

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<i>Right or area: 2.1. Acceptance of international norms</i>			
<i>Right or area: 8. Non-discrimination</i>			
<p>138.47. Take adequate measures to guarantee and monitor the effective implementation of the Prevention of Atrocities Act, providing legal means for an increased protection of vulnerable groups like the Dalit, including the access to legal remedies for affected persons (Germany);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>8 Equality & non-discrimination 9 Racial discrimination 5.2 Institutions & policies - General 32 Members of minorities 33 Indigenous peoples 16 Right to an effective remedy, impunity</p> <p>Affected persons: - refugees and asylum-seekers - indigenous - internally displaced persons - minorities/ racial, ethnic, linguistic, religious or descent-based groups</p>	<ul style="list-style-type: none"> • Despite these protections, atrocities against Dalit communities persist. In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014, according to the National Crime Records Bureau (NCRB). • A study in Andhra Pradesh, Jharkhand, Rajasthan, Tamil Nadu and Uttar Pradesh found that Dalit and Adivasi victims of atrocities face significant challenges at each stage of the process of accessing justice, including: barriers to registering complaints, delayed investigations, failure to arrest the accused, lack of understanding of rights and court processes, threats from the accused, pressure to compromise or adjourn cases prior to conclusion and humiliation during trial proceedings. According to India's National Legal Services Authority, in 2011, between April 1 and September 30, only 4% of recipients of legal aid services were from SC communities.¹ • Although the Legal Services Authority Act, 1987 directs Legal Services Authorities (LSAs) to work closely with government agencies and non-governmental organizations to promote legal services to the poor, LSAs are not currently coordinating action with SC Commissions.² • According to NCRB data, the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014.
<i>Right or area: 8. Non-discrimination</i>			

¹ India Current Affairs National Legal Services Authority: Performance cum achievements, 17 February 2012, accessed online on 15 July 2015: <http://indiacurrentaffairs.org/national-legal-services-authority-performance-cum-achievements/>

² Multiple Action Research Group, 2012 Needs assessment study of selected legal services authorities, New Delhi, commissioned by the Government of India Department of Justice and United Nations Development Program.

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<p>138.71. Continue its efforts to eliminate discrimination against and empower marginalized and vulnerable groups particularly by ensuring effective implementation of relevant laws and measures through proper and active coordination among line ministries, national and state governments; by extending disaggregated data to caste, gender, religion, status and region; and by increasing sensitization and reducing discriminatory attitudes among law enforcement officers through human rights education and training (Thailand);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>8 Equality & non-discrimination 5.2 Institutions & policies - General 6 Human rights education, trainings 9 Racial discrimination Affected persons: - general</p>	<ul style="list-style-type: none"> • Despite these protections, atrocities against Dalit communities persist. In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014, according to the National Crime Records Bureau (NCRB). • A study in Andhra Pradesh, Jharkhand, Rajasthan, Tamil Nadu and Uttar Pradesh found that Dalit and Adivasi victims of atrocities face significant challenges at each stage of the process of accessing justice, including: barriers to registering complaints, delayed investigations, failure to arrest the accused, lack of understanding of rights and court processes, threats from the accused, pressure to compromise or adjourn cases prior to conclusion and humiliation during trial proceedings. According to India's National Legal Services Authority, in 2011, between April 1 and September 30, only 4% of recipients of legal aid services were from SC communities.³ Although the Legal Services Authority Act, 1987 directs Legal Services Authorities (LSAs) to work closely with government agencies and non-governmental organizations to promote legal services to the poor, LSAs are not currently coordinating action with SC Commissions.⁴ According to NCRB data, the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014.
<p>138.72. Ensure that laws are fully and consistently enforced to provide adequate protections for members of religious minorities, scheduled castes, and adivasi groups, as well as, women, trafficking victims, and LGBT citizens (United States of America);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>8 Equality & non-discrimination 5.2 Institutions & policies - General 5.3 Political framework & good governance 9 Racial discrimination 12.7 Prohibition of slavery, trafficking 29.1 Discrimination against women 32 Members of minorities 33 Indigenous peoples 34 Migrants Affected persons: - minorities/ racial, ethnic, linguistic, religious or descent-based groups</p>	<ul style="list-style-type: none"> • Despite these protections, atrocities against Dalit communities persist. In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014, according to the National Crime Records Bureau (NCRB). • A study in Andhra Pradesh, Jharkhand, Rajasthan, Tamil Nadu and Uttar Pradesh found that Dalit and Adivasi victims of atrocities face significant challenges at each stage of the process of accessing justice, including: barriers to registering complaints, delayed investigations, failure to arrest the accused, lack of understanding of rights and court processes, threats from the accused, pressure to compromise or adjourn cases prior to conclusion and humiliation during trial proceedings. According to India's National Legal Services Authority, in 2011, between April 1 and September 30, only 4% of recipients of legal aid services were from SC communities.⁵ Although the Legal Services Authority Act, 1987 directs Legal Services Authorities (LSAs) to work closely with government agencies and non-governmental organizations to promote legal services to the poor, LSAs are not currently coordinating action with SC Commissions.⁶ According to NCRB data, the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014.

