

Human Rights Council

# Forum on Minority Issues

Sixth session

Intervention by Savio Mahimaidass in association with  
International Dalit Solidarity Network (IDSN)

**Agenda item 4: Promotion and protection of the identity of religious minorities**

Dates: 26 and 27 November 2013 Venue: Palais des Nations  
Geneva, Switzerland

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Madam CHAIR PERSON

Ms. Rita IZSÁK Independent Expert on minority issues

Mr. Heiner BIELEFELDT Special Rapporteur on freedom of religion or belief

Distinguished delegates and colleagues

I would like to thank the OHCHR for giving me the opportunity to be part of the 2013 Minority Fellowship Programme and to participate in the 6<sup>th</sup> session of the Forum on Minority Issues.

We note with concern that across the South Asian region discrimination against Dalits still exists. In Pakistan, the so-called low caste Hindus (Dalits), officially known as Scheduled Castes, are the worst victims of discrimination and violence. They are in a dual disadvantageous position as they are Hindu by religion, a minority in Muslim majority, and also of the lower castes within the Hindu population. Hindus, the majority of whom reside in Southern Sindh province, are also easy targets of violence.

In the case of my country, India, the Constitution guarantees the protection of the rights of the religious minorities. However, the religious minorities especially the Christians and Muslims of the Scheduled Caste origin and who are herein referred to as Dalit Christians and Dalit Muslims are at stake. Under the Indian Constitution Dalit Hindus, Dalit Sikhs and Dalit

Buddhist come under the Scheduled Caste list and hence have access to legal protection against caste violence, affirmative action policies, quotas in jobs, education and political representation. However Para 3 of The Indian Constitution (Scheduled Castes) Order, 1950 of the then President revoked the above intrinsic entitlements when a Dalit Hindu converts to Christianity or Islam.

An extract from the report volume 1 of the Indian National Commission for Religious and Linguistic Minorities states that “the Para 3 of The Constitution (Scheduled Castes) Order, 1950, should be wholly deleted, de-link the scheduled caste status from religion, and make the scheduled castes net fully religion-neutral”. It also further states that the Presidential Order is unconstitutional and it is a black letter written outside the Constitution introduced through the back door by an executive order. It further states that under Article 341 the President has no authority to proclaim the para 3 of the scheduled Caste Order contrary to the Articles 15(2), 16(2), 29(2). The report further states, the Presidential Order can be quashed as per the 1971 judgment of the Supreme Court.

The above Presidential Order 1950 is clearly in violation of international human rights law. The 2007 CERD concluding observations on India and the 2008 Report by the Special Rapporteur on Religion or Belief point to the breach of the religious rights of the Dalit Christian and Dalit Muslims. Hence we urge the Government of India to repeal the Constitution (Scheduled Castes) Order 1950.

We endorse section 21 and 25 of the Draft Recommendations on guaranteeing the rights of religious minorities and urge the Government of India and the Government of Pakistan that their existing legislations be reviewed to ensure that no provisions exist in law that are discriminatory and that the religious minority issues are consistently integrated into and reflected in Government policies and programmes. Thank you.

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