and Cultural Rights.
<p>Mission report from country visit to Mauritania by Mr. Doudou Diène</p> <p>A/HRC/11/36/Add.2</p> <p>(11th HRC session, June 2009)</p>	<p>The Special Rapporteur concludes that Mauritanian society has been deeply marked by continuing discriminatory practices of an ethnic and racial nature, rooted in cultural traditions and pervasively present in social structures, the principal institutions of the State, in particular the armed forces and justice system, and attitudes. A number of persistent features of Mauritanian society have given substance and depth to such discrimination over a long period of time, including: the central role of traditional slavery; the cultural and social entrenchment of the caste system (para. 64).</p> <p>Legal provisions against slavery</p> <p>22. Slavery has long been a problem in all ethnic communities in Mauritania. Differences of opinion exist even among those who admit that the practice continues to exist and has left its mark on contemporary Mauritanian society: some deny it exists in their community, but point the finger at other ethnic groups; others claim it is limited to the Arab-Berber community; still others say it also exists in the other communities but in the form of a caste-like system. [...]</p> <p>41. Most of the officials who met with the Special Rapporteur stated that slavery was no longer practised and had left merely traces, underpinned to a large extent by underdevelopment, poor living conditions and poverty. In order to eradicate these remnants of slavery - which in many cases were not very different from the problem of castes, which affected all communities - the authorities stressed the importance of the new law criminalizing and penalizing slavery. They noted that a number of supporting measures will be introduced to implement the law, including the creation of mechanisms for the social and economic reintegration of the victims of slavery and a wide-ranging public awareness campaign.</p> <p>45. The great majority of civil society representatives were convinced that racism, racial discrimination and intolerance are deeply rooted in Mauritanian society. They believe that the problem of slavery, the existence of castes and, more recently, political practices that have favoured the Arab dimension in the building of a national identity, have contributed to discrimination and created divisions among the various communities.</p> <p>V. RECOMMENDATIONS</p> <p>84. The commission should tackle the main issues in Mauritanian society which give rise to discrimination, including the issue of slavery and caste and political practices which, in recent years, have made ethnicity a political tool and have widened the gap between the various communities. It should be mandated, on the one hand, to draft a white paper on the status, root causes, manifestations and consequences of the discrimination which has scarred Mauritanian history and, on the other hand, to develop on that basis a national programme of action against all forms of discrimination to help counteract the consequences of the injustices and discrimination experienced by Mauritanian society.</p>
<p>Joint contribution prepared pursuant to decision PC.1/10 of the Preparatory Committee of the Durban Review Conference at its first session</p> <p>A/CONF.211/PC/WG.1/5</p> <p>(1st session Preparatory Committee, September 2009)</p>	<p>The joint contribution (A/CONF.211/PC/WG.1/5) was prepared jointly by the UN Special Rapporteurs ahead of the Durban Review Conference. It contains the following separate section on caste discrimination.</p> <p>Discrimination on the grounds of caste and other systems of inherited status</p> <p>44. The Special Rapporteur on racism highlights his serious concern about discrimination on grounds of caste and other systems of inherited status. He notes that an estimated 250 million people around the world are at risk of violations of civil, political, social, economic and cultural rights, including violence, marginalization and discrimination, on the grounds of caste and other systems based on inherited status. He expresses his concern at reports of prohibition or limitations on ability to alter inherited status, socially enforced restrictions on marriage outside the community, public and</p>

	<p>private segregation, including in housing and education, and access to public spaces and places of worship and public sources of food and water, limitation of freedom to renounce inherited or degrading occupations or hazardous work, as well as subjection to debt and bondage.</p> <p>45. The Special Rapporteur on racism believes that the vital first step in addressing this issue is for Member States to recognize that discrimination on the grounds of caste and other systems of inherited status constitutes a form of discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In the absence of such recognition it will not be possible to effectively address the serious human rights violations and discrimination suffered by individuals and groups on grounds of caste and other systems of inherited status.</p> <p>46. The Special Rapporteur on racism welcomes the clear confirmation by the Committee on the Elimination of Racial Discrimination that the situation of scheduled castes and scheduled tribes falls within the scope of the ICERD and that discrimination on the grounds of caste constitutes a form of racial discrimination. The Committee has also confirmed that discrimination on grounds of caste constitutes racial discrimination and that the term “descent” has its own meaning and is not to be confused with race or ethnic or national origin.</p> <p>47. The Special Rapporteur on racism is aware that the views of large sections of the population in some countries are informed by ideas based on caste and other systems of inherited status. These views are ingrained in the minds of many and have developed over years and generations. The Special Rapporteur is convinced that Governments and political leaders have a key role in combating racism, racial discrimination, xenophobia and related intolerance. As such, they should take the initiative by raising awareness and challenging long-entrenched perceptions and helping to shape public opinion to move towards fairer societies based on the equality of all human beings. These initiatives should be further complemented by meaningful legislative amendments to ensure equality and prohibit caste-based discrimination.</p>
<p>Report submitted by Mr. Doudou Diène, former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance</p> <p><u>A/HRC/7/19</u> (7th HRC session, February 2008)</p>	<p>This annual report (A/HRC/7/19) was the last made by Mr. Diène. In the report, the Special Rapporteur devotes an entire chapter to discrimination based on caste, which he considers to be implicit in his mandate.</p> <p>F. Discrimination on the grounds of caste</p> <p>69. According to highly credible estimations and studies, 250 million people around the world, particularly in Asia and Africa, are victims of discrimination on the grounds of caste or analogous systems of inherited status, and are constantly vulnerable to exclusion, marginalization and violence. The discrimination they suffer, which affects their civil and political rights as well as economic, social and cultural rights, takes the form of, inter alia: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, and access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited or degrading occupations or hazardous work; subjection to debt bondage; subjection to dehumanizing utterances referring to pollution or untouchability; or generalized lack of respect for their human dignity and equality.</p> <p>70. Since the World Conference against Racism in Durban, the issue of discrimination on the grounds of caste has been on the international agenda. Despite the objection of some member States, the main human rights bodies working in the area of racism and discrimination have stated clearly that prohibition of this type of discrimination falls within the scope of existing instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination. Thus, the Committee on the Elimination of Racial Discrimination (CERD), at its forty-ninth session, concluded that “the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention”. It also stated that discrimination on the grounds of caste constitutes a form of racial discrimination and that “the term ‘descent’</p>

	<p>has its own meaning and is not to be confused with race or ethnic or national origin". In its General Recommendation XXIX (2002) concerning discrimination on the grounds of descent, CERD further clarified its position by "strongly reaffirming that discrimination based on 'descent' includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights".</p> <p>71. In this context, women and girls are victims of multiple discrimination, including in certain cases sexual exploitation or forced prostitution. These specific examples of dual discrimination were already acknowledged in the Durban Declaration and Programme of Action, which states that "racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls, and can be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination, and the limitation or denial of their human rights". Meaningful work in the areas of legislation, the judiciary and education must be accompanied by strong political will to put an end to this form of discrimination.</p>
<p>Addendum to annual report - summary of cases transmitted to Governments and replies received</p> <p><u>A/HRC/7/19/Add.1</u></p> <p>(7th HRC session, March 2008)</p>	<p>The addendum to the annual report (A/HRC/7/19/Add.1) contains several references to communications transmitted to the Government of India (para. 56-84) and Nepal (para. 118-126) and reiterates his request to visit the two countries, in particular to study the issue of caste-based discrimination.</p> <p><u>INDIA</u></p> <p>56. On 23 August 2007, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders regarding attacks on the Dalit communities, particularly women, in Somebhadra District, Uttar Pradesh, India.</p> <p>64. On 19 December 2007, the Special Rapporteur, jointly with the Independent expert on minority issues, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter to the Government concerning allegations of violence against Dalit women in India.</p> <p>65. According to information received, Dalit women and men suffer descent based discrimination in various aspects of their lives; they are also victims of violence and untouchability practices (based on notions of Dalits' supposed impurity) arising out of the caste system. While both men and women are discriminated and suffer from social exclusion, Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. They are not only discriminated by people of higher castes but also by men of their own communities. Violence against women in India is generally structured by relationships of power set in systematic caste, class and gender discrimination.</p> <p>66. The case of Dalit women is specific because of their socio-economic positioning at the bottom of the caste, class and gender hierarchies. Dalit women face violence in the community and in their family, from State and private actors alike, belonging to various castes and socio-economic groupings, and of both sexes. The major forms of violence that Dalit women are subjected to are physical and verbal abuse, sexual harassment, abduction, and sexual violence, including rape.</p> <p>67. It is alleged that on many occasions, cases of violence against Dalit women are not registered by the police, and opportunities for intervention in the legal system are inexistent due to a general lack of law enforcement. Women are unaware of the laws protecting their rights and their ignorance is easily exploited by perpetrators, and some members of the police and the judiciary. Allegedly, even when the cases are reported to the police and the perpetrators arrested, they are usually released on bail and women do</p>

	<p>not receive justice as a result.</p> <p>68. The Indian government adopted the “Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act” in 1989, to prevent atrocities against Scheduled Castes and Tribes. According to this act, in cases of violence against Dalits, including physical or sexual violence against Dalit women, the police are obliged to register the complaints. However, according to information received, the police often refuse to register complaints under this act or register them under a different act, because the act imposes high prison sentences and fines and the police may not agree with the purpose of the act and may try to protect the perpetrators (who may be their fellow caste members).</p> <p>69. If a case is not registered under the Prevention of Atrocities Act, it is possible for the perpetrator to receive anticipatory bail which, especially in rape cases, in practice means that the case is generally not examined and prosecuted further. This goes against a Supreme Court judgment that ruled that anticipatory bail should not be available in cases within the Prevention of Atrocities Act (Case 1995-1198, State of M.P. & anr. vs. Respondent, Ram Krishna Balothia & anr, judgment of 6 February 1995). The Supreme Court also ruled that anticipatory bail can be denied for the purpose of investigation (Case 2005-326), which would apply to most rape cases, but this is allegedly not implemented in practice (Appeal (crl.) 326 of 2005, Adri Dharan Das v. State of West Bengal, judgment of 21 February 2005).</p> <p>70. The Special Rapporteur presented to the Government allegations on specific cases of physical and sexual violence affecting 21 Dalit women or girls that occurred between August 2004 and April 2007, and which outlined the impunity that allegedly prevails with respect to ensuring protection and redress.</p> <p>71. The Special Rapporteur regrets that no reply to his communications had been received from the Government of India at the time this report was finalized.</p> <p>72. The Special Rapporteur expresses his utmost interest in receiving responses in regard to the allegations submitted and would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators. In the event that no response is received from the Government, he will no longer treat the cases as mere allegations but as proven facts.</p> <p>73. The Special Rapporteur wishes to refer to the invitation he requested to the Government of India in 2004 and 2006, which has remained unanswered, and reiterates his interest in visiting the country. The Special Rapporteur considers the issue of caste-based discrimination to be an integral part of his mandate, in line with the CERD’s general recommendation XXIX which strongly reaffirms that “discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights”. In this regard, he wishes to refer to the chapter on caste-based discrimination in his 2008 general report to the 7th session to the Human Rights Council (A/HRC/7/19).</p> <p><u>NEPAL</u></p> <p>118. On 25 September 2007, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, as Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an allegation letter to the Government concerning Ms. Uma Devi Badi, the coordinator of the “Badi Adhikari Sangharsa Samiti” (Badi community Struggle Committee), and women and male human rights defenders of the Badi community in Nepal.</p> <p>124. The Special Rapporteur wishes to refer to the invitation he requested to the Government of Nepal in 2004 and 2006, which has remained unanswered. The Special Rapporteur wishes to reiterate his interest in visiting the country, in particular to study the issue of caste-based discrimination, which he considers to be an integral part of his</p>
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	<p>mandate, in line with CERD’s general recommendation XXIX. In this regard, he wishes to refer to the chapter on caste-based discrimination in his 2008 general report to the 7th session to the Human Rights Council (A/HRC/7/19).</p>
<p>Updated study by the former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène on Political Platforms which promote or incite racial discrimination</p> <p><u>A/HRC/5/10</u></p> <p>(5th HRC session, June 2007)</p>	<p>The report (A/HRC5/19) provides an update to the previous study from 2006 (E/CN.4/2006/54) submitted pursuant to Commission on Human Rights resolution 2005/36 on the incompatibility between democracy and racism. In the report the SR examines the situation of political platforms which promotes racial discrimination in a number of countries, including some visited or examined previously (e.g. Japan). In the section concerning racial discrimination and hate speech in Asia, the SR describes how caste discrimination remains deeply rooted in societies in India, Nepal, Bangladesh, Pakistan and Japan.</p> <p>35. In Asia’s many multi-ethnic, multicultural and multi-religious nation States, millions of people continue to be negatively affected by problems deriving from ethnic-nationalism, discrimination, xenophobia and related intolerance. Some political movements or even governments have overtly resorted to exclusionary ideologies, policies and practices in order to build political consensus. These platforms promote hostility between different groups on grounds of race, ethnicity, religion, indigenesness, statelessness or even migrant and/or refugee status. Vulnerable groups are, among others, indigenous populations, such as the Bihari in Bangladesh; the Burakumin as well as Korean and Chinese immigrants or nationals in Japan; the Karen, Shan and Rohingya peoples in Myanmar; groups in Nagaland, Mizoram and other regions in north-east India; and the Cordillerans in the Philippines. Some ethnic and religious problems occur not only within one State but also between neighbouring States and have been aggravated by some governments’ attempts to manipulate and stir up the ethnic aspirations of some groups.</p> <p>36. In India, the caste system remains a source of great inequality for millions, particularly the Dalits, in spite of constitutional and other legal instruments introduced over the years to fight it. While measures such as the quota system, introduced by law, have enabled many Dalits to access State institutions, discrimination remains culturally deep-rooted and a serious threat to social cohesion in India. Among the political platforms that incite inter-religious violence is the <i>Rashtriya Swayamsevak Sangh</i> or <i>RSS</i> (National Volunteer Corps) and its political wing, the <i>Bharatiya Janata Party (BJP)</i>. The underlying ideology of these organizations, represented by <i>Hindutva</i> (“Hinduness”), exacerbates the social and political situations of the traditionally oppressed, the Dalits and religious minorities. Its assertion of Hindu supremacy ignores deep-rooted caste, class, ethnic, linguistic and regional loyalties. In other countries of the region such as Pakistan and Nepal, caste-based discrimination continues to marginalize millions of individuals.</p> <p>37. In Japan, except for the anti-discrimination provision contained in article 14 of the Constitution, there are no other instruments that enforce the general principle of equality or sanction discriminatory acts committed by citizens, businesses or non-governmental organizations (NGOs). [...] The Special Rapporteur’s report on Japan (E/CN.4/2006/16/Add.2) points out that racial discrimination and xenophobia affects three categories of people: national minorities (the Buraku people, the Ainu and the people of Okinawa); people and descendants of former Japanese colonies (Koreans and Chinese); foreigners and migrants from other Asian countries and the rest of the world [...]</p>
<p>Communications to/from Governments</p> <p><u>A/HRC/4/19/Add.1</u></p> <p>(5th session of the HR Council, June 2007)</p>	<p>The addendum to the annual report (A/HRC/4/19/Add.1) is a summary of cases transmitted to Governments and replies received by the SR as an implementation of resolution 60/251 by the Human Rights Council. Several communications concerning caste-based discrimination has been sent by the SR to Governments in caste-affected countries, in particular India and Nepal. In this addendum the SR reiterates his request to visit India, Pakistan and Nepal to investigate forms of caste-based discrimination as previously inquired.</p>