³ India Current Affairs National Legal Services Authority: Performance cum achievements, 17 February 2012, accessed online on 15 July 2015: <http://indiacurrentaffairs.org/national-legal-services-authority-performance-cum-achievements/>

⁴ Multiple Action Research Group, 2012 Needs assessment study of selected legal services authorities, New Delhi, commissioned by the Government of India Department of Justice and United Nations Development Program.

⁵ India Current Affairs National Legal Services Authority: Performance cum achievements, 17 February 2012, accessed online on 15 July 2015: <http://indiacurrentaffairs.org/national-legal-services-authority-performance-cum-achievements/>

⁶ Multiple Action Research Group, 2012 Needs assessment study of selected legal services authorities, New Delhi, commissioned by the Government of India Department of Justice and United Nations Development Program.

138.73. Monitor and verify the effectiveness of, and steadily implement, measures such as quota programmes in the areas of education and employment, special police and special courts for effective implementation of the Protection of Civil Rights Act and the Scheduled Caste and Scheduled Tribes Act, and the work of the National Commission for Scheduled Castes (Japan);

Source of position: A/HRC/21/10 - Para. 138

Noted

8 Equality & non-discrimination
 5.2 Institutions & policies - General
 23.1 Right to work
 25 Right to education - General
 5.3 Political framework & good governance
 6 Human rights education, trainings
 9 Racial discrimination
 15.1 Administration of justice & fair trial
Affected persons:
 - minorities/ racial, ethnic, linguistic, religious or descent-based groups

- Programmes to build schools and provide free midday meals for all students, irrespective of caste, have contributed to increasing attendance among Dalit students.⁷Enrolment ratios, however, drop significantly at the secondary and senior secondary levels and do not necessarily translate into attending school at any level.⁸
- While quotas and special scholarships for Dalit and tribal groups in India were first established in the 1920s, designation of State funds to these programs have encouraged more Dalit and tribal students to pursue secondary schooling. According to a 2009 study on the impact of such quotas, one-in-15 graduates and one-in-10 secondary school students were Dalits—well up from previous decades.⁹
- Despite the government focus on SC education, however, discrimination in schools remains a significant barrier to accessing education for Dalit children in India. A 2012 study from the Indian Government Ministry of Human Resource Development, capturing various forms of caste-based discrimination in schools in Andhra Pradesh, Assam, Bihar, Madhya Pradesh, Orissa and Rajasthan, found that SC children face discrimination in access to drinking water and midday meals, are made to do cleaning and other menial tasks and also face verbal abuse on the basis of their caste.¹⁰The India-level literacy rate for SC children, moreover, continues to be lower than that of other castes: overall 66.1% for SCs compared to 73% generally.
- Prejudice against and harassment of Dalits are equally prevalent in institutions of higher education. The caste bias manifests itself in the way teachers ignore Dalit students and unjustly fail them in exams and in the unwillingness of the university administration to assist and support Dalits. Reportedly, as a grave consequence of this harassment, a disproportionate number of Dalit students have committed suicide in some countries¹¹.
- In 2012, 41 independent monitoring institutions submitted reports to the Ministry of Human Resource Development detailing instances of discrimination and untouchability during the midday meals in 186 schools across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat. SC children were routinely segregated from other children while eating. Additionally many children or their parents often refuse food cooked by SC cooks. There are also cases where Dalit students are served from a distance, and several students bought their own plates for fear of utensils being touched by Dalit classmates¹²
- Of the total rural SC workers, more than 60% are wage labourers and there is significant discrimination of SCs in hiring and wage payments¹³
- A study among Dalit journalists revealed that many of these journalists stated that caste-based discrimination and antagonism against them is pervasive in the mainstream media, both print and electronic. They say this phenomenon is more rampant in Hindi and other language media than in the English media¹⁴
- There were 25,037 'backlog' posts for SCs lying vacant in 73 government departments and bodies. These are positions reserved for SC members that have not been filled over the years and thus have accumulated. They include both direct recruitment and promotion-based positions. Out of these, 4,518 positions were vacant because no candidate was available for promotion¹⁵
- There is a lack of a comprehensive employment anti-discrimination framework that adequately addresses the myriad ways in which discrimination operates. The existing legal protections against such discrimination include constitutional provisions mandating equality and a handful of criminal statutes. There is no umbrella anti-discrimination employment statute to regulate the private sector in India¹⁶
- Despite protections, atrocities against Dalit communities persist. In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014, according to the National Crime Records Bureau.

