References to Caste-Based Discrimination in the NGO reports to be considered in the CEDAW review session of India July 2, 2014 in the 58th session of the Committee

IDSN July 2014

Navsarjan Trust, the All India Dalit Mahila Adhikar Manch (AIDMAM) and the International Dalit Solidarity Network (IDSN)	See the submission
Apne Aap Women Worldwide	We believe that prostitution is not a choice but the absence of it. The sex trafficking industry takes advantage of women and girls' lack of meaningful options due to gender, caste and class discrimination and economic policies that fail to ensure universal access to education, sustainable livelihoods and human rights. The most effective solutions come from small groups of women organizing themselves in self-empowerment groups to collectively access their rights at the local and national level.
Amnesty International	The Constitution of India guarantees equality under Article 14, which states that "the State shall not deny to any person equality before law or equal protection of the laws within the territory of India." Article 15(1) states that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them." Another major concern for authorities is the widespread incidence of violence against women from marginalised castes and communities, including Dalits (so-called 'untouchables') and Adivasis (indigenous people). The figures for total number of reported cases of violence against women is not disaggregated by caste, ethnicity or religion, so full figures of the extent to which women from these groups report violence is not known. However, there is special legislation relating to crimes committed against Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis) and when specific crimes are registered under that legislation as well as the Indian Penal Code then separate figures are available. The National Crime Records Bureau recorded 1,576 cases of rape reported against Dalit women and 729 cases against Adivasi women in 2012.39 This figure is likely to be a significant underestimate. Activist groups say that systemic bias against Dalits and Adivasis make it less likely that crimes against women will be reported, investigated and prosecuted effectively. A 2005 study on 500 cases of violence against Dalit women in four states found that two out of five women who had experienced violence did not seek legal remedies, primarily out of fear of the perpetrators or social stigma, ignorance of the law, or the belief that they would not get justice.

Dalit and Adivasi women face multiple levels of discrimination and violence. Members of dominant **castes** are known to use sexual violence against **Dalit** women and girls as a political tool for punishment, humiliation and assertion of power. Police are also known to collude with perpetrators from dominant **castes** in covering up crimes by not registering or investigating offences against **Dalits**.

In an incident in May 2014, two girls from a lower **caste** from the Baduan village of the northern province of Uttar Pradesh were allegedly gang raped and hanged from a tree. The girls - aged 14 and 16 – went missing after they had gone to a field to relieve themselves. The father of one of the girls said he sought the help of the local police to find them, but the policemen on duty refused to register or investigate the complaint and slapped him instead. The next morning, the bodies of the girls were found hanging from a tree near their houses. This problem is also exacerbated by the widespread presence of khap panchayats, unelected village councils usually composed entirely of men from a so-called 'high' **caste** who prescribe rules for social behaviour and interaction in villages. In 2011, the Indian Supreme Court described these panchayats as 'kangaroo courts' and said their decrees were illegal; however, these bodies continue to exist and flout the law.

For example, in January 2014, in the state of West Bengal, an elected council of village males allegedly ordered 13 men to gang-rape an Adivasi woman as punishment for falling in love with a man from a different religion. Some public officials and political leaders have contributed to the culture of impunity for violence against women by appearing to justify violence against women. Commenting on the trial of a gang-rape case from Mumbai in April 2014, a former Chief Minister from the state of Uttar Pradesh stated, "Should rape cases be punished with hanging? They are boys, they make mistakes." In May 2014, responding to the rape and murder of two **Dalit** girls, the Home Minister of the state of Madhya Pradesh said rape was a social crime which was "sometimes right and sometimes wrong".46

Centre for Advocacy on Stigma and Marginalisation, (CASAM), Sampada Grameen Mahila Sanstha (SANGRAM), Mahila Sarvangeen Utkarsh Mandal (MASUM), Veshya Anyay Mukti Parishad (VAMP)

The challenge of documentation

Stigma related to their work and identity and the migratory nature of work prevents sex workers from accessing identification documents, essential to accessing entitlements. For instance in 2009 it was estimated that only 20 percent of over 5000 sex workers in Delhi had a voter's ID card. Sex workers from the National Network of Sex Workers also shared that residence proof, father's name and **caste**, and the ration card were some documents required for getting their children registered in schools.

