



Side event at the 16th session of the Human Rights Council

Organised by the International Movement against All Forms of Racism and Discrimination

Discrimination based on work and descent: *Implementing human right standards for all*

16 March, 3-5 pm, Room XXIII (23) at Palais des Nations

**Statement by Johan Olhagen
Office of the United Nations High Commissioner for Human Rights**

[CHECK AGAINST DELIVERY]

Distinguished delegates,
Ladies and gentlemen,

It is my pleasure to speak as a representative of the Office of the High Commissioner for Human Rights and in particular OHCHR's office in Nepal. I would like to thank the International Movement against all Forms of Discrimination and Racism (IMADR) and the International Dalit Solidarity Network (IDSN) for organizing this important side event.

In 2009, speaking at a similar side event, Ms. Marcia Kran, the Director of the Research and Right to Development Division of OHCHR underscored the unique position of the Office to be able to assist governments and civil society in their efforts to combat all forms of discrimination, including through technical support to strengthen national systems to address caste-based discrimination.

Today I would like to share with you the experience of our Office in Nepal in working closely with national partners to combat caste-based discrimination. Nepal is a key example of how OHCHR is supporting the development of practical strategies to address the phenomenon of discrimination based on work and descent, and turning international human rights standards into practice at the national level.

OHCHR's country office in Nepal was established in May 2005 and has been working actively on the issue of longstanding discrimination and the lack of enjoyment of economic, social and cultural rights by the marginalized in society, including caste groups such as *Dalit*, *Kamaiya*, *Badi* and *Haliya*, recognizing that these issues lie among the grievances that prompted the conflict.

Nepal is a State party to the International Convention on the Elimination of All Forms of Racial Discrimination. The Convention obliges the Government inter alia, to prohibit discrimination based on descent, including caste-based discrimination. The Interim Constitution of Nepal and other legislation also prohibit any discrimination based on caste and untouchability.

Discrimination however remains widespread in Nepal, resulting in political and social exclusion of millions of Nepalese on the basis of gender, caste, ethnicity, disability, sexual orientation and religion. In Nepal, OHCHR aims at the development of effective national mechanisms of accountability through strengthening the response of the justice system to discrimination, and promoting access to justice through selected emblematic cases. OHCHR encourages also relevant legislative and policy reforms.

As part of its monitoring, investigating and intervening in cases of caste-based discrimination, the Office has, to date, received over 150 complaints from different parts of Nepal. OHCHR-Nepal has selected and investigated some of these as emblematic cases which highlight the deep-rooted problems of caste-based discrimination and violence and have often not been investigated by the police. Following joint monitoring, investigations and continued advocacy by OHCHR, the National Dalit Commission and Human Rights Defenders, two ground-breaking verdicts were delivered by the Baitadi District Court, in the Far Western region of Nepal, sending a strong message on the illegality of “untouchability” practices. The first verdict, issued in January 2009, sentenced to two years of imprisonment and a fine of 25,000 rupees the main perpetrator in a case where twelve Dalits were physically assaulted and robbed after they refused to follow discriminatory rituals. The second verdict, issued in March 2010, relates to the assault of the father of a Dalit groom during a wedding ceremony for practicing “rituals reserved for high-caste communities”.

Another important aspect of our work is to strengthen the National Human Rights Institutions. In this context we support the National Dalit Commission with the aim of strengthening its capacity on human rights investigation, monitoring and reporting to discharge its mandate effectively. The Office has also supported the building of linkages with key national and international partners to make the NDC an independent, autonomous and effective organisation which plays an important role in promoting and protecting the rights of the Dalits in Nepal.

Throughout 2010, the Office conducted a number of activities in support of the NDC. We have held consultations with the Legislature-Parliament on the NDC draft Bill, which resulted in concrete recommendations for the revision of the bill with a view to making the NDC an independent, autonomous and competent body in conformity with international standards and practices. Between July and December 2010, OHCHR-Nepal organised three joint trainings with the NDC on Strategies and Skills to Monitor and Protect Human Rights and human Rights Advocacy in the Far West, Mid-West and Western regions, which were attended by about 90 human rights defenders engaged in the protection and promotion of human rights of marginalised and Dalit communities.