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<i>Right or area: 5.2. Institutions & policies</i>			
<p>138.75. Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the scheduled castes and scheduled tribes and minorities are well achieved (Ghana);</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 4</p>	Supported	<p>5.2 Institutions & policies - General 5.3 Political framework & good governance 8 Equality & non-discrimination 29.1 Discrimination against women 30.1 Children: definition; general principles; protection 32 Members of minorities 33 Indigenous peoples</p> <p>Affected persons: - children - women</p>	<ul style="list-style-type: none"> In order to bridge the gap between the Dalits/Adivasis and other castes, the government of India crafted a policy called the scheduled Caste Sub Plan and Tribal Sub Plan. This year, 2016-17, the allocations for SC under the Union Budget 2016 is only 7.6% when the due amount under SCSP (Scheduled Caste Sub plan) budget should be 16.8% which should amount to Rs.91,301 and 8.6% under TSP (Tribal Sub Plan) which should amount to Rs.47,300 Crs. Thus denying a total of Rs 75,764 crore¹⁷ Funds are often not allocated under the SCSP in proportion to the population of SCs in the state/country. Moreover, a large amount of funds under SCSP are being allocated for general programmes and schemes, which are not specifically designed for SCs with fixed, realistic targets¹⁸. The bulk of SCSP funds are more for social services (e.g. education, health) that are 'survival in nature'. Large funds are not being allocated for economic sectors that are 'developmental in nature' (e.g. entrepreneurship, employment, land) and would ensure that Dalits obtain access to productive resources for their long-term development and empowerment¹⁹

⁷ Affirmative Action: Indian Reservations, The Economist, June 29, 2013.

⁸ Government of India Ministry of Human Resource Development, Selected Educational Statistics 2010-11 (New Delhi: Government of India, 2012)

⁹ Affirmative Action: Indian Reservations, The Economist, June 29, 2013.

¹⁰ Government of India Ministry of Human Resource Development, Inclusion and Exclusion of Students in the School and in the Classroom in Primary and Upper Primary Schools (New Delhi: Ministry of Human Resource Development, 2012).

¹¹ (Source- Special Rapporteur on Contemporary Forms of Racism. (2013). Report to Human Rights Council on Racism and Implementation of the Durban Declaration and Programme of Action. UN Doc. A/HRC/23/56, para. 46)

¹² (Source- Vishnoi, A. (2012, 26 Nov). 'Report says caste, gender discrimination rampant', Indian Express)

¹³ (Source- Chandrapal. Action Points for Development of SCs and STs, Planning Commission. Retrieved 04. 11.2013 from <<planningcommission.nic.in/plans/ stateplan/scp.../82ACTIONPOINTS.doc>>, para. 27).

¹⁴ (Source- Ashraf, A. (2013, 13 Aug.). 'Dalits in the Media feel the Sting of Caste Discrimination,' Firstpost).

¹⁵ (Source- Reply of Minister of State in the Prime Minister's Office, V. Narayanasamy to the Rajya Sabha question no. 3040, answered on 20-11-2012).

¹⁶ (Source- Sinoy, D. 'Courting Substantive Equality: Employment Discrimination Law in India'. Retrieved Nov. 2013 from <<www.kentlaw.iit.edu/Documents/Institutes%20and%20Centers/).

¹⁷ (Source- Union Budget 2016-17-The Dalit Adivasi Perspective; http://www.ncdhr.org.in/Dalitsinnews/Final_Budget_Watch_2016-17_Union.pdf)

¹⁸ Dalit Arthik Adhikar Andolan-NCDHR. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

¹⁹ Source- Dalit Arthik Adhikar Andolan. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

