

## **Recommendations for the 47<sup>th</sup> Regular Session of the Human Rights Council (21 June – 15 July 2021)**

In connection with their participation in the 47<sup>th</sup> Human Rights Council session, states are encouraged to consider the ongoing and systemic practice of discrimination based on work and descent, also known as caste-based discrimination, affecting over 260 million people globally.

Caste discrimination is found in various regions of the world, including the Americas, Africa, Asia and Europe and is frequently addressed by the UN High Commissioner for Human Rights and the Special Procedures' mandate holders. Nonetheless, more needs to be done to ensure that caste-based discrimination is recognised by the Council and mainstreamed into UN resolutions.

**In the context of the reports presented at the 47<sup>th</sup> Council session, IDSN recommends states to pay particular attention to caste-based discrimination to ensure it is included on par with other forms of discrimination in thematic HRC resolutions.**

### **Human rights implications of the COVID-19 pandemic (Thursday, 21 June, 10:00-13:00)**

The UN High Commissioner for Human Rights will present her report “The central role of the State in responding to pandemics and other health emergencies, and the socioeconomic consequences thereof in advancing sustainable development and the realization of all human rights – Report of the Office of the United Nations High Commissioner for Human Rights” (A/HRC/47/23).

Among vulnerable groups, Dalits and other groups subject to caste-based discrimination have suffered disproportionately from the pandemic.

The UN Rapporteur on Contemporary Forms of Slavery, in his latest report emphasized ([A/HRC/45/8](#)):

39. [...] In India, COVID-19 measures forced more than 100 million internal migrant workers, many of whom belong to minorities and certain castes, to travel long distances home. In addition to being exposed to economic deprivation and indebtedness, many were reportedly subjected to police brutality and stigmatized as virus “carriers”.

Regarding the harmful practice of manual scavenging (dry latrine cleaning), a job left for Dalits, out of which 92% are women, the pandemic further worsened their situation. This practice is forbidden, but by no means eradicated. During COVID-19 they have been forced to work and been exposed to the virus in order to earn their subsistence.

Manual scavengers have been named 'frontline' warriors in the war against COVID, but in reality, they are taking on the most dangerous tasks of cleaning medical and virus-affected waste - without being provided with sufficient safety equipment.

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**IDSN recommends that States:**

- **Participate in the interactive dialogue with the High Commissioner by engaging in practical and concrete measures to protect Dalits and minorities suffering caste-based discrimination, including Dalit women and girls, through a series of measures, such as (a) the recognition of the severe instances of intersectional discrimination that affect Dalits; (b) the need to effectively implement existing legislation prohibiting discrimination based on caste; (c) the need to further discuss concrete measures to protect Dalits from the exposure to the COVID-19 pandemic, and the ensuing discrimination, such as prejudice, misconceptions, and also equal access to sanitation facilities, water and healthcare; and (d) the need to ensure that Dalits and manual scavengers are guaranteed basic rights, by e.g. effectively enforcing the prohibition of manual scavenging and taking targeted measures to protect Dalits and manual scavengers from the COVID-19 pandemic.**

**Interactive Dialogue with the Special Rapporteur on The Right to Adequate Housing (22 June, 15:00 – 18:00)**

The Special Rapporteur on the Right to Adequate Housing, Cecilia Jimenez-Damary, will present her report on Housing, land and property issues in the context of internal displacement, ([A/HRC/47/37](#)). Her report analyses how these issues can drive displacement, be a consequence of displacement and be an obstacle to durable solutions. The Special Rapporteur looks at the impact of these issues on the human rights of internally displaced persons and how they can be addressed.

The Rapporteur emphasizes:

Indigenous peoples, women, minorities and members of certain caste systems, among others, tend to have weak security of tenure and to have customary or subsidiary land rights limited to such activities as food production, gathering, hunting and fishing. Because these rights are often not recognized and because vulnerable people often lack awareness, means or trust in institutions, they face difficulties defending their land against confiscation or occupation. Courts are often inaccessible to them and customary dispute resolution mechanisms may discriminate against them.

Dalits are affected in multiple ways regarding the right to housing. Traditional harmful practices and structural discrimination affect housing and land tenure possession, pushing Dalits further to poverty and exclusion. Dalit women, as the most marginalized group in societies affected by caste discrimination, face numerous hardships and instances of inequality, in specific housing and land tenure, including the rights associated therewith, such as drinking water and sanitation facilities.<sup>1</sup> Intercaste marriages may also lead to housing rights challenges and loss of housing, given that tenure

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<sup>1</sup> Dalit Women Speak Out: Violence Against Dalit Women in India. Aloysius Irudayam, Jayshree Mangubhai, Joel Lee.

or property rights are often secured by the law to the husband. Moreover, in emergency situations, Dalit women face discrimination in relief efforts, receiving less aid than non-Dalit women and Dalit men.<sup>2</sup>

