

Call for inputs from the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association for his report to be presented at the 50th session of the Human Rights Council

Joint Submission



## *Crises of systemic discrimination against particular groups*

### **A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?**

The historic and systemic caste-based discrimination and untouchability worldwide, which by perpetuating inequalities and a hierarchical society, impacts in itself on the right to freedom of assembly and association of Dalits. The lower social value attributed to Dalits in countries affected by caste systems has direct implication in rights deficits. Therefore, overall political participation and freedom of assembly and association have been systemically hindered to Dalit communities and activists. The former Special Rapporteur on the Right of Association and Peaceful Assembly, in a dedicated report, has underscored:

Despite laws prohibiting caste discrimination and positive measures to reverse the impact of discrimination and violence, the Dalit population in India continues to face severe social restrictions in participating on an equal footing with others in political parties and associations.<sup>1</sup>

[D]iscrimination against individuals of lower caste —Dalits —manifests itself in various ways, including a lack of access to justice, threats to life, and gender-based violence against women and girls. Protests by Dalits are often met with violence and excessive use of force by high-caste individuals and law enforcement officials. Also, Dalit activists are detained and prosecuted on serious charges such as terrorism.<sup>2</sup>

Indeed, in the case of caste-based discrimination, in which the affected communities organize to protest against the appalling instances of discrimination they sustain<sup>3</sup>, they face extreme violence and attacks from State and non-state actors (e.g. corporate companies) as well when they participate in peaceful assemblies in addition to law enforcement officials. Human rights defenders are frequently in danger because of raising the issues against caste violence.

Compelling examples from our experience lend support to this argument:

**Nepal: Protest against the involvement of Education Minister in Nepal, 2021:** A number of demonstrations and gatherings were organized to protest against the involvement of the Minister of Education who sought to release a person, who was alleged to have discriminated on the basis of caste, from detention. The authorities obstructed the proper investigations of the case and threatened the victim instead.

**India: Dalit Rights Activist, Nodeep Kaur, arrested, physically and sexually assaulted by Police, 2021 :** Nodeep was arrested on 12 January when she was protesting outside a factory on the outskirts of the capital, Delhi. Her arrest led to global outrage given the circumstances in which she was picked up amid accusations of sexual assault and torture.<sup>4</sup> She had been working at the factory when farmers protesting

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<sup>1</sup> UN Doc. A/HRC/26/29, § 66.

<sup>2</sup> UN Doc. A/HRC/32/36, § 77.

<sup>3</sup> IDSN, "Sanitation worker deaths spark protests demanding an end to manual scavenging in India", available at: <https://idsn.org/11-sanitation-workers-deaths-over-just-7-days-spark-mass-protests-in-india/>

<sup>4</sup> <https://www.bbc.com/news/world-asia-india-56178997>

new agriculture laws started gathering on Delhi's borders at the end of November last year. She and her colleagues joined the protests days later.

**India: Protestors arrested while Dalits Protest for Panchayat Land Share, 2020:** Over 125 Dalits of Ghrachon village were arrested after they tried to hold another protest rally in the grain market of Sangrur district on 29 July 2020. Several hundred had gathered to protest, claiming that dummy candidates were being fielded to get annual lease of panchayat land reserved for Dalits for cultivation. <sup>5</sup>

**India: Protest in Tuticorin (Tamil Nadu), May 2018:** 13 protesters, including environmentalists and Dalits were brutally killed by the state police of Tamil Nadu (India) in May 2018 protesting against Sterlite (Vedanta), a copper smelter company.<sup>6</sup> According to an independent People's Inquest (PI), a policeman in charge of the investigations was "particularly violent towards the people and also indulging in 'vulgar' casteist comments especially of a large section of people from Pandarampatt village".<sup>7</sup> A group of UN Experts has condemned "the apparent excessive and disproportionate use of lethal force by police against protesters calling for the closure of a copper smelting plant in the Indian state of Tamil Nadu over health and environmental concerns.