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<p>138.87. Continue to promote the rights of women in their choice of marriage and their equality of treatment independently of caste and tribe or other considerations (Holy See);</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 6</p>	Supported	<p>29.1 Discrimination against women 8 Equality & non-discrimination 5.2 Institutions & policies - General 32 Members of minorities 33 Indigenous peoples</p> <p>Affected persons: - women</p>	<ul style="list-style-type: none"> In 2014, the NCRB reported 2233 registered rapes of SC women—an average of 6 rapes per day.²⁰ Moreover, the number of registered rapes of SC women has risen steadily over the years, from 1089 in 2003 to 2073 in 2013, marking a 47.5% increase over the past decade. One study of 500 Dalit women and girls who had experienced violence revealed that less than 1% of incidents of violence ended in convictions of the accused.²¹ For 2014, the conviction rate for rapes of SC women stood at 34.9%, though this has to be understood against the backdrop of the high pendency rate of 81.6% for rape cases. The vulnerability of SC women is further exacerbated by their marital status. Widowed women face harassment, evictions, sexual exploitation and abuse from family members and other villagers. SC women are also vulnerable to specific forms of violence. Studies revealed that over 90% of <i>Devadasi/Jogini</i> women forced into ritualized prostitution are scheduled caste women.²² Official statistics also show that over 2,500 women have been killed of the suspicion of practicing witchcraft in the past 15 years. All have been poor and most have been from marginalized scheduled caste and scheduled tribe communities and either owned property or rejected the sexual advances of dominant men in the community.²³ The former UN High Commissioner for Human Rights, Navi Pillay, has noted that, “An estimated 90% of manual scavengers are Dalit women who face multiple vulnerabilities and discrimination based on their caste and gender, and who are often exposed to violence and exploitation.”²⁴ A national study on health services found that caste identity was important in accessing resources such as anganwadi services both as health service provider and recipient. Caste discrimination was reported in these services from almost all the study villages. In some instances, separate anganwadis in the ‘upper’ and ‘lower’ caste localities was a practical solution without, however, resolving the issue²⁵ A study undertaken in Vizianagaram district of Andhra Pradesh revealed that around 77.2% of respondents had no information regarding the structure and functioning of the Village Health and Sanitation Committees (VHSCs). A majority (75%) of the Dalit respondents said that the VHSCs do not give any importance to Dalit issues. While 55% of men interviewed said that VHSC members did come and inquire about the health-related issues of Dalits, only 4.3% of women said that this was true. Moreover, 74.4% of respondents said that there was hardly any participation by the Dalit community in the VHSCs²⁶

²⁰National Crimes Records Bureau 2014, *Crimes in India 2013*. Delhi: NCRB accessed online: <http://ncrb.gov.in/CD-CII2013/home.asp>.

²¹Irudayam, A., Mangubhai, J.P. and Lee, J.G., 2011. *Dalit Women Speak Out: Caste, Class and Gender Violence in India*. New Delhi: Zubaan, available at: http://idsn.org/uploads/media/Violence_against_Dalit_Woment.pdf

²² Black, Maggie, 2007. *Women in Ritual Slavery: Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, Southern India*. London: Anti-Slavery International: http://www.antislavery.org/includes/documents/cm_docs/2009/w/women_in_ritual_slavery2007.pdf.

²³Paul, S., 2012. *Witches of India: Women without Defence*, available at: <https://worldpulse.com/node/50282>.

²⁴ UN High Commissioner for Human Rights Navi Pillay, 2013 (31 Jan.). ‘Pillay applauds Indian movement to eradicate ‘manual scavenging’, OHCHR News, available online: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E

²⁵ (Source- C. Sathyamala et al. (2012). ‘Public Report on Health Some Key Findings and Policy Recommendations’, *Economic and Political Weekly* 47(21), pp.43-54)

²⁶ (Source- Sesharatnam, P. and P. Chittibabu. (2012). ‘Still some way to go: Communitisation of Health Services among Dalit Community’. *Andhra Pradesh: People’s Action for Rural Awakening*)

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<p>138.130. Provide more resources for the enjoyment of economic and social rights, especially in favour of vulnerable groups like women, children, poor people and minorities (Viet Nam);</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 2</p>	Supported	<p>21 Economic, social & cultural rights - general measures of implementation</p> <p>5.2 Institutions & policies - General</p> <p>Affected persons:</p> <p>- general</p>	<ul style="list-style-type: none"> • In order to bridge the gap between the Dalits/Adivasis and other castes, the government of India crafted a policy called the scheduled Caste Sub Plan and Tribal Sub Plan. This year, 2016-17, the allocations for SC under the Union Budget 2016 is only 7.6% when the due amount under SCSP (Scheduled Caste Sub plan) budget should be 16.8% which should amount to Rs.91,301 and 8.6% under TSP (Tribal Sub Plan) which should amount to Rs.47,300 Crs. Thus denying a total of Rs 75,764 crore²⁷ • Funds are often not allocated under the SCSP in proportion to the population of SCs in the state/country. Moreover, a large amount of funds under SCSP are being allocated for general programmes and schemes, which are not specifically designed for SCs with fixed, realistic targets²⁸. • The bulk of SCSP funds are more for social services (e.g. education, health) that are ‘survival in nature’. Large funds are not being allocated for economic sectors that are ‘developmental in nature’ (e.g. entrepreneurship, employment, land) and would ensure that Dalits obtain access to productive resources for their long-term development and empowerment²⁹ • Continuation of manual scavenging in India is violation of Constitutional rights and measures to address are piecemeal. Indian Railways is an institution where dry latrines exist in great numbers and a large number of Dalit individuals are engaged in manual scavenging. Despite 11 million passengers travelling by trains every day, at present there are only nine trains with 436 coaches fitted with bio-toilets, while 4,000 coaches are produced annually which could be fitted with new bio-toilets³⁰. The recently passed Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 does not have concrete measures for rehabilitation and a clear plan for implementation. It is still not clear who will formulate the schemes and how they will be implemented³¹.
<i>Right or area: 21. Economic, social & cultural rights – general measures of implementation</i>			

