

References to Caste-Based Discrimination in CEDAW Concluding Observations on the combined fourth and fifth periodic reports of India (18 July 2014)

IDSN August 2014

<p>CEDAW Concluding Observations – India 2014</p> <p>CEDAW/C/IND/CO/4-5</p>	<p>B. Positive Aspects</p> <p>4. The Committee welcomes the progress achieved since the consideration in 2007 of the State party’s combined second and third periodic reports (CEDAW/C/IND/2-3) in undertaking legislative reforms, in particular the adoption of: (b) The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013</p> <p>C. Principle areas of concern and recommendations</p> <p>Equality and Non-discrimination</p> <p>8. The Committee notes that article 15 of the Constitution guarantees equal protection under the law for women and men and prohibits discrimination on the ground of sex. However the Committee is concerned at the absence of a comprehensive anti-discrimination law addressing all aspects of direct and indirect discrimination against women, and all the forms of intersectional discrimination, as explicitly listed in paragraph 18 of the Committee’s General Recommendation 28 (2010) (*IDSN Note: General Recommendation 28 clarifies that protection from discrimination under the Convention encompasses not only grounds explicitly mentioned but also grounds such as age, class, caste, race and ethnicity.)</p> <p>9. The Committee recommends that the State party: (a) adopt comprehensive anti-discrimination legislation which prohibits discrimination on all grounds referred to in the Committee’s General Recommendation 28 (2010); (b) protects women from multiple or intersectional forms of discrimination and other grounds as referred to in the Committee’s General Recommendation 28; and (c) includes a comprehensive definition of discrimination against women in accordance with articles 1 and 2 of the Convention as well as the principle of equality between women and men.</p> <p>Violence against women</p> <p>10. The Committee notes the State party’s efforts to enact a legal framework to prevent and respond to violence against women, including women from the marginalized caste and communities, such as the Dalit and Adivasi women, and the establishment in 2013 of the Justice Verma Committee to review existing normative gaps. However, the Committee is concerned about:</p> <p>(a) The stark increase of violent crimes against women, especially rape, kidnapping and abduction, and the high number of cases of rape reported by the National Crime Records Bureau in 2012, indicating an increase by 902.1% since 1971, and on-going impunity for such acts;</p> <p>(b) The retention in the Penal Code of an exemption from punishment of rape when committed by the victim’s husband if the wife is above 15 years of age;</p>
--	---

- (c) The escalation of caste-based violence, including rape, against women and girls, and the downplaying by key State officials of the grave criminal nature of sexual violence against women and girls;
- (d) The poor implementation of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, and the impunity of perpetrators of severe crimes against women;
11. The Committee urges the State party to:
- (a) Implement the recommendations of the Justice Verma Commission regarding violence against women;
- (b) Promptly enact the draft Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, ensure that it provides for a comprehensive system of reparations for victims and for gender-sensitive victim-centred procedural and evidentiary rules;
- (c) Amend the Criminal Law (Amendment) Act, 2013 ensuring that marital rape is defined as a criminal offence, as requested by the Committee in its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and expanding the scope of protection of the Act to cover all prohibited grounds of discrimination, and defining gang rape as constituting an aggravating factor calling for a more severe punishment;
- (e) Strengthen the efficiency of the police, ensure that police officers fulfil their duty to protect women and girls against violence and are held accountable, adopt Standard Procedures for the police in each State on gender-sensitive investigations and treatment of victims and of witnesses, and to ensure that FIR (First Information Reports) are duly filed;
- (f) Establish, without delay, one-stop crisis centres providing women and girls victims of violence and rape with free and immediate access to medical attention, psychological counselling, legal aid, shelters and other support services;
- (g) Provide systematic training on women's rights to all law enforcement personnel, to medical staff and judicial officials;
- (h) Put in place an effective system to monitor and evaluate the implementation, effectiveness and impact of legislation to combat sexual violence;
- (k) Allocate sufficient resources for the immediate enforcement of legislation on violence against women and for the establishment of special courts, complaints procedures and support services envisaged under that legislation in a time bound manner;

