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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the International Movement Against All Forms of Discrimination and Racism (IMADR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 August 2012]

* This written statement is issued, unedited, in the language received from the submitting non-governmental organization.

Stigma, “untouchability” and caste-based discrimination**

The thematic report by the Special Rapporteur on the human right to safe drinking water and sanitation (A/HRC/21/42) focuses on stigma and the realization of the human rights to water and sanitation. In the report, the Special Rapporteur finds that stigma can be attached to a person’s social identity, especially in relation to one’s gender or gender identity, sexual orientation, caste or race.¹

Stigma as a result of “untouchability” practices and caste-based discrimination is a central theme in the report. In the report, the Special Rapporteur states that “caste systems are striking examples of systems that lead to the stigmatization of large parts of the population, potentially amounting to violations of human rights” (para. 20), and that “in terms of water and sanitation provision, Dalit habitations are often systematically excluded” (para. 32). Several other Special Rapporteurs and UN human rights bodies have addressed concerns about untouchability and caste discrimination as an international human rights concern.²

The submitting parties of this statement welcome the Special Rapporteur’s distinct characterization of “untouchability” and caste discrimination as a root cause of stigma and social segregation. Based on the notion of “pollution” and “impurity”, Dalits and other persons affected by discrimination based on work and descent³ suffer from extreme forms of stigma and denial of equal access to basic services as a consequence hereof. In India, for example, it has been found that more than 20% of Dalits did not have access to safe drinking water, and 48.4% of Dalit villages were denied access to a water source.⁴ “Untouchability” practices and similar forms of caste-based discrimination are also in other South Asian countries, and in communities in Japan, Yemen, Africa and the Diaspora.⁵

“Untouchability” practices lead to extreme forms of stigma and exclusion, some of which are highlighted below.

** The National Campaign on Dalit Human Rights (NCDHR) India, the International Dalit Solidarity Network (IDSN), NGOs without consultative status, also share the views expressed in this statement.

¹ See link with text extracts: HRC21 report on stigma and the human right to water and sanitation - Extracts on stigma and caste.

² For a comprehensive overview of recommendations on caste-based discrimination by UN Treaty Bodies, Special Procedures, and the Universal Periodic Review (1996-2012), see www.idsn.org/UNcompilation.

³ The draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent is a comprehensive legal framework developed to eliminate discrimination based on work and descent, the UN terminology for caste discrimination. The draft UN Principles and Guidelines was published by the Human Rights Council at its 11 session in 2009 (A/HRC/11/CRP.3). In the draft UN Principles and Guidelines, “discrimination based on work and descent” is defined as: “any distinction, exclusion, restriction, or preference based on inherited status such as caste, including present or ancestral occupation, family, community or social origin, name, birth place, place of residence, dialect and accent that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life. This type of discrimination is typically associated with the notion of purity and pollution and practices of untouchability, and is deeply rooted in societies and cultures where this discrimination is practiced.”

⁴ Untouchability in Rural India' by Ghanshyam Saha, Satish Deshpande, Sukhadeo Thorat, Harsh Mander, and Amita Baviskar Delhi, SAGE Publications, New Delhi, 2006.

⁵ E/CN.4/Sub.2/2004/31 Prevention of Discrimination - second expanded working paper by Mr. Eide and Mr. Yokota on discrimination based on work and descent (2004).

Dalit women⁶

Dalit women of South Asia are some of the worst affected, when it comes to stigma and the human right to water and sanitation. In most cases Dalit women are responsible for bringing water to the household. Dalit women face verbal and physical abuse from the dominant castes, and may be threatened while collecting water from public wells and taps. Sometimes dominant caste women do not allow Dalit women to touch the public source of water. Young girls are especially vulnerable, as they are assigned to do this job in the family and sometimes have to drop out of school to collect water from faraway distances. Lack of access to drinking water and good sanitation facilities furthermore lead to Dalit children to drop out of school, and poor quality water and sanitation facilities are the main source of waterborne diseases.

Privatization of drinking water also impacts negatively on community ownership of water resources. In India, the small pieces of land, which some Dalits own, are often appropriated for constructing national highways, etc. Alternatively, Dalits are forced to sell their land for a small amount to corporate companies.⁷

Manual scavenging

The practice of “manual scavenging” is the job of removing human excrement from dry toilets and sewers with their bare hands. In India and other caste-affected countries, the word ‘scavenger’ is perceived as a human being who is considered as ‘untouchable’ or ‘polluting’ by other caste persons. So for a manual scavenger, social identity and stigma is being born as a ‘low caste’ and as a ‘scavenger’.⁸ It is a caste-based occupation, and the vast majority of workers involved are Dalit women. As stated by the Special Rapporteur on water and sanitation in a book on Good Practices (2012), “the degrading nature of this work is an extreme case and is very much tied up with the inequalities of a deeply ingrained caste system and the lack of choice in finding other types of work.”⁹