²⁷ (Source- Union Budget 2016-17-The Dalit Adivasi Perspective; http://www.ncdhr.org.in/Dalitsinnews/Final_Budget_Watch_2016-17_Union.pdf)

²⁸ Dalit Arthik Adhikar Andolan-NCDHR. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

²⁹ Source- Dalit Arthik Adhikar Andolan. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

³⁰ (Rashtriya Garima Abhiyan. (2012). Analysis and Recommendations in the Context of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill. Bhopal: Rashtriya Garima Abhiyan, pp. 10-11).

³¹ Wilson, B., Safai Karamchari Andolan, quoted in Jitendra. (2013, 10 Sep). ‘Manual Scavenging Prohibition Bill: How Effective’, Down to Earth

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<p>138.141. Continue consolidating its programmes and socio-economic measures essential to achieve poverty reduction and social exclusion to the utmost wellbeing of its people (Venezuela (Bolivarian Republic of));</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 2</p>	Supported	<p>21 Economic, social & cultural rights - general measures of implementation</p> <p>5.2 Institutions & policies - General</p> <p>22.5 Human rights & extreme poverty</p> <p>8 Equality & non-discrimination</p> <p>Affected persons:</p> <p>- general</p>	<ul style="list-style-type: none"> In order to bridge the gap between the Dalits/Adivasis and other castes, the government of India crafted a policy called the scheduled Caste Sub Plan and Tribal Sub Plan. This year, 2016-17, the allocations for SC under the Union Budget 2016 is only 7.6% when the due amount under SCSP (Scheduled Caste Sub plan) budget should be 16.8% which should amount to Rs.91,301 and 8.6% under TSP (Tribal Sub Plan) which should amount to Rs.47,300 Crs. Thus denying a total of Rs 75,764 crore³² Funds are often not allocated under the SCSP in proportion to the population of SCs in the state/country. Moreover, a large amount of funds under SCSP are being allocated for general programmes and schemes, which are not specifically designed for SCs with fixed, realistic targets³³. The bulk of SCSP funds are more for social services (e.g. education, health) that are 'survival in nature'. Large funds are not being allocated for economic sectors that are 'developmental in nature' (e.g. entrepreneurship, employment, land) and would ensure that Dalits obtain access to productive resources for their long-term development and empowerment³⁴
<i>Right or area: 8. Non-discrimination</i>			
<p>138.53. Enact comprehensive anti-discrimination legislation and ensure that there are adequate means of redress (Ireland);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>8 Equality & non-discrimination</p> <p>9 Racial discrimination</p> <p>5.1 Constitutional and legislative framework</p> <p>16 Right to an effective remedy, impunity</p> <p>Affected persons:</p> <p>- general</p>	<ul style="list-style-type: none"> Article 17 of India's Constitution abolishes untouchability and the Protection of Civil Rights Act, 1976 (PCR Act) and Rules, 1977 make the practice of untouchability a cognizable and non-compoundable offense warranting enhanced terms of imprisonment, prescribes appointment of prosecutors for these offenses and establishes Special Courts and Committees to assist state governments in implementing anti-untouchability measures. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (POA Act) defines criminal, economic, political and property-related offenses committed against Scheduled Castes (SCs) and Scheduled Tribes (STs) as atrocities and designates a system to bring atrocity cases under the jurisdiction of Special Courts. India has taken action to establish Special Courts aimed at streamlining access to justice for Dalit and Adivasi victims of atrocities in each state. At the time of writing, India had established such Special Courts in more than 40% of districts. There is no disaggregated information available regarding state-wise appointment of Special Public Prosecutors or as to the number of cases in which SC victims of atrocities were allowed to engage an advocate of their own choice as stipulated by the SC/ST Prevention of Atrocities Act.

³² (Source- Union Budget 2016-17-The Dalit Adivasi Perspective; http://www.ncdhr.org.in/Dalitsinnews/Final_Budget_Watch_2016-17_Union.pdf)

³³ Dalit Arthik Adhikar Andolan-NCDHR. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

³⁴ Source- Dalit Arthik Adhikar Andolan. (2013). Scheduled Caste Sub Plan & Tribal Sub Plan: Union Budget Watch 2012-13. New Delhi: DAAA