<u>Disabled People's</u> <u>International India (DPI</u> India)

Violence against women

Response to paragraph 9 and 10 of the list of issues: The State needs to take appropriate steps to address the heightened risk for girls and women with disabilities of becoming victims of violence, abuse and exploitation in institutions, in the community and at home.

Anita Ghai states¹ "Violence and abuse of anyone regardless of gender, age, caste or any constituency is never permissible". She shares²

Disadvantaged groups of women

Response to paragraph 17, 18, 19 of the list of issues: There are 2,156,840 women with disabilities belonging to the Scheduled caste category and 994,244 to the Scheduled Tribe category. The State of India policies do not reflect any sensitivity or awareness in its policies to this intersection of the population. It has done little to address the additional barriers faced by this group of women with disabilities. The State needs to be sensitised to these multiple forms of disadvantage and address them in its polices on disabilities and on Scheduled caste and Scheduled Tribe.

FoodFirst Information & Action Network (FIAN) India

More than 70% of Indian women and children have serious nutritional deficiencies. Similarly, the level of adult malnutrition is high, affecting one-third of the country's adults. In this regard, Scheduled Tribes (STs), Scheduled Castes (SCs), and minorities (Muslims) are at a great disadvantage.

Case: Kolleru Lake, Andhra Pradesh

The Dalits or the outcaste villagers in the Kolleru Lake District of Andhra Pradesh, continue to face discrimination and atrocities by upper caste people which have, over generations, led to their loss of traditional livelihood opportunities owing to decline in local natural vegetation and fish extinction caused by environmental degradation.

Franciscans International and VIVAT International

Article 1: Non-discrimination and Equality.

2. Article 15 of the Indian Constitution guarantees equal protection under the law for women and men by prohibiting discrimination on the grounds of religion, race, caste, sex, or place of birth

Dialogue with Franciscans at the grassroots level has revealed that the one great underlying element of discrimination and inequality is the problem of Caste and Tribal structures. Institutional failures such as a lack of mobilization, awareness, and accountability measures4 compounded with social barriers such as the "deeply entrenched patriarchal attitudes"5 perpetuated by Caste and Tribal structures limit women's opportunities for socioeconomic and political equality and further engineer discriminatory practices.

4. Although "discrimination on the basis of caste is prohibited, and laws such as the Protection of Civil Rights Act, 1955, The Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989, [and] Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, [work to] protect the rights of the vulnerable groups and provide

 $^{^{1} \}quad \text{http://gritprajnya.wordpress.com/2013/12/05/unspeakable-inequalities-understanding-the-cycle-of-structural-violence-a-case-of-women-with-disabilities/ Accessed on 21.5.2014$

² http://gritprajnya.wordpress.com/2013/12/05/unspeakable-inequalities-understanding-the-cycle-of-structural-violence-a case-of-women-with-disabilities/ Accessed on 21.5.2014

norms for relief and rehabilitation"6, the gap between legislation and Ingrained attitudes towards women, especially in "conjunction with customs, caste discriminations, and religious beliefs and practices", create ripe environments for inequalities to foster. Mind-sets often operate outside the legalistic framework that guarantees opportunities for women. The injustices plaguing Dalit and Tribal women can be attributed to attitudes on the part of male family members, communities, and states as well as systemic ignorance – as a result of illiteracy and lack of exposure to media –that prevents many women from comprehending their "legal entitlements." The social aspects of discrimination and inequality, i.e. harmful perceptions, beliefs, and cultural norms, are affecting the economic and political dimensions of the issues as well.

