

International Convention on the Elimination of All Forms of Racial Discrimination

Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965

entry into force 4 January 1969, in accordance with Article 19

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion, Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which 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.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
 - (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
 - (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
 - (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
 - (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
 - (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.
2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
 - (i) The right to freedom of movement and residence within the border of the State;
 - (ii) The right to leave any country, including one's own, and to return to one's country;
 - (iii) The right to nationality;
 - (iv) The right to marriage and choice of spouse;
 - (v) The right to own property alone as well as in association with others;
 - (vi) The right to inherit;
 - (vii) The right to freedom of thought, conscience and religion;

- (viii) The right to freedom of opinion and expression;
- (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - (ii) The right to form and join trade unions;
 - (iii) The right to housing;
 - (iv) The right to public health, medical care, social security and social services;
 - (v) The right to education and training;
 - (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems. 2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5.

(a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee;

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and

(b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure. 2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State. 2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.

3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the

case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.

5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention; (b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention. 3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.

8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute. 2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.

3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. 2. Any State Party which makes a declaration as provided for in paragraph I of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6.

(a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7.

(a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations. 9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph I of this article.

Article 15

1 . Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies. 2.

(a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports. 4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention. 2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention. 2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession. 2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it. 2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. 2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations. 2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

**International Convention on the Elimination of All Forms of Racial Discrimination
New York, 7 March 1966**

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Note: The Convention was adopted by the General Assembly of the United Nations in resolution 2106 (XX) 2 of 21 December 1965.

Ratified by India on 3 December 1968

India's Declaration:

"The Government of India declare that for reference of any dispute to the International Court of Justice for decision in terms of Article 22 of the International Convention on the Elimination of all Forms of Racial Discrimination, the consent of all parties to the dispute is necessary in each individual case."



**International Convention
On the Elimination
Of all Forms of
Racial Discrimination**

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

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

INDIA

1. The Committee considered the fifteenth to nineteenth periodic reports of India (CERD/C/IND/19) submitted in one document at its 1796th and 1797th meetings (CERD/C/SR.1796 and 1797), held on 23 and 26 February 2007. At its 1809th meeting (CERD/C/SR.1809), held on 6 March 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by India and the opportunity thus offered to reengage in a dialogue with the State party. It also welcomes the answers the delegation gave in response to some of the Committee's questions and expresses the hope that the dialogue with the State party will be pursued in a constructive and cooperative spirit.

B. Positive aspects

3. The Committee notes with appreciation the comprehensive constitutional provisions and other legislation of the State party to combat discrimination, including discrimination based on race and caste.

4. The Committee welcomes the special measures adopted by the State party to advance the equal enjoyment of rights by members of scheduled castes and scheduled tribes, such as reservation of seats in Union and State legislatures and of posts in the public service.

5. The Committee welcomes the establishment of institutions responsible for the implementation of anti-discrimination legislation such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) and for the monitoring of acts of

discrimination and violence against members of scheduled castes and scheduled tribes, including the Ministry of Social Justice and Empowerment, the Union and State Parliamentary Committees on Social Justice, the Ministry of Tribal Affairs, and the National Commissions on Scheduled Castes and on Scheduled Tribes.

6. The Committee notes with appreciation the declaration of the Indian Prime Minister before the Dalit- Minority International Conference in New Delhi on 27 December 2006 that “the only parallel to the practice of ‘Untouchability’ was Apartheid in South Africa.” Such a declaration underlines the renewed commitment to address the discriminatory practice of “Untouchability”.

7. The Committee welcomes the fact that the State party hosts an important number of refugees of different national and ethnic origins, including Tibetan, Sri Lankan and Chakma, as well as Afghan and Myanmar refugees under UNHCR care.

C. Concerns and recommendations

8. The Committee takes note of the State party’s position that discrimination based on caste falls outside the scope of article 1 of the Convention. However, after an extensive exchange of views with the State party, the Committee maintains its position expressed in general recommendation No. 29 “that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights.”¹ Therefore, the Committee reaffirms that discrimination based on the ground of caste is fully covered by article 1 of the Convention.

9. The Committee regrets the lack of information in the State party’s report on concrete measures taken to implement existing anti-discrimination and affirmative action legislation, as well as on the *de facto* enjoyment by members of scheduled castes and scheduled and other tribes of the rights guaranteed by the Convention. (arts. 2 and 5)

Notwithstanding the above-mentioned legal position of the State party, the Committee invites it to include in its next periodic report detailed information on measures taken to implement anti-discrimination and affirmative action legislation, disaggregated by caste, tribe, gender, State/district and rural/urban population. The State party should also provide disaggregated data on the percentages of the Union, State and district budgets allocated for that purpose and on the effects of such measures on the enjoyment by members of scheduled castes and scheduled and other tribes of the rights guaranteed by the Convention.

