

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventieth session
19 February-9 March 2007

QUESTIONS PUT BY THE RAPPORTEUR IN CONNECTION WITH THE
CONSIDERATION OF THE 15th TO 19th PERIODIC REPORTS OF

INDIA
(CERD/C/IND/19)

General information

1. As requested in the Committee's previous concluding observations (CERD/C/304/Add.13, at para. 29), please provide more detailed information on the powers and functions of the National Commission on Scheduled Castes and Scheduled Tribes and the National Commission on Minorities, as well as their composition, status and resources.

Article 1

2. Having regard to the Committee's previous concluding observations (para. 14), please explain the reasons why the State party maintains its legal position that caste-based discrimination falls outside the scope of article 1 of the Convention, despite the position to the contrary expressed in CERD's General Recommendation 29 (2002). In this context, please comment also on the proposal of the Indian Government to include "descent" among the grounds of prohibited discrimination during the *travaux préparatoires* of the Convention.

Article 2

3. Please provide information on the draft National Tribal Policy, including information on the criteria used for defining indigenous and tribal groups.
4. Please indicate whether the State party intends to review the Armed Forces (Special Powers) Act (1958), applicable throughout the entire northeast region primarily inhabited by indigenous peoples, under which members of the armed forces may not be prosecuted unless authorized by the Central Government and have wide powers to search or arrest suspects without a warrant and to use force against persons or property. In the same context, please comment also on the application of the Prevention of Terrorism Act (2002), under which many Muslims of different ethnic backgrounds, as well as Dalits are allegedly arrested as "terrorists" or "national security threats" which often allegedly results in their exposure to ill-treatment during prolonged custody?
5. Please indicate whether the State party intends to restore the eligibility for affirmative action programmes of Dalits who have converted to Christianity

and Islam and thereby lost their scheduled caste status, unlike converts who became Buddhists or Sikhs.

6. Please provide information on the measures taken to ensure that the share of the Central and State budgets allocated for the welfare of the scheduled castes is proportionate to their population percentage at the Central and State levels, as mandated under the Special Component Plan, and that these allocations are effectively used for the direct development of Dalits.

Article 3

7. Having regard to the Committee's previous concluding observations (at para. 27), please provide detailed information on concrete measures taken to eradicate the *de facto* segregation of Dalits in access to temples, schools, hospitals, water sources, local markets and shops, restaurants, tea shops, cinemas, cultural and religious festivals, police stations, streets and other public places. What action has been taken to eliminate the continuing practice of untouchability?

Article 4

8. As requested in the Committee's previous concluding observations (paras. 18 and 30), please provide information on measures taken to combat hate speech and other forms of propaganda inciting caste discrimination and violence. In the light of reports that Hindu nationalist organizations frequently disseminate propaganda targeting Dalits, please explain the absence of any cases that have arisen under criminal provisions punishing incitement to racial discrimination. (See paras. 60-63 of the report)

Article 5

9. Please report on measures taken to protect Dalit women against torture, rape, stripping and parading and other forms of violence and humiliation. Please indicate whether the State party has adopted a national action plan addressing sexual exploitation and trafficking of Dalit and tribal women and girls? If so, please provide information on the measures adopted under such a plan and on their effectiveness. Is there a national mechanism to monitor the number of trafficked women and girls belonging to scheduled castes and tribes?
10. Please identify measures taken to ensure that police and other law enforcement officials do not engage in, or sponsor, and to protect members of scheduled castes and scheduled tribes against discrimination and violence, such as torture, killings, rape and sexual abuse, arbitrary arrests and searches, as well as illegal seizure and lootings of their property.
11. Please indicate whether the State party considers acceding to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocols, the Convention Relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961). Does the State party envisage adopting comprehensive national asylum legislation?