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<p>138.7. Ratify promptly the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Italy);</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 3</p> <p>Comments: A/HRC/21/10/Add.1 states at page 2: List of Recommendations Accepted by the Government of India; and at page 3: Finalise the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. (Spain, Sweden, Switzerland, Timor-Leste, UK and Northern Ireland, USA, Australia, Austria, Botswana, Brazil, Czech Republic, Indonesia, Iraq, Italy, Maldives, Portugal, Republic of Korea)</p>	Supported	<p>2.1 Acceptance of international norms</p> <p>12.5 Prohibition of torture and cruel, inhuman or degrading treatment</p> <p>Affected persons: - general</p>	<ul style="list-style-type: none"> A study report³⁵ conducted by the Committee formed by the National Commission for Scheduled Castes based on the rising number of complaints by the Kuruvan Community on Police atrocities found that even after 6 decades of political independence in India, the community is subjected to physical torture by the Tamil Nadu police in the name of convicting the "habitual offenders". The members of the community, including women, men, and children, are subjected to systematic ruthless treatment at the hands of the police. It has become convenient for the police to catch hold of the "Kuravans" and foist false cases against them; Kuravans are kept under illegal detention, and are subjected to brutal forms of torture to extract "false confessional statements" regarding crimes which they had not committed. For these reasons the entire community lives in fear of detention and arrest. The police in most of the cases compile the pending cases at the end of the year and use them as unsolved theft cases by charging the innocent people from the community to benefit themselves for rewards and promotions; and the worst part is the police protect and defend certain other anti-social elements in order to keep the racket going. The "Kuravan" men are more than regularly taken from their houses and illegally kept for long time in police custody and are subjected to third degree tortures and are forced to confess statements for various criminal cases. With respect to the "Kuravan" women, they are verbally, physically and sexually abused at anytime at the discretion of the police. The Kuravans in the following districts like Thanjavur, Ariyalur, Thiruvavur, Salem, Trichy and Villupuram experience high levels of false criminal charges, illegal detention torture in custody, sexual abuse and custodial deaths.
<i>Right or area: 14.3. Freedom of opinion and expression</i>			
<p>138.126. Ensure that measures limiting freedom of expression on the internet is based on clearly defined criteria in accordance with international human rights standard (Sweden);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>14.3 Freedom of opinion and expression</p> <p>2.1 Acceptance of international norms</p> <p>5.1 Constitutional and legislative framework</p> <p>5.2 Institutions & policies - General</p> <p>Affected persons: - general</p>	<ul style="list-style-type: none"> Criminal law in India is used to limit peaceful expression to stifle political dissent, restrict activists arbitrarily block Internet sites, or take down content, and target minorities and marginalized communities such as Dalits. Between 2011 and 2013, Maharashtra authorities arrested six members of Kabir Kala Manch³⁶, a Pune-based cultural group of singers, poets, and artists, under the Unlawful Activities (Prevention) Act³⁷, (UAPA) claiming they were secretly members of the banned Communist Party of India (Maoist), also known as Naxalites³⁸. The six were largely consisting of Dalit youth, uses music, poetry, and street plays to raise awareness about issues such as the oppression of Dalits and tribal groups, social inequality, corruption, and Hindu-Muslim relations.
<i>Right or area: 15.1. Administration of justice & fair trial</i>			

³⁵ A Study Report on Alleged cases of Police Atrocities against Kuruvan Community in the state of Tamil Nadu – 15 December 2014 to 13 January 2015.

³⁶ After the [Gujarat riots](#) in 2002, a group of students came together and formed Kabir Kala Manch, a cultural group which, through their music and poetry, took up the cause of social inequality, exploitation of the underclasses, farmer suicides, female infanticide, Dalit killings and the widening net of corruption.

³⁷ **Unlawful Activities (Prevention) Act** is an [Indian](#) law aimed at effective prevention of unlawful activities associations in [India](#). Its main objective was to make powers available for dealing with activities directed against the integrity and sovereignty of India

³⁸ The six were Deepak Dengle, Siddharth Bhosle, Sheetal Sathe, Sachin Mali, Sagar Gorkhe, and Ramesh Gaichor. Kabir Kala Manch