	<p><u>INDIA</u></p> <p>Communications sent</p> <p>Several specific cases of abuse against Dalits are described in paragraphs 80-95.</p> <p>Reply from the Government</p> <p>96. On 29 May 2006, the Government of India replied to the communication sent by the Special Rapporteur on 11 May 2006 indicating the steps taken by the Government following the dispute that took place on 27 August 2005 between several members of the Jat and Dalit communities resulting in the death of one member of the Jat community. [...]</p> <p>97. The Government further explained that the National Human Rights Commission of India had taken <i>suo motu</i> cognizance of the incident. After considering the case, the Commission expressed appreciation for the sensitivity and promptness shown by the State Government of Haryana in awarding compensation, repairing and reconstructing the houses of the victims and taking action against those responsible. [...]</p> <p>Observations</p> <p>98. The Special Rapporteur thanks the Government of India for the response provided to the communication sent on 11 May 2006. In his view, the response confirms not only the political will but also the legal strategy of the Government to combat caste-based discrimination. However, he is particularly alarmed at the cultural depth of this form of discrimination in many parts of the countryside and by the continuing violence faced by the Dalit community.</p> <p>99. The Special Rapporteur regrets that no reply to the other communications had been received at the time this report was finalized. The Special Rapporteur intends to follow up on these cases. In the event that no response is received from the Government, he will no longer treat the cases as mere allegations but as proven facts. 100. The Special Rapporteur wishes to refer to the invitation to visit India which he requested from the Government in 2004 and 2006 and which has remained unanswered. The Special Rapporteur reiterates his interest in visiting India with a view to investigating all forms of racial discrimination, including caste-based discrimination, which he considers to be an integral part of his mandate, in the framework of a regional visit that would also cover Pakistan and Nepal.</p> <p>Follow-up to previously transmitted communications</p> <p>101. In the absence of an answer from the Government of India concerning his communication of 16 August 2005 (see E/CN.4/2006/16/Add.1, para. 33), the Special Rapporteur is forced to consider the following case no longer as allegations but as proven fact. [...]</p> <p><u>NEPAL</u></p> <p>Communications sent</p> <p>One communication was sent to the Government of Nepal on 10 October 2006 concerning attacks on members of the Dalit community in Doti District, Nepal. (see paragraph 128)</p> <p>Observations</p> <p>129. The Special Rapporteur regrets that no reply to his communications had been received from the Government of Nepal at the time this report was finalized.</p> <p>130. The Special Rapporteur intends to follow up on this case. In the event that no response is received from the Government, he will no longer treat the case as mere allegation but as proven fact.</p> <p>131. The Special Rapporteur refers to the invitation to visit Nepal that he requested from the Government in 2004 and 2006, which has remained unanswered. The Special</p>
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	<p>Rapporteur reiterates his interest in visiting Nepal, in particular to study the issue of caste-based discrimination, which he considers to be an integral part of his mandate, in the framework of a regional visit that would also cover India and Pakistan.</p> <p>Follow-up to previously transmitted communications</p> <p>In a letter dated 4 January 2006, the Government responded to a communication sent on 17 November 2004 regarding the alleged rape of S.S. from Inruwa, Sunsari (see E/CN.4/2005/18/Add.1. para. 32) (see paragraph 132).</p>
<p>Annual Report 2006 E/CN.4/2006/16 (62nd CHR session)</p>	<p>Interestingly, the report (E/CN.4/2006/16) contains no specific reference to CBD but is mainly focusing on the tendencies created in the wake of the riots in France, including issues concerning Anti-Semitism and Islamophobia.</p> <p>Country visits: The SR mentions that he regrets that he has not yet received any response to his requests for country visits from the governments of India, Pakistan and Nepal.</p>
<p>Political platforms which promote or incite racial discrimination - Updated study 2006 E/CN.4/2006/54 (62nd CHR session)</p>	<p>In the report (E/CN.4/2006/54), the SR mentions in section B concerning “The issue of multiculturalism as the determining factor of the impact of the resurgence of racism on democracy” that:</p> <p>17. Within this context, cultural diversity has been understood and practised as establishing a radical difference and a hierarchy between races, cultures and communities. The religious or mythical legitimization of diversity and the social structures which have expressed it have thus led to the establishment of caste systems in Africa and in Asia.</p> <p>This hierarchical interpretation of ethnic, racial, cultural and religious diversity was theorized and legitimized by philosophers, intellectuals and scientists in Europe in the eighteenth and nineteenth centuries and exploited very deliberately by the political authorities as the ideological foundation of European colonial and imperial expansion. This hierarchical vision of humanity rests on two related concepts: the superiority of European culture and civilization and the civilizing goal of colonial domination. [...]</p> <p>The historic depth of the hierarchical diversity of the societies concerned is a reflection in time and space of the longevity of the feudal, colonial or imperial political systems from which they originate. Its penetration in social relations, personal attitudes and the collective subconscious is due to its justification, transmission and maturation by the dominant systems of values, education, literature and the means of information and communication.</p>
<p>Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène: Addendum: mission to Japan E/CN.4/2006/16/Add.2 (62nd CHR session)</p>	<p>The SR on racism visited Japan in 2005. The mission report was released in January 2006. From the report summary:</p> <p>“The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in pursuance of his mandate, visited Japan from 3 to 11 July 2005. He assessed the factors of discrimination that affect various minority groups, including minorities resulting from the caste-like class system, indigenous people, descendants of former Japanese colonies, foreigners and migrants workers. The Special Rapporteur concluded that there is racial discrimination and xenophobia in Japan, and that it affects three circles of discriminated groups: the national minorities – the Buraku people, the Ainu and the people of Okinawa; people and descendants of former Japanese colonies - Koreans and Chinese; foreigners and migrants from other Asian countries and from the rest of the world. The manifestations of such discrimination are first of all of a social and economic nature. All surveys show that minorities live in a situation of marginalization in their access to education, employment, health, housing, etc. Secondly, the discrimination is of a political nature: the national minorities are invisible in State institutions. Finally, there is profound discrimination of a cultural and historical nature, which affects principally the national minorities and the descendants of former Japanese colonies. This is mainly reflected in the poor recognition and transmission of the history of those communities and in the perpetuation of the</p>

	<p>existing discriminatory image of those groups.”</p> <p>On page 6, the SR refers directly to discrimination against the Buraku people:</p> <p>The caste-like class system</p> <p>7. During the feudal era of the Edo (1603-1867), a caste-like class system based on social and professional belonging was established. The humble people (<i>senmin</i>) were assigned such duties as disposing of dead cattle, leather production, being executioners and performers. Placed at the bottom of the system, they were designated as <i>eta</i> (extreme filth) and <i>hinin</i> (non-humans).</p> <p>In the late nineteenth century, the system was abolished, but a new class system was established, which again placed the most humble class (the <i>Buraku</i>, from the name of their district) at the bottom of the system. In the 1960s, following the claims of the Buraku Liberation</p> <p>League (BLL), the Government recognized the deep discrimination suffered by the Buraku people and adopted special measures to improve their living conditions.</p>
<p>Annual report 2005: Questionnaires to/from Governments</p> <p><u>E/CN.4/2005/18/Add.1</u></p> <p>(61st CHR session of the Commission on HR)</p>	<p>Summary of cases transmitted to Governments and replies received (E/CN.4/2005/18/Add.1). The report refers to CBD in the case of the countries India and Nepal:</p> <p><u>INDIA</u></p> <p>17. On 8 June 2004 the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent a letter of allegation to the Government concerning a group of 200 people who attacked a Dalit settlement in the Kalapatti village of the Coimbatore district, Tamil Nadu, on 16 May 2004. [...]</p> <p><u>NEPAL</u></p> <p>31. On 19 October 2004, the Special Rapporteur sent a letter of allegation to the Government concerning information that on 6 September 2004 a ban on the use of public facilities was reportedly imposed on Chamar Dalits by the upper-caste villagers in the village of Bhagawatpur, because the Chamar Dalits allegedly refused to remove the carcasses, which had been regarded as their traditional work in the society for a long time. [...] At the time this communication was sent, no effective measure had been taken to protect the rights of the Dalits in the village.</p> <p>32. On 17 November 2004, the Special Rapporteur sent a letter of allegation to the Government concerning S.S., a Dalit girl aged 14, from 6 Inaruwa, Sunsari, who was allegedly raped and then murdered with impunity. [...] The suspects are reported to belong to upper-castes families and are sons of landlords in the village. It is reported that no further investigation was conducted. The one suspect who was held in police custody for two months was reportedly released when an alibi was established. Due to fear for their security, S.S.’s family have been forced to leave the village.</p> <p>Observations (Nepal):</p> <p>33. The Special Rapporteur regrets that no replies to his communications had been received from the Government of Nepal at the time this report was finalised.</p> <p>34. The Special Rapporteur intends to follow up on these cases. In the eventuality that no responses are received from the Government, he will no longer treat the cases as mere allegations but will include them in his next general report.</p>
<p>Interim report of Mr. Doudou Diène</p> <p><u>A/60/283</u></p> <p>(60th GA Assembly)</p>	<p>This interim report sums up some of the contemporary forms of discrimination.</p> <p>In the report, he mentions his field mission to Japan and the lack of legislation against discrimination:</p> <p>“This report also covers the Special Rapporteur’s mission to Japan, at the conclusion of which he noted the existence of forms of discrimination against national minorities and</p>

	<p>foreign communities and the lack of a comprehensive legislation against racism and discrimination. The Special Rapporteur stresses the need for a vigorous political response from the Government and the enactment of legislation and an intellectual and ethical strategy to address the underlying cultural and historical causes of discrimination in Japan.”</p> <p>In section C, the discriminatory practises against the Buraku people in Japan are explained:</p> <p>“30. [...] Racism, discrimination and xenophobia are a reality in Japanese society. This discrimination affects, in different ways, three communities or groups: national minorities (Ainus, Burakumin and the people of Okinawa), the Korean and Chinese communities, and immigrants from Asia, the Middle East, Africa and Europe. [...] In this regard, Japan faces two major challenges: it must bring its internal social, human and cultural structures into line with its global dimension at the political and economic levels and, as a result, build a multicultural society. By inviting the Special Rapporteur to visit the country and facilitating his visit, movements and contacts, the Japanese Government has demonstrated its willingness to meet the serious challenges of racism, discrimination and xenophobia.”</p>
<p>Special Rapporteur on contemporary forms of slavery, including its causes and consequences - Ms. Gulnara Shahinian</p>	
<p>Report by the Special Rapporteur on contemporary forms of slavery, with a particular focus on the manifestations and causes of domestic servitude</p> <p><u>A/HRC/15/20</u> (15th HRC session, September 2010)</p>	<p>Ms Gulnara Shahinian presented her report on domestic servitude to the 15th session of the Human Rights Council (A/HRC/15/20). The report underlined the intrinsic link between domestic servitude and caste discrimination:</p> <p>51. Physical and psychological abuses reinforce dependency and, in extreme cases, become the very cause of domestic servitude (rather than a mere consequence). A domestic worker may, for instance, be subjected to abuse so severe that a psychological dependency on the perpetrator ensues (a phenomenon known as the “battered women syndrome” in the domestic violence context). The victim may be systematically beaten, insulted, humiliated and belittled to force her to submit to excessive working hours, unpaid overtime on rest days, etc.. Such abuse can reinforce other patterns of learned submission based on caste, ethnic or gender discrimination. Sexual violence, ranging from sexual harassment to repeated rape or the threat of trafficking into forced prostitution, is also employed as a tool of subjugation. The Special Rapporteur also received numerous reports of domestic workers being threatened with denunciation for crimes they did not commit if they complained about exploitative working conditions.</p> <p>2. Discrimination based on ethnicity, race, skin tone or caste</p> <p>69. Domestic servitude is intrinsically linked to discrimination based on ethnicity, race, skin tone or caste. Imagined distinctions in human worth and dignity, derived from meaningless differences in outward appearance or lineage, set the ground for ruthless exploitation. Patterns of discrimination are internalized by both perpetrators and victims, who more or less consciously envisage themselves as “masters” or “servants”.</p> <p>72. Caste-based discrimination, found in various cultural contexts, and domestic servitude are linked. In South Asia, so-called “untouchables” (<i>dalits</i>) and certain indigenous communities make up the vast majority of people in domestic bonded labour, which is a form of domestic servitude. Moreover, specific types of degrading domestic chores are specifically associated with lower castes and linked to exploitative conditions. In certain States in India, despite a long-standing Government campaign to eradicate the practice, many <i>dalit</i> women reportedly still have to engage in “manual scavenging”: because of their caste they are expected to take care of scraping human excrement from dry toilets in private households or public places.</p>

	<p>99. Domestic servitude is rooted in entrenched patterns of gender discrimination and discrimination on the basis of race, ethnicity and caste. At the heart of the problem is the fact that work in or for the household, whether paid or unpaid, is undervalued.</p> <ul style="list-style-type: none"> • States should reinforce their efforts to implement the commitments agreed at the Fourth World Conference on Women in Beijing and the Durban Review Conference. • Senior Government officials, religious and community leaders should publicly acknowledge the value of domestic work to society and emphasize the equal dignity and autonomy of domestic workers.
<p>Report by the Special Rapporteur on contemporary forms of slavery on her mission to Mauritania</p> <p>A/HRC/15/20/Add.2 (24 Oct-4 Nov 2009)</p>	<p>Ms Gulnara Shahinian presented the report from her country visit to Mauritania at the 15th session of the Human Rights Council. The report mentions numerous examples of caste-based slavery in Mauritanian society:</p> <p>9. Mauritanian society is highly stratified along ethnic and racial lines. In the black African communities, noble and freemen are at the top, followed by “casted” groups (usually occupational and endogamous groups such as blacksmiths and musicians), with slaves and their descendants coming at the very bottom.</p> <p>10. The Special Rapporteur heard reports that the black African slaves, depending on the economic status of their masters, have de facto equal access to basic services such as education, even though when it comes to social ceremonies such as worship, marriage and burial, the black African slaves must keep within their caste. For example, among the Soninke, slaves are not allowed to be in the first row at the mosque and cannot be buried in the same cemeteries as their masters.</p> <p>12. The elite white Moors (Berber Arabs) control the economy and the vast majority of the administrative State, including the Government, the military and the police. Historically they raided, enslaved and assimilated people from sedentary black ethnic groups along the Senegal River. Today this assimilated group of people is also called the black Moors. Following the 1905 law abolishing slavery in Mauritania, the black Moors gradually started being freed and were commonly referred to as Haratine. The word “Haratine” is derived from the Arabic word for freedom, as they are perceived by the rest of society as freed slaves. The Haratine continue to suffer discrimination, marginalization and exclusion due to their membership of a “slave caste” and are the ethnic group most associated with slavery in Mauritania today. In many cases, the Haratine, even if freed, continue to serve their masters because they are economically, culturally and psychologically attached to them and they see no other viable option. Whether freed or still enslaved (<i>abid</i>), black Moors are referred to as Haratine.</p> <p>17. Several treaty bodies have issued observations and recommendations related to slavery in Mauritania, the most recent of which has been the Committee on the Rights of the Child. In its concluding observations, the Committee expressed concerns about the high number of children engaged in labour, particularly in the agricultural sector, and the continued existence of caste-based slavery, which has a particular impact on girls in domestic service and boys forced to beg by <i>marabouts</i> (Islamic religious leaders or teachers).</p> <p>51. While the practice of slavery is illegal, deeply embedded discriminatory attitudes form part of the basis of slavery in Mauritania. The country’s stratified, caste-based society means that even those who are former slaves or descendants of former slaves still live under the shroud of their “slave class” and are ostracized from society. As a result of discriminatory practices, former slaves often end up in service and manual labour positions in urban areas. When they rise above their strata, former slaves still experience discrimination. The Special Rapporteur heard of a situation where a minister, who happened to be from a lower caste in the Soninke community, was appointed and yet the people from his own community refused to recognize him. This shows that, even where the Government has used positive discrimination, such persons have faced setbacks, as certain communities have refused to let go of old traditional beliefs in caste-based slavery. The person appointed to a senior position is not respected.</p>

	<p>105. As the Minister of Justice reviews the effectiveness of the 2007 Slavery Act, the Special Rapporteur urges him to consider incorporating the following:</p> <p>– Introduction of a law against discrimination practices based on caste or ethnic slavery;</p>
<p>Thematic report by the Special Rapporteur on contemporary forms of slavery</p> <p><u>A/HRC/12/21</u></p> <p>(12th HRC session, September 2009)</p>	<p>Ms. Gulnara Shahinian presented her first thematic report on debt bondage before the 12th session of the Human Rights Council (A/HRC/12/21). In the report she underlines the link between forced labour and caste discrimination, and describes how sexual exploitation can also be linked to forced prostitution:</p> <p>51. ILO research shows a clear link in Asian countries between forced labour and long-standing patterns of discrimination. In India, the overwhelming majority of bonded labour victims in agriculture, brick making, mining and other sectors are from Scheduled Castes and Scheduled Tribes.</p> <p>53. Bonded labour can also be linked to sexual exploitation. According to information gathered from NGOs, in some countries multiple wives are bonded into prostitution, a practice that is embedded within the system of polygamy and bride procurement. Men take a number of loans to procure several wives. Women may then be sent to work in brothels, or alternatively “loaned” to brothel owners, where their earnings are shared between the brothel owner and the husband. The bonded woman is not allowed to leave the brothel until the debt of her husband has been cleared. Men who are unable to pay their debts to landowners are also reported to have bonded their wives into prostitution.</p> <p>In the interactive dialogue at the 12th HRC session, the Special Rapporteur said in her presentation that 'slavery exists all over the world', and that 'the majority of public information and awareness on bonded labour refers to its traditional manifestation which is widely reported in Africa, Asia and South America.' She also said that the 'causes of bonded labour have, disheartingly, not changed with the times. Factors such as poverty, migration, discrimination on the basis of race, caste, social status and gender are still the main causes of bonded labour.'</p>
<p>Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Gulnara Shahinian</p> <p><u>A/HRC/9/20</u></p> <p>(9th HRC session, September 2008)</p>	<p>This report (A/HRC/9/20) of 29 July 2008 is the first by the Special Rapporteur, whose mandate was created pursuant to Human Rights Council resolution 6/14. This new mandate replaces the Working Group on Contemporary Forms of Slavery. The report explains the definition of the mandate, the scope of the mandate, the legal framework, methods of work, and activities carried out by the Special Rapporteur.</p> <p>II. SCOPE OF THE MANDATE</p> <p>11. As one of the oldest forms of human relationship, slavery has evolved and manifested itself in different ways throughout history. Today some old traditional forms of slavery still persist in their earlier forms, others transmute into new ones. Analysis of worldwide annual applications to the United Nations Trust Fund on Slavery, reports of the Working Group on Contemporary Forms of Slavery, as well as reports written by United Nations bodies and non-governmental organizations, document the persistence of the old forms of slavery that are embedded in traditional beliefs and customs. These forms of slavery are a result of long-standing discrimination against the most vulnerable groups in societies such as: those regarded as being of low caste, tribal minorities and indigenous peoples.</p> <p>Focus areas:</p> <p>Forced labour</p> <p>Child labour</p> <p>Domestic work</p> <p>IV. METHODS OF WORK</p> <p>In the discharge of the above functions, the Special Rapporteur will:</p>