A former rapporteur on violence against women has expressed “The reality of Dalit women and girls is one of exclusion and marginalisation ... They are often victims of civil, political, economic, social and cultural rights violations, including sexual abuse and violence. They are often displaced; pushed into forced and/or bonded labour, prostitution and trafficking.”<sup>3</sup>

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**IDSN recommends that States:**

- **Participate in the interactive dialogue with the Special Rapporteur on the Right to Adequate Housing by engaging in practical and concrete measures to protect Dalit women from all forms of violence and particularly in the context of the right to housing, such as (a) to assess specifically the needs of women belonging to minority groups, such as Dalit women in the enjoyment of the right to housing; (b) to dialogue with countries affected by caste-based discrimination with a view to implement existing legislation and reinforce the protection of Dalits’ right to housing and prevention of forced eviction; (c) to consult with marginalized Dalit communities on the practical obstacles to enjoyment of the right to housing and prevention of displacement.**

**Interactive Dialogue with the Special Rapporteur on Violence against Women (28 June, 10:00 – 13:00)**

The Special Rapporteur on Violence against Women, Dubravka Šimonović, will present her report titled “Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention” ([A/HRC/47/26](#)). Dalit women suffer from severe limitations in access to justice and there is widespread impunity in cases where the perpetrator is a member of a dominant caste. Dalit women are therefore considered easy targets for sexual violence and other crimes, because the perpetrators almost always get away with it. For example, in India, studies show that the conviction rate for rapes against Dalit women is under 2%, compared to a conviction rate of 25% in rape cases against all women in India. “Great, now you have proof that you enjoyed yourself” – the reply of an Indian court judge to a gang raped Dalit woman, upon seeing a video of the rape filmed and distributed by the dominant caste rapists and presented by the woman in court as evidence of the rape.<sup>4</sup>

A similar picture is seen in other caste-affected countries such as Nepal, Bangladesh and Pakistan. Crimes against Dalit women are largely committed with impunity as their social status as so-called ‘untouchables’ often hinders them from filing reports with the police or accessing legal systems. Even when Dalit women can file a report with the police, caste and gender prejudice in the courts is another severe obstacle to obtaining justice for Dalits. A deeply ingrained discriminatory mindset within the

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<sup>2</sup> <https://idsn.org/urgent-appeal-to-combat-caste-discrimination-in-nepal-earthquake-relief-efforts/>

<sup>3</sup> <https://idsn.org/un-plight-of-dalit-women-highlighted-by-the-special-rapporteur-on-violence-against-women/>

<sup>4</sup> <https://idsn.org/key-issues/dalit-women/>

systems of justice in caste-affected countries is a key part of why Dalit women are routinely denied justice.

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**IDSN recommends that States:**

**- Participate in the interactive dialogue with the Special Rapporteur on the Violence against Women by engaging in practical and concrete measures to protect Dalit women from rape, such as (a) recognition of severe instances of discriminatory practices against Dalit women, leading to low social costs of raping them; (b) the need to amend legislation and regulation, or to enforce legislation already in place in order to ensure that raping Dalit women is adequately punished; (c) training judges, prosecutors and law-enforcement agents on the question of impunity, in particular on caste and gender biases on the administration of justice.**

**Interactive Dialogue with the Working Group on Discrimination against Women (25 June, 15:00 – 18:00)**

The Working Group on Discrimination against Women will present its report titled “Women’s and girls’ sexual and reproductive health rights in crisis” ([A/HRC/47/38](#)). The report calls for a radical shift in how situations of crisis are identified and addressed, by drawing attention to the non-enjoyment by women and girls of their basic sexual and reproductive health rights as a significant impediment to gender equality, resulting from the persistent failure of States to adequately respect, protect and fulfil those rights.

In the report, the Working Group underscores that Dalit women, among other communities are in a persistent state of crisis caused “by histories of oppression, enslavement, exclusion, racial discrimination, forced assimilation and apartheid, linked to conquest and colonization, as well as systematic violence and disregard for their culture, spirituality and traditions” (para. 63). Dalit women are often trapped in highly patriarchal societies. The severe discrimination they face from being both Dalit and women, makes them a key target of violence and systematically denies them choices and freedoms in all spheres of life. This endemic intersection of gender and caste discrimination is the outcome of severely imbalanced social, economic and political power equations. Such a pattern directly affects the reproductive health of Dalit women. Dalit women experience many health problems due to the lack of health education and access to services that have been provided by the government such as, gap in the knowledge of Dalit women about reproductive and sexual health results, sexually transmitted diseases, uterine prolapse, uterine cancer and obliged to give birth many children. They also suffer from malnutrition and communicable diseases due to the lack of knowledge and access to clean drinking water and sanitation.<sup>5</sup>

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**IDSN recommends that States:**

**- Participate in the interactive dialogue with the Working Group on Discrimination against Women by engaging in practical and concrete measures to protect Dalit women’s reproductive rights such**

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<sup>5</sup> See: <https://idsn.org/wp-content/uploads/2020/03/FEDO-Report-on-Dalit-women-and-Beijing-25-2020.pdf>

as (a) recognition of severe instances of discriminatory practices against Dalit women, leading to disproportionate impacts on Dalit women's reproductive health; (b) the need strengthen health systems in order to reach out to marginalized communities, such as Dalit women; (c) the need for dialogue and consultation with Dalit women communities, in order to hear their priorities and to adapt public policies accordingly.