Article 2: Obligation to eliminate discrimination

8. The GOI ratified the Convention on the Elimination of All forms of Discrimination against Women on 9 July 1993. Article 15 of the Constitution prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. Article 15, clauses (3) and (4) of the Constitution guarantee that nothing in the Article will prevent the State from making any special provisions for women, as well as guaranteeing that nothing in the article, clause (2), or Article 29 "shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the **Scheduled Castes** and the Scheduled Tribes." The GOI has the obligation as well as the legal arsenal to eliminate discrimination against women and has taken extensive measures in doing so. However, systemic discrimination remains, which is proving detrimental to the full enjoyment of women's rights.

12. Recommendations

1. Adopt measures to ensure that women's Constitutional rights are protected regardless of whether or not they belong to scheduled Tribes or **Castes.**

Human Rights Watch

Since 2013, the Ministry of Health and Family Welfare has developed detailed guidelines on the treatment and care of survivors of sexual violence, taking an important step forward. These guidelines outline the steps that medical professionals should take when women and girls who experience sexual violence approach them. They outline the nature of therapeutic care (reproductive, sexual, and mental health) that should be offered to survivors, paying attention to their special needs or vulnerabilities such as disability, gender identity, and **caste.**

While the Right to Education Act and government schemes have resulted in near-universal enrollment of girls in primary schools, millions of children from disadvantaged communities do not actually attend classes, often because their **caste**, ethnicity, economic condition, religion, or gender acts as a barrier to education.

The 2014 Human Rights Watch report, "'They Say We're Dirty': Denying an Education to India's Marginalized," shows how children from poor and

marginalized communities—**Scheduled Castes**, Scheduled Tribes, and Muslims—face discrimination in government schools. Discrimination by teachers and other school staff may lead to increased truancy among these children and eventually they stop going to school. According to 2013 government estimates, over 40 percent of the children enrolled are likely to drop out before completing eighth grade. Once these children drop out, they are often pushed into child labor or early marriage.

The school dropout rates among girls are far higher. According to government statistics from 2012, the dropout rate among adolescent girls is as high as 64 percent. A significant number of these are girls from **Dalit**, tribal, and Muslim communities, who leave school without completing eighth grade, usually when nearing puberty. They are particularly vulnerable to child marriage. Their largely low-income parents worry about leaving a teenage girl alone at home while they work, and prefer to marry them early, fearing that unmarried teenage girls face greater risks of sexual exploitation or abuse. Although the Right to Education Act proposes interventions to keep girls from vulnerable communities in the classroom, those mechanisms have not been effectively implemented.

Suggested Recommendations

Develop guidelines and manuals for teachers that set forth good practices for social inclusion and equity, such as encouraging children from marginalized communities to participate in school activities and ensuring more frequent collaboration between children of different **castes**.

Manual scavenging

This section deals with India's international obligations to end manual scavenging—the humiliating, **caste-based** practice requiring women to manually clean human excrement from toilets and open defecation areas. It draws the Committee's attention to three significant challenges women face in leaving this practice: threats of violence, threats of displacement, and barriers to accessing alternate labor markets.

Access to justice

Not only has India failed to implement legal protections to stop manual scavenging and rehabilitate those engaged in it, those who try to leave manual scavenging voluntarily often suffer retribution. Human Rights Watch researchers met women who reported facing threats of violence when they attempted to leave manual scavenging. They also faced significant obstacles to accessing state support to deal with such threats, in part due to **caste-based discrimination** perpetuated by local government officials and police officers.

The Committee has previously recommended that India improve access to justice for **Dalit** women, focusing on the need for free legal services. This guidance on ensuring free legal services and facilitating access to justice is particularly critical for women who try to leave manual scavenging work.

Threats of eviction and displacements

In addition to threats of violence, women who refused to practice manual scavenging report facing threats of denial of access to land for grazing or firewood, and eviction from their homes. They are particularly vulnerable to threats from upper **caste** neighbors or village council officials because they do not own the land where they have built their homes and can be displaced at any time.

Remotely situated rural women, adivasi (tribal) women, and **Dalit** women are especially disadvantaged in their access to maternal health services.