Access to sanitation is in a complete denial for these people, as they have to do these menial jobs with their bare hands and they have higher risk of occupational illness and health hazards. In Bangladesh, sanitation workers – also known as “sweepers” who are predominantly Dalits - clean out sewers and septic tanks and are subjected to considerable health risks, which are similar to those experienced by manual scavengers.¹⁰ The Dalit movement in Bangladesh has recently demanded the formulation of a law to protect Dalit communities from untouchability practices and discrimination based on work and descent.¹¹

⁶ For more information, see NCDHR submission to UN Special Rapporteur on stigmatization of Dalits for the HRC21 thematic report:

http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/HRC/Stigmatization_of_dalits_in_access_to_water_sanitation.pdf.

⁷ http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/HRC/Stigmatization_of_dalits_in_access_to_water_sanitation.pdf

⁸ Note on stigma and manual scavenging by Safai Kamachari Andolan (2012):

http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/HRC/Stigma_and_manual_scavenging.pdf

⁹ The Good Practice Book “On the Right Track” released by the UN Special Rapporteur on Water and Sanitation (Lisbon, February 2012).

¹⁰ See Joint report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Cardona, and the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque (A/HRC/15/55).

¹¹ Demands by the Bangladesh Dalit and Excluded Rights Movement (BDERM) and Bangladesh Dalit and Excluded Women's Federation (BDEWF). See news story:

<http://www.thedailystar.net/newDesign/news-details.php?nid=240444>.

Although manual scavenging is banned by law in India, it continues to exist in a large scale. The exact number of manual scavengers remains disputed, but estimates range from 500,000 to 1 million persons.¹² According to the Census of India 2011, there are still 794,390 dry latrines in the country, where the human excreta is cleaned up by humans.¹³

The Government of India has formulated many policies and schemes, and has set the goal to totally eradicate manual scavenging by 2012, the end of the current Five-Year Plan.¹⁴ However, implementation remains weak. A recent study of the Government's rehabilitation scheme (SRMS) has found that there are serious deficits in the allocation and release of funds to manual scavengers and their children.¹⁵

The International Labour Conference (ILO) has a scavenging project, which focuses on supporting the implementation of the renewed government policy in five Indian states.¹⁶ In February 2012, the ILO held a National Conference to make and scale up strategies to address manual scavenging and to develop a roadmap for the total elimination of manual scavenging and the rehabilitation of manual scavengers.¹⁷

To eliminate this problem, the Government of India is urged to implement a zero tolerance policy towards manual scavenging and dry latrines, and the UN should make use of appropriate mechanisms to promote the struggle to end this degrading, stigmatizing practice.¹⁸

¹² ILO, National Conference 2012: http://idsn.org/fileadmin/user_folder/pdf/New_files/Key_Issues/Manual_scavenging/2012/ILO_Conference_Press_Release.pdf.

¹³ According to the Census of India 2011, 73% of the dry latrines are in rural areas where as 27% in urban areas. Apart from these there are 1,314,652 toilets where the human excreta is flushed in open drains. According to the definitions by Rashtriya Garima Abhiyan - Jan Sahas and the Drafting Committee for the abolition of the practice of manual scavenging the human excreta flushed in open drains through toilets like these are also cleaned up by human beings. The census also adds that there are 497,236 toilets in the country where the human excreta is cleaned up by animals through eating it. This is however a very confusing statement as Garima Abhiyan believes that in toilets like these it is not possible that the human excreta is cleaned up completely through animals eating it. Ultimately it has to be cleaned up by humans only. Thus there are more than 26 lakhs [2.6 million] dry latrines in the country where the practice of manual scavenging still continues.

¹⁴ As per a Public Interest Litigation filed in the High court of Delhi, Indian Railways managed by the Govt. of India, which employs a large number manual scavengers, is a violator of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act of 1993. Despite recommendations from the ILO Expert Committee on Conventions regarding Convention no. 111 in 2002 which looked into questions related to manual scavenging, this pernicious practice still continues.

¹⁵ Study on rehabilitation of manual scavengers (implementation status of SRMS scheme) in India by Rashtriya Garima Abhiyan – Jan Sahas (2012) and “Brief Note on Uncompleted and unsuccessful rehabilitation of manual scavengers in India”.

¹⁶ http://idsn.org/fileadmin/user_folder/pdf/New_files/Key_Issues/Manual_scavenging/2012/Background_note_on_ILO_conference.pdf.

¹⁷ In February 2012, the International Labour Organization (ILO) organised a National Conference on Elimination of Manual Scavenging. Participants at the Conference included a broad spectrum of agencies involved in the elimination of manual scavenging, including Government representatives, trade unions, academia, judges, and representatives from the manual scavenging community. The conference was organised to make and scale up strategies to address manual scavenging and to develop a roadmap for the total elimination of manual scavenging and the rehabilitation of manual scavengers.