	<p>Carry out country visits in order to obtain firsthand information on the situation from officials, members of the civil society, and UN agencies. A report of these visits, highlighting findings, conclusions and recommendations, will be submitted to the Human Rights Council.</p> <p>Act upon reliable information submitted on human rights violations, whether they have occurred or are deemed imminent,</p> <p>undertake research on a specific theme / phenomenon in relation to the mandate and provide the Human Rights Council with advise and specific recommendations in this regard</p> <p>Conduct advocacy and awareness raising to promote human rights with regard to slavery and to prevent slavery like practices from taking place.</p> <p>33. In carrying out her duties, the Special Rapporteur will work at the national, regional and international levels in order to ensure the effective fulfilment of her mandate. She will work to collate, promote and distribute examples of best practice at the national, regional and international levels in order to eliminate slavery.</p>
<p>Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Gulnara Shahinian</p> <p>A/HRC/18/30</p> <p>(HRC 18th session – 2011)</p>	<p>J. Discrimination</p> <p>46. Many children who work also come from groups that have been discriminated against and/or marginalized, for example, indigenous peoples, migrants or those given a certain social status such as caste. For example, countries may have a highly stratified society which in many communities dictates the kind of work one does. This means that a family from a particular stratum can only perform certain jobs. The lower you are in this stratified society the lower paid the jobs that one can perform. Consequently, one finds that many children who work are those from the lower strata.¹⁶ This makes them doubly vulnerable to abuses.</p>
<p>Independent Expert on minority issues</p> <p>- Ms. Gay MacDougall (until July 2011)</p>	
<p>Annual report of the former independent expert on minority issues, Ms. Gay McDougall</p> <p>A/HRC/16/45</p> <p>(16th HRC session, March 2011)</p>	<p>In this report, the independent expert announced the publication <i>Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit</i>², which was launched and distributed to UNDP offices and staff globally on 26 May 2010 (para. 14-16).. ”The <i>Resource Guide and Toolkit</i> provides an overview of the international and regional legal standards and mechanisms relevant for minority rights and will enable UNDP staff in all regions to understand the key conceptual issues and fundamental principles for the promotion and protection of minority rights. It reviews programming opportunities and relevant strategies for UNDP to integrate minorities in development, including capacity development support for government officials and institutions, UNDP staff and minorities, as well as possible entry points for effective advocacy and partnership building efforts.”</p> <p>The resource guide contains several references to caste discrimination and the situation of Dalits, as well as the ’draft UN principles and guidelines for the effective elimination of discrimination based on work and descent’ in text box.</p>
<p>Annual report of the former independent expert on minority issues, Ms. Gay McDougall</p> <p>A/HRC/13/23</p> <p>(13th HRC session, March 2010)</p>	<p>In her annual report to the Human Rights Council, the Independent Expert expresses her support to the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent contained in the final report on discrimination based on work and descent (A/HRC/11/CRP.3) which was published by the Human Rights Council in accordance with decision A/HRC/10/117:</p> <p>“8. The independent expert fully supports the outcome of the Durban Review Conference and urges States to fulfil their obligations and commitments in the area of anti-racism, non-discrimination and equality. She has encouraged and supported new and emerging initiatives to combat long-standing and entrenched manifestations of</p>

	<p>discrimination in all regions; for example, the independent expert welcomes and urges further discussions on the draft United Nations principles and guidelines for the effective elimination of discrimination based on work and descent as an important contribution to the global struggle to combat discrimination on the grounds of work and descent which often affects members of minority groups.”</p>
<p>Annual report of the independent expert on minority issues, Ms. Gay McDougall <u>A/HRC/10/11</u> (11th HRC session, June 2009)</p>	<p>The report to the Council by the Independent Expert provided a summary of activities undertaken by the IE, including the first session of the forum and the ongoing collaboration of the independent expert with the United Nations Development Programme (UNDP) with the aim of strengthening UNDP engagement with minorities in development processes.</p> <p>“Forum on Minority Issues</p> <p>The inaugural session of the Forum on Minority Issues was held on 15 and 16 December 2008. The Forum considered the thematic issue of “Minorities and the Right to Education”. Some Dalit representatives participated in the Forum in 2008 to highlight the situation of Dalit girls and boys in access to education and IDSN submitted suggestions for recommendations in the final outcome documents.</p> <p>UNDP Resource Guide</p> <p>15. [...] A UNDP Resource Guide on Minorities in Development was produced in cooperation with OHCHR and following extensive consultations with UNDP country offices and staff. A validation consultation on the draft UNDP Resource Guide on Minorities in Development was subsequently held on 2 and 3 December 2008 in New York to critically review the draft guide. The consultation also sought, inter alia, to share challenges and good practice in addressing minority issues in development, and to further enhance the inclusion of minority issues in UNDP programming. The guide will be finalized by mid-2009.</p> <p>Regional activities</p> <p>21. As part of her interaction with country and regional NGOs the independent expert attended the Regional Workshop on Minority Issues in Southeast Asia from 21 to 23 January 2008, held in Bangkok. The workshop was organized by the Asian Forum for Human Rights and Development (Forum-Asia) in cooperation with the International Movement Against All Forms of Discrimination and Racism (IMADR), and Minority Rights Group International (MRG). The workshop brought together some 30 representatives of minority communities and minority rights organizations in Southeast Asia engaged in the promotion and protection of minority rights. [...]</p> <p>22. The workshop was the first on the theme of minority issues to take place in the region. It considered minorities in the region in the context of numerous thematic issues including the right to culture; economic and development participation; health, education and the MDGs; political participation; and the situation of minority women. [...]</p> <p>Requests for country visits</p> <p>5. The IE looks forward to continuing a dialogue with, amongst others, Bangladesh, Malaysia, Nepal, Surinam, and Sri Lanka, to whom she has made requests to visit.”</p>
<p>Annual report of the independent expert on minority issues, Ms. Gay McDougall <u>A/HRC/7/23</u> (7th HRC session, March 2008)</p>	<p>The thematic focus of the report of 28 February 2008 are issues relating to the discriminatory denial or deprivation of citizenship as a tool for exclusion of national, ethnic, religious and linguistic minorities. In the report, she also writes that she looks forward to continuing a dialogue with Bangladesh, Nepal, and Sri Lanka, among others, to whom she has made requests to visit.</p> <p>V. IMPACT OF DISCRIMINATORY DENIAL OR DEPRIVATION OF CITIZENSHIP ON MINORITIES</p>

	<p>VI. REGIONAL PRACTICES</p> <p>B. Asia</p> <p>56. There are a range of situations in Asia in which minority groups have been arbitrarily denied or deprived of their nationality, typically because they are viewed as not belonging to the mainstream of society on account of their minority status or because their ancestors migrated to the territory relatively recently. As in other regions, these situations often result from legislation which was designed to exclude specific populations by, for example, imposing evidentiary requirements for acquisition or confirmation of citizenship which are impossible to meet. These situations are sometimes compounded by discrimination against women in regard to acquisition, change and retention of nationality and conferral of nationality on their children. In recognition of the negative impact of statelessness, a number of States have recently taken measures to grant or confirm nationality of minority populations.</p> <p>57. Despite the fact that the Urdu-speaking minority in Bangladesh, the Biharis, qualify for citizenship under the Constitution and nationality legislation, it is reported that an estimated 300,000 Biharis were, until recently, still being denied citizenship mainly on the basis of accusations of disloyalty and political support for Pakistan. For more than 30 years, this minority community has reportedly not only been denied citizenship, but also segregated from the rest of the population and has faced severe discrimination regarding opportunities to obtain a decent living standard, access to education and employment. In a favourable development, the Government recommended in September 2007 that citizenship be granted to most of the Bihari community habitually residing in Bangladesh.</p> <p>60. In Nepal, ingrained discriminatory sentiments mainly against Madhesis, Dalit and Janjatis have been blamed for the denial or deprivation of citizenship and undocumented status of such groups. However, the Government recently granted citizenship to about 2.4 million previously stateless persons, including approximately 1.2 million Madhesis from the Terai region. This was made possible by the introduction of a new citizenship law in 2006, followed by a government initiative in early 2007 to create mobile teams which visited the country's 75 districts, including the remotest of regions, to issue citizenship certificates. Efforts are still needed to ensure that those who did not benefit from the latter process may take advantage of opportunities for late registration.</p> <p>61. In Sri Lanka, despite having lived there for generations, "estate" or "plantation" Tamils were historically denied the right to Sri Lankan nationality because of their status as plantation workers and the country's stringent citizenship laws. Following community efforts, in 2003, legal developments led to the immediate conferral of citizenship to this minority group. Mobile clinics and information campaigns supported by UNHCR and the direct involvement of the minority concerned were critical to success. Follow-up is however necessary, as reports indicate that the process of obtaining the necessary documentation has slowed down in recent years; a problem which may be associated with the ongoing conflict in the country.</p>
<p>Summary of cases transmitted to Governments and replies received</p> <p><u>A/HRC/7/23/Add.1</u></p> <p>(7th HRC session, March 2008)</p>	<p>This report of 3 March 2008 is an addendum of the annual report of the Independent Expert on Minorities Issues. It refers to two joint letters of allegation sent to the Government of India and Nepal together with other Special Rapporteurs.</p> <p><u>INDIA</u></p> <p>Letter of allegation</p> <p>19. On 19 December 2007, the independent expert sent a joint letter of allegation to the Government of India in regard to the Dalit minority. This letter of allegation was sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on violence against women, its causes and consequences, regarding acts of violence perpetrated against Dalit Women in India. Further details of this communication are available in the report of the</p>

	<p>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/7/19/Add.1, Para 64-70).</p> <p><u>NEPAL</u></p> <p>Letter of allegation</p> <p>37. On 4 September 2007, the independent expert sent a joint letter of allegation to the Government of Nepal in regard to the Tamang and Chepang (Tsepeng) communities and the Dalit communities. This letter of allegation was sent together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on the right to food, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people regarding the situation of the right to food of these communities, living around the Royal Chitwan National Park (RCNP), in Nawalparasi District. Further details of this communication are available in the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/7/16/Add.1).</p>
<p>Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context</p> <p>- Ms. Raquel Rolnik (Mr.Miloon Khotari until July 2008)</p>	
<p>Summary of cases transmitted to Governments and replies received</p> <p><u>A/HRC/16/42/Add.1</u></p> <p>(16th HRC session, March 2011)</p>	<p><u>INDIA</u></p> <p>Communications sent</p> <p>34. On 13 January 2010, the Special Rapporteur sent an urgent appeal letter to the Government of India, regarding the alleged situation of homeless in New Delhi, including deaths due to severe cold weather. According to information received, between 31 December 2009 and 11 January 2010, at least seven homeless people died from cold in New Delhi. Concerns were also expressed that because of the weather and the lack of a sufficient number of equipped shelters, the life of additional homeless people was at stake in New Delhi. The information received indicated that the number of homeless persons in New Delhi was growing and exceeded the capacity of emergency centres operating in the capital. It was alleged that the number of homeless shelters in New Delhi had recently been reduced from 46 to 24, in disregard of the Delhi Master Plan 2021 and the Delhi Municipal Corporation Act 1957. It was further reported that despite the severe cold weather, homeless shelters were recently demolished and homeless people were evicted from the places they used as shelters. (...)</p> <p>It was alleged that on 9 January 2009, officials from the Northern Railway, the Delhi Police and the MCD evicted more than 400 people from an area they were using as shelter at Pul Mithai, Sadar Bazaar. Reportedly, during these events women and children were beaten with batons and the possessions of the people were destroyed. 60 of the evicted families were reportedly Dalits, many of them employed as construction workers for the Commonwealth Games. (...)</p> <p>35. On 10 June 2010, the Special Rapporteur sent a letter of allegation to the Government of India regarding the alleged evictions and demolitions of informal settlements and slums in New Delhi in the run-up to the Commonwealth Games. According to information received by the Special Rapporteur, New Delhi witnessed evictions and demolitions of informal settlements and slums in the run-up to the Commonwealth Games that took place from 3-14 October 2010 in the capital city. Most of these evictions were apparently carried out to construct roads, bridges, stadiums, and parking lots, or to beautify the city. In addition, beggars and homeless persons were allegedly rounded up, arrested and arbitrarily detained under the Bombay Prevention of Beggary Act 1959 in preparation for the Games. According to information received by the Special Rapporteur, in 2004, Delhi authorities evicted more than 35,000 families</p>

living along the banks of the river Yamuna to make way for a tourism and city beautification project on land adjacent to the Commonwealth Games (...)

A slum cluster of 368 families of Dalit Tamils at Jangpura's Barapullah Nullah was also reportedly demolished to construct another parking lot for the Games. The Tamils, who had been living there for the past 35 years, did not receive any compensation or resettlement and were thereafter living on the streets. (...)

Replies received

36. On 7 April 2010, the Government of India replied to communication IND 8/2008 dated 5 March 2008 which was sent by the Special Rapporteur jointly with the Special Rapporteur on Violence Against Women (a summary of this communication can be found in the document A/HRC/10/7/Add.1, para.54). The Government of India noted that it has examined the complaint with regard to allegations filed by Mrs. Ramashree and found them to be inaccurate. According to the Government, Mrs. Ramashree's husband was arrested on 15 November 2006 at about 1900hrs in connection with manufacture of illicit liquor, following which a charge-sheet was filed in the local court on 26 December 2006. The subject filed a petition in the local court that was dismissed on 11 April 2008. Since the allegations were found to be inaccurate and even dismissed by the Court, the question of compensation for the subject did not arise.

37. On 7 April 2010, the Government of India replied to the communication IND 8/2009 sent on 20 July 2009 by the Special Rapporteur (a summary of this communication can be found in the document A/HRC/13/20/Add.1, para.37). According to the Government, on 27-28 May 2009, the local authorities carried out demolition of only unauthorized hutments on public land. These demolitions were carried out in accordance with the due procedure laid down by the law and no incidents of violence were reported. According to the Government of India, contrary to what had been asserted in the communication, the Government of Maharashtra's Slum Redevelopment and Relocation Scheme was *not* applicable to *unauthorized* hutment dwellers. The Government of India assured that it is aware of its obligations under the ICESCR and that it fully abides by them. In this context, the Government of India reminded that the General Comments of any treaty body do not constitute international human rights law.

38. On 6 April 2010, the Government of India replied to the urgent appeal sent by the Special Rapporteur on 13 January 2010. According to the Government, contrary to what was stated in the urgent appeal, the number of homeless shelters in Delhi was *not* reduced from 46 to 24. The Municipal Corporation of Delhi set up 37 additional night shelters in January 2010, over and above the existing 27 permanent night shelters. Further, the Government of the National Capital Territory of Delhi also set up another seven temporary night shelters in January 2010, in addition to the 17 temporary night shelters that it had established, as a yearly exercise, in December 2009. The authorities provided over 2,800 blankets for the inmates of these shelters who were also provided medical assistance electricity, and water and sanitation facilities in association with some local NGOs. As for the demolition of a temporary night shelter on Pusa Road and evictions of squatters in Sadar Bazar, these were carried out in accordance with the procedure laid down by law and temporary night shelters were set up to provide shelter to those evicted. The authorities did not receive any reports of deaths due to severe cold weather at any of the night shelters being run by the authorities, or due to lack of such shelters. In fact, in its order on 27 January 2010, the Supreme Court of India expressed its satisfaction with the prompt action and arrangements by the authorities to safeguard the human rights of the homeless and needy.

39. On 29 July 2010, the Government of India replied to the urgent appeal sent by the Special Rapporteur on 9 December 2009, regarding the alleged forced evictions along the Cooum River in Chennai, Tamil Nadu (a summary of this communication can be found in the document A/HRC/13/20/Add.1, para.37). The Government examined the facts of the case and found the allegations to be inaccurate. The families living along the banks of the Cooum River had illegally encroached upon the riverine area, which had been declared as an environmentally sensitive area by the Supreme Court of India.