**India: Countrywide Protest, April 2018:** a series of protests organized by Dalits and Adivasis in India against a judgment by the Supreme Court in India, which was considered racially biased, was met with police brutal violence, leading to 9 deaths of protesters.<sup>8</sup>

**India: 21 Dalit activists arrested from Lucknow press club for planning to march towards Yogi Adityanath's residence, 2017:** The Uttar Pradesh Police on 3 July 2017, arrested 21 Dalit activists from a press club in Lucknow, media reports said. Many of the activists were travelling on the Sabarmati Express and had brought with them a 125-kilogramme soap with an image of Gautam Buddha carved on it. They wanted to gift the giant soap in a symbolic protest to the chief minister to "cleanse his mentality towards Dalits". The activists who had brought the soap bar were sent back forcibly from Jhansi.<sup>9</sup>

**India: 15 persons arrested in the Elgar Parishad Bhima Koregaon Case, 2017:** In December 2017, a large event was planned to commemorate the 200th year of the battle. The event was attended by several prominent personalities like Prakash Ambedkar, president of Vanchit Bahujan Aghadi, activist Soni Sori, Radhika Vemula, Jignesh Mevani, Umar Khalid and others. However, two days later, on 2 January 2018 violent clashes broke out between the two castes and in the violence

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<sup>5</sup> [<https://indianexpress.com/article/cities/chandigarh/dalits-fighting-panchayat-land-share-protest-125-arrested-6530438/>]

<sup>6</sup> See: Reuters: "Exclusive: Anti-Vedanta protesters killed by shots to head, chest; half from behind - autopsies" available at: [<https://in.reuters.com/article/vedanta-smelter/exclusive-anti-vedanta-protesters-killed-by-shots-to-head-chest-half-from-behind-autopsies-idINKCN1OL069>].

<sup>7</sup> See the report, "The Day Thoothukudi Burned", on the relevant independent investigations on the killings of the protesters, available at: [<https://peoplesinquest.files.wordpress.com/2018/07/pi-tut-part-i-final.pdf>], p.34.

<sup>8</sup> Scrool.In: "India's justice system is biased against Dalits – the 9 deaths during Monday's protest prove that", available at [<https://scroll.in/article/874856/indias-justice-system-is-biased-against-dalits-the-9-deaths-during-mondays-protest-prove-that>].

<sup>99</sup> [<https://www.firstpost.com/india/21-dalit-activists-arrested-from-lucknow-press-club-for-planning-to-march-towards-yogi-adityanaths-residence-3772571.html>]

that took place, several Dalits who gathered at the Jaystambh were injured, and one person identified as 28-year-old Rahul Patangale was killed. The Bhima Koregaon violence led to the retaliation of Dalits, causing a state-wide bandh.<sup>10</sup> Almost everyone arrested is either a Dalit or Adivasi Rights Activist. Most of them are still languishing in prison and the trial is yet to begin. The [United Nations Human Rights Office](#) has urged the Indian government to release the activists arrested in the 2018 Bhima Koregaon case.<sup>11</sup>

**India: Student Protest in Solidarity of a Dalit Fellow, February 2016:** a gathering of students from the University of Hyderabad, protesting the death of Rohith Vemula, a Dalit scholar, who committed suicide after being expelled from the university hostel, was suppressed by a number of policemen in plain clothes, as shown on a widely disseminated video footage.<sup>12</sup>

**India: Dalit protest at Una, August 2016:** Situation became extremely volatile in Una block of Gujarat and near-by villages following attacks on Dalits, who had come to attend the culmination of the week-long Dalit dignity march in the town after the flogging on four Dalit youth by the cow vigilantes<sup>13</sup>.