Indraprastha Public
Affairs Centre (IPAC) and
Sathi All for Partnership

Questions

Does the state have an independent panel of reviewers belonging to all genders, **caste**, minority and region which can play a proactive role in ensuring quality gender equal programmes?

How will the government deal with differential socio – economic hierarchy in its projects and schemes at local levels such that excluded like the **Dalit** women be at par with non-**Dalit** women in terms of resource base?

Article 16

With increasing violence against women and girls, there is also commensurate increase in violations of all other rights of women and girls. In several communities there is increasing patriarchal stranglehold over women's mobility, banning of mobiles for girls, strict enforcement of cultural codes with regard to access to health and educational facilities. Since India is a diverse nation and violence against women manifests more sharply against women in marginalised communities from lower castes, tribes, religious minorities and remote regions. Though there are several old and new laws for affirmative action for women as well their protection from violence, the state has not been able to ensure systematic implementation of these laws. The personnel within the system need continuous sensitization and action needs to be taken quickly against erring office bearers but many a time the due diligence of law implementation leaves much to be desired. Gender equality, caste and caste discrimination, respect for diversities with specific focus on regions and ethnicities need to be introduced in the curriculum for education at all ages.

Inter State Adivasi
Women's Network
(ISAWN) of Mainland
India, Indigenous
Women's Forum of
North East India
(IWFNEI), and Asia
Indigenous Peoples Pact
(AIPP), Chian Mai,
Thailand

Failure in legal remedies

In spite of the existence of Schedule Tribes (ST)/**Schedule Caste (SC)** Atrocity Prevention Act, violence against adivasi women is rarely prosecuted under this law, or treated seriously. The criminal justice system has failed to bring justice to Indigenous/tribal women survivors.

The obligations of the Indian government in implementing the provisions of CEDAW need to be reflected in all the relevant agencies and bodies at all levels especially those relating to adivasi/tribal peoples and adivasi/tribal women. These shall include the Ministry of Tribal Affairs, National Commission for Scheduled Tribes and Tribal Sub Plan and Integrated Tribal Development Projects has to be implemented properly to improve the situation of Indigenous peoples particularly women. The Commission for

Scheduled Area and Scheduled Tribes, Committee on welfare of **Scheduled Castes** and Scheduled Tribes, National Scheduled Finance and Development Corporation and Tribal Marketing Development Federation.

Rights of Adivasi/Tribal Women Domestic Workers

In India, nearly 50 million domestic workers, of whom 90% are women ranging from ages 8-65/70yrs mainly come from tribal, **dalit** & other marginalized communities. Over the years, attempts have been made to have a national legislation under Domestic Workers (Conditions of Service) Bill, 1959; Workers (Conditions of Service) Bill, 1989, Housemaids and Domestic Workers (Conditions of Service and Welfare Bill), 2004 etc. but till today, there has been no common legal framework at the national level to promote and protect the rights of the women domestic workers.

Shaheen, Apne Aap and Equality Now

According to Apne Aap and the UN Special Rapporteur on Violence Against Women, women from minority or marginalized groups, low-income families, denotified tribes, and other **scheduled castes** and tribes, as well as those who lack education and other livelihood options are most vulnerable to being trafficked into prostitution

Shaheen Women's Resource and Welfare Association was set up in the year 2002 to work among rioting communities in the Old City area of Hyderabad. The primary focus of the work was on ground interventions for the women and girls of the isolated communities of Muslims, **Dalits** and **Other Backward Castes (OBC).** Shaheen is keen to enable women gain control over their resources, livelihoods, and community-level decision-making processes.

Joint submission coordinated by the National Alliance of Women (NAWO) – INDIA

Towards Equality and Non-discrimination

The Indian Constitution guarantees fundamental freedoms to all its citizens, recognizing the Right to Non-discrimination and Equality for women by law. However, these fundamental rights, specifically in their enforcement, have constantly failed to provide even the basic protection to women, especially the **Dalit**, and the marginalized women

The gulf of social inequalities on the lines of **caste**, class, tribe and minorities has only widened – challenging the very basis of the poverty reduction processes.