	<p>Nevertheless, no forced evictions had been made and appropriate procedural protection was extended to all the project affected families. During the enumeration process conducted six months prior to the movement, all families had been fully informed of the resettlement process and their consent had been duly obtained. No formal complaint had been filed against any plausible forced eviction in this regard. The Tamil Nadu Slum Clearance Board was designated as the nodal agency for the rehabilitation and resettlement of the affected families. Alternate housing was provided to each family, on a non-discriminatory basis, in the suburbs of Chennai. Each family was given Rs 1000 as shifting allowance and transport arrangements were made to carry their belongings to alternate accommodation. Moreover, vocational training was imparted to the unemployed youth in order to enable them to seek remunerative employment.</p> <p>Observations</p> <p>40. The Special Rapporteur thanks the Government for the information received and regrets that at the time of the finalization of this report, the Government had not transmitted any reply to her letter of allegation sent on 10 June 2010.</p>
<p>Annual report of the Special Rapporteur on Adequate Housing <u>A/HRC/13/20</u> (13th session of the Human Rights Council)</p>	<p>In her report to the Human Rights Council, the UN Special Rapporteur on Adequate Housing expresses serious concern about displacement and forced evictions as a result of preparations for mega events. Ms. Rolnik refers in paragraph 18 to several allegations of mass evictions, including one in New Delhi where 35,000 families were evicted from public lands in preparation for the 2010 Commonwealth Games.</p> <p>1. Evictions</p> <p>“16. Displacement and forced evictions are common features of preparations for megaevents. The heightened demand for space to construct sports venues, accommodation and roads is channelled through urban redevelopment projects that often require the demolition of existing dwellings and the opening of space for new construction. The importance given to the creation of a new international image for the cities, as an integral part of the preparations for the games, often implies the removal of signs of poverty and underdevelopment through reurbanization projects that prioritize city beautification over the needs of local residents. As public authorities use the organization of mega-events as a catalyst for the regeneration of their city, residents of the affected areas may face mass displacement, forced evictions and the demolition of their homes. Displacement may also result from the measures taken by local authorities to quickly remove unsightly slums from areas exposed to visitors, even without being framed within larger redevelopment projects.</p> <p>17. In most cases, alternatives to evictions are not sufficiently explored, displacement is not accompanied by prior consultation with the affected communities, and adequate compensation or alternative housing is not provided to victims. In addition, evictions almost never allow the return of former dwellers to newly built homes. Indeed, owners, tenants and squatters are often subjected to pressure by public authorities or private developers to leave the area, their rights are seldom recognized, and they receive no guarantees of return to the redevelopment site. In many occasions, evictions are carried out in a context of violence, harassment and assaults against the inhabitants. Time constraints are usually cited as the reason for disruptive and violent evictions and disregard for the rights of affected communities.</p> <p>18. Examples of evictions due to the construction of sporting venues, accommodation for visitors and infrastructure improvements include: [...] (d) in New Delhi, 35,000 families were evicted from public lands in preparation for the 2010 Commonwealth Games.”</p> <p>In a press statement of 19 January 2010 Ms. Rolnik expressed further concern about the situation of the homeless in New Delhi, both due to the extreme weather conditions and the demolitions of shelters in connection with the planning with this international sport event. While there are no government statistics on how many homeless live in New Delhi, nor how many come from a 'lower caste' background as Dalits, it has been</p>

	<p>estimated that there may be well up to 150,000 persons. In the January statement Ms. Rolnik warned about the eviction of shelters where construction workers and Dalit families live and welcomed the interim order adopted by the Delhi High Court in January in this context. She urged authorities to comply with the latter and in this framework to halt the demolition of homeless shelters, to provide immediate assistance and adequate shelter to the affected persons and not to evict homeless persons in the winter, on humanitarian grounds.</p>
<p>Annual report of the Special Rapporteur on Adequate Housing <u>A/HRC/10/7</u> (10th session of the Human Rights Council)</p>	<p>This report was the first to be presented to the Human Rights Council by the new mandate holder, Raquel Rolnik, who took up her position on 1 May 2008. In view of the current crisis in the housing and financial sector, the Special Rapporteur decided to devote the thematic report to the consequences of certain economic, financial and housing policies and approaches that have seriously impacted the right to adequate housing in the past decades and have contributed to the present crisis.</p> <p>The report does not specifically mention Dalit housing rights, but addresses discrimination in access to housing and forced evictions. The addendum to the annual report considers these elements more thoroughly (see below).</p> <p>G. Discrimination in access to housing</p> <p>“60. Discrimination related to adequate housing may be the result of discriminatory laws, policies, and measures; inadequate zoning regulations; exclusionary policy development; exclusion from housing benefits; denial of tenure security; lack of access to credit; limited participation in decision-making processes related to housing; or lack of protection against discriminatory practices of private actors. Lending practices may discriminate against particular groups such as nomads, minorities, migrants and women.</p> <p>61. Members of minority groups trying to purchase homes may face discrimination, for instance from mortgage lending institutions. They may be denied equal access to capital (as they may be less likely to obtain mortgage financing) or receive less favourable conditions for a mortgage when one is obtained. [...]</p> <p>H. Security of tenure, evictions and homelessness</p> <p>69. It is important to understand the impact of foreclosure – or eviction – on a household. It pushes people into more difficult situations and inadequate living conditions and impacts their ability to cope with further hardship, particularly where it results in homelessness. It is much more difficult to maintain employment while having difficulty in accessing water and sanitation and basic services. A lot of effort is required to cope with weather changes and administrative demands, relocating belongings, and maintaining an address where one can be reached. In some cases, not having a permanent address leads to exclusion from certain types of aid, or results in denial of civil and political rights, including the right to vote. [...]</p> <p>73. In addition to the physical and psychological trauma of eviction and homelessness, households, especially women and children, lose the support systems they were used to and their relations with a community. The breaking of these social ties and the loss of stability lead to many other problems. [...]</p>
<p>Summary of cases transmitted to Governments and replies received <u>A/HRC/10/7/Add.1</u> (10th HRC session, March 2009)</p>	<p>The addendum to the annual report of the Special Rapporteur contains summaries of communications sent by the Special Rapporteur from the period of 5 December 2007 to 5 December 2008 and replies received for the period of 24 January 2008 to 6 February 2009. A number of the communications contained in the present report were sent by the former Special Rapporteur, Mr. Miloon Kothari.</p> <p>Forced evictions</p> <p>A large number of the communications in the period under review are related to cases of forced evictions. Forced evictions constitute prima facie violations of a wide range of internationally recognized human rights and large-scale evictions can only be carried out under exceptional circumstances and in full accordance with international human rights</p>

	<p>law. The Special Rapporteur notes that in the majority of cases, state authorities carrying out evictions appear completely unaware of the state’s human rights obligations, in particular the need for assessing the impact of evictions on individual and communities, the need to consider eviction only as a last resort after having envisaged all other options, meaningful consultation with affected communities, adequate prior notification, adequate relocation and compensation. The Special Rapporteur reminds all states that eviction should never result in rendering people homeless and putting them in a vulnerable situation. In this context, the Special Rapporteur reminds all Governments of the Basic principles and guidelines on development-based evictions and displacement that can be used as a tool to prevent human rights violations in cases where evictions are unavoidable.</p> <p>India</p> <p>52. On 29 February 2008, the Special Rapporteur together with the special Rapporteur on violence against women, its causes and consequences sent a joint allegation letter to the Government of India concerning reports they have received regarding violence against Dalit women. Dalit women and men suffer descent based discrimination in various aspects of their lives and are also victims of violence and untouchability practices arising out of the caste system. Despite the formal abolition of “Untouchability” by article 17 of the Indian Constitution, de facto discrimination and segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Lands and properties in particular are issues of conflicts over which Dalit women have faced evictions, harassment, physical abuses and assaults. Dalits women are often denied access to and are evicted from their land by dominant castes, especially if it borders land belonging to such castes. They are therefore forced to live on the outskirts of villages, often on barren land. Violence against Dalits is also caused due to land or property disputes. Reportedly, on many occasions, cases of violence against Dalit women are not registered. Adequate procedures are not taken by the police. The following specific cases have been brought to the attention of the Special Rapporteurs. They outline the impunity that seems to prevail with respect to ensuring protection and redress for Dalit women victims of violence linked to their rights to adequate housing and property [...]</p> <p>54. On 5 March 2008, the Special Rapporteur together with the Special Rapporteur on violence against women, its causes and consequences sent a joint allegation letter to the Government of India regarding information they received concerning Mrs. Shobhavati Devi in Baulia village, Shivdaspur, Post Manduvadiah, Varanasi, and Mrs. Ramashree, in Tahirpur village, Shahabad, Hardoi, Uttar Pradesh, two members of the Dalit caste. [...]</p> <p>Response received</p> <p>55. On 29 April 2008, the government of India sent a response to the joint communication dated 29 February 2008, concerning cases of alleged violence against Dalit women in India. In this regard, the Government of India noted that the said communication did not include any information on the places of occurrence of these cases. The government of India requested that details pertaining to the place of occurrence (village/district/State) concerning each case be provided to facilitate investigations by Indian authorities.</p> <p>Observations</p> <p>56. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications dated 5 March 2008.</p>
<p>Report of the Special Rapporteur on adequate</p>	<p>This report constitutes a review of the work and activities of the first Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and</p>

<p>housing</p> <p><u>A/HRC/7/16</u></p> <p>(7th HRC session, March 2008)</p>	<p>on the right to non-discrimination in this context, Miloon Kothari, since his appointment in 2000. It aims to provide a number of recommendations to the Council and the next mandate holder in relation to the main obstacles to the realization of the human right to adequate housing and on the development of the mandate.</p> <p>A. Women and adequate housing</p> <p>39. There is an urgent need to address multiple forms of discrimination that women face on grounds including race, class, ethnicity, caste, health status, disability, income, sexual orientation, and other factors. An intersectional approach to gender discrimination is essential to address the multiple forms of discrimination faced by women. Other categories of women may face further discrimination due to their status, including women affected by domestic violence, women in rural and remote areas, women affected by HIV/AIDS, pregnant women, women with newborn children, and single women, including single mothers.</p> <p>B. Suggested areas of continued focus</p> <p>1. Access to land</p> <p>75. Land is also of great importance to certain groups that have suffered historic discrimination, whether on grounds of descent, race or colour. For instance, descent and work-based communities, such as the Dalits in India, continue to face extreme human rights violations, including with regard to land and housing rights. In Brazil, the Afro-Brazilian communities of <i>quilombos</i> (former slave colonies) face discrimination that severely impacts their ability to enjoy the human right to land and adequate housing and force them to the fringes of mainstream society.</p>
<p>Summary of cases transmitted to Governments and replies received</p> <p><u>A/HRC/7/16/Add.1</u></p> <p>(7th HRC session, March 2008)</p>	<p>The addendum to the annual report contains references to communications transmitted to the Government of India (para. 57-58) and Nepal (para. 104-105).</p> <p><u>INDIA</u></p> <p>57. On 23 August 2007, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders regarding attacks on the Dalit communities, particularly women, in Somebhadra District, Uttar Pradesh, India. It is reported that in Sonebhadra District, the poorest District in Uttar Pradesh with a large Dalit population, Dalit families have been cultivating and living in a Government's waste lands, the Gram Sabha's, for years. Reportedly, the land ownership has always been a conflicting issue between the Upper Caste controlling land resources and Dalits and tribes. Reports indicate that Dalits' reclaim of land has led to conflicts with forest officials and the Police, especially after the adoption of the "Schedule Tribe and other Forest Dwelling Communities (Recognition of Forest Rights) Act of 2006". [...] This was allegedly the third attack of this kind against Dalits in less than two weeks and reportedly a consequence of the Dalits families' requests for land that started in the last two years, as a response to the forest department's Government Resolution of 2002-3 to clear forest lands from any encroachments. During the events, the police reportedly left the village giving an ultimatum to remove the bricks of the houses by 11 August 2007, or they would come back with the administrative order to destroy the houses.</p> <p>58. The Special Rapporteur regrets that at the time of the finalization of the present report, the Government had not transmitted any reply to his communications. The Special Rapporteur continues to monitor the situation with interest.</p> <p><u>NEPAL</u></p> <p>104. On 4 September 2007, the Special Rapporteur sent a joint allegation letter with the Independent Expert on minority issues, the Special Rapporteur on the right to food, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people concerning indigenous and minority population, located around the</p>

	<p>Royal Chitwan National Park (RCNP), in Nawalparasi District, gazetted in 1973 and declared a World Heritage Site by the United National Education and Science Organization (UNESCO) in 1984. According to the information received the Ramandar settlement in Makawanpur District, Manahari, where there are approximately 1,200 households, is mostly composed of Tamang and Chepang (Tsepeng) indigenous communities and Dalits. [...]</p> <p>105. On 11 September 2007, the Permanent Mission of Nepal acknowledged receipt of the communication of 22 August 2007 and channelling it to the capital. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to monitor the situation with interest.</p>
<p>Report to the Human Rights Council (implementation of resolution 60/251)</p> <p><u>A/HRC/4/18</u> (5th session of the HR Council, June 2007)</p>	<p>In the report the SR does not mention country-specific studies of the right to adequate housing in the report and therefore makes no reference to caste-based discrimination in relevant countries. The report, however, provides practical and operational tools to promote, monitor and implement the human right to adequate housing. As an inspiration for similar processes, the report is interesting because it mentions the development of basic principles and guidelines aimed at assisting States and the international community in reducing the practise of forced evictions. Annex 1 (p. 13) provides a full overview of the contents of this instrument, including obligations on duty bearers and the nature of obligations for states. It also describes proposed remedies for forced evictions, including compensation, and follow-up action such as monitoring and evaluation.</p>
<p>Communications to/from Governments</p> <p><u>A/HRC/4/18Add.1</u> (5th session of the HR Council, June 2007)</p>	<p>In the addendum to the report there is a summary of cases transmitted to Governments and replies received by the SR as an implementation of resolution 60/251 by the Human Rights Council. Several communications concerning caste-based discrimination has been sent by the SR to Governments in caste-affected countries, some as urgent appeals/joint letters together with other SRs, in particular to India and Nepal.</p> <p><u>INDIA</u></p> <p>Communications sent</p> <p>Two communications were sent to the Government of India (for more information, see paragraph 30-31).</p> <p>Communications received</p> <p>The SR received the same answer as the SR on Racism, Mr. Diène, concerning the case of assaults against a Dalit community in Gohana, Sonapat district of Haryana state, in August-September 2005.</p> <p>Observations</p> <p>In paragraph 33, the SR thanks the Government for its reply. However, he regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication of 7 April 2006. The Special Rapporteur states that he continues to monitor the situation with interest.</p> <p><u>PAKISTAN</u></p> <p>Two communications were sent to the Government of Pakistan, both concerning forced evictions.</p> <p>44. On 17 May 2006, the Special Rapporteur sent an urgent appeal regarding the situation of the Lyari Expressway Project, allegedly due to render over 250,000 people homeless when completed. [...]</p> <p>45. On 13 July 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of religion or belief, concerning 12 Ahmadiya families from Jhando Sahi village in Daska Tehsil. [...]</p>

<p>Annual Report 2006 <u>E/CN.4/2006/41</u> (62nd session of the Commission on Human Rights)</p>	<p>Country visits: There are no specific references to upcoming country visits in the report. However, in a separate report the SR mentions that a number of communications about adequate housing included in the 2005 report have been sent to various Governments, incl. Bangladesh, India and Sri Lanka, without any response yet.</p>
<p>Women and adequate housing <u>E/CN.4/2006/118</u> (62nd session of the Commission on Human Rights)</p>	<p>In a separate report the SR studies the situation of women and housing and refers to caste as a basis for discrimination of vulnerable groups.</p> <p>Thematic findings: A) Groups of women in vulnerable situations</p> <p>“30. There are different groups of women who can be particularly vulnerable to discrimination and, due to a combination of factors, face additional obstacles in accessing adequate housing. The Special Rapporteur reiterates the fact that special attention is required for some groups/categories of women who can be more vulnerable than others, at higher risk of becoming homeless, facing violence or suffering from the consequences of inadequate housing and living conditions. Such groups often include victims of domestic violence, widowed, elderly, divorced or separated women, female-headed households, women forcibly separated from their children, women victims of forced evictions, indigenous and tribal women, women with disabilities and women in conflict/post-conflict situations, women from ethnic and national minorities, including refugees, migrant women workers, women from descent- and work-based communities, domestic women workers, sex workers, and lesbian and transgender women. [...]”</p> <p>31. Highlighting the violations of the right to adequate housing experienced by different groups of women in vulnerable situations brings to the forefront the impact of multiple discrimination women face in relation to adequate housing, due to their gender, race, caste, ethnicity, age and other factors, but in many cases, also due to their relative impoverishment and lack of access to social and economic resources. “[...]”</p> <p>Furthermore, India is mentioned as one of the countries where the Government has worked in conjunction with women groups successfully. Women are highlighted in the report as one group which is extremely vulnerable when natural or man-made disasters hit a country, like the 2004 Tsunami disaster.</p>
<p>Annual Report 2005 <u>E/CN.4/2005/48</u> (61st session of the Commission on Human Rights)</p>	<p>The report refers specifically to the situation of Dalits in e.g. Nepal:</p> <p>F. Communities discriminated against on the basis of ethnicity and descent 62. Certain sections of the world’s population face multiple forms of discrimination. For instance, the Dalits - a community facing historical caste-based discrimination and disenfranchisement in India, Nepal and to some extent Pakistan - suffer extreme human rights violations, including with regard to land and housing rights. A majority of Dalits are still prevented from owning land and are forced to live on the outskirts of villages, often on barren land. While the struggle for Dalit land rights is growing, land reforms intended to benefit the rural poor and Dalits have been ineffective due to weak legislative provisions, inadequate implementation, and a lack of State commitment. In Nepal, for instance, two out of every five Dalits are landless. According to the <i>Human Development Report 2004</i>, 15.32 per cent of Dalits living in Nepal’s hill areas are landless, and in the Tarai (plains), 43.98 per cent are landless (table 11). Nepal has 800,000 landless Dalits and 400,000 semi-landless. For those Dalits who do have access to housing, studies have pointed out that they tend to live in the poorest-quality houses, many of them being temporary thatched roof structures.” [...]”</p> <p>Later the report continues:</p> <p>“In the context for the need for a deeper analysis of the impact of the denial of economic, social and cultural rights, including housing, of descent- and ethnicity-based communities, the Special Rapporteur welcomes the new study initiated by the Sub-Commission on the Promotion and Protection of Human Rights in its resolution</p>

