

Side event at the 22nd session of the UN Human Rights Council:

**“ENSURING ACCESS TO JUSTICE FOR DALITS –
GOOD PRACTICES AND KEY CHALLENGES”**

28 February 2013, 1-3 pm, Room XXVII

Organised by the International Movement against all forms of Discrimination and Racism, Minority Rights Group International, Human Rights Watch, the World Council of Churches and Franciscans International in association with the International Dalit Solidarity Network

Statement by Ms Rita Iszák, UN Independent Expert on minority issues

I would like to thank the organizers for inviting me to this important event and I apologize for not being able to make it to Geneva in person due to family reasons. But I am glad that through these new technological solutions, I am able to contribute to your discussion.

Last year we celebrated the 20th anniversary of the adoption of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It provided us a valuable opportunity to assess progress made in the field of minority rights at all levels, and also to look ahead at what further measures should be taken to protect and promote the rights of minorities globally, in all regions and in each country. Twenty years on it is timely to ask if enough has been done to address long-standing minority issues and concerns and the situation in particular of the most disadvantaged minorities such as those affected by discrimination based on work and descent.

Regrettably, in all regions we are witnessing some disturbing trends and events that I believe require us to intensify our efforts to protect minority rights, and to constructively address minority issues and promote inter-group and inter-faith dialogue. In some cases progress has at best been too slow, and we have even witnessed a rising tide of anti-minority sentiment and growing support for extremist movements in several countries and regions.

Caste-based discrimination is still a reality faced by many communities across the globe, from Africa through Europe to Asia. And although in most countries, there are strong laws prohibiting such discrimination, an implementation gap often exists. While non-discrimination measures are an essential tool and must be in place, minority rights protection frequently requires measures that go beyond non-discrimination and recognize that disadvantaged communities may need focused attention to ensure their equality. Institutionalizing expertise on minority issues assists governments and independent bodies to identify problems involving minorities and their causes and to develop sustainable solutions that fulfil the rights of minorities and comply with State obligations. Dedicated institutional attention provides necessary impetus for proactive implementation of minority rights, positive measures, consultative and participatory mechanisms and processes, and activities directed towards disadvantaged minorities that are frequently lacking.

In its general recommendation No. XXIX relating to groups including caste-affected communities, the CERD Committee requests States to “(E)stablish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities”.

The need for specific institutions is also mentioned in the Draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent: “17: National human rights institutions and specialized institutions should be given power to specifically address the problems faced by affected communities. Governments of affected countries should ensure that, where they exist, national human rights institutions and specialized commissions can act independently and effectively in protecting the interest of people affected by discrimination based on work and descent by providing adequate financial, statutory and personnel support. Where such institutions and specialized commissions do not exist, they should be established.”

Recognizing the need for specialized institutions, I have focused my last report to the General Assembly on practical measures to promote implementation of the Declaration at the national level and in particular via ensuring institutional attention to minority rights. The Declaration elaborates the rights of minorities and the obligations upon States and explicitly requires positive measures in legislation, policy, programming, and to ensure the full and effective participation of minorities in public life. I believe that implementation of those obligations is best achieved via a national institutional and policy framework incorporating targeted attention to minority rights.

Numerous governments globally have recognized the benefits of such attention and established specialized governmental bodies or departments. Such bodies often have primary responsibility to design, direct and lead government policy on minority issues. However they are most effective when working closely with line ministries and with a mandate to encourage and coordinate mainstreaming of minority issues across all relevant bodies. Dedicated institutional attention also gives a strong signal to minorities and wider society that a government recognizes and takes seriously minority issues and is investing energy, expertise and resources into seeking solutions to challenges involving minorities.