The rape of a twenty year old tribal girl in fill public view by thirteen villagers on the orders of the village headman in Birbhum District of West Bengal just because she chose her life partner from a different community or the very recent aggravated sexual assault and brutal murder of two girls on May 28th 2014 in Badaun, Uttar Pradesh only reiterates that despite the Amendments that were brought about in the criminal Laws in 2013 which broadened the definition of sexual assault and recognized the gradation in seriousness in crimes of sexual assault, the resistance to the new laws and the continued subjugation of women through class, caste dominance is only getting stronger by the day though many of these cases may not always be caste based. With families of the survivors crippled and diminished by the los and

the callous nature of the government authorities underlines the fact that impunity remains the order of the day.

While the Constitution of India prohibits discrimination based on **caste**, religion, sex, race and place of birth, and India has laws protecting **dalits**, adivasis (scheduled tribes), and women from discrimination, violence, atrocity and targeted assault, there is a vast gap between laws and their effective application to deliver protection to vulnerable groups. Two recent legislative interventions are the *Criminal Law Amendment Act* 2013 redefining sexual assault, which has retained the exception to marital rape even while broadening the definition of sexual assault itself; the second is the *Scheduled Castes* and *Scheduled Tribes* (*Prevention of Atrocities*) *Amendment Ordinance* 2014, which broadens the definition of atrocity. However, religious minorities continue to remain extremely vulnerable to collective violence which has very specific gender implications as was witnessed in Gujarat in 2002, in Kandhamal, Odisha in 2008 and yet again in Muzaffarnagar, Uttar Pradesh in 2013.

Dalit women face impediments to their enjoyment of even basic entitlement and rights. Despite constitutional protections against discrimination based on sex and **caste**, and constitutional ban on untouchability, as well as special legislations like the **Scheduled Castes** and Scheduled Tribes (Prevention of Atrocities) Act, 1989 Dalit women continue to face discrimination and the derogation of fundamental freedoms arising from the absence of due diligence by the state and the guarantee of impunity to state and non-state perpetrators of **caste** atrocities against women.

Sexual violence under gender recommendation 19

Violence against Women

Despite the enactment of three laws between 2012 and 2013: the Protection of Children from Sexual Offences Act 2012 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, and the Criminal Law Amendment Act 2013. Sexselective abortion, infanticide, denial of adequate nutrition, lack of access to education and health care to the girl child, child marriage, sexual harassment in public places and the workplace, sexual abuse, acid attacks, rape, domestic violence, dowry related murders, trafficking, violence due to sexual orientation, widowhood, old age, disability, and HIV infection, custodial violence (in jails, police stations, shelter homes, hospitals, etc.), 'honour killings' and sexual assault during communal and **caste** conflicts, are some of the varied kinds of violence that women in India face.

Retribution and backlash towards exercise of sexual choice and autonomy has assumed brutal proportions when such choices transgress boundaries of **caste** and community. The use of the law enforcement machinery, and environment of moral policing and vigilantism against young persons in consensual (same and opposite sex) intimate relationships is not uncommon either.

Muslim women

The CEDAW Committee through its Concluding Comments of 2007 and 2010 has taken into account both ends of the continuum and asked State Parties to "set benchmarks and to include adequate, appropriate and comparative statistical data and analysis disaggregated by sex **caste**, minority status and ethnicity and had asked India in its "next" report to provide a full picture of the implementations of all provisions of the convention and 'trends over time' in the practical realization of Equality between Women and Men.

Dalit women

Dalit women continue to face discrimination at the hands of state and non-state perpetrators of caste atrocities against women. Continuing poor development indicators and disproportionate representation in decision making is a cause of concern. It is important that knowledge products are developed so that dalit women are able to engage with Indian policy and decision makers on addressing intersectional discrimination and violence. The marginalization of Dalit women is specifically compounded by the absence of quality education poor school infrastructure and restricted choice to continue education. Supportive infrastructure such as lack of connecting roads, long distances between home and school, girls being engaged in domestic work child labour, early marriage and child birth are some major areas of concern. In India, access to formal education has been a critical factor in the economic empowerment of marginalised communities.