10. The Committee notes with concern that the State party does not recognize its tribal peoples as distinct groups entitled to special protection under the Convention. (arts. 1 (1) and 2)

¹ CERD, sixty-first session (2002), general recommendation No. 29: Article 1, paragraph 1, of the Convention (Descent), preamble.

The Committee recommends that the State party formally recognize its tribal peoples as distinct groups entitled to special protection under national and international law, including the Convention, and provide information on the criteria used for determining the membership of scheduled and other tribes, as well as on the National Tribal Policy. In this regard, the Committee refers the State party to its general recommendation No. 23.²

11. The Committee is concerned that the so-called denotified and nomadic tribes, which were listed for their alleged “criminal tendencies” under the former Criminal Tribes Act (1871), continue to be stigmatized under the Habitual Offenders Act (1952). (art. 2 (1) (c))

The Committee recommends that the State party repeal the Habitual Offenders Act and effectively rehabilitate the denotified and nomadic tribes concerned.

12. The Committee notes with concern that the State party has not implemented the recommendations of the Committee to Review the Armed Forces (Special Powers) Act (1958) to repeal the Act, under which members of the armed forces may not be prosecuted unless such prosecution is authorized by the Central Government and have wide powers to search and arrest suspects without a warrant or to use force against persons or property in Manipur and other north-eastern States which are inhabited by tribal peoples. (arts. 2 (1) (c), 5 (b), (d) and 6)

The Committee urges the State party to repeal the Armed Forces (Special Powers) Act and to replace it “by a more humane Act,” in accordance with the recommendations contained in the 2005 report of the above Review Committee set up by the Ministry of Home Affairs. It also requests the State party to release the report.

13. The Committee notes with concern that, despite the formal abolition of “Untouchability” by article 17 of the Indian Constitution, *de facto* segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. (arts. 3 and 5)

The Committee urges the State party to intensify its efforts to enforce the Protection of Civil Rights Act (1955), especially in rural areas, including by effectively punishing acts of “Untouchability”, to take effective measures against segregation in public schools and residential segregation, and to ensure equal access for Dalits places of worship, hospitals, water sources and any other places or services intended for use by the general public.

14. The Committee is concerned about reports of arbitrary arrest, torture and extrajudicial killings of members of scheduled castes and scheduled tribes by the police, and about the frequent failure to protect these groups against acts of communal violence. (arts. 5 (b) and 6)

² CERD, fifty-first session (1997), general recommendation No. 23: *Indigenous Peoples*.

The Committee urges the State party to provide effective protection to members of scheduled castes and scheduled and other tribes against acts of discrimination and violence, introduce mandatory training on the application of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) for police, judges and prosecutors and take disciplinary or criminal law measures against police and other law enforcement officers who violate their duty of protection and/or investigation in relation to crimes against scheduled castes and scheduled and other tribes.

15. The Committee is concerned about the alarming number of allegations of acts of sexual violence against Dalit women primarily by men from dominant castes, in particular rape, and about the sexual exploitation of Dalit and tribal women who are being trafficked and forced into prostitution. (art. 5 (b))

The Committee urges the State party to effectively prosecute and punish perpetrators of acts of sexual violence and exploitation of Dalit and tribal women, sanction anyone preventing or discouraging victims from reporting such incidents, including police and other law enforcement officers, take preventive measures such as police training and public education campaigns on the criminal nature of such acts, and provide legal, medical and psychological assistance, as well as compensation, to victims. The State party should also consider adopting victim-sensitive rules of evidence similar to that of Section 12 of the Protection of Civil Rights Act (1955) and establishing special court chambers and task forces to address these problems.

16. While taking note of the mass influx of refugees in India, the Committee is concerned that the State party has not acceded to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and that it has not yet adopted any specific refugee legislation. (art. 5 (b))

The Committee recommends that the State party consider acceding to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and enact a comprehensive legal framework governing the treatment of refugees.