**Panel on the 10<sup>th</sup> Anniversary on the Guiding Principles on Business and Human Rights (29 June, 16:00 – 18:00)**

The Human Rights Council will hold a special panel on the celebration of the 10 years of the Guiding Principles on Business and Human Rights, analyzing both progress and challenges ahead.

In the past decade, the UNGPs have provided an authoritative framework - "Protect, Respect and Remedy" - for governments and business enterprises to prevent, address and remedy the adverse human rights impacts of business activities. There is a growing recognition of the UNGPs as a means to help businesses implement their responsibility to respect human rights. Although the UNGPs have raised the visibility of the human rights obligations regarding business enterprises, by compiling the existing international human rights norms, a decade has passed without adequate focus on the most marginalized and vulnerable workers. From IDSN's perspective, the business and human rights agenda needs to make caste discrimination a priority issue. The most common exploitation of workers from caste-affected communities, include (a) the use of children and bonded labourers (debt slaves), working under hazardous conditions for minimal pay; (b) discrimination in employment practices – applicants from caste-affected communities are never considered for skilled or managerial jobs; (c) discrimination in the services and utilities offered by an employer, such as housing, health care and education and training; and (d) misappropriation of land belonging or allocated to caste-affected communities.

IDSN has developed or participated in the elaboration of important tools to help eliminate caste discrimination by businesses, these are key resources. The [Ethical Trading Initiative Base Code Guidance on Caste in Global Supply Chains](#) seeks to support businesses in understanding the risks posed by caste discrimination when their operations and supply chains stretch into caste-affected countries. The [Ambedkar Principles](#) aimed at assisting foreign investors in South Asia, including a set of employment principles as well as a set of additional principles addressing economic and social exclusion of Dalits in South Asia. The [Dalit Discrimination Check](#) is a web-tool developed specifically to help companies identify and prevent discrimination and exploitation of Dalits in their Indian operations and suppliers. The ISO 26000 standard on social responsibility refers to discrimination based on caste and the obligation of private sector actors to contribute to eliminating such practices. The draft [UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent](#) are a comprehensive legal framework developed to eliminate caste discrimination globally. Based on existing international human rights principles and obligations, the framework proposes general and special measures to be taken by multiple stakeholders, including private sector actors.

For the next decade, there are of course challenges in effectively implementing the UNGPs. This is the particular case of marginalized and vulnerable groups that suffer disproportionately from the impacts of business human rights violations or abuses. Dalit girls and women and other low caste groups

recruited under the “Sumangali Scheme” suffer multiple rights violations in the spinning mills in India, which supply the global garment industry. Employees were found to work a 68-hour week, with no contracts or payslips, no education and no bonus. They were locked inside a factory during working and dormitory compounds in non-working hours. Agriculture employs more bonded labourers than all other industries and services combined. In India it accounts for 85% of bonded workers. A 2017 ILO study found Dalits to be particularly vulnerable to exploitation in the sugar cane industry, where bonded and child labour were common, and the work undertaken is highly dangerous. Dalits working in tea plantations in Bangladesh and India suffer less than minimum wage, hazardous work and long hours.

A second decade should focus on the non-discrimination component, enshrined as a principle of the UNGPs. Marginalized social sectors, such as Dalits, should be given priority in the debates surrounding effective implementation of these principles, through a bottom-up approach, consultation with members of these sectors and focused training and awareness raising. Overall, attention should be given to the specific means by which those groups are impacted by business violations and abuses.

**IDSN recommends that states:**

**- Participate in the panel by engaging in practical and concrete measures to further strengthen the Guiding Principles, such as (a) recognize the importance of the Principles and Guidelines as a landmark in the last ten years; (b) give further attention to its discrimination aspects, in order to expand protection to the most marginalized sectors of society, including Dalits; (c) engage in a dialogue with countries affected by caste discrimination, in order to assess together ways by which the Guiding Principles on Business and Human Rights may be a tool to eliminate this type of discrimination.**

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Please note that some HRC47 reports have yet to be published but could prove relevant. An overview of all reports for this session can be found [here](#).

For more recommendations on caste discrimination within the UN framework see the [draft United Nations Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent](#) (2009)

For a full compilation of references to caste-based discrimination in UN human rights bodies see: [IDSN compilation of UN reference to caste discrimination](#).

Launched in March 2017, by the OHCHR, [Guidance tool on descent-based discrimination: key challenges and strategic approaches to combat caste-based and analogous forms of discrimination](#) offers concrete suggestions for actions to address caste-based discrimination in caste affected countries.

Published in November 2017, [IDSN Roadmap](#) to the OHCHR Guidance tool on Descent-based discrimination offers a simplified overview of the above Guidance tool.