

United Nations

The growing number of statements and reports condemning caste discrimination by the UN High Commissioner for Human Rights, independent UN experts, caste-affected governments and concerned countries provided a vital boost to the global Dalit movement in 2009. It was the first time that the principal UN human rights official appealed so strongly to the international community, in particular caste-affected governments, to take immediate action to end this form of discrimination. Moreover, independent UN experts made extensive references to Dalit rights; more governments showed a commitment to addressing caste discrimination in relevant UN sessions; and there was growing support for a comprehensive framework to eliminate caste discrimination. Such steps demonstrated an increasing political will to treat this issue as one of the world's most serious human rights problems, which cannot and should not be overlooked in international forums like the UN.

Draft Principles and guidelines for the elimination of caste discrimination

The draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent (hereafter "draft UN Principles and Guidelines") is the first instrument to propose general and specific measures for state and non-state actors to address caste discrimination. After almost two years of intense lobbying by IDSN and other organisations, a decision was finally taken by the

"caste is the very negation of the human rights principles of equality and non-discrimination."

UN High Commissioner for Human Rights, Navi Pillay

"India's ban on caste-based discrimination will not be effective unless the government moves away from its rhetoric and implements a stronger strategy both at the national and international level."

Paul Divakar, General Secretary, NCDHR, during a press briefing in New Delhi on 4 December

Human Rights Council (HRC) in 2009 to publish the final Sub-Commission report containing the draft UN Principles and Guidelines. The HRC adopted a decision to publish the "completed and submitted" Sub-Commission reports at its 10th session in March (A/HRC/10/117), including the final report on discrimination based on work and descent. The European Union took a lead on tabling a procedural text which referred three completed reports from the former UN Sub-Commission to the HRC. Although India called for a vote, only two other states voted against the proposal out of the 47 members. The final report was issued as an official UN document (A/HRC/11/CRP.3) pursuant to this decision on 18 May.

While the publication of the report did not automatically lead to a consideration of the issue of 'discrimination based on work and descent' in the HRC, it was a necessary step to enable follow-up action on the draft UN Principles and Guidelines in this forum. In order to create more attention and support to the issue, IDSN, in co-operation with a number of its international associates, organised a parallel event at the 12th HRC session in September on the draft Principles and Guidelines. Nepal's State Minister for General Administration, Mr Jeet Bahadur Darjee Gautum, endorsed the framework on behalf of his government as a "useful tool" for the country's constitution-making process. Dalit representatives from six affected countries gave their views on its relevance in their countries. The two authors of the report, Professors Chung and Yokota of the former UN Sub-Commission, presented the content of the framework. The UN High Commissioner for Human Rights (UNHCHR) also expressed

her office's full support for tackling this issue. The UNHCHR had not previously supported a parallel event on caste discrimination, and it was the first time that an affected government gave its official recognition to the framework.

The event kicked off an intense media debate in international and regional media on the draft UN Principles and Guidelines and caste discrimination as a human rights violation – especially in India. The UN High Commissioner, who met with an IDSN delegation of Dalit activists in

“a follow-up monitoring mechanism such as a Special rapporteur on Discrimination based on work and Descent should be established to effectively promote and oversee the compliance with the adopted UN Principles and guidelines on a systematic basis.” Prof. Yozo Yokota, former UN Sub-Commission member and author of the final report on discrimination based on work and descent, at UN Human Rights Council parallel event, 16 September

connection with the parallel event, issued an unprecedented statement “Tearing down the wall of caste” in October inspired by this meeting. She urged UN member states to take action on the draft UN Principles and Guidelines in the HRC. Later the same month she called for a new UN convention on caste in an interview³, which triggered another wave of media reports and debate internationally. Ms Pillay also made specific recommendations to the Government of India and Nepal during her country visits in March, and included a reference to caste-affected groups in her statement on the International Human Rights Day on 10 December. IDSN disseminated these statements to relevant political stakeholders, including state delegations, and used them as lobby tools to promote further action internationally and nationally. The Office of the High Commissioner (OHCHR) has now made caste discrimination a priority in its work to eliminate the global scourge of discrimination and impunity.

Human rights council

IDSN facilitated a number of interventions and meetings between Dalit activists, state delegations, UN experts, and the OHCHR in connection with the HRC sessions in 2009, the Durban Review Conference, and the UN Forum on Minority Issues. This was done in close collaboration with the international and regional associates of IDSN. Many of the lobby activities were linked to the publication of the final report and follow-up to this decision which, despite its unnecessary delay, helped increase delegations' awareness of caste discrimination. More and more UN member states started paying attention to the issue as a serious human rights concern that should be tackled internationally, and voiced stronger concerns about this issue in debates and interactive dialogues.