Temporary special measures

18. The Committee is concerned that the State party may not have full understanding of the purpose of temporary special measures in accordance with article 4 (1) of the Convention and the Committee's General Recommendation No. 25 (2004) on temporary special measures. It is also concerned that no temporary special measures have been or are being applied as part of a necessary strategy to accelerate the achievement of substantive equality between women and men in areas where women are disadvantaged, such as education or in the judiciary, as well as for promoting participation of women from religious minorities and scheduled castes and scheduled tribes in various areas under the Convention

19. The Committee calls upon the State party to ensure all relevant officials are familiar with the concept of temporary special measures, and encourage their application in accordance with article 4 (1) of the Convention and the Committee's General Recommendation No. 25 (2004), especially measures aimed at increasing:

(a) The number of girls, including from disadvantaged groups, enrolled at the secondary and tertiary levels of education in all states; and

Stereotypes and harmful practices

20. The Committee notes with concern that the State party has maintained its declarations to articles 5 (a) and 16 (1) and (2) of the Convention, and reiterates its view that this is incompatible with the State party's constitutional guarantees of equality and non-discrimination. It is further concerned with the persistence of patriarchal attitudes and deep-rooted stereotypes, entrenched in the social, cultural, economic and political institutions and structures of Indian society and in the media, that discriminate. It is also concerned about the persistence of harmful traditional practices in the State party, such as child marriage, the dowry system, so-called "honour" killings, sex-selective abortion, Sati, Devadasi, and women accused of witchcraft. The Committee is particularly concerned that the State party has not taken sufficient sustained and systematic action to modify or eliminate stereotypes and harmful practices.

21. The Committee reiterates its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and urges the State party to:

(b) Put in place without delay a comprehensive national campaign and strategy, with concrete goals and timelines, to eliminate patriarchal attitudes and stereotypes that discriminate against women, in accordance with article 2 (f) of the Convention; and

(c) Strengthen its awareness-raising and educational efforts, targeted at both women and men, with the involvement of civil society and community leaders, to eliminate all harmful traditional practices, and collaborate with the media to enhance a positive, non-stereotypical and non-discriminatory portrayal of women.

Rural women

32. The Committee is concerned at the prevalence of customs and traditional practices that prevent rural women from inheriting or acquiring land and other property, especially the women from scheduled castes and tribes. It is also concerned at the difficulties faced by rural women and women living in remote areas in gaining access to health and social services and in participating in decision-making processes at the community level, and that rural women are particularly affected by poverty and food insecurity, lack of access to natural resources, safe water, and credit facilities.

33. The Committee recommends that the State party:

(a) Abolish traditional practices and customs that prevent rural women from inheriting and acquiring land and from fully enjoying their rights, and guarantee land ownership rights to women;

(b) Strengthen its efforts to address the needs of rural women and provide them with enhanced access to health services, education, safe water and sanitation

	<p>services, fertile land, natural resources, credit and income-generating opportunities.</p> <p>Women from scheduled castes and scheduled tribes</p> <p>34. The Committee is concerned that Dalit women and women from scheduled tribes face multiple barriers in accessing justice, due to legal illiteracy, lack of awareness of their rights, and limited accessibility of legal aid. It notes with concern the financial, cultural and physical barriers faced by Dalit, and women from scheduled tribes in accessing gynaecological and maternal health services, their limited knowledge of birth registration procedures, as well as the existence of bureaucratic obstacles and financial barriers which prevent them from registering births and obtaining birth certificates for their children.</p> <p>35. The Committee recommends that the State party:</p> <p>(a) Monitor the availability and efficiency of the Legal Services Authorities, implement legal literacy programmes, increase the awareness of Dalit women and women and girls from scheduled tribes of all legal remedies available to them, and to monitor the results of such efforts.</p> <p>(b) Strengthen public awareness-raising campaigns and take concrete measures to ensure that Dalit and women from schedule tribes are aware of the procedures for registration of births and obtaining birth certificates, and ensure their access to these facilities.</p> <p>(c) Provide training to medical and health professionals in order to ensure that Dalit as well as women from scheduled tribes are attended by trained health-care personnel.</p>
--	--

*IDSN Note: Some recommendations without direct reference to caste are included because the above relevant observation includes reference to caste. This means the recommendation applies to such groups as well.