17. The Committee notes with concern reports that Dalit candidates, especially women, are frequently forcibly prevented from standing for election or, if elected, forced to resign from village councils or other elected bodies or not to exercise their mandate, that many Dalits are not included in electoral rolls or otherwise denied the right to vote, and that public service posts reserved for scheduled castes and scheduled tribes are almost exclusively filled in the lowest category (e.g. sweepers). The Committee is also concerned that scheduled castes and scheduled and other tribes are underrepresented in the Union, State and local governments and legislatures, as well as in the public service. (arts. 5 (c) and 2 (2))

The Committee recommends to the State party to effectively enforce the reservation policy; to ensure the rights of members of scheduled castes and scheduled and other tribes to freely and safely vote and stand for election and to fully exercise their mandate if elected to their reserved seats; to apply the reservation policy to all categories of public service posts, including the highest, and to extend it to the judiciary; to ensure adequate representation of scheduled

castes, scheduled and other tribes and ethnic minorities in Union, State and local governments and legislatures; and to provide updated statistical data on such representation in its next periodic report.

18. The Committee is concerned about the persistence of social norms of purity and pollution which *de facto* preclude marriages between Dalits and non-Dalits; it is also concerned about violence and social sanctions against inter-caste couples and the continuing practices of child marriage and dowry, and *devadasi* whereby mostly Dalit girls are dedicated to temple deities and forced into ritualised prostitution. (art. 5 (d) (iv) and 5 (b))

The Committee urges the State party to effectively enforce the prohibition of child marriage, the Dowry Prohibition Act (1961) and State laws prohibiting the practice of *devadasi*. The State party should punish such acts and acts of discrimination or violence against inter-caste couples and rehabilitate victims. Furthermore, it should conduct training and awareness-raising campaigns to sensitize police, prosecutors, judges, politicians, teachers and the general public as to the criminal nature of such acts.

19. The Committee notes that the State party does not fully implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples. It is also concerned that large scale projects such as the construction of several dams in Manipur and other north-eastern States on territories primarily inhabited by tribal communities, or of the Andaman Trunk Road, are carried out without seeking their prior informed consent. These projects result in the forced resettlement or endanger the traditional lifestyles of the communities concerned. (art. 5 (d) (v) and 5 (e))

The Committee urges the State party to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples, in accordance with ILO Convention No. 107 on Indigenous and Tribal Populations (1957). The State party should seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making processes related to such projects, and provide adequate compensation and alternative land and housing to those communities. Furthermore, it should protect tribes such as the *Jarawa* against encroachments on their lands and resources by settlers, poachers, private companies or other third parties and implement the 2002 order of the Indian Supreme Court to close the sections of the Andaman Trunk Road that run through the *Jarawa* reserve.

20. The Committee is concerned about reports that Dalits are often denied access to and evicted from land by dominant castes, especially if it borders land belonging to such castes, and that tribal communities have been evicted from their land under the 1980 Forest Act or in order to allow private mining activities (art. 5 (d) (v) and 5 (e) (i) and (iii)).

The Committee recommends that the State party ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989). The State

party should also ensure that tribal communities are not evicted from their lands without seeking their prior informed consent and provision of adequate alternative land and compensation, that bans on leasing tribal lands to third persons or companies are effectively enforced, and that adequate safeguards against the acquisition of tribal lands are included in the Recognition of Forest Rights Act (2006) and other relevant legislation.

21. The Committee notes with concern that Dalits who convert to Islam or to Christianity to escape caste discrimination reportedly lose their entitlement under affirmative action programmes, unlike converts who become Buddhists or Sikhs. (arts. 5 (d) (vii) and 2 (2))

The Committee recommends that the State party restore the eligibility for affirmative action benefits of all members of scheduled castes and scheduled tribes having converted to another religion.

22. The Committee is concerned about reports that Dalits were denied equal access to emergency assistance during the post-tsunami relief, while noting that, according to the State party, those allegations merely concern isolated cases. (arts. 5 (e) and 2 (1) (a))

The Committee recommends to the State party to investigate all alleged cases in which Dalits were denied assistance or benefits equal to that received by caste fishermen or cases in which they were otherwise discriminated against during the post-tsunami relief and rehabilitation process and to compensate or retroactively grant such benefits to the victims of such discrimination.

23. The Committee notes with concern that very large numbers of Dalits are forced to work as manual scavengers and child workers and are subject to extremely unhealthy working conditions and exploitative labour arrangements, including debt bondage. (art. 5 (e) (i) and (iv))

The Committee recommends that the State party effectively implement 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). The State party should also adopt measures to enhance Dalits' access to the labour market, e.g. by extending the reservation policy to the private sector and issuing job cards under the National Rural Employment Guarantee Scheme to Dalit applicants, and report on the effects of the measures taken on the employment and working conditions of Dalits in its next periodic report.