	2004/17.
<p>Special Rapporteur on the right to food - Mr. Oliver De Schutter (Mr. Jean Ziegler until April 2008)</p>	
<p>Study of the Human Rights Council Advisory Committee on discrimination in the context of the right to food <u>A/HRC/16/40</u> (16th session of the HR Council, March 2011)</p>	<p>In its resolution 10/12, the Human Rights Council mandated the Advisory Committee to undertake a study on discrimination in the context of the right to food, including identification of good practices of anti-discriminatory policies and strategies. The study is the outcome of a thorough research process and consultations among the members of the Advisory Committee and was endorsed by the Committee at its sixth session, for submission to the Human Rights Council at its sixteenth session.</p> <p>IV. Anti-discriminatory policies and strategies</p> <p>C. Legal and social protection of the urban poor</p> <p>56. Discrimination of the socially impoverished from urban areas often overlaps discrimination based on gender, ethnicity, religion, caste or age.⁶⁶ Governmental strategies aimed at improving access of the urban poor to food, health care and education must thus remove the multiple layers of discrimination.</p>
<p>Communications to/from Governments <u>A/HRC/10/5/Add.1</u> (10th session of the HR Council, March 2009)</p>	<p>In the addendum to the annual report, the Special Rapporteur reports on the following communications sent to the Indian Government.</p> <p><u>INDIA</u></p> <p>53. On 13 December 2007, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a joint allegation letter regarding Dr Lenin Raghuvanshi and Mr Manoj Kumar. Dr Lenin Raghuvanshi and Mr Manoj Kumar are convener and staff member of the People's Vigilance Committee on Human Rights (PVCHR) in Varanasi, Uttar Pradesh state, respectively. Dr. Lenin Raghuvanshi was the subject of a joint urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on 16 August 2005. On 4 December 2007, from approximately 4.45pm (Indian Standard Time), Dr. Lenin Raghuvanshi reportedly received anonymous threatening phone calls on his mobile phone from callers warning him that he will be shot and killed if the PVCHR continues to report cases of deaths from starvation and malnutrition in the Uttar Pradesh state. The callers have also informed him that if the PVCHR continues its activities, staff members are to be charged with fabricated charges and the PVCHR itself forced to close down. There has been national media coverage of the death of a three-year-old boy from starvation on 25 November 2007 that was reported by the PVCHR. Its staff member, Mr. Manoj Kumar, working in the Ambedkarnagar district where the boy lived, has reportedly also been receiving threats. Concern was expressed for the physical and psychological integrity of Dr. Lenin Raghuvanshi and Mr. Manoj Kumar. Further concern is expressed that the aforementioned threats against Dr. Lenin Raghuvanshi and Mr. Manoj Kumar may be directly related to the human rights activities of the PVCHR, in particular its work to defend the right to food in India. In view of the urgency of the matter, the Special Rapporteur and the Special representative requested a response on the initial steps taken by the Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments. They also asked for clarifications and observations on the following matters:</p> <p>Whether a complaint has been lodged by or on behalf of the alleged victims,</p> <p>Details, and where available results, of any investigation and judicial or other inquiries carried out in relation to the aforementioned threats against Dr. Lenin Raghuvanshi and Mr. Manoj Kumar and how they conform with international standards. If no inquiries</p>

	<p>have taken place, or if they have been inconclusive, please explain why. [...]</p> <p>54. On 2 December 2008, the Special Rapporteur sent an allegation letter regarding the challenges and obstacles that the internally displaced communities from Dantewada and Bijapur districts in Southern Chattisgarh have faced in the exercise of their right to food. According to these allegations, as of February this year around 49,000 displaced persons were residing in 24 officially recognized Salwa Judum camps in the abovementioned districts with limited access to basic facilities and livelihood opportunities. The State Government claimed that it has provided free food or subsidized rations and employment opportunities in the camps under the existing social policies schemes. However, the allegations received indicate that in many camps, despite the existence of a clear food distribution plan, the public authorities have not issued to camp residents the documents necessary for them to benefit from the public distribution systems, particularly ration cards. [...]</p> <p>Communication received</p> <p>55. On 11 July 2008, the Government sent a reply to a joint communication dated 11 July 2007 regarding allegations of non-implementation of the National Rural employment Guarantee Act (NREGA) in 22 districts of Uttar Pradesh. [...]</p> <p>Follow-up</p> <p>57. On 4 December 2008, the Special Rapporteur sent a letter to ask the Government to elaborate on the reply he received on 11 July 2008. According to the Ministry, employment under NREGA is completely demand driven and there exists an elaborate procedure for the issuance of job cards. In this regard, the Special Rapporteur requested, first, further clarifications related to the extent to which information has provided to the beneficiary population about the specific modalities of this procedure; and, second, the extent to which the responsibilities and obligations of each institution involved in the procedure to issue job cards were clearly defined and communicated to the said population. [...]</p> <p>Observations</p> <p>58. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications dated 13 December 2007 and 2 December 2008 and any further reply to his letter of 4 December 2008.</p>
<p>Report of the former Special Rapporteur on the right to food Jean Ziegler A/HRC/4/30 (5th session of the HR Council, June 2007)</p>	<p>In the report the SR analyzes the positive developments in realizing the right to food, situations of serious concern and gives a summary of some thematic studies. In a study concerning children and their right to food, the SR mentions about the issue of caste based discrimination and cites from Prof. Thorat and Joel Lee's work on Discrimination and Exclusion in Food Related Governments Programme (see p. 13). "1. The prohibition of discrimination</p> <p>34. The prohibition of discrimination requires Governments not to discriminate against children in their access to food, nor to the means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status. Yet discrimination against children is still frequent between rural and urban areas or within different communities in one country. Children living in rural areas are twice as likely to suffer from malnutrition as those living in urban areas in almost all developing countries. In South Asia, girls are more likely to be underweight than boys. In India, Dalit children are discriminated against in multiple ways that affect their right to food. These disparities, whether they are the direct or indirect consequences of governmental policies and practices, constitute violations of the prohibition of non-discrimination in the enjoyment of children's right to food."</p> <p>In the conclusion of the report, the SR makes recommendations to other countries to follow the recent examples of e.g. India (which he visited in 2005 – see the summary</p>

	<p>from the mission below).</p> <p>“V. CONCLUSION AND RECOMMENDATIONS</p> <p>68. The eradication of hunger and violations of the human right to food is the most urgent priority facing Governments today. In a world that is richer than ever before, it is unacceptable to allow children, women and men to suffer from hunger and famine. Hunger and people’s lack of access to sufficient productive resources to be able to feed themselves will continue to create conflicts and force children out of school into forced labour, including recruitment into armed forces. Hunger will also continue to force people to flee their own countries. The answer is not a criminalization of those who suffer from hunger. The answer is to take immediate action to respect, protect and fulfil the right to food of every human being.</p> <p>69. The Special Rapporteur makes the following recommendations:</p> <p>(a) Governments should follow the recent examples of Brazil, Guatemala, India, South Africa, Venezuela and Bolivia in the implementation of the right to food at the national level. The Special Rapporteur encourages Governments to adopt an adequate legal framework to ensure the right to food for all, including and in particular for the most vulnerable. This should include a clear definition of the right to food and the obligations of the Government to respect, protect and fulfil the right to food, without discrimination, as well as provisions for strong, independent and adequately financed monitoring mechanisms; [...]”</p>
<p>Communications to/from Governments</p> <p>A/HRC/4/30/Add.1</p> <p>(5th session of the HR Council, June 2007)</p>	<p>The report (A/HRC/4/30/Add. 1) which is an addendum to the main report submitted to the HRC, summarizes the communications sent to Governments and the replies received by the SR on the right to food. India is the only caste-affected country mentioned in the summary. The report, however, contains a large section covering communications sent to the Government of India with the specificities of each case (see p. 17-21). One case, written to the Government on 21 August 2006, concerns discrimination against Dalits in Uttar Pradesh:</p> <p>“32. [...] Allegations that the residents of Jai Bheem Nagar (JBN), in Meerut City, Uttar Pradesh, do not have access to safe drinking water and are therefore compelled to consume contaminated water. JBN is a slum located on the banks of the Kali Ganga River in Meerut City, which has a population of approximately 10,000 people, mostly Dalits. [...]”</p> <p>According to the report, no replies from the Government were received by the SR by the time of the submission of the report. Hence, no follow-up has been made on these cases.</p>
<p>Interim report, Mission to India</p> <p>E/CN.4/2006/44/Add.2</p> <p>(62nd session of the Commission on Human Rights)</p>	<p>Interim report (E/CN.4/2006/44/Add.2) on the right to food based on his mission to India in 2005.</p> <p>The report contains several references to the connection between caste-based discrimination and undernourishment in India and some interesting recommendations. In the summary section, the SR states that: “[...] the key finding of the report is that, although famine has been overcome, millions of Indians still suffer from chronic undernourishment and severe micronutrient malnutrition, especially women and children and people of lower-caste scheduled castes and tribes. Starvation deaths have not been fully eradicated, nor have discrimination against women and against lower castes, corruption, impunity and a wide range of violations including forced labour, debt bondage and forced displacement (destroying people’s access to productive resources) remain serious obstacles to the realization of the right to food. [...]”</p> <p>In the introductory part, the SR states that: “Although today the threat of famine has been conquered, hunger and poverty remain a chronic and pervasive problem, exacerbated by widespread discrimination under the caste system and against women.</p>

	<p>Hunger and food in India:</p> <p>“11. Scheduled castes and tribes suffer most from hunger and malnutrition, making up 25 per cent of the rural population but 42 per cent of the poor. As a result of discrimination, many low-caste Dalits are expected to work as agricultural labourers without being paid, many held in debt bondage by their higher-caste employers. Although debt bondage is illegal, NGOs estimate that there are between 20 to 60 million bonded labourers in India, 85 per cent of them belonging to scheduled castes and scheduled tribes. Widespread discrimination prevents Dalits from owning land, as they are seen as the “worker class”, and even if they receive land (as a result of redistribution and agrarian reform programmes in some states), such land is frequently taken by force by higher-caste people in the area. Lower castes are also often restricted from using village wells, as observed by the Special Rapporteur in Shivpuri District.”</p> <p>Discrimination against the Scheduled Castes and the Scheduled Tribes:</p> <p>43. Most of the victims of starvation are women and children, members of the Scheduled Tribes and Scheduled Castes, with their deaths mainly due to discrimination in access to food or productive resources, evictions or the lack of implementation of the food-based schemes. Despite an extensive legal framework prohibiting discrimination and untouchability, discrimination persists, particularly in rural areas. In Madhya Pradesh and Orissa, the Special Rapporteur observed that access to village water wells is still not allowed for Dalits and that even if members of the Scheduled Castes or Scheduled Tribes were granted lands, higher castes often take the land away. Reports were also received that in Uttar Pradesh and Uttaranchal, Dalit families were forcibly evicted from their land by upper castes, and sometimes forced to work for them. In Harinagar, Kashipur, it is reported that 154 Dalit families have been forcibly evicted from their land and remain landless to this day despite a decision by the Supreme Court in their favour in 1996. As former Chief Justice R. Mishra said in a meeting with the Special Rapporteur, “low-caste people receive the land, but the upper caste enjoys it”. These are crimes punishable by imprisonment and fine under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, but the law is not enforced.</p> <p>Recommendations (of relevance):</p> <p>(e) All Indians should be treated equally before the law. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, should be fully implemented, and atrocities committed should be prosecuted and brought to justice; (m) Implementation of all food-based schemes must be improved by incorporating the human rights principles of non-discrimination, participation, transparency and accountability. Monitoring of all food-based programmes, including PDS, must include monitoring of impacts on malnutrition and undernourishment;</p>
<p>Special Rapporteur on the right to education - Mr. Kishore Singh (Mr. Vernor Munoz Villalobos until 2010)</p>	
<p>Annual Discussion Day on the Human Rights of Women DisplayNews (14th session HR Council, June 2010)</p>	<p>The Special Rapporteur on education made a reference to Dalit women during the Annual Discussion Day on the Human Rights of Women (7 June 2010). He noted that there were significant problems concerning women and segregation and stereotypes in schoolbooks. This was often the case with migrant groups, and in particular indigenous women, Roma women and Dalit women. There was clearly an urgent need to bring these women back into the mainstream education system in order to help them integrate into society.</p>
<p>Annual report 2006 –</p>	<p>Report on Girls’ right to education</p>

<p>Girls' right to education <u>E/CN.4/2006/45</u> (62nd session of the Commission on Human Rights)</p>	<p>III. THE LONG ROAD TO GENDER EQUALITY</p> <p>E. Girls from communities that experience discrimination</p> <p>80. The Committee on the Elimination of Racial Discrimination has dwelt on the need for more consistent methods of evaluating discrimination against women, and the disadvantages, obstacles and difficulties they encounter in exercising and enjoying their rights to the full irrespective of race, colour, descent or ethnic or national origin.</p> <p>81. Those strategies must include reducing dropout rates among girls and combating the harassment of students from communities facing discrimination on account of their descent, since many Governments pay little attention to the structural causes of dropping out or low enrolment in school of girls from ethnic minorities.</p> <p>82. Communities historically discriminated against include the Dalits, who suffer many forms of exclusion in several Asian and African countries.</p> <p>83. In one such country literacy levels are lowest among Dalit girls, at 24.4 per cent, compared to the national average of 42.8 per cent for the female population. In the Mushahar Dalit community, barely 9 per cent of women are literate.</p> <p>84. High illiteracy rates combine with an enduring gender gap and with differences between urban and rural areas, also to the detriment of young and teenage girls.⁴⁹ In addition, teachers have been known to declare that Dalit pupils "cannot learn unless they are beaten".</p> <p>85. Other studies have documented absenteeism, irregular attendance and negligence by teachers, who have in addition used Dalit and Adivasi children to do work for them, corporal punishment and fear of teachers - one reason cited by parents for not sending their children to school.</p> <p>VII. Conclusion and recommendations (Accessibility to Education):</p> <p>140. Remove known barriers to the enrolment and retention in school of young and teenage girls belonging to all ethnic groups, castes and communities that are discriminated against; address as a priority the reasons why they drop out, and take action to ensure that they are not stigmatized in the curriculum or in school activities.</p>
<p>Special Rapporteur on the situation of human rights defenders - Mrs. Margaret Sekagya (Ms. Hina Jilani until March 2008)</p>	
<p>Summary of cases transmitted to Governments and replies received <u>A/HRC/16/44/Add.1</u> (16th session of the HR Council, March 2011)</p>	<p>1094. On 18 August 2010, the Special Rapporteur, jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding the situation of Ms. Bharathi Pillai, Ms. Niharga Priya, Ms. Sudha, Mr. Gnana Diraviam, and Mr. Anandan, participants of a human rights training course organized by the non-governmental organizations the Dalit Foundation (DF) and People's Watch (PW), from 11 to 20 August 2010, in Nagamalai Puthukottai, near Madurai in Tamil Nadu. The DF works to eliminate caste discrimination and caste-based violence, with a particular emphasis on Dalit women and manual scavengers, and the PW provides legal support and human rights education.</p> <p>1095. According to the information received, on 15 August 2010, around 6.30 p.m., as part of their fieldwork exercise, Ms. Bharathi Pillai, Ms. Niharga Priya, Ms. Sudha, Mr. Gnana Diraviam, and Mr. Anandan went to the Veeravanallur Police Station, in Tirunelveli District of Tamil Nadu, to gather information in relation to allegations of torture of a Dalit youth by police officers at the station. The five human rights defenders identified themselves, and requested permission to Ms. P. Roswin Savimo, Sub-Inspector of police, and Mr. T. Murugesan, Inspector of police, to be provided with documents relating to the case. As a result, they were questioned and kept in the police station. It is alleged that Mr. Murugan is one of the alleged perpetrators in this case. (...)</p>