So far, OHCHR-Nepal and the NDC have also conducted three joint monitoring missions to the Far Western and Eastern regions to monitor developments on selected emblematic cases of caste-based discrimination and untouchability, and to conduct advocacy with the authorities to increase access to justice for the victims. OHCHR-Nepal also supported the NDC to develop a draft complaint form and to organise a consultation workshop in November 2010 with Dalit human rights defenders to finalise its complaint form and mechanism. Furthermore, on the occasion of Human Rights Day 2010, OHCHR-Nepal and the NDC published and disseminated joint Observations on the draft Untouchability bill, recommending that the Government, inter alia, review the bill in conformity with Nepal’s international commitments in light of its ratification of ICERD and other applicable international human rights laws and standards. Lastly, OHCHR conducted an orientation for commissioners and staff of the NDC and the National Women Commission on the UPR process and on their role in the preparation of the review. The three NHRIs, the National Human Rights Commission, the NDC and the NWC prepared and

submitted a joint report for which the NDC took the lead in reporting on caste-based discrimination and untouchability.

Strong and inclusive civil society networks are equally important in the monitoring of the Government's compliance with the anti-discrimination provisions enshrined in the national and international legal obligations. In an effort to strengthen the technical capacity of HRDs and support their advocacy skills, OHCHR has been supporting the establishment of local networks such as the Caste Based Eradication Network – CDEN - in Baitadi and the Caste and Gender Discrimination Eradication Network – CGDEN- in Kanchapur (both in the Far West Region), establishing a wider platform for their efforts in seeking access to justice for victims.

OHCHR-Nepal also continues its support to a unique and inclusive newly established group of Nepali civil society organizations called the Durban Review Conference Follow-up Committee (DRCFC) which has been making a joint effort to follow up the implementation of the Durban Outcome Document addressing the issues of all marginalized groups, including Dalits. OHCHR Nepal assisted the group in the preparation and submission of their joint civil society report to the Durban Review Conference, focussing on discrimination as a cross cutting issue, including caste based discrimination.

OHCHR-Nepal maintains as one of its core priorities in its engagement with the Government of Nepal the provision of technical assistance and support on legislation and policies related to human rights, including non-discrimination. On the occasion of its first review by the UPR in January 2011, the Government of Nepal accepted most of the recommendations to address discrimination, including those concerning discrimination based on caste. Significantly a number of recommendations address revision and adoption of legislation or policies to end discrimination. Most notably, the Government has accepted the recommendations to adopt a bill to end caste-based discrimination and untouchability. OHCHR-Nepal will continue to follow up and looks forward to working with the Government to support the implementation of this and other commitments made at the UPR.

Ladies and gentlemen,

Protecting the rights of those historically discriminated on the basis of caste will continue to be a priority for the Office in Nepal, as well as OHCHR at large. Substantive improvements will not be achieved without a widely adopted change of mentality, a long term process that might need more than a generation to occur. To sustain that process, OHCHR will continue to focus on objectives which can be achieved in the short and mid-term and that pave the way for long-lasting structural changes, through the practical application of existing guidelines, toolkits and development programming from an international and national perspective.

In 2009, the High Commissioner for Human Rights, Ms. Navi Pillay welcomed the *Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent* as an important study that complements existing international standards of non-discrimination, and encouraged states to work towards the adoption of these norms. In the meantime, OHCHR is committed to working with all partners including the civil society, human rights mechanisms, donors and other UN agencies to promote the practical application of the draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent. A good example of this is the focus on caste issues in the recently published UNDP Resource Guide on Marginalised Minorities, and we hope to develop further partnerships in this field.