**India: Caste on the menu, withdrawn from a film festival in Delhi, 2015:** A documentary on deeper issues of Indian caste system and food eating habits in India was withdrawn from a recent film festival in Delhi. The film, Caste on the Menu Card, was the only film among the 35 sent to India's information and broadcasting ministry to be refused clearance.<sup>14</sup>

**India: Dalit Folk Singer and Activist, Kovan, arrested in Tamil Nadu, 2015:** Kovan was arrested in Tiruchirappalli, Tamil Nadu on 30 October, 2015 at 2 AM in the morning by plain clothes police officers and was later charged with sedition, provocation with intent to cause riot and public mischief. In the early hours of the day, with no notice to any of the family members where he was being taken, he was taken to Chennai, nearly 375 kms away. Kovan is a member of Makkal Kalai Ilakkiya Kazhagam, or People's Art and Literary Association, a group that performs folk songs and street plays on important issues such as women's rights, and rights of marginalized groups including Dalits. He was allegedly arrested for two songs which ask the state government to stop profiting from state-run liquor stores at the expense of poor people.<sup>15</sup>

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<sup>10</sup> [<https://www.thenewsminute.com/article/15-persons-arrested-bhima-koregaon-case-so-far-brief-history-132694>]

<sup>11</sup> [<https://scroll.in/latest/984996/release-activists-arrested-in-bhima-koregaon-case-un-human-rights-office-urges-centre>]

<sup>12</sup> "The Citizen, "Video Of Delhi Police Thrashing Students Goes Viral; Is The Current Regime Anti-Student?", available at [<https://www.thecitizen.in/index.php/en/NewsDetail/index/8/6698/Video-Of-Delhi-Police-Thrashing-Students-Goes-Viral-Is-The-Current-Regime-Anti-Student>], (graphic) video: <https://www.youtube.com/watch?v=UJos3sE1C70>

<sup>13</sup> <https://timesofindia.indiatimes.com/city/ahmedabad/Violence-breaks-out-after-Una-dalit-sammelan-11-injured/articleshow/53711606.cms>

<sup>14</sup> [<https://www.bbc.com/news/world-asia-india-34742831>]

<sup>15</sup> [<https://www.forum-asia.org/?p=19699>]

**B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?**

State measures, in general, have been represented by violence against Dalits associations and defenders protesting for equal rights and the eradication of caste systems. Despite the fact that hardly any contemporary jurisdiction prohibits or hinders by law Dalits' FoAA, caste bias by law enforcement agents and the justice system makes it unsurmountable for Dalit movements to gather and fight for their rights. Violence against Dalit protests are hardly investigated and redressed.

In Nepal, most elected representatives and political cadres including Ministers, MPs, local level authorities, directly or indirectly hinder proper investigation and prosecution as well as accountability of the authorities. Often, cases of caste-based discrimination issues have been counterattacked and mass demonstrations allowed by non-Dalit communities, in the favour of culprits, rather dealing as an offence against law. The criminal justice system is not very much encouraging for the victims of discrimination, as it requires evidence of every attack from the complainants. Likewise there is no system to protect the victims and witnesses in the relevant proceedings.

**C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?**

Dalit FoAA and FoE are violated mainly by the sorts of responses to the relevant protests. Dalits are physically harmed, killed, and, in some cases, women are raped for challenging caste-hierarchies and unwritten caste rules. Intersectional caste and gender discrimination results in increased levels of violence and sexual abuse of Dalit women. Dalit lawyer and activist Devji Maheshwari wrote about atrocities against Dalits and was critical of Brahminism on his Facebook account. Bharat Raval who followed Maheshwari on Facebook disagreed with those comments and warned Devji to remove the content. Both Raval and Maheshwari were from the same town Kutch in Gujarat, but the former worked in a stationery shop in Malad, Mumbai. After heated arguments on the phone, Raval travelled from Mumbai to Kutch (around 950 km) and attacked Maheshwari multiple times with a sharp weapon resulting in death, according to charges filed by the police.<sup>16</sup>

**D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?**

Dalits who could not find their own spaces and voices in the mainstream media space found alternative spaces for political participation. This change has led to the organic growth of independent Dalit media outlets producing their own content. For example, Dalit Camera – a YouTube channel modestly started with a still camera in 2011 – is now an influential anti-caste media outlet with over 69,000 subscribers and thousands of videos. Without funding from international media and development agencies it addresses the gap that the "mainstream" media continues to manufacture. Dalit Camera – a caste-hate speech free space – is now recognised as a credible news feed on Dalits and other oppressed groups by mainstream