Dalit women are vulnerable to specific forms of violence. These forms include stripping and parading naked, violence associated with allegations of practicing witchcraft, sexual exploitation, trafficking and prostitution, including ritualized prostitution under Devadasi /Jogini practices, and domestic violence within **inter-caste** marriages. Statistics show that over 2,500 women have been killed on the suspicion of practicing witchcraft in the past 15 years.

The recent manifestation of violence experienced by **dalit** women is while asserting their political participation. Women are coerced into acting as proxy representatives. Discrimination, sexual harassment and physical violence against SC women panchayat leaders trying to effectively discharge their role was widespread moreover, lower government officials often supported dominant caste harassment of these women representatives, therefore treating the women with 'disdain, neglect and apathy.

Dalit women's access to justice is often marred by fear of the perpetrators or the dishonor and stigma attaching to victim-survivors of sexual violence and ineffective policing in setting the wheel of criminal justice procedure in motion. Low levels of accountability and lack of legal recognition of the nature of violence committed against women based on the concepts of caste discrimination, lack of speedy trial and no knowledge of the laws pose a significant constraint on the victim's access to justice.

The **Schedule Caste** Sub Plan related schemes should focus on **Dalit** women in such a way that the schemes are designed to improve and encourage women leadership, ownership of land resources and capital assets.

Article 15

The State should ensure effective implementation and usage of laws concerning women and girls - the Protection of Women from Domestic Violence Act 2005, **Scheduled Castes** and Scheduled Tribes (Prevention of Atrocities) Act 1989, Protection of Children from Sexual Offences Act 2012, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, Prohibition of Child Marriage Act 2006.

Kandhamal

Apply the provisions of NREGA and other livelihood schemes of the government to women of the affected community, with no discrimination on the basis of **caste**, religion or gender.

Dalit women

50% of the **Schedule Caste** / Sub Plan related schemes be focused on **dalit** women in such a way the schemes are designed to improve and encourage women leadership, ownership of land resources and capital assets. The state must distribute 5 acres of cultivable land in the name of **dalits**.

The outrage against sexual violence has eclipsed concern urban homeless women and **Dalit** women who are at the other end of the spectrum. The debates surrounding aggravated rape almost entirely confined to death penalty, harsh sentences and speedy trials – with no attention to prevention, discussion on aggressive masculinity, misogyny, or normalized forms of sexual harassment is part of the continuum leading to rape.

Women's International League for Peace & Freedom (WILPF) India

Quotas for Women in Local Bodies — Encouraging trends

To increase their representation of women in decision-making bodies at the local level, the Constitution (Seventy-third Amendment) Act, 1993 and the Constitution (Seventy-fourth Amendment) Act, 1993 reserved seats for women at the local level bodies, namely, the Panchayats and Municipalities with the hope that these measures will set the trend to provide women their legitimate place in public life. After these amendments, Articles 243 D and 243 were added to the Constitution to provide that not less than one-third (including the number of seats reserved for women belonging to the **Scheduled Castes** and the Scheduled Tribes) of the total number of seats to be filled by the direct election in the local bodies (Panchayats and Municipalities) would be reserved for women and such seats may be allotted by rotation to different constituencies in the local bodies.

-to provide, as nearly as may be, one-third reservation for women including one-third the number of seats reserved for the **Scheduled Castes** and the Scheduled Tribes in the House of the People and in the Legislative Assembly of every State to be reserved for women of that category.

Most of the parties have pledged their support for the Bill provided there is consensus on it. Some parties, while maintaining that they are not opposed to women's reservation, contend that the interests of women from **Dalits**, backward classes, Muslims and other religious minorities should be adequately protected.

AWAG has so far made interventions on various issues with more than 2,75,000 women including those of minority and **dalit** communities.