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>138.122. Further promote equal access to justice for all , including by reducing backlog and delays in the administration of cases in court, providing more legal aids to the poor and marginalized, as well as increasing the use of alternative measures to pre-trial detention (Thailand);</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. Page 2</p> <p>Comments: A/HRC/21/10/Add.1 states at page 2: List of Recommendations Accepted by the Government of India; and at page 2: Further promote equal access to justice for all , including by reducing backlog and delays in the administration of cases in court, providing more legal aids to the poor and marginalized. (Thailand)</p>	Supported/ Noted	<p>15.1 Administration of justice & fair trial 8 Equality & non-discrimination 22.5 Human rights & extreme poverty 16 Right to an effective remedy, impunity</p> <p>Affected persons: - general</p>	<ul style="list-style-type: none"> • Despite these protections, atrocities against Dalit communities persist. In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014, according to the National Crime Records Bureau (NCRB). • A study in Andhra Pradesh, Jharkhand, Rajasthan, Tamil Nadu and Uttar Pradesh found that Dalit and Adivasi victims of atrocities face significant challenges at each stage of the process of accessing justice, including: barriers to registering complaints, delayed investigations, failure to arrest the accused, lack of understanding of rights and court processes, threats from the accused, pressure to compromise or adjourn cases prior to conclusion and humiliation during trial proceedings. According to India's National Legal Services Authority, in 2011, between April 1 and September 30, only 4% of recipients of legal aid services were from SC communities.³⁹ Although the Legal Services Authority Act, 1987 directs Legal Services Authorities (LSAs) to work closely with government agencies and non-governmental organizations to promote legal services to the poor, LSAs are not currently coordinating action with SC Commissions.⁴⁰ According to NCRB data, the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014.
<p>138.139. Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas (Myanmar);</p> <p>Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 5</p>	Supported	<p>22.6 Human Rights & drinking water and sanitation</p> <p>Affected persons: - general</p>	<ul style="list-style-type: none"> • In terms of water and sanitation provision, Dalit habitations are often systematically excluded... Dalits have been unable to collect water from shared wells or have been fined for drinking from a common water tap, and Dalit women have reportedly had to wait in a separate queue until non-Dalits have fetched water. Large-scale violence and physical attacks by members of the dominant caste have been reported where Dalits attempted to access facilities in areas inhabited by the dominant castes⁴¹. • Only 57 per cent Dalit and 55 per cent Adivasi households have drinking water within their premises compared to the national (urban) average of 71 per cent. In the sphere of sanitation, a quarter of Dalit and Adivasi populations defecate in the open, against an overall percentage of 12 per cent. Female-headed households have similarly poor access to a water source within premises, and to exclusive use⁴². • For 2011-12, Rs330 crores (22% of total allocation of Rs 1500 crores) was reserved for SCs and Rs150 crores (10% of total allocation) is reserved for STs. Out of this, Rs352.87 crores has been released to states for SCs/STs. The progress achieved under the Total Sanitation Campaign for SCs/STs is also being monitored⁴³.

³⁹ India Current Affairs National Legal Services Authority: Performance cum achievements, 17 February 2012, accessed online on 15 July 2015: <http://indiacurrentaffairs.org/national-legal-services-authority-performance-achievements/>

⁴⁰ Multiple Action Research Group, 2012 Needs assessment study of selected legal services authorities, New Delhi, commissioned by the Government of India Department of Justice and United Nations Development Program.

⁴¹ (de Albuquerque, Catarina. (2012). Report of the Special Rapporteur on the human right to safe drinking water and sanitation: Stigma and the realization of the human rights to water and sanitation. UN Doc.A/HRC/21/42, paras. 13, 22& 32)

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
138.162. Continue implementing a non-discriminatory and inclusive policy and guarantee quality education to all the girls and boys in its country (Ecuador); Source of position: A/HRC/21/10 - Para. 138 & A/HRC/21/10/Add.1 - Para. page 3	Supported	25 Right to education - General 30.1 Children: definition; general principles; protection 5.2 Institutions & policies - General Affected persons: - children	<ul style="list-style-type: none"> While quotas and special scholarships for Dalit and tribal groups in India were first established in the 1920s, designation of State funds to these programs have encouraged more Dalit and tribal students to pursue secondary schooling. According to a 2009 study on the impact of such quotas, one-in-15 graduates and one-in-10 secondary school students were Dalits—well up from previous decades.⁴⁴ Despite the government focus on SC education, however, discrimination in schools remains a significant barrier to accessing education for Dalit children in India. A 2012 study from the Indian Government Ministry of Human Resource Development, capturing various forms of caste-based discrimination in schools in Andhra Pradesh, Assam, Bihar, Madhya Pradesh, Orissa and Rajasthan, found that SC children face discrimination in access to drinking water and midday meals, are made to do cleaning and other menial tasks and also face verbal abuse on the basis of their caste.⁴⁵The India-level literacy rate for SC children, moreover, continues to be lower than that of other castes: overall 66.1% for SCs compared to 73% generally. Prejudice against and harassment of Dalits are equally prevalent in institutions of higher education. The caste bias manifests itself in the way teachers ignore Dalit students and unjustly fail them in exams and in the unwillingness of the university administration to assist and support Dalits. Reportedly, as a grave consequence of this harassment, a disproportionate number of Dalit students have committed suicide in some countries⁴⁶.
138.163. Strengthen human rights training aimed at teachers in order to eliminate discriminatory treatment of children of specific castes, as well as appropriately follow-up on the results of the training that has occurred thus far (Japan); Source of position: A/HRC/21/10 - Para. 138	Noted	25 Right to education - General 6 Human rights education, trainings 8 Equality & non-discrimination 9 Racial discrimination 30.1 Children: definition; general principles; protection Affected persons: - children	<ul style="list-style-type: none"> In 2012, 41 independent monitoring institutions submitted reports to the Ministry of Human Resource Development detailing instances of discrimination and untouchability during the midday meals in 186 schools across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat. SC children were routinely segregated from other children while eating. Additionally many children or their parents often refuse food cooked by SC cooks. There are also cases where Dalit students are served from a distance, and several students bought their own plates for fear of utensils being touched by Dalit classmates⁴⁷ In January 2012, 25 Dalit children from Karandiatana village in Kendrapada district, Orissa were forced to obtain school leaving certificates and get admitted into another school after facing abuse and threats from dominant caste villagers, as part of a continuing land dispute in the village⁴⁸
138.164. Ensure universal, compulsory and free education, carrying out on a priority basis measures aimed at eradicating discrimination, particularly discrimination that affects girls, marginal groups and persons with disabilities (Mexico); Source of position: A/HRC/21/10 - Para. 138	Noted	25 Right to education - General 29.1 Discrimination against women 30.1 Children: definition; general principles; protection 31.1 Persons with disabilities: definition, general principles 5.2 Institutions & policies - General 7.1 Context, statistics, budget, dissemination, civil society Affected persons: - children - women - persons with disabilities	<ul style="list-style-type: none"> In 2012, 41 independent monitoring institutions submitted reports to the Ministry of Human Resource Development detailing instances of discrimination and untouchability during the midday meals in 186 schools across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat. SC children were routinely segregated from other children while eating. Additionally many children or their parents often refuse food cooked by SC cooks. There are also cases where Dalit students are served from a distance, and several students bought their own plates for fear of utensils being touched by Dalit classmates⁴⁷ In January 2012, 25 Dalit children from Karandiatana village in Kendrapada district, Orissa were forced to obtain school leaving certificates and get admitted into another school after facing abuse and threats from dominant caste villagers, as part of a continuing land dispute in the village⁴⁸

