



International Dalit Solidarity Network

WORKING GLOBALLY AGAINST DISCRIMINATION BASED ON WORK AND DESCENT

IDSN recommendations on agenda items of relevance to be considered at the 20th session of the Human Rights Council (18 June – 6 July 2012)

IDSN APPEAL FOR ACTION BY THE UN HUMAN RIGHTS COUNCIL

IDSN has issued [an appeal](#) to UN Member States, Special Procedures and UN Agencies to take action to eliminate caste discrimination. In the Human Rights Council, UN Member States are urged to:

- 1) Issue a Joint Statement in the HRC** calling for leadership, cooperation, and constructive engagement at the local, national, regional and international levels;
- 2) Address concerns about caste discrimination** in relevant political statements, thematic discussions, panel debates, decisions, and resolutions in the HRC;
- 3) Adopt a resolution** on discrimination based on work and descent in the HRC, which:
 - a. Condemns discrimination based on work and descent as a violation of international human rights law, as confirmed by several UN human rights bodies;
 - b. Welcomes the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent, published by the HRC in 2009 (A/HRC/11/CRP.3);
 - c. Invites Member States and their institutions, UN agencies and international institutions, the private sector, and civil society to promote and make use of the draft UN Principles and Guidelines;
 - d. Decides to convene a panel debate in the HRC on this topic, and requests the OHCHR to undertake a global study on the topic as a basis for this discussion;
 - e. Establishes an independent monitoring mechanism to promote and oversee human rights violations against persons affected by discrimination based on work and descent.

Read the appeal: www.idsn.org/unappeal

ITEM 3 – REPORTS BY UN SPECIAL PROCEDURES

SR on summary executions – follow up to visit to India (2012)

After his visit to India in March 2012, the UN Special Rapporteur on summary executions expressed concern about the high level of impunity that the police and armed forces enjoy, due to the requirement that any prosecutions require sanction from the central government. In a press statement following the visit, Mr. Heyns expressed particular concern about the plight of Dalits and Adivasis in India and called on the Government of India to continue to take measures to fight impunity in cases of extrajudicial executions, and communal and traditional killings. Other areas of expressed concern related to the prevalence of communal violence, and, in some areas, the killing of so-called witches, as well as dowry and so-called “honour” killings, and the plight of dalits (‘untouchables’) and adivasis (‘tribal people’).

Questions:

- What types of special measures should states take to enforce existing laws, to fight impunity, and to prevent cases of extrajudicial executions of Dalits and Adivasis in India?
- What can be done to prevent the prevalence of communal violence, and the killing of so-called witches, as well as dowry and so-called “honour” killings, and the plight of dalits (‘untouchables’) and adivasis (‘tribal people’)?
- Will the Special Rapporteur monitor the implementation of [relevant UPR recommendations](#) on India (A/HRC/WG.6/13/L.8/India) as a follow up to his visit?

SR on violence against women – gender-related killings

In the HRC report on gender-related killings (para. 39, A/HRC/20/16), the Special Rapporteur states that “in India, based on accusations of being a dayan (witch) or practising banamathi (witchcraft), physical violence is sometimes employed against Dalit women as a mechanism to take possession of their family lands and/or to keep them under economic subjugation, sexual exploitation, gender domination and control.” She furthermore states that “in Nepal, particularly in the southern Terai region, elderly women, widows, destitute women and women of low caste are often targeted and deprived of their property rights or victimized to settle a personal vendetta.”

Dalit women represent one of the largest socially segregated groups anywhere in the world. When considering discrimination and violence against Dalit women in South Asia, impunity is the key problem Dalit women face today – not only while seeking legal and judicial redress for violence, but also while attempting to access and enjoy their fundamental rights and freedoms. Their socio-economic vulnerability and lack of political voice, combined with the dominant risk factors of being Dalit and female, increase their exposure to violent attacks and abuse – including gender-related and dowry-related killings - while simultaneously reducing their ability to escape and assert their rights. In Nepal, especially those who belong to so-called lower caste of Dalits and other marginalized communities are accused of witchcraft.¹

Questions to the Report of the SR on violence against women (Res. 7/24, 16/7)

- In the Rapporteur’s views, what types of special measures could states take to prevent gender-related killings of Dalit women? What can be done to ensure enhanced enforcement of existing laws? Has the Special Rapporteur encountered any best practices in this particular field?
- To what extent can a framework such as the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent provide a useful tool to prevent discrimination and violence against Dalit women in affected countries?

More information

[IDSN briefing note about Dalit women](#) *** [Draft UN principles and guidelines for the effective elimination of discrimination based on work and descent](#)

Working Group on the issue of discrimination against women in law and in practice

In 2012 the Working Group is going to pay particular attention to efforts aimed at eliminating discrimination undertaken in times of political transition, particularly transitions which involve fundamental changes of political regime and/or of the legal system. In Nepal, the current struggle by Dalit women’s groups to ensure adequate political representation of Dalit women in the new Constitution is a clear example of this.

¹ <http://www.humanrights.asia/opinions/columns/AHRC-ETC-056-2011>

In the report submitted to the Human Rights Council, the Working Group explains that for legal guarantees to benefit all women “implementation frameworks and strategies must be responsive to the intersections of sex-based discrimination with other grounds of discrimination, such as race, ethnicity, religion or belief, language, political affiliation, health, status, age, class, caste, national or social origin, property, birth, and sexual orientation and gender identity.” It is also stated that such frameworks and strategies must “integrate special measures to reach women who face multiple forms of discrimination, such as rural and indigenous women, women with disabilities, women living in poverty and women facing other forms of marginalization.”