12. Please provide information on measures taken to ensure the right of Dalits to vote freely and to protect Dalit voters against alleged booth rigging, booth capturing, denial of access to polls, intimidation and violence. Please also indicate any measures, other than legislation, taken to protect elected Dalit representatives against alleged pressure to resign from village councils (*panchayats*) or other elected bodies or to silence them, and to ensure that Dalit candidates, including Dalit women, can freely and safely stand for election.
13. Please provide updated statistical information, disaggregated by caste, gender, religious, ethnic and indigenous group, on the representation, including at higher levels, of members of scheduled castes, scheduled tribes and ethnic minorities, including women, in the central, State and local governments.
14. What measures are being taken to promote marriages between Dalits and non-Dalits and to eradicate social norms of purity and pollution which *de facto* preclude such marriages, as well as local bans on Dalit wedding processions? Please provide information on measures taken by the State party to enforce the prohibition of child marriage and the Dowry Prohibition Act (1961) and to ensure that laws against the practice of *devadasi* are adopted and effectively implemented throughout its territory. What programmes are in place to rehabilitate victims of *devadasi*? What are their results and outreach?
15. How are the land rights of indigenous and tribal communities recognized and protected in the context of large-scale projects, such as dam projects in the northeast region or the Andaman Trunk Road? Please provide information on legislative reforms requiring prior informed consent and compensation of the communities concerned for any use of their lands. What measures are in place to protect tribal communities such as the *Jarawa* against infringements of their land and resource rights by settlers, poachers, migrants or private companies?
16. What measures are being taken to ensure that landless Dalits, especially Dalit women, have access to adequate and affordable land, including if it borders land belonging to upper castes, seeds, fertilizers and tools for agricultural production and common property resources such as grazing lands and fishing ponds? What action is being taken to prevent upper castes from denying Dalits access to land?
17. Please provide information, including statistical data, as to whether Dalits affected by the *tsunami* who were denied equal access to emergency assistance are being granted benefits similar to those received by caste fishermen, as well as compensation for the discrimination suffered during the post-*tsunami* relief and rehabilitation process.
18. Please report on progress achieved and obstacles met in the implementation of the Minimum Wages Act (1948), the Equal Remuneration Act (1976), the Bonded Labour (System) Abolition Act (1976), the Child Labour (Prohibition and Regulation) Act (1986), and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act (1993), with specific reference

to their impact on the situation of Dalit and tribal workers, including women and children. Please describe concrete programmes for Dalit and tribal victims of debt bondage, manual scavenging and exploitative child labour.

19. Please explain whether the State party intends to extend the so-called reservation policy, whereby 15 percent of posts in certain public sectors are reserved for Dalits, to other public sectors, including the armed forces and the judiciary, and to the private sector. What steps are being taken to fill 50.000 posts specifically reserved for Dalits that reportedly remain vacant? What measures are being taken to combat caste discrimination in access to work under the Employment Guarantee Programme/National Rural Employment Guarantee Act (2005) and to raise public awareness about the programme? (See paras. 37-42 of the report)
20. Please provide information on measures taken to reduce school drop out rates and to increase enrolment at secondary and tertiary levels among children and adolescents of scheduled castes and tribes and to combat discrimination against Dalit pupils and teachers. What is being done to ensure physical access for Dalit children to schools located in dominant caste neighbourhoods, as well as midday meals, and to improve the infrastructure, equipment, materials and quality of teaching staff at schools attended by Dalit and tribal children?

Article 6

21. What action is being taken to combat the alleged failure of the police and other law enforcement officers to properly register and investigate complaints about acts of ethnic or caste discrimination and violence? What measures are being taken to ensure that perpetrators of such acts are convicted and sentenced under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 and other applicable criminal legislation, witnesses protected and victims adequately compensated?
22. Please provide information on the number and nature of registered cases and convictions of ethnic or caste discrimination and violence, including on the number, nature and outcome of complaints received by the National Commission on Scheduled Castes and Scheduled Tribes and the National Commission on Minorities.

Article 7

23. Please provide further information on school education and sensitization programmes for the police, law enforcement officers, prosecutors, judges, teachers, journalists and the general public aiming at eliminating caste bias and racial and ethnic stereotypes and at enhancing respect for scheduled castes, scheduled tribes and ethnic minorities.