24. The Committee is concerned about reports that members of scheduled castes and scheduled and other tribes are disproportionately affected by hunger and malnutrition, infant, child and maternal mortality, sexually transmitted diseases, including HIV/AIDS, tuberculosis, diarrhoea, malaria and other water borne diseases and that health care facilities are either unavailable in tribal areas or substantially worse than in non-tribal areas. (art. 5 (e) (iv))

The Committee recommends that the State party ensure equal access to ration shops, adequate health care facilities, reproductive health services, and safe drinking water for members of scheduled castes and scheduled and other tribes and to increase the number of doctors and of functioning and properly equipped primary health centres and health sub-centres in tribal and rural areas.

25. While noting the constitutional guarantee of free and compulsory education for all children up to the age of 14 and the rapid growth of the literacy rate among Dalits, in particular girls, the Committee remains concerned about the high dropout rate among Dalit pupils at the primary and secondary levels, reports of classroom segregation and discrimination against Dalit pupils, teachers and mid-day meal cooks, and the poor infrastructure, equipment, staffing and quality of teaching in public schools attended by Dalit and tribal children. (art. 5 (e) (v))

The Committee recommends that the State party take effective measures to reduce dropout and increase enrolment rates among Dalit children and adolescents at all levels of schooling, e.g. by providing scholarships or other financial subsidies and by sensitizing parents as to the importance of education, combat classroom segregation and discrimination against Dalit pupils and ensure non-discriminatory access to the Mid-Day Meal Scheme, adequate equipment, staffing and quality of teaching in public schools, as well as physical access by Dalit and tribal pupils to schools in dominant caste neighbourhoods and armed conflict areas.

26. The Committee notes with concern allegations that the police frequently fail to properly register and investigate complaints about acts of violence and discrimination against members of scheduled castes and scheduled tribes, the high percentage of acquittals and the low conviction rate in cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989), and the alarming backlog of atrocities cases pending in the courts. (art. 6)

The Committee urges the State party to ensure that members of scheduled castes and scheduled and other tribes who are victims of acts of violence and discrimination have access to effective remedies and, to that effect, encourage victims and witnesses to report such acts and protect them from acts of retaliation and discrimination; ensure that complaints under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) and other criminal law provisions are properly registered and investigated, perpetrators prosecuted and sentenced and victims compensated and rehabilitated; and establish and make operational special courts trying atrocity cases as well as committees monitoring the implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in all States and districts, as mandated by the Act. In this regard, the State party is invited to include in its next periodic report information on the number and nature of complaints registered, the convictions and sentences imposed on perpetrators, and the remedies and assistance provided to victims of such acts.

27. The Committee notes with concern that caste bias as well as racial and ethnic prejudice and stereotypes are still deeply entrenched in the minds of wide segments of Indian society, particularly in rural areas. (art. 7)

The Committee recommends that the State party strengthen its efforts to eradicate the social acceptance of caste-based discrimination and racial and ethnic prejudice, e.g. by intensifying public education and awareness-raising campaigns, incorporating educational objectives of inter-caste tolerance and respect for other ethnicities, as well as instruction on the culture of scheduled castes and scheduled and other tribes, in the National Curriculum Framework, and ensuring adequate media representation of issues concerning scheduled castes, tribes and ethnic minorities, with a view to achieving true social cohesion among all ethnic groups, castes and tribes of India.

28. The Committee recommends that the State party consider ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

29. The Committee recommends that the State party take into account the relevant provisions of the Durban Declaration and Programme of Action when implementing the Convention in its domestic legal order, particularly as regards articles 2 to 7 of the Convention. The Committee also urges that the State party include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

30. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and invites it to consider doing so.

31. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this regard, the Committee refers to General Assembly resolution 59/176 of 20 December 2004, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

32. The Committee recommends that the reports of the State party be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly translated into Hindi and, to the extent possible, other official languages of India, and publicized.

33. The Committee invites the State party to submit its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, recently approved by the international human rights treaty bodies (HRI/MC/2006/3 and Corr.1).

34. Pursuant to article 9, paragraph 1, of the Convention, and article 65 of the Committee's rules of procedure, as amended, the Committee requests that the State party inform it of its implementation of the recommendations contained in paragraphs 12, 15, 19 and 26 above, within one year of the adoption of the present conclusions.

35. The Committee recommends that the State party submit its twentieth and twenty-first periodic reports, due on 4 January 2010, in a single report.

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Committee on the Elimination of Racial Discrimination

Membership

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|--|--------------------|-------------------|
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