	<p>1099. Finally, it is reported that in the case remand report, Mr. Henri Tiphagne, Executive Director of PW-India, Member of the Executive Committee of the Asian Forum for Human Rights and Development (FORUM-ASIA), and a member of the Asian NGOs Network on National Human Rights Institutions, was referred to as an “absconding accused”, although no charges had been filed against him, nor was he present at the police station at the time of the arrest of the five defenders.</p> <p>1100. Serious concerns were expressed that the arrest and detention of Mr. Gnana Diraviam, Mr. Anandan, Ms. Bharathi Pillai, Ms. Niharga Priya, and Ms. Sudha, and the charges brought against them, might have been related to their legitimate human rights activities. Further concerns were expressed for the physical and psychological integrity of the five human rights defenders.</p>
<p>Statement by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, at the conclusion of her visit to India</p> <p><u>Statement</u></p> <p>(21 January 2011)</p>	<p>In a statement concluding her January visit to India, the UN Special Rapporteur on the situation of human rights defenders raised particular concern for the situation of Dalit human rights defenders:</p> <p>”I note with satisfaction that India has a comprehensive and progressive legal framework which guarantees human rights and fundamental freedoms, as enshrined, inter alia, in the Constitution, the Protection of Human Rights Act, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and the Right to Information Act. I welcome the commitment expressed by Indian authorities to uphold human rights...</p> <p>Besides the National Human Rights Commission and existing State-level Human Rights Commissions, I note the existence of a wide range of Statutory Commissions mandated to promote and protect the rights of, inter alia, women, children, scheduled castes and scheduled tribes.</p> <p>However, despite the aforementioned laws aimed at promoting and protecting human rights, I note widespread deficiencies in their full implementation at both central and state levels, adversely affecting the work and safety of human rights defenders. Similarly, I have observed the need for the National and existing State Human Rights Commissions to do much more to ensure a safe and conducive environment for human rights defenders throughout the country.</p> <p>Throughout my mission, I heard numerous testimonies about male and female human rights defenders, and their families, who have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, falsely charged, under surveillance, forcibly displaced, or their offices raided and files stolen, because of their legitimate work in upholding human rights and fundamental freedoms.”</p> <p>“I am particularly concerned 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.</p>
<p>Annual report of the Special Rapporteur</p> <p><u>A/HRC/10/12</u></p> <p>(10th session of the HR Council)</p>	<p>In the second chapter of her first report to the Council the Special Rapporteur focuses, among other things, on the potential of the universal periodic review (UPR) mechanism of the Human Rights Council in enhancing the protection of human rights defenders. It gives an overview of the strategic value of the UPR in reviewing and potentially improving the situation of human rights defenders.</p> <p>3. Summary of stakeholder information: overview and analysis</p> <p>74. Targeting of specific groups was mentioned in relation to women human rights defenders in Bahrain, Israel and Serbia; indigenous groups in Ecuador; defenders working on issues related to persons belonging to minorities in the Czech Republic (Roma), India (Dalits) and Turkmenistan; defenders working on lesbian, gay, bisexual and transgender issues in Israel, Montenegro, the Republic of Korea, Serbia and Sri Lanka. Problems faced by defenders working on issues related to migrants were</p>

	mentioned with regard to South Africa.
<p>Summary of cases transmitted to Governments and replies received</p> <p><u>A/HRC/10/12/Add.1</u></p> <p>(10th session of the HR Council, March 2009)</p>	<p>The addendum to the annual report contains a large number of references to cases submitted involving attacks and threats against Dalit activists, especially in India but also in Nepal.</p> <p><u>INDIA</u></p> <p>Letter of allegations</p> <p>1189. On 28 February 2008, the then Special Representative sent a letter of allegations to the Government concerning Mr Arumugam Katuraja Kanagaraj, a Dalit human rights activist and the District human rights monitor in Salem district (Tamil Nadu) of the National Project on Preventing Torture in India of People’s Watch. [...]</p> <p>1192. Concern was expressed that the assault and detention of Mr Arumugam Katuraja Kanagaraj may be related to his activities in defense of human rights, particularly his work to prevent corruption within local government. Furthermore, in light of the death threats made against Mr. Kanagaraj and his possible pending arrest, concern was expressed for his physical and psychological integrity.</p> <p>Letter of allegations</p> <p>1201. On 28 April 2008, the then Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government concerning mass arrest of participants in the “The Long March for Justice for Special Task Force (STF) Victims”, including Messrs Henri Tiphagne, Executive Director of People’s Watch, Mahaboob Batcha, Managing Trustee of the Society for Community Organisation Trust (SOCO Trust), and V.P. Gunasekaran, District Secretary of the Communist Party of India. [...]</p> <p>1204. Concern was expressed that the aforementioned arrests may be related to the protestors’ activities in defense of human rights; their peaceful exercise of the right to freedom of expression and assembly and their protest against alleged crimes perpetrated by members of the Special Task Force.</p> <p>Response from the Government</p> <p>1205. In a letter dated 19 January 2009, the Government responded to the communication sent on 28 April. In transmitting the reply of the concerned authorities in India, the Government noted that the allegation contained in the communication was examined by the Government and that an enquiry was conducted on the above incident by the concerned authorities. It was revealed that the aforementioned individuals along with 205 other party members intended to go on a protest march from Exode to Chennai in order to draw attention to the relief and rehabilitation of the purported Special Task Force victims. However, in violation of law, they did not seek any prior permission from the concerned police authorities. If they had been allowed to proceed with this march it could have resulted in a disruption of law and order and inconvenienced the general public. Hence, as a preventive measure, the aforementioned persons were taken into police custody as per law and a case was registered against them. However, they were released on the very same day and all further action against them was dropped.</p> <p>Urgent appeal</p> <p>1211. On 23 May 2008, the Special Rapporteur sent an urgent appeal to the Government concerning Mr Lenin Raghuvanshi, Convener of the People’s Vigilance Committee on Human Rights (PVCHR) in Varanasi, State of Uttar Pradesh. Mr Lenin Raghuvanshi has focused his work on the right to food and on victims of death due to starvation and he is also a member of the District Vigilance Committee on Bonded Labour.</p> <p>1213. According to information received, on 26 April 2008, Mr Lenin Raghuvanshi began to receive abusive and threatening phone calls, which warned him to end the PVCHR’s work in the district of Varanasi. On 18 May, he received a phone call, thought</p>

	<p>to be from a powerful member of a criminal group in Uttar Pradesh, which threatened that if the PVCHR did not stop working for the Musahar community, a Dalit group subject to caste-based discrimination, men hired by upper caste feudal lords would raze Musahar ghettos and villages in Varanasi. The caller also questioned Mr Lenin Raghuvanshi about the funding of the PVCHR, in what is believed to be a warning to the PVCHR to pay protection money to local mafias.</p> <p>1214. Concern was expressed that the threats and intimidation directed against Mr Lenin Raghuvanshi may be directly linked to his work and that of the PVCHR in defense of human rights, in particular the rights of Dalit communities in the State of Uttar Pradesh.</p> <p>In view of these threats, serious concern was expressed for the physical and psychological integrity of Mr Lenin Raghuvanshi and the members of the PVCHR.</p> <p>Response from the Government</p> <p>1215. In a letter dated 28 January 2009, the Government responded to the urgent appeal of 23 May 2008. The allegations contained in the communication were examined by the Government, which informed that a complaint was lodged in Thana Cant, Varanasi, following which a chargesheet was sent to the court on 21 July 2008 against accused Bulbul Singh alias Uday Narayan Singh. In the meantime, necessary instructions were issued to the local police station to provide adequate security to Dr Lenin.</p> <p>Letter of allegations</p> <p>1216. On 10 June 2008, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Messrs Henri Tiphagne, Executive Director of People’s Watch and member of the National Human Rights Commission of India; S. Martin, Regional Law Officer at People’s Watch; and G. Ganesan and M.J. Prabakar, both State Monitoring Officers at the same organization. [...]</p> <p>1219. It was alleged that the charges brought against the aforementioned individuals may be directly related to their activities in defense of human rights, in particular their efforts to end impunity for crimes of torture in India. In view of these reports, concern was expressed for the physical and psychological integrity of those named.</p> <p><u>NEPAL</u></p> <p>1957. In the district of Kanchanpur in Nepal, women human rights defenders face death threats, attacks and harassment because of their work. Gender-based violence is reportedly widespread in Nepal, common among women regardless of their social, economic and cultural status. At present there is no specific law addressing domestic violence in Nepal.</p> <p>1965. The Special Rapporteur hopes that the Government of Nepal will respond favourably to her request of November 2008 to visit the country in order to resume the dialogue with the authorities.</p>
<p>Summary of cases transmitted to Governments and replies received by Ms. Hina Jilani</p> <p>A/HRC/7/28/Add.1</p> <p>(7th session of the HR Council, March 2008)</p>	<p>This report of 3 March 2008 was submitted by the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani. It contains a large number of references to cases submitted involving Dalits, especially in India but also in Nepal.</p> <p><u>INDIA</u></p> <p>Letter of allegations</p> <p>1062. On 26 January 2007 the Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, sent a letter of allegations to the Government concerning an attack against Mr Ravikumar, Member of the Legislative Assembly of the Kaaumannarkoil</p>

	<p>constituency, owing allegiance to the Vidudalai Chruthaiga, Dalit Panthers of India (DPI), in Sedapalayam village of Cuddalore District, in the State of Tamil Nadu. Mr Ravikumar also served as state president of the People's Union for Civil Liberties, Tamil Nadu-Pondicherry and was elected as a Member of the Tamil Nadu Legislative Assembly in 2006. He is also a well known Dalit writer, social activist and co-publisher of a publishing house which focuses on caste issues.</p> <p>1063. According to information received, on 2 January 2007, Mr Ravikumar sustained injuries to his hands and legs during an alleged attack by a contingent of approximately 100 police officers, including Delta police personnel, in Sedapalayam village during a funeral procession for Mr Siva, a Dalit youth murdered on 1 January 2007. Twenty-eight other Dalit Panthers of India (DPI) members were also injured in the attack. Mr Ravikumar was admitted to the Sri Ramachandra Medical College in Chennai on 3 January 2007 and discharged three days later. According to reports, the funeral procession was attacked by police officers in response to an attempt by some individuals attending the funeral to set fire to houses belonging to the alleged perpetrators of Mr Siva's murder. Dalit youths who later attended the hospital for medical treatment were reportedly arrested by police on charges of attempted murder.</p> <p>1064. Prior to the events of 2 January 2007, Mr Ravikumar had reportedly been in contact with Mr Gagandeep Singh Bedi, District Collector, Cuddalore, and Mr M Karunanidhi, Chief Minister of Tamil Nadu urging them to ensure that an immediate investigation be carried out in relation to Mr Siva's murder on 1 January 2007, and that the perpetrators be brought to justice. He also made an appeal to the police and district administration to ensure that law and order be maintained during the funeral. Concern was expressed that the funeral procession of Mr Siva was violently suppressed by authorities and that excessive police force may have been used against peaceful attendees of the funeral. Concern was also raised that Mr Ravikumar may have been targeted due to his high profile work in defence of the human rights of Dalits.</p> <p>Urgent appeal</p> <p>1096. On 23 August 2007, the Special Representative, together with the Special Rapporteur on violence against women and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal to the Government concerning attacks on Dalit communities, particularly women, in Somebhadra District, Uttar Pradesh, India. On 3 August 2007, Ms Roma and Ms Shanta Bhattacharya were arrested in Robertsganj under charges of provoking Dalits and Tibals to encroach forest lands. They were arrested under section 120 (B) and 447 of Penal Code; they were in Mirzapur jail and their bail applications had been rejected at the Circle Judicial Magistrate.</p> <p>1097. On 5 August 2007, Lalita Devi and Shyamlal Paswan were arrested from a local market in Rangarh and were also in Mirzapur jail. As a consequence of these imprisonments, people have been staging a protest since 4 August in front of the District Magistrate (DM) office in Sonebhadra demanding the immediate release of the activists. New charges were brought against Ms. Roma under article 4 of the National Security Act on 10 August. Reports also indicated that on 10 August 2007, at around 9 p.m., the police attacked Dalit women in Chanduli Village, in Sonebhadra District, leaving fifteen women seriously injured. Two trucks loads of Police along with Upper Caste representatives of the locality descended on Chanduli village in Sonebhadra district. They were allegedly heavily armed, and demanded to see Bachchalal, an active member of the local organisation Kaimoor Kshetra Mahila Mazdoor Kisan Sangharsh Samiti (KKMMKSS).</p> <p>1098. According to information received, when they did not find Bachchalal in the village, they started attacking women present in the village. Police and upper caste representatives barged into the house of Bachchalal and attacked his pregnant sister and sister-in-law; pulling them out and attacking them. In three hours, the police and upper caste representatives beat up around 15 women and destroyed their houses. At the time</p>
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	<p>of the incident, there were very few male members in the village as most of them were staging a protest in front of the DM's office in Sonebhadra against the arrest of Ms. Roma, Ms. Shanta Bhattacharya, Lalita Devi and Shyamlal Paswan. This was allegedly the third attack of this kind against Dalits in less than two weeks and reportedly a consequence of the Dalits families' requests for land that started in the last two years, as a response to the forest department's Government Resolution of 2002-3 to clear forest lands from any encroachments. During the events, the police reportedly left the village giving an ultimatum to remove the bricks of the houses by 11 August 2007, or they would come back with the administrative order to destroy the houses.</p> <p>[...]</p> <p>Observations</p> <p>1106. The Special Representative thanks the Government of India for their response to the communication of 10 May 2007, but regrets the lack of response to the other fourteen communications sent in the time-period covered by this report.</p> <p>1107. The Special Representative reiterates her concerns for the situation of human rights defenders representing vulnerable groups, such as lesbians, gays, bisexual and transgender (LGBT) persons and members of caste groups facing discrimination. The situation of the Dalit community is of particular concern as human rights defenders advocating their rights face entrenched prejudice from many sectors of society.</p> <p>1108. The Special Representative hopes that the Government of India will continue in its efforts to work for the improvement of conditions for those belonging to such communities and those working in defence of their rights.</p> <p><u>NEPAL</u></p> <p>Urgent appeal</p> <p>1488. On 20 June 2007 the Special Representative, together with the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning concerning human rights defenders Ms. Rita Mahato and Ms Dev Kumari Mahara, members of the Women's Rehabilitation Centre (WOREC), in the Siraha district. WOREC is a non-Governmental organization working on social justice and human rights, specifically women's rights, and the rights of marginalized groups in Nepal such as the Dalits. Ms Mahato and Ms Mahara have been involved in documenting cases of violence against women and providing support to victims for several years.</p> <p>Observations</p> <p>1517. The Special Representative thanks the Permanent Mission of Nepal in Geneva for its acknowledgement of receipt of the communications sent and hopes that the further information requested from the Government by the Permanent Mission will be provided at the first available opportunity.</p> <p>1518. She is particularly concerned by the cases involving allegations of harassment, intimidation or ill-treatment of human rights defenders by members of the Police Force and trusts that the Government will acknowledge the seriousness of these allegations through comprehensive investigation.</p>
<p>Report of the former Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani</p> <p><u>A/60/339</u></p> <p>(60th GA Assembly)</p>	<p>Report on the situation of human rights defenders in Nepal. In the report concerning the case study of human rights defenders in Nepal there is, interestingly enough, no specific mention of CBD or discriminatory practises against Dalits in the description of the conflict in Nepal.</p>

<p>Promotion and Protection of Human Rights Defenders Report submitted by the former Special Representative of the Secretary-General on human rights defenders, Hina Jilani, Addendum, Compilation of developments in the area of human rights defenders since June 2000 by Ms. Hina Jilani</p> <p><u>E/CN.4/2006/95/Add.5</u></p> <p>(62nd session of the Commission on Human Rights)</p>	<p><u>INDIA</u></p> <p>738. The Special Representative regrets that the Government has not provided her with information in response to the questionnaire she transmitted for the preparation of the present report at the time of the finalization of the report. She encourages the Government to transmit this information so that the below profile can be updated in the future.</p> <p>The human rights defenders community</p> <p>739. Human rights defenders in India are active on a wide range of civil and political, economic, social and cultural rights such as caste discrimination, child rights, environmental issues, globalization and human rights, housing rights, indigenous rights, LGBT rights, women’s rights and trafficking.</p> <p><u>NEPAL</u></p> <p>1147. [...] The human rights defenders community in Nepal today is active but weakened in part as a result of the repressive measures it has been subjected to. The royal takeover and the subsequent declaration of a State of Emergency is widely seen as exacerbating the already high risk to defenders and the civilian population in general. The human rights situation, and hence the situation for defenders working in Nepal, has deteriorated in recent years. Subsequently, several defenders have reportedly either gone underground or left the country, in order to continue with their human rights advocacy on Nepal in a more secure environment. [...]</p> <p>1149. In general, most NGOs in Nepal focus on development activities or actions that mitigate the effect of human rights violations, such as rehabilitation for victims. A smaller number focus on the overall human rights situation, and some focus on specific human rights concerns such as caste-based discrimination and LGTB rights. Women human rights defenders play an increasingly prominent role as advocates on a wide range of human rights issues in Nepal. A small number of NGOs have a national network through Nepal.</p>
<p>Special Rapporteur on torture and other cruel, inhuman or degrading treatment or Punishment</p> <p>- Mr. Juan Mendez (Mr. Manfred Novak until October 2010)</p>	
<p>Communications to/from Governments</p> <p><u>A/HRC/16/52/Add.1</u></p> <p>(16th session of the HR Council, March 2011)</p>	<p><u>INDIA</u></p> <p>Para. 54. Concerning Mr. A. S, a 28-year-old dalit.</p> <p>Mr. A.S. was arrested on 4 January 2010 at 10:00 p.m. by a police officer. He was held in police custody remand (PCR) until 11 January and was charged with robbery. Throughout the detention period, Mr. S was beaten repeatedly, including on his arms and legs with wooden planks, and on his genitals. It is believed that he may have suffered from vision loss and a fractured arm and leg. During this time, his family was not allowed to see him, and he was neither given food nor allowed to use the bathroom. On 7 January, as part of the investigation, a police officer took Mr. S to the place where the alleged robbery took place. The officer (whose name remains on record with the mandate holders) then proceeded to hit him on numerous occasions on his head and genitals with his boots, and forced him to jump in public for thirty minutes. The same procedure was repeated in front of the victim’s house. In addition, Mr. S was verbally abused regarding his caste and his religion. The officer also threatened Mr. S by stating that he would shoot all the boys born in the same caste. When Mr. S was presented before a court, the police officer presented a false medical certificate and threatened Mr. S not to speak about his experience in detention. Mr. S refused to request medical treatment for fear of reprisals. His family has also received threatening messages not to</p>