¹⁸ Demands of Safai Karmachari Andolan (SKA), a national movement in India committed to the total eradication of manual scavenging: http://idsn.org/fileadmin/user_folder/pdf/New_files/UN/HRC/Stigma_and_manual_scavenging.pdf.

Humanitarian disaster management

During humanitarian disasters, Dalits are often denied access to water and sanitation in relief camps and distribution of measures. Caste-affected communities are often more vulnerable to disasters because of where they live and work, inadequate housing or a lack of legal papers. For basic needs like water and food in the camp, Dalits are under the power of dominant castes and if they resist, there can be violent, physical retaliations.¹⁹ For example, scheduled caste Hindus were denied humanitarian assistance and entry into relief camps allegedly for being “untouchable” during the 2011 flooding in Pakistan.²⁰

Draft Guidelines for International Humanitarian Stakeholders for Addressing Caste-Based Discrimination in Disaster Response, formed as a case study on India, have been developed to provide operational guidance on how to prevent caste-based discrimination in disaster management. Based on good practice studies and an overview of international humanitarian instruments and obligations, the research provides suggestions for Dalit inclusion in disaster relief and management and recommendations for action by a wide range of stakeholders, incl. bilateral and multilateral actors.²¹

Recommendations

Despite the fact that steps and measures have been taken by several affected governments to ban and eradicate caste-based discrimination, millions of Dalits are still treated as “untouchables” worldwide.

(a) Affirmative action and good practices

There is an urgent need for strong legislation that recognizes drinking water as one of the livelihood rights priorities in all caste-affected countries. As far as India is concerned, there is a need for amending the SC/ST (Prevention of Atrocities) Act, 1989 to include discrimination and violence against Dalits regarding the right to drinking water. Dialogues among governments, relevant UN bodies, the private sector, local authorities, national human rights institutions, CSOs and academic institutions need to be promoted and sustained with a view to identify, promote and exchange views on best practices related to access to safe drinking water and sanitation.

(b) Global Call for Action

The draft UN Principles and Guidelines on the effective elimination of discrimination based on work and descent is a voluntary, legal framework, which provides guidance on measures to take in order to provide equal access to health, food, and water (para. 39-46), and non-discrimination on the basis of caste in disaster management (para. 56-58).²² Governments,

¹⁹ For more information on root cause and implications, see NCDHR submission for the thematic report (2012).

²⁰ http://idsn.org/fileadmin/user_folder/pdf/New_files/Pakistan/Press_Clippings_on_Discrimination_in_Disaster_Relief_in_Sindh_2011.pdf.

²¹ “Addressing caste discrimination in Humanitarian Response – NDW-IDSN-EU study” (2011) The research was presented at an International Conference on Good Practices and Strategies to Eliminate Caste-based Discrimination, organised by IDSN in 2011. See outcome report: www.idsn.org/ICreport.

²² The draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent is a comprehensive framework developed to eliminate discrimination based on work and descent, the UN terminology for caste discrimination. It is an outcome of a study by the former UN Sub-Commission on the Promotion and Protection of Human Rights, and was published by the Human Rights Council in 2009 (A/HRC/11/CRP.3). Download the PDF version published by IDSN.

multilateral, NGOs, and other private actors are recommended to make use and endorse this framework to prevent such discrimination in efforts to promote and protect Dalit rights.²³

Stakeholders are also urged to promote good practices and strategies to eliminate caste-based discrimination – including in the areas of access to services, resources and development,²⁴ multiple forms of discrimination against Dalit women²⁵ and humanitarian standards²⁶ - in follow up to the Global Call for Action to Eliminate Caste-Based Discrimination endorsed by over hundred Dalit activists and social movement leaders, NGOs and researchers in 2011.²⁷

The Special Rapporteur on water and sanitation is requested to make use of these frameworks in her work; both in follow up to her thematic report, and through joint initiatives with other thematic mandate holders, giving special attention to particularly vulnerable and marginalized groups affected by intersecting forms of human rights violations, including caste and gender.

²³ UN Appeal to UN Member States, UN Special Rapporteurs and UN agencies (2012): www.idsns.org/UNAppeal.

²⁴ <http://idsn.org/idsn-consultation/ic-recommendations/thematic-areas/5-access/>.

²⁵ <http://idsn.org/idsn-consultation/ic-recommendations/thematic-areas/2-addressing/>

²⁶ <http://idsn.org/idsn-consultation/ic-recommendations/thematic-areas/3-humanitarian-standards/>.

²⁷ The Joint Declaration and Global Call for Action to End Caste Discrimination is an outcome of the International Consultation on Good Practices and Strategies to Eliminate Caste Based Discrimination held in Nepal (29 Nov – 1 Dec 2011).