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<sup>16</sup> Id, p. 17

media in India. These anti-caste online media outlets also hold casteist practices of mainstream media to account.<sup>17</sup>

Moreover, Twitter India has organised a series of consultations with Dalit groups and activists across the country to build a direct connection with over 80 representatives and activists from marginalized communities to understand their perspectives and learn from their experiences. Activists welcome these, but they remain cautious of the effective execution of such learning. Google has started to recognise the anniversaries of anti-caste icons such as Ambedkar and Savitribhai Phule in their doodles. Twitter India celebrated Ambedkar's anniversary by releasing a Twitter-exclusive emoji for a limited period. As part of its efforts to understand caste-related online safety concerns, Twitter India has started to work with the National Campaign on Dalit Human Rights (NCDHR) and Social Media Matters to connect more structurally and comprehensively with members of oppressed castes.<sup>18</sup>

### **Crises of poverty and inequality**

#### **A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?**

Caste discrimination is a main driver for poverty and inequality, leading to a perpetual crisis. A blatant example is the harmful practice of manual scavenging (cleaning septic tanks and sewers), engaging Dalits in inhumane work, out of which 98% are Dalit women.<sup>19</sup> A number of deaths of manual scavengers has sparked the **#stopkillingus** protest, led by [Safai Kramchari Andolan \(SKA\)](#).<sup>20</sup>

#### **B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?**

The countrywide protest served as an outcry to mobilize the Indian society and raise awareness of this practice that is forbidden by the law, but largely tolerated in the country.

#### **C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?**

Dalit FoAA and FoE are violated mainly by the violent response from the authorities to the relevant protests. Dalits are physically harmed, killed, and, in some cases, women are raped for challenging caste-hierarchies and unwritten caste rules. Intersectional caste and gender discrimination results in increased levels of violence and sexual abuse of Dalit women.

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<sup>17</sup> IDSN: Caste-hate Speech: Addressing Hate Speech Based on Work and Descent, pp. 19-20.

<sup>18</sup> Id, p. 27.

<sup>19</sup> <https://idsn.org/new-report-justice-denied-death-of-workers-engaged-in-manual-scavenging-rashtriya-garima-abhiyan/>; <https://www.safaikarmachariandolan.org/crisis>

<sup>20</sup> For instance: [https://twitter.com/Dalberg\\_WASH/status/1044481634718777344](https://twitter.com/Dalberg_WASH/status/1044481634718777344)

### **Economic crises (General Remark)**

A vast number of economic activities performed by Dalits are considered inhumane or the worst forms of labour, according to the ILO standards. The ordeal of Dalits in this context include forced prostitution, manual scavenging, bonded and forced labour, child labour and misappropriation of land. Economic plans put in place in several countries affected by caste discrimination tend to exacerbate inequality in social rights, as well as in the right of freedom of association. For instance, when the right to join labour unions is not recognized or restricted, unions or social movements from marginalized groups, such as Dalits, face disproportional impact on their labour rights. Even when workers are allowed to join unions, such unions may be divided among caste lines, ensuring workers from lowest castes have the least bargaining power. Equally, low-caste workers representation may be hindered within unions and their specific challenges overlooked.<sup>21</sup>

When resorting to remedies for this type of violations, for example, by labour unions, Dalit women have reported intersectional discrimination, as they are not even aware that they could take part in unions. On other occasions, women workers commented that they did not think Unions were open to them,<sup>22</sup> in a drastic form of intersectional discrimination. Dalit Women often do not report abuses due to fear of retribution.<sup>23</sup> In 2018, ETI Trainer Stirling Smith reported on a suicide crisis where young women workers in Tamil Nadu commit suicide at an alarming rate. He called on companies to recognize the need to double and triple check caste abuses in their supply chains.

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<sup>21</sup> Ethical Trade Initiative: [Base Code Guidance: Caste in Global Supply Chains](#) (2019), p. 11

<sup>22</sup> International Dalit Solidarity Network Report: [Dalit girls in modern slavery in India's textile industry](#). (2014).

<sup>23</sup> Human Rights Watch: [World Report 2015](#).