	<p>take legal action. Mr. S is currently detained under magisterial custody remand (MCR) and has not had access to medical attention. He reportedly cannot walk properly and stammers due to the beatings and requires urgent medical attention.</p> <p>By a letter dated 6/04/2010, the Government of India examined the communication and found that it would not be possible to investigate the allegation in absence of information about the specific place of occurrence of the alleged incident. It is, therefore, requested that information be provided about the specific place of occurrence of the alleged incident (village/town/area/district/state) to enable suitable investigations. The Permanent Mission of India requests that the response of the Government of India be presented in full to the Chairperson- Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the Question of Torture.</p>
<p>Interim report of Mr. Manfred Nowak</p> <p>A/60/316 (60th GA Assembly)</p>	<p>Interim report (A/60/316) on torture and other cruel, inhuman or degrading treatment or punishment.</p> <p>Country visits of relevance: India and Nepal</p> <p>The SR regrets that there has not been any response from the Indian Government concerning a country visit which was requested in 1993.</p> <p>A country visit to Nepal had been requested and was undertaken in 2005.</p>
<p>Report to 62nd CHR session: Mission to Nepal</p> <p>E/CN.4/2006/6/Add.5</p>	<p>Country visit to Nepal: In his report, the SR makes no specific reference to CBD or any problems encountered by Dalits in the conflict in Nepal despite the increased international recognition of the connection between CBD as a root cause of the conflict (as documented in the report “The Missing Piece of the Puzzle” and as referred to in the Concluding Observations issued by CERD after its examination of Nepal in November 2005).</p>
<p>Special Rapporteur on violence against women, its causes and consequences</p> <p>- Ms. Rashida Manjoo (Ms. Yakin until June 2009)</p>	
<p>Communications to/from Governments and interactive dialogue</p> <p>A/HRC/14/22/Add.1 (14th session of the HR Council, June 2010)</p>	<p><u>NEPAL</u></p> <p>Urgent appeal</p> <p>251. On 30 April 2009, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding Ms. K.D.S., Ms. T.M., Ms. S.K., Ms. B.C., Ms. S.S., Ms L.C. and other women human rights defenders of Chimdi Village Development Committee (VDC) in Sunsari district in Nepal, as well as Mr. R.N., Mr. K.B. and Mr. G.K., all of them journalists, Mr. S.C., representative for the Informal Sector Service Centre (INSEC) and Mr. B.C., a member of the Women’s Rehabilitation Centre (WOREC), an organization helping victims of domestic and sexual violence.</p> <p>252. According to the information received, on 9 April 2009, Ms. K.D.S., after calling for respect of the fundamental right of any person to marry and to choose freely her/his spouse, was beaten up by the relatives of Ms. L.G., a young woman who planned to have an intercaste wedding with a young man belonging to the Dalit community. The two young people were also beaten up by L.G.’s relatives for speaking to each other in public. Immediately after the assault, Ms. K.D.S. approached the Illaka police station of Chimdi to file a complaint, but the Sub-Inspector refused to receive it.</p> <p>253. On 11 April 2009, the Women Human Rights Defender Network, Sunsari, and more than 500 women from eight Village Development Committees (VDC) staged a demonstration in front of the police station in Chimdi VDC, in order to call for sanctions</p>

	<p>against the police for refusing to register Ms. K.D.S. complaint and to denounce the denial of access to justice. While doing so, they evoked the statement made by the Prime Minister on 25 January 2009, in which he committed himself to establish a complaints centre for women in order to end all forms of violence against women and criminalize caste-based discrimination against Dalits. They also called for a police apology since, on 10 April, while the Chimdi VDC were walking towards the police station in Chimdi, police officers publicly insulted them.</p> <p>(...)</p> <p>257. The Special Rapporteur requested some clarifications from the Government on the following matters:</p> <ol style="list-style-type: none"> 1. Are the facts alleged in the above summary of the case accurate? 2. Has a complaint been lodged by or on behalf of the alleged victim? 3. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why. 4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? <p>Response from the Government</p> <p>258. By a letter dated 8 February 2010, the Government responded to the communication sent on 30 April 2009. (...)</p> <p>Observations</p> <p>265. The Special Rapporteur is grateful to the Government of Nepal for its response. She wishes to call upon the Government to enhance efforts towards ensuring the right of women, on equal terms with men, to participate in non-governmental organizations and associations concerned with the public and political life of the country. She also wishes to refer to the observations made by the Special Rapporteur on the situation of human rights defenders in A/HRC/13/22/Add.1.</p>
<p>Communications to/from Governments and interactive dialogue</p> <p>A/HRC/11/6/Add.1</p> <p>(11th HRC session, June 2009)</p>	<p>In the addendum to her report to the Human Rights Council, the Special Rapporteur on Violence against Women, Ms. Yakin Ertürk, refers to 30 cases of violence against Dalit women in India, including incidences of physical and verbal abuse, gang rape, sexual exploitation, witch hunting, and naked parading (paragraphs 185-246). This is the result of a long-term process pulled by several persons involved in the Dalit women’s working group especially in India, and with assistance from Cordaid and Justice and Peace Netherlands.</p> <p>The Special Rapporteur concludes in her rapport:</p> <p>“217. According to the information received, Dalit women and men suffer descent based discrimination in various aspects of their lives and are also victims of violence and untouchability practices arising out of the caste system. Despite the formal abolition of “untouchability” by article 17 of the Indian Constitution, de facto discrimination and segregation of Dalits persists, in particular in rural areas and with regard to access to places of worship, housing, hospitals, education, water sources, markets and other public places.</p> <p>218. Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Land and property issues in particular, tend to cause or be at the root of conflicts over which Dalit women have faced eviction, harassment, physical abuse and assault. Dalit women are often denied access to or are evicted from their land by dominant castes, especially if it borders land belonging to such castes. They are thus forced to live in the outskirts of villages, often on barren land. Reportedly, on many occasions, cases of violence against Dalit women are not registered, and adequate</p>

	<p>procedures are not taken by the police.”</p> <p>In the interactive dialogue Ms. Yakin Ertürk referred to the number of cases on violence against Dalit women in her presentation to the Council and proposed that this specific issue was examined in more detail by the new mandate holder. Two delegations (Slovenia and Denmark) raised this issue in their questions to the Special Rapporteur in the interactive dialogue.</p> <p>In resolution A/HRC/11/L.5 on “Accelerating efforts to eliminate all forms of violence against women” the Human Rights Council Council expressed deep concern that “all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance and multiple or aggravated forms of discrimination and disadvantage, can lead to the particular targeting or vulnerability to violence of girls and some groups of women, such as women belonging to minority groups, indigenous women, [...] women who are otherwise discriminated against, including on the basis of HIV status, and victims of commercial sexual exploitation.”</p> <p>The same resolution also encouraged the Special Rapporteur “to consider in future reporting the needs of women who experience multiple forms of discrimination, and to examine effective measures to respond to those situations”.</p>
<p>15 Years of the UN Special Rapporteur on Violence against Women</p> <p><u>Review</u></p>	<p>Ms. Yakin Ertürk initiated this study with the objective of reviewing the work of the SRVAW, highlighting the conceptual shifts in the VAW mandate since its inception, and assessing the lessons learned as well as remaining challenges in combating VAW.</p> <p>Applying Intersectionality</p> <p>pp. 49-50. Other violations persist that would warrant further attention by the SRVAW. Although gender dimensions of conflict situations are covered, those pertaining to disaster management and humanitarian relief remain in need of elaboration. In addition, violence specific to elderly women or adolescent girls, women who are victims of caste-based discrimination*, and women who are migrants, refugees or non-citizens needs to be highlighted. Intersectionality sets out a wide canvas for the SRVAW to work on, as no matter how much ground is covered, issues and contexts that need attention will remain, given the overlapping and interconnectedness of issues, discriminations and structures of power.</p> <p>* In a joint contribution to the Durban Review Process, the SRVAW expressed her concerns regarding the numerous complaints she was receiving about violence perpetuated against women on the grounds of caste, as highlighted in her communications with governments; see A/CONF.211/PC/WG.1/5.</p>
<p>Joint contribution prepared pursuant to decision PC.1/10 of the Preparatory Committee of the Durban Review Conference at its first session</p> <p><u>A/CONF.211/PC/WG.1/5</u></p>	<p>The joint contribution was prepared by several Special Rapporteurs ahead of the Durban Review Conference. The SR on violation against women has the following remark in a separate section devoted to the issue of caste discrimination.</p> <p>“Discrimination on the grounds of caste and other systems of inherited status</p> <p>48. Against this backdrop, the Special Rapporteur on violence against women wishes to express her concerns about the numerous complaints she receives about violence perpetuated against women on the grounds of caste, as highlighted in her communications with Governments, jointly with other Special Rapporteurs.”</p>
<p>Communications to/from Governments</p> <p><u>A/HRC/7/6/Add.1</u></p> <p>(7th session HR Council, March 2008)</p>	<p>This report contains a number of cases submitted to the governments of India and Nepal.</p> <p>4. Violence against women facing multiple and intersecting layers of discrimination</p> <p>23. 19 out of 59 communications sent (32 per cent of the total number) concerned women facing multiple and intersecting layers of discrimination.</p> <p>24. Women belonging to national, ethnic or religious minorities or lower social castes, indigenous women, and migrant women are strongly overrepresented among reported victims. The Special Rapporteur has also acted on a case of a transgender/gay</p>

	<p>activist, who was targeted due to his sex identity choice and his activity of bisexuals, gays and tranvestites' rights defender, as well as on a case of a lesbian couple, who was reportedly persecuted because of their sexual orientation.</p> <p>25. In this regard, the Special Rapporteur would like to refer to Commission on Human Rights resolution 2005/41 on the elimination of violence against women in which the Commission calls on States to address the specific circumstances facing indigenous women and girls in relation to gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, including racism, paying particular attention to the structural causes of violence. [...]</p>
<p>Report of Dr. Yakin Ertürk – Communications to and from Governments</p> <p>(61st session of the Commission on Human Rights)</p>	<p>The report mentions communications to and from governments in four caste-affected countries, incl. Bangladesh, India, Nepal and Pakistan. The three following allegations were brought to the attention of the three governments:</p> <p><u>Bangladesh:</u></p> <p>24. J.T., aged 19 and her two cousins, R.T. and K.T., three young women from a low-caste Hindu family. According to information received, they were gang-raped on several occasions by five men, the names of three being known to the Special Rapporteur. The incidents occurred in Fatemabad village, under Lalmohan police station of Lord Hardinge in Bhola District of Bangladesh. The police were alleged to have not taken any action. The cases are as follows.</p> <p><u>India:</u></p> <p>181. By letter dated 8 June 2006 sent jointly with the Special Rapporteur on Racism, the Special Rapporteur advised the Government that she had received information according to which a group of 200 people attacked a Dalit settlement in Kalapatti village of Coimbatore district, Tamil Nadu, India on 16 May 2004. It is reported that the Dalits' homes were attacked by upper-caste villagers using swords and other weapons. They reportedly pushed the Dalits to the ground and stamped on them, verbally abusing them by using degrading caste names.</p> <p><u>Nepal:</u></p> <p>271. By letter dated 18 May 2004 sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteurs expressed their concern at the alleged social and economic discrimination faced by Badi women and girls.</p> <p>According to information received, the Badis, who are said to number tens of thousands across western Nepal, are one of 36 castes who make up Nepal's untouchables. It is reported that Badi women and girls, due to the discrimination, stigma and vulnerability inherent in the caste system, are forced to work in prostitution.</p> <p>[...]</p> <p>274. By letter dated 17 November 2004 sent jointly with [SR on Racism and SR on the Sale of Children], the Special Rapporteur advised the Government that she had received information concerning S.S., a Dalit girl aged 14, from Inaruwa, Sunsari, who was allegedly raped and then murdered with impunity.</p>
<p>Special Rapporteur on freedom of religion or belief</p> <p>- Mr. Frank La Rue (Ms. Asma Jahangir until 2008)</p>	
<p>Mission report from country visit to India</p> <p>A/HRC/10/8/Add.3</p> <p>(10th session HR Council,</p>	<p>In this addendum, the Special Rapporteur Ms. Asma Jahangir concludes on her country visit to India from 3 to 20 March 2008, which was conducted upon the invitation of the Government. In the report, the Special Rapporteur focuses on the following issues of concern: the situation of religious or belief minorities; justice for victims and survivors of communal violence; freedom of religion or belief in Jammu and Kashmir; the</p>

<p>March 2009)</p>	<p>negative impact of laws on religious conversion in several states; and implications of religion-based personal laws.</p> <p>Summary</p> <p>The Special Rapporteur appeals to the authorities to take quick and effective measures to protect members of religious minorities from any attacks and to step up efforts to prevent communal violence. Any specific legislation on communal violence should take into account the concerns of religious minorities and must not reinforce impunity of communalized police forces at the state level. While inquiries into large-scale communal violence should not be performed hastily, they should be accorded the highest priority and urgency by the investigation teams, the judiciary and any commission appointed to study the situation. Furthermore, the laws and bills on religious conversion in several Indian states should be reconsidered since they raise serious human rights concerns, in particular because of the use of vague or overbroad terminology and discriminatory provisions. In addition, the eligibility for affirmative action benefits should be restored to those members of scheduled castes and scheduled tribes who have converted to another religion. Finally, religion-based personal laws should be reviewed to prevent discrimination based on religion or belief and to ensure gender equality.</p> <p>Situation of religious or belief minorities</p> <p>(a) Christians</p> <p>18. Widespread violence in the Kandhamal district of Orissa in December 2007 primarily targeted Christians in Dalit and tribal communities. The Special Rapporteur received credible reports that members of the Christian community alerted the authorities and politicians in advance of the planned attacks of 24-27 December 2007. The police, too, had warned Christian leaders about anticipated violence. In its report on the events of December 2007, the National Commission for Minorities confirmed that “destruction on such a large scale in places which are difficult to access could not have taken place without advance preparation and planning”.</p> <p>19. The situation in Orissa has reportedly deteriorated again after 23 August 2008, when Swami Lakhmananda Saraswati, a local leader of the Vishwa Hindu Parishad (VHP), and four other VHP members were killed. Although a Maoist leader had claimed responsibility and the Christian leadership had condemned the killings, organized mobs subsequently attacked Christians in Dalit and tribal communities. By the end of September 2008, more than 40 people had allegedly been killed in Orissa, over 4,000 Christian homes destroyed and around 50 churches demolished. Around 20,000 people were living in relief camps and more than 40,000 people hiding in forests and others places. The Special Rapporteur was profoundly alarmed by the humanitarian situation in relief camps where access to food, safe drinking water, medical care, proper sanitary arrangements and adequate clothing were reportedly lacking.</p> <p>(c) Sikhs, Jains and Buddhists</p> <p>27. Further problems can arise for members of the Scheduled Castes, especially when they want to convert to a different religion, since government benefits for Scheduled Castes are by law limited to Hindus, Sikhs and Buddhists. The Constitution (Scheduled Castes) Order 1950 provided that no person who professes a religion different from the Hindu religion shall be deemed to be a member of a Scheduled Caste. This provision was subsequently amended in 1956 and 1990 to also include Sikhs and Buddhists.¹⁴ However, the Special Rapporteur’s interlocutors pointed out for example that Sikhism and Buddhism did not recognise the caste-system. She was also informed that when a member of a Scheduled Caste left Hinduism and converted to Christianity or Islam, the previous caste status and related social bias would often remain at the social level while the person would legally no longer be eligible to government benefits for Scheduled Castes. In some cases, there are separate churches and cemeteries for members of the Scheduled Castes who converted to Christianity.</p> <p>28. The legal link between Scheduled Caste status and affiliation to specific religions</p>
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seems problematic in terms of human rights standards. The Special Rapporteur would like to recall that the Committee on the Elimination of Racial Discrimination noted with concern that Dalits who convert to Islam or to Christianity to escape caste discrimination reportedly lose their entitlement under affirmative action programmes, unlike converts who become Buddhists or Sikhs (A/62/18, para. 179). In 2008, an independent research study commissioned by the National Commission for Minorities found that there is a strong case for offering Muslims and Christians of Dalit origin the same constitutional safeguards already available to Hindu, Sikh and Buddhist Dalits. The report by the National Commission for Religious and Linguistic Minorities, headed by Justice Renganath Misra, recommended to delete paragraph 3 of the Constitution (Scheduled Castes) Order 1950 - which originally restricted the Scheduled Caste net to the Hindus and later opened it to Sikhs and Buddhists - and to make the Scheduled Castes net fully religion-neutral like that of the Scheduled Tribes.

Justice for victims and survivors of communal violence

31. The Special Rapporteur fully agrees with the analysis by the National Commission for Minorities that communal violence is not merely a “law and order” problem but has a serious socio-economic basis and ramifications. Sectarian riots are most likely to occur when the

following elements are present: (i) severe long-standing antagonism on religious lines in particular villages and urban localities; (ii) an emotional response of members of religious communities to a precipitating event; (iii) a feeling in the minds of rioters and the larger religious group to which they belong that sectarian violence is justifiable; and (iv) the assessment by the rioters that the reaction from the police to sectarian violence will be either absent or partisan or ineffective.

(c) Communal violence after the Godhra train burning incident (2002)

36. With regard to the Gujarat massacre in 2002, the Special Rapporteur met a large number of eyewitnesses as well as people who visited Gujarat during the communal violence and she also received numerous reports, from both official bodies and civil society organisations. The Special Rapporteur also met a former Prime Minister of India and Members of Parliament who visited Gujarat soon after the riots in 2002. The state government reported that, prior to the Godhra train burning incident, Gujarat had witnessed 443 major communal incidents between 1970 and 2002. However, the massacre that took place after the tragic deaths in the Godhra train burning incident on 27 February 2002, is all the more horrifying since at least a thousand people¹⁵ were systematically killed. While the Special Rapporteur notes the controversy about the different conclusions of various public enquiries concerning the question whether the Godhra train burning incident was an accident or a deliberate criminal act, she would like to emphasize that there can be no justification for the large-scale killings and violence after 27 February 2002. In addition, there are credible reports that inaction by the authorities was evident and most of the Special Rapporteur’s interlocutors, including politicians, alleged complicity by the state government.