Recommendation: As part of its work, it is therefore recommended that the Working Group takes due note of the multiple forms of discrimination faced by Dalit women, who are discriminated on the basis of caste, gender and social status. CEDAW General Recommendations 25 and 28 underline the links between caste discrimination and multiple forms of discrimination against women, both in relation to specific temporary special measures and core obligations of States Parties. On this basis, the Working Group is urged to make use of existing recommendations and frameworks in this regard, such as treaty body recommendations on caste discrimination², and the [draft UN principles and guidelines for the effective elimination of discrimination based on work and descent](#).

SR on extreme poverty - follow up to Bangladesh visit (2009)

In her report, the Special Rapporteur follows up on her visit to Bangladesh in 2009 where she visited Dalit colonies in the slum areas of Dhaka and met with Dalit activists. In the report issued jointly with the SR on water and sanitation following the visit (A/HRC/15/55), the two experts noted that “pervasive discrimination against them keeps them [Dalits] poor, uneducated, in terrible living conditions and in menial jobs.” The report contains recommendations to the Government of Bangladesh on how to improve the situation of the country’s estimated 5.5 million Dalits, including the establishment of a special commission on Dalit issues.

In the current report to the HRC (A/HRC/20/25), the SR states that “according to the information available to the Special Rapporteur, it appears that the situation of the most vulnerable groups in Bangladesh has not changed significantly since her visit. She reiterated the need for Bangladesh to actively tackle discrimination against those groups and ensure their access to services and adequate social protection” (para. 66, A/HRC/20/25).

While much needs to be done to effectively tackle discrimination and eradicate the extreme poverty that Dalits live under in Bangladesh, some steps have been taken by the Government. In fact, it has recently been announced (11 June 2012) that the Government of Bangladesh has decided to allocate BDT 146.1 million for the Dalit, gypsy and eunuch communities in the fiscal year of 2012-13.³ These efforts are welcomed steps to enhance human rights protection of some of the most vulnerable groups in Bangladesh.

Questions to the Report of the Special Rapporteur:

- Discrimination based on work and descent forces tens of millions of Dalits across South Asia to live in terrible conditions – such as the ones the SRs have seen for themselves in Bangladesh. In the SR’s view, what special and general measures should governments take to prevent and eliminate caste discrimination as one of the root causes to extreme poverty in affected countries?

² For a comprehensive list of UN recommendations on the issue of caste, see www.idsn.org/uncompilation

³ The honorable finance minister announced the allocation on June 7, 2012 when he placed the national budget in the parliament. He said that the government has started construction of a 'sweeper colony' in Dhaka, and has plans to build similar housing facilities in other city corporations and district towns.

- How can the draft UN Principles and Guidelines for the effective elimination on discrimination based on work and descent be used as an instrument to improve the situation of Dalits in affected countries? To what extent would they be a useful tool for bilateral and multilateral donor agencies?

WG on human rights and transnational corporations

Business operations in caste-affected countries are at a high risk of being based on the economic exploitation or seclusion of communities marginalized due to their perceived "low" position in the caste hierarchy. The links between the social hierarchies of caste and bonded labour have been highlighted by a range of ILO studies, the UN Special Rapporteur on contemporary forms of slavery, and other independent studies. In a recently published report "Maid in India - Young Dalit Women Continue to Suffer Exploitative Conditions in India's Garment Industry" links 73 European and US companies and four large Indian suppliers to systemic human rights violations, which affects between 100.000 and 300.000 persons, who are mainly Dalit and other low caste girls.

List of recent reports: ["Maid in India - Young Dalit Women Continue to Suffer Exploitative Conditions in India's Garment Industry" \(April 2012\)](#) *** ["Captured by Cotton" \(May 2011\)](#)

Recommendation: In a submission to the Working Group, IDSN recommends that the protection of Dalit rights and other persons affected by caste discrimination is duly considered by the Working Group, and that caste-based discrimination is made a thematic focus of the first Forum in 2012. This recommendation is elaborated in greater detail in a recent submission to the WG:

- [Read IDSN's submission for the public consultation on the UN Forum on Business and Human Rights \(April 2012\)](#)

ITEM 9: RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED FORMS OF INTOLERANCE

The mandate on contemporary forms of racism has many times called for proper implementation and robust action of governments to advance the fight against this caste-based discrimination. The previous mandate holder, Mr. Muigai, furthermore called on states to rally around the [draft UN principles and guidelines](#) for the effective elimination of discrimination based on work and descent at the 64th session of the UN General Assembly in 2009.

In his report on the follow up to DDPA (A/HRC/20/33), the new mandate holder expresses continued concern at the existence of discrimination on the basis of caste and analogous forms of inherited states in the areas of social and economic rights and access to education (paras. 15 and 20). The Rapporteur promotes the development and implementation of national action plans to combat racism and racial discrimination and to establish specialized bodies and mechanisms. The Rapporteur states that "National action plans are vital as they provide a comprehensive approach and roadmap to tackling the problems of racism and racial discrimination in national contexts".

Questions:

- In 2009, the Government of Nepal declared that the [draft UN principles and guidelines](#) on discrimination based on work and descent constitutes a useful tool to work out amendment and reforms of anti-discriminatory laws and revitalize their implementation.⁴ To what extent does the Rapporteur think that the [draft UN principles and guidelines](#) could be used as a framework for developing national action plans to eliminate caste-based discrimination?

⁴ <http://idsn.org/international-advocacy/un/un-parallel-events/hrc12-side-event/>