Attention to minority rights should also be incorporated into the work of independent bodies including national human rights institutions, ombudspersons, equality bodies and specialist commissions. Advisory and consultative bodies are another important form of institutional attention. Building on the principle of minority participation they can help to institutionalize dialogue between government and minorities and to ensure that minority issues are reflected in local and ideally national policy and decision-making processes. For example, besides its National Human Rights Commission, Nepal also has a National Dalit Commission, which was established in 2002, in recognition of the fact that caste discrimination and untouchability practices continue. It promotes implementation of national and international law and advocated for the Caste-based Discrimination and Untouchability Act, adopted in May 2011, which criminalized such discrimination in private and public spheres. Among its activities was the organization of a 100-day campaign against caste discrimination, in collaboration with the office of the United Nations High Commissioner for Human Rights in Nepal, launched in September 2011 by the President and the High Commissioner.

Institutional attention to minority issues is also essential to change exclusionary practices and discriminatory perceptions about minority groups in wider society that may be institutionalized, including in such bodies as the police service, judiciary and the media. The activities of institutions mandated to address minority issues and rights should focus both on the causes and the impacts of discrimination, marginalization and exclusion and they should

work with all sectors of society and public and private bodies. To be effective these establishments should be attributed appropriate responsibilities, funding, powers and political status.

Institutional attention to minority issues may be particularly important in States in which minority populations are significant, intercommunity relations are historically complex, where long-term challenges persist, or where ethnic or religious tensions or conflict exist or have previously occurred. In such cases addressing the rights and concerns of minorities can constitute an important component of measures to resolve problems and grievances at an early stage and prevent tensions and conflicts arising.

At all times it should be remembered that the full and effective participation of minorities is fundamental. Effective attention can only be achieved with the participation of minorities, both as staff of institutions at all levels and as essential partners in the work of Government and independent institutions. I would mention here the vital work and contributions of non-governmental organizations working with and on behalf of minorities and I encourage all States to support and value the work of such NGOs.

As we are soon approaching 2015, we should also recognize the importance of such dedicated institutions in working towards the achievement of the Millennium Development Goals. Evidence indicates that today minorities continue to lag behind in terms of progress to meet the MDGs for many of the most disadvantaged groups, including Roma, Afro-descendants, Dalits, and other minorities globally. The impact of discrimination, social exclusion and economic marginalization on these groups and the challenges involved in finding solutions to such barriers to development, have not always been fully recognized. In my first report to the Human Rights Council, I urged States to “give specific attention to minority groups in the context of their efforts to achieve the Goals, to conduct rigorous needs assessments as well as research into the impact of Millennium Development Goal programmes and activities on minorities and to evaluate the extent to which progress has been made or remains required for minority groups.”ⁱ

As my predecessor, Ms Gay McDougall, has stressed in her report on MDGs: “It must be recognized that poverty within minority communities is both a cause and a manifestation of the diminished rights, opportunities, and social advancement available to the members of that community as a whole. It is not just a lack of income or a daily struggle for basic sustenance. Poor communities are generally less able to participate effectively in political decision making or to access mechanisms of justice when their rights are violated. They suffer from unequal access to education, health care, employment and land. Without a targeted focus on their needs and rights, they will remain disproportionately impoverished. And without a more coherent effort to reduce poverty through targeted strategies that specifically reach out to minority communities, the international community will fail to achieve, or sustain, the important targets set within the Millennium Development Goals...”ⁱⁱ

As we are shaping the new post-2015 development agenda, I welcome that particular concerns of disadvantaged caste groups are included into the global consultation and it is my hope and I will work towards it, that greater attention will be dedicated to the specifically vulnerable situation of minorities so that analysis and policies will also focus on groups and

not only on individual or household levels and on social dimensions instead of plain material measurements of poverty.

A key recommendation is that States pay particular attention to minority issues as an essential component of their human rights, equality and non-discrimination obligations and as a means to improve their practical implementation of the Declaration on the Rights of Minorities.

Thank you for your attention.

ⁱ A/HRC/19/56. Report of the Independent Expert on minority issues, Rita Izsák. December 2011.

ⁱⁱ E/CN.4/2006/74, paras. 64-65. Report of the Independent Expert on minority issues, Gay McDougall, to the Commission on Human Rights. December 2005.