37. While discussing the events with victims, the Special Rapporteur could see their continuing fear which was exacerbated by the distress that justice continues to evade most victims and survivors. A large number of criminal cases relating to the communal violence in 2002 remain un-investigated or have been closed by the Gujarat police and the plight of those internally displaced from their home continues. In addition, there is increasing ghettoization and isolation of Muslims in certain areas of Gujarat, for example in one part of Ahmedabad which is colloquially called “little Pakistan”. The assertion of the state government that development by itself will heal the wounds does not seem to be realistic. The Special Rapporteur believes that it is crucial to recognise that development without a policy of inclusiveness of all communities will only aggravate resentments.

38. During her visit to Gujarat, the Special Rapporteur was also disturbed that at various meetings with members of civil society, plain-clothed government agents took

	<p>names of her interlocutors and also made their presence felt afterwards. On several occasions, the Special Rapporteur had to insist that police officers left the room during her non-governmental meetings. The terms of reference for fact-finding missions by Special Rapporteurs (E/CN.4/1998/45, appendix V) guarantee confidential and unsupervised contact of the Special Rapporteur with witnesses and other private persons. Furthermore, she would like to remind the authorities in Gujarat of the Government's assurance according to these terms of reference "that no persons, official or private individuals who have been in contact with the special rapporteur/representative in relation to the mandate will for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings".</p> <p>V. CONCLUSIONS AND RECOMMENDATIONS</p> <p>61. The National Commission for Minorities, too, has taken up several challenges. Their members took prompt action and issued independent reports on incidents of communal violence with concrete recommendations. However, the performance of various state human rights commissions depends very much on the selection of their members and the importance various governments attach to their mandates. It is vital that members of such commissions have acute sensitivity to human rights issues and they must reflect the diversity of the state, particularly in terms of gender, since women are often subject to religious intolerance. The inclusion of women in such commissions would be welcomed by the Special Rapporteur as she noticed that women's groups across religious lines were the most active and effective human rights advocates in situations of communal tension in India.</p> <p>62. All of the Special Rapporteur's interlocutors recognised that a comprehensive legal framework to protect freedom of religion or belief exists, yet many of them – especially from religious minorities - remained dissatisfied with its implementation. Since the political system of India is of a federal nature and states have wide powers, including in the field of law and order, the level of action of the Government to protect its citizens in terms of freedom of religion or belief varies from state to state. The Special Rapporteur would like to recognize the efforts and achievements of the central Government. However, several issues of concern with regard to intolerance and discrimination based on religion or belief remain pertinent, especially in the context of certain states.</p> <p>63. Organised groups claiming roots in religious ideologies have unleashed an allpervasive fear of mob violence in many parts of the country. Law enforcement machinery is often reluctant to take any action against individuals or groups that perpetrate violence in the name of religion or belief. This institutionalised impunity for those who exploit religion and impose their religious intolerance on others has made peaceful citizens, particularly the minorities, vulnerable and fearful.</p> <p>71. The Special Rapporteur would like to recall the recommendation by the Committee on the Elimination of Racial Discrimination (A/62/18, para. 179) to restore the eligibility for affirmative action benefits of all members of Scheduled Castes and Scheduled Tribes having converted to another religion. The Special Rapporteur recommends that the Scheduled Caste status be delinked from the individual's religious affiliation.</p>
<p>Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation</p> <p>- Ms. Catarina de Albuquerque</p>	
<p>Joint report from a visit to Bangladesh with the independent Expert on human rights and extreme</p>	<p>The Independent Expert on water and sanitation and the Independent Expert on human rights and extreme poverty presented their joint report from Bangladesh at the 15th session of the Human Rights Council. The report contained extensive references to Dalits:</p>

<p>poverty</p> <p><u>A/HRC/15/55</u></p> <p>(15th session HR Council, September 2010)</p>	<p>24. Bangladesh has a diverse ethnic, religious and indigenous population. The experts met with various members of different minority groups, and also received reliable information concerning the situation of other groups. They note that some of these groups are victims of discrimination and live in extreme poverty. The experts recall that the Constitution prohibits discrimination on the grounds of “religion, race, caste, sex or place of birth”.</p> <p>25. The experts met with groups of people who identify themselves as Dalits. The caste system was described as an occupational system, whereby people, according to their descent, undertake certain professions that are generally considered to be menial. The experts were informed that these people suffer discrimination in all areas of life, including segregation in their access to housing. Most live beneath the poverty line, earn less than the minimum wage and have no access to education. Dalits also suffer from numerous diseases, not least because of their lack of access to safe drinking water and sanitation, and they sometimes face discrimination in their access to public-health facilities.</p> <p>26. In their meetings with Dalits, the experts perceived an overwhelming feeling of their being “trapped”. Dalits feel they have no opportunity to seek other jobs, since their families have had these occupations for generations and because they lack adequate education. Pervasive discrimination against them keeps them poor, uneducated, in terrible living conditions and in menial jobs. While the Government of Bangladesh does not make specific reference to the situation of Dalits in its National Strategy for Accelerated Poverty Reduction, it recognizes the pattern of discrimination against occupational groups related to caste systems. The strategy indicated the need to understand further the situation of these groups and to promote targeted policies aimed at improving their living conditions. The Government should explicitly recognize the discrimination experienced by Dalits and take more concrete steps to redress it, including through the enforcement of existing laws and the establishment of a special commission with a mandate to address concerns particular to Dalits. The National Human Rights Commission also has a central role to play in combating discrimination based on caste. The independent expert on water and sanitation analyses the particular issues related to Dalits under her mandate (see paragraphs 75–76 below).</p> <p>In the latter part of the report, the Independent Expert on water and sanitation analyses the particular issues related to Dalits under her mandate:</p> <p>58. The independent expert is concerned that very little attention is paid to ensuring the safe treatment and disposal of wastewater. She notes that there is a tradition of manual scavenging in Bangladesh, which poses serious health concerns (see paragraph 76 below). She was impressed by the efforts made by non-governmental organizations to find technological solutions for hygienically emptying pit latrines, such as the <i>Vacutug</i>. Apparently, the contents of the pits are currently emptied directly into waterways, jeopardizing the quality of that water. The Dhaka Water Authority reported to the independent expert that it only had one sewage treatment plant for a population of 10 million. The sewage load in Dhaka is estimated to be 100 times greater than the capacity of the plant. Despite the known problems with treating wastewater, construction of new habitations continues in Dhaka, with increasing connections to a sewage network that has a limited capacity for treatment. The Water Authority explained that five new sewage treatment plants are needed in Dhaka, and that two of these plants are currently under consideration for construction. Given the fact that the Government has to use surface water as an alternative source of drinking water, the construction of these five treatment plants is urgent.</p> <p>Dalits</p> <p>75. The independent expert is concerned about discrimination against sweepers, who are predominantly Dalits. This occupation has been passed down through the generations; although non-Dalits are starting to take the job of sweeper, however, traditional sweepers are resisting this trend, because they claim they are not eligible for other jobs. The work of the sweeper is to clean out sewers and septic tanks. They are</p>
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	<p>employed by the municipality and private employers. In rural areas, the job of sweepers is akin to manual scavenging, which is the process of cleaning out dry toilets manually. In Dhaka and other areas, where sewerage and septic tanks are used, the job is to clear blocked pipes and empty septic tanks.</p> <p>In both cases, the workers have no protective gear and are subjected to considerable health risks. They reportedly suffer from diarrheal diseases and dysentery. One woman explained that the men need to get drunk to be able to bear this work.</p> <p>76. Sweepers are also subjected to discrimination in the community. The children of sweepers are reportedly ostracized by teachers at school, and feel forced to hide their origins. The independent expert visited a community of sweepers and saw that they had no access to water or safe sanitation. They used a hanging latrine, which emptied out directly into a passing stream. In another Dalit slum, two water points reportedly served 12,000 people. The women and girls have to carry the water up several flights of stairs, which poses a serious threat to their physical well-being. In addition, the women's toilets had a hole in the ceiling where boys watched the girls, depriving them of all privacy. The toilets were in a deplorable state, with faeces covering the entire area. Most Dalits live in rural areas, where they reportedly face similar problems of inadequate housing and the constant threat of eviction.</p> <p>The Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation calls on the Government:</p> <p>125. (d) To adopt an explicit policy to address the situation of Dalits, and to eliminate discrimination against them; and to take special measures to improve the situation of sweepers, including by ensuring the protection of their health while at work, and that they have access to safe drinking water and sanitation in their homes.</p> <p>The Independent Expert on water and sanitation also made a reference to Dalits when presenting the report on 15th September 2010:</p> <p>"I am also particularly concerned about discrimination against sweepers, who are predominantly Dalits. Their job is to clean the sewers, septic tanks, and latrines. They reportedly have no protective gear and are subjected to considerable health risks. Furthermore, they live in slum communities which have no access to water and sanitation. I urge the Government of Bangladesh to eliminate all forms of discrimination, and to ensure the right to water and sanitation for all people."</p>
<p>Statement on the conclusion of a visit to Bangladesh together with the Independent Expert on human rights and extreme poverty</p> <p><u>Statement</u></p> <p>(10 December 2009)</p>	<p>The independent expert on water and sanitation undertook a visit to Bangladesh together with the independent expert on human rights and extreme poverty in December 2009. The two experts issued a joint press statement on the conclusion of their stay on 10 December 2009. During their stay they were invited to the Gonoktuli Dalit 'colony' in Dhaka, the largest of 17 such communities in the city. The visit was organised by the Bangladesh Dalit and Excluded Rights Movement (BDERM) and Nagorik Uddyog in Bangladesh. In the joint statement the independent expert on water and sanitation stated the following:</p> <p>"We met with several people who suffer from discrimination based on their occupation, or their parents' occupation, namely sweepers, who identify themselves as Dalits. These people clean the toilets and empty the septic tanks of others throughout the country. They are reportedly denied education because of social stigma, and their jobs are threatened. Although they work in sanitation all day long, they have no or inadequate access to water and sanitation in their own homes. The Government must end all forms of discrimination and adopt immediate measures to guarantee their human rights.</p> <p>Access to safe drinking water and sanitation in slums is also a big concern for me. In practice, many people in slums are unable to connect to the water and sewage network because they do not have tenure status. The practice of using civil society organizations as a mediator to bring water to the populations in the slums is a positive example of finding solutions to these problems. Nevertheless, the rights of the people living in slums</p>

	<p>must be recognized – this is not a matter of charity, but a legal entitlement. [...]</p> <p>Responsibility for water and sanitation is spread across different ministries, and there are many non-governmental organizations, donor agencies and UN agencies also deeply involved in these activities. There must be better coordination among all of these actors, as well as improved information sharing about projects and resources. To find solutions to the difficult challenges that Bangladesh faces in water and sanitation, it would be important to know exactly what the available resources for water and sanitation are, where they are spent, and who benefits. I also urge the Government to establish an independent regulator for water and wastewater that would inter alia be competent for establishing water tariffs, controlling water quality and ensuring access for all.”</p>
<p>Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation</p> <p>A/HRC/12/24</p> <p>(12th HRC session, September 2009)</p>	<p>In the first report submitted by the mandate holder to the Human Rights Council on 1 July 2009, the Independent Expert focuses on the human rights obligations related to sanitation. One of the key issues linked to this mandate is the right of sanitation workers and manual scavengers who are often treated as the “lowest of the low” in the caste hierarchy.</p> <p>“K. Prohibition of discrimination</p> <p>53. More broadly, discrimination and exclusion play a significant role with regard to access to sanitation. It is often the poorest and the most marginalized groups who lack access to sanitation. According to UNDP, the majority of people without access to sanitation live on less than 2 United States dollars a day. Minority groups, migrants, indigenous peoples, refugees and internally displaced persons (IDPs), prisoners and detainees, and persons with disabilities also suffer discrimination which may affect their access to sanitation. Sanitation workers face particular stigmatization for having a job which is perceived as “unclean” or lowly. Such groups often have little influence on policy formulation and resource allocation at the national and local levels, making it difficult for them to improve their access to sanitation.</p> <p>54. The International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, in their articles 2, both provide that the rights contained in those Covenants should be enjoyed without discrimination. Article 26 of the International Covenant on Civil and Political Rights further provides for equal protection under the law, including “effective protection against discrimination”. The treaty bodies have raised the issue of sanitation in the context of discussions on discriminatory treatment in their dialogues with States parties. For example, they have expressed concern about sanitation for Roma people, Dalits (CEDAW/C/IND/CO/3 (India), para. 29), refugees and asylum-seekers, indigenous peoples, religious minorities, and migrants. The Special Rapporteur on torture has also specifically addressed sanitation with regard to persons with disabilities.”</p>
<p>Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque - Addendum: Compilation of good practices</p> <p>A/HRC/18/33/Add.1</p> <p>(HRC 18th session 2011)</p>	<p>E. Non-discrimination [...]</p> <p>61. Discriminatory practices originate not only from the State, but also from deeply ingrained cultural and social practices. In Tamil Nadu, India, the Department for Water Affairs²² committed itself to addressing discriminatory practices based on caste, using access to water and sanitation as the entry point for discussing discrimination. The programme implementers found that, frequently, it was not just policies and programmes that were perpetuating discriminatory practices, but also that local communities needed awareness training to recognize that their own attitudes were discriminatory.</p>
<p>Independent Expert on human rights and extreme poverty</p>	

- Ms. Magdalena Sepulveda	
<p>Joint report of the Independent expert on the question of human rights and extreme poverty and the Independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation - Mission to Bangladesh</p> <p><u>A/HRC/15/55</u></p> <p>(15th HRC session, September 2010)</p>	<p>The Independent Expert on human rights and extreme poverty and the Independent Expert on water and sanitation presented their joint report from Bangladesh at the 15th session of the Human Rights Council. The report contained extensive references to Dalits:</p> <p>24. Bangladesh has a diverse ethnic, religious and indigenous population. The experts met with various members of different minority groups, and also received reliable information concerning the situation of other groups. They note that some of these groups are victims of discrimination and live in extreme poverty. The experts recall that the Constitution prohibits discrimination on the grounds of “religion, race, caste, sex or place of birth”.</p> <p>25. The experts met with groups of people who identify themselves as Dalits. The caste system was described as an occupational system, whereby people, according to their descent, undertake certain professions that are generally considered to be menial. The experts were informed that these people suffer discrimination in all areas of life, including segregation in their access to housing. Most live beneath the poverty line, earn less than the minimum wage and have no access to education. Dalits also suffer from numerous diseases, not least because of their lack of access to safe drinking water and sanitation, and they sometimes face discrimination in their access to public-health facilities.</p> <p>26. In their meetings with Dalits, the experts perceived an overwhelming feeling of their being “trapped”. Dalits feel they have no opportunity to seek other jobs, since their families have had these occupations for generations and because they lack adequate education. Pervasive discrimination against them keeps them poor, uneducated, in terrible living conditions and in menial jobs. While the Government of Bangladesh does not make specific reference to the situation of Dalits in its National Strategy for Accelerated Poverty Reduction, it recognizes the pattern of discrimination against occupational groups related to caste systems. The strategy indicated the need to understand further the situation of these groups and to promote targeted policies aimed at improving their living conditions. The Government should explicitly recognize the discrimination experienced by Dalits and take more concrete steps to redress it, including through the enforcement of existing laws and the establishment of a special commission with a mandate to address concerns particular to Dalits. The National Human Rights Commission also has a central role to play in combating discrimination based on caste.</p>
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health	
- Mr. Anand Grover (Paul Hunt until July 2008)	
<p>Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health, Paul Hunt: Addendum, Mission to India</p> <p><u>A/HRC/14/20/Add.2</u></p> <p>(14th HRC session, June 2010)</p>	<p>The report by the former Special Rapporteur, Paul Hunt, from his mission to India (Nov-Dec 2007) was circulated as an addendum to the report of his successor, Anand Grover, and presented to the 14th session of the Human Rights Council in June 2010 (A/HRC/14/20/Add.2). The report notes that disadvantaged groups, including Dalits or so-called ‘Scheduled Castes’, suffer from lack of access to health care, but also commends the Government of India for taking its commitment and obligations to enhance access for all seriously:</p> <p>3. Accessibility</p> <p>Inequitable access: systemic disadvantage</p> <p>36. Access is profoundly inequitable in India’s health system. The Government recognizes this unacceptable state of affairs. For example, after listing some of the chronic conditions afflicting the population, the NRHM emphasizes that the “large</p>

	<p>disparity across India places the burden of these conditions mostly on the poor, and on women, scheduled castes and tribes especially those who live in the rural areas of the country. The inequity is also reflected in the skewed [distribution] of public resources between the advanced and less developed states”. Of course, this systemic disadvantage is reflected in maternal health indicators, for example, illiterate mothers and women from the lowest wealth quintile have reduced access to basic maternal health care. To their credit, the authorities have developed numerous strategies, policies and plans, and invested considerable resources, to put the situation right. Many of these initiatives, not least the NRHM, are impressive and highly commendable, suggesting that the Government of India takes seriously its commitment and obligation to enhance access for all.</p>
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