The fact that a number of caste-affected countries started to recognise this form of discrimination as relevant to the work of the HRC created a new regional dynamic among affected states. It also enabled a more constructive and legitimate basis for further action on the draft UN Principles and Guidelines, and has raised expectations to a follow-up resolution in the HRC. The Government of Nepal played a particularly positive role through its endorsement of the draft UN Principles and Guidelines, and twice underlined its commitment to combating caste discrimination at the Durban Review Conference. Pakistan also expressed its support to consider caste discrimination at the HRC on a number of occasions in 2009.

Bangladesh and Japan also recognise caste-related problems in their countries, but have yet to take a strong international stand on the issue. When considering Bangladesh in February 2009, the Universal Periodic Review (UPR) of the HRC did not explicitly address the situation of Dalits – only religious minorities and other vulnerable groups. This happened despite strong civil society recommendations, a consolidated national consultation process, and

extensive information presented before the review. IDSN prepared an alternative report together with Bangladesh Dalit and Excluded Rights Movement (BDERM)⁴. The UPR civil society forum in Bangladesh, which includes BDERM, also highlighted this specific group in their submission. A constructive national debate did however take place between civil society and the Government on this issue. India continued to oppose the consideration of caste discrimination internationally, despite growing pressure from media and international forums to address it. In Sri Lanka the ongoing conflict made it very difficult to address the issue.

Special Procedures

Several independent experts of the Human Rights Council, known as the UN Special Procedures, once again expressed concern about the prevalence of caste discrimination in their monitoring work in 2009. Caste discrimination and violent attacks against Dalits, mainly in India and Nepal, were in fact mentioned in reports and communications prepared by ten individual mandate holders⁵. These experts also expressed their concern as a whole by devoting an entire section to “Discrimination on the grounds of caste and other systems of inherited status” in the joint contribution submitted to the preparatory process of the Durban Review Conference. IDSN is increasingly focusing its efforts on providing documentation and recommendations on key issues to the relevant mandate holders as an effective way of bringing claims and evidence from affected countries into the UN system and governments. In 2009 IDSN therefore set up meetings with experts and the OHCHR to provide substantive inputs, documentation and updates on the situation of Dalits.

The Special Rapporteur on contemporary forms of racism, Mr Githu Muigai, made two strong interventions on caste discrimination in 2009, thereby upholding the work of his predecessor Mr Doudou Diène. Mr Muigai gave a statement at a parallel event during the DRC in April, urging caste-affected governments to challenge “long-entrenched perceptions” and help shape “public opinion to move towards fairer societies based on the equality of all human beings.” When presenting his report to the UN General Assembly at its 64th session (A/64/271), Mr Muigai urged states to “rally around” the draft UN Principles and Guidelines. The Government of India objected to this statement and said it was “deeply offensive given India’s past history” to which the rapporteur responded that he did not believe the issue was peculiar to one individual country.

An extensive reference to Dalit women’s rights was made by the Special Rapporteur on violence against women, Ms Yakin Ertürk, in her last presentation as a mandate holder at the 11th HRC session in June. She concluded that, despite being banned by the Indian Constitution, “de facto discrimination and segregation of Dalits persists, in particular in rural areas.” Ms Ertürk recommended her successor to undertake a study on violence against women exercised on the grounds of multiple forms of discrimination, including Dalit women.

The Special Rapporteur on contemporary forms of slavery, Ms Gulnara Shahinian, underlined caste discrimination as one of the root causes of traditional forms of slavery and expressed an interest in pursuing this as a thematic area of concern. In her report on debt bondage to the HRC, Ms

“Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Land and property issues in particular, tend to cause or be at the root of conflicts over which Dalit women have faced eviction, harassment, physical abuse and assault.” Special Rapporteur on violence against women, Ms Yakin Ertürk, in a report to the HRC, June

Shahinian addressed the links between forced labour in South Asia and long-standing patterns of discrimination, including caste discrimination (A/HRC/12/21). She also took note of problems related to caste-based slavery during her visit to Mauritania in September.

The Independent Expert on Minority Issues, Ms Gay MacDougall, gave due consideration to the rights of Dalits in her work as a mandate holder and convenor of the UN Forum on Minority Issues. At the Forum's session in November, Dalit activists and some Dalit politicians from India and Nepal were invited to participate to highlight the obstacles to equal political participation for Dalits, especially women. IDSN also proposed a reference to the draft UN Principles and Guidelines in a UNDP Resource Guide on Minorities developed by the UN agency and the OHCHR.

The Independent Expert on water and sanitation, Ms Catarina de Albuquerque, and the Independent Expert on extreme poverty, Ms Magdalena Sepúlveda, visited Bangladesh in December. The Bangladesh Dalit and Excluded Rights Movement (BDERM) organised a field visit to Dalit 'colonies' in Dhaka city where the two UN experts got a first-hand impression of the poor living conditions that Dalits endure. IDSN provided background information to the experts before their visit. In conclusion of their stay, the independent experts recommended the Government of Bangladesh to end all forms of discrimination, and to adopt immediate measures to guarantee the human rights of Dalits.

This was one of the few country visits by UN Special Procedures to caste-affected countries in 2009. Although several UN experts have requested such visits, none of the other affected governments have accepted these requests⁶.

UN treaty bodies

In February the Government of Pakistan was reviewed by the UN Committee on the Elimination of Racial Discrimination (CERD). It was the first time in ten years that the Committee was given the opportunity to review the State Party's implementation of the Convention. In preparation of the review IDSN helped prepare an alternative report on the situation of 'lower caste' Hindus and other minorities together with the Pakistan Dalit Solidarity Network. IDSN also presented an oral statement to the Committee and monitored the examination. In response to the Committee Members' critical questions on this subject, the Pakistani delegation engaged in a constructive dialogue and recognised the challenges faced by the Government in addressing caste-based discrimination. In the Concluding Observations the Committee recommended the Government to take specific measures to eradicate this form of discrimination, and to make disaggregated

"This Durban review conference has totally eliminated any mention of caste or discrimination based on work and descent, despite including text on similar groups such as the romas." Paul Divakar, General Secretary, NCDHR, during the Durban Review Conference, April

statistical data regarding the ethnic composition of its population available in its next reporting to the Committee. This is a particularly relevant observation in connection with the next national census that is planned to take place in 2011.

The UN Committee on the Elimination of Discrimination against Women (CEDAW) reviewed the Government of Japan in July and made some recommendations on the protection of minority and vulnerable women, including the Buraku women who are subjected to forms of discrimination similar to caste discrimination.

Two general recommendations adopted by the UN treaty body committees in 2009 included relevant observations and interpretations on caste: General Comment No. 20 on non-discrimination by the Committee on Economic, Social and Cultural Rights (CESCR), and CERD General Observation No. 32 on special measures. The CESCR General Comment affirmed that caste discrimination falls under the 'birth' leg of article 2 in the Covenant on Economic, Social and Cultural Rights.

Durban review conference

The DRC was held in April with the purpose of reviewing the implementation of the Durban Declaration and Programme of Action (DDPA). Although the DDPA confirmed that states have an obligation to promote and protect victims suffering from discrimination on the grounds of descent and multiple forms of discrimination, the Government of India objected to the consideration of caste discrimination at the DRC as it did at the first conference in Durban in 2001.

A delegation of approximately 30 Dalit activists from South Asia participated in the DRC, and managed to make their

"we strongly reject the argument that caste-based discrimination is an 'internal affair' which should not be addressed by relevant UN mechanisms, including this review conference. caste discrimination is a global human rights concern, which cannot be kept outside the scope of the UN."

Joint statement by Asian and international NGOs at the Durban Review Conference, April

voices and demands heard through media interventions, public demonstrations, and participation in parallel events. IDSN helped facilitate some interventions together with international associates and Dalit platforms from affected countries. IDSN, Human Rights Watch, the National Campaign on Dalit Human Rights and other supporting organisations issued a joint position paper, which proposed key recommendations on how to express global recognition of this massive human rights problem in the context of the DRC and beyond.

Regretfully the DRC outcome document failed to include a reference to discrimination based on work and descent, although a reference was proposed by the EU group in an early draft. The lack of consistent political support to the conference by states and NGOs made it difficult to influence the negotiation process. The issue was however raised as a result of the interventions made by the Dalit group present at the DRC.

Global ecumenical movement against caste Discrimination

Church leaders and human rights advocates further internationalised the struggle to overcome caste discrimination in 2009. a historic global conference on Justice for Dalits organised by the world council of churches (wcc) and the Lutheran world Federation (lwf), associates of IDSN, took place in bangkok in march. It drew together 95 leaders and representatives of churches and human rights and development organisations from around the world. among the subjects discussed were: the rape and abuse of Dalit women, forced labour, exclusion and persistent 'untouchability' practices. the bangkok Declaration⁷ calls upon global ecumenical bodies to develop their ongoing work on justice for Dalits, particularly by initiating a global watch on violence against Dalits and communicating this to member churches and beyond. the Declaration also calls upon churches in caste-affected countries to be in full solidarity with the Dalit movements, and to address discrimination within the churches' own structures.

In october, the Lutheran world Federation passed a historic resolution on Justice for Dalits committing the institution further to the struggle against caste discrimination. the resolution requests lwf member churches in both caste-affected and other countries to challenge their governments to make a firm, global commitment to the elimination of caste discrimination, and implement measures to fulfil that commitment.