⁴² India Exclusion Report, 2015, a comprehensive, annually updated analysis on the exclusion of disadvantaged groups in India, supported by UNICEF, UNFPA, UN Women.

⁴³ (Ministry of Drinking Water and Sanitation. (2012). *Annual Report 2011-2012*. New Delhi: Government of India, p.75)

⁴⁴ Affirmative Action: Indian Reservations, *The Economist*, June 29, 2013.

⁴⁵ Government of India Ministry of Human Resource Development, *Inclusion and Exclusion of Students in the School and in the Classroom in Primary and Upper Primary Schools* (New Delhi: Ministry of Human Resource Development, 2012).

⁴⁶ (Source- Special Rapporteur on Contemporary Forms of Racism. (2013). *Report to Human Rights Council on Racism and Implementation of the Durban Declaration and Programme of Action*. UN Doc. A/HRC/23/56, para. 46)

⁴⁷ (Source- Vishnoi, A. (2012, 26 Nov). 'Report says caste, gender discrimination rampant', *Indian Express*)

⁴⁸ (Source- Times of India. (2012, 19 Jan). 'Dalit children 'ousted' from school in Kendrapada')

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>138.85. Further strengthen measures to eliminate traditional harmful practices which are discriminatory against women and girls in particular child marriages, dowry related murders and honour killings (Chile);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>29.2 Violence against women, trafficking and exploitation of prostitution</p> <p>5.2 Institutions & policies - General</p> <p>13.1 Liberty and security - general</p> <p>29.1 Discrimination against women</p> <p>30.1 Children: definition; general principles; protection</p> <p>Affected persons:</p> <ul style="list-style-type: none"> - children - girls - women 	<ul style="list-style-type: none"> • SC women are also vulnerable to specific forms of violence. Studies revealed that over 90% of <i>Devadasi/Jogini</i> women forced into ritualized prostitution are scheduled caste women.⁴⁹ Official statistics also show that over 2,500 women have been killed of the suspicion of practicing witchcraft in the past 15 years. All have been poor and most have been from marginalized scheduled caste and scheduled tribe communities and either owned property or rejected the sexual advances of dominant men in the community.⁵⁰The former UN High Commissioner for Human Rights, Navi Pillay, has noted that, “ An estimated 90% of manual scavengers are Dalit women who face multiple vulnerabilities and discrimination based on their caste and gender, and who are often exposed to violence and exploitation.”⁵¹ • A national study on health services found that caste identity was important in accessing resources such as anganwadi services both as health service provider and recipient. Caste discrimination was reported in these services from almost all the study villages. In some instances, separate anganwadis in the ‘upper’ and ‘lower’ caste localities was a practical solution without, however, resolving the issues⁵² • A study undertaken in Vizianagaram district of Andhra Pradesh revealed that around 77.2% of respondents had no information regarding the structure and functioning of the Village Health and Sanitation Committees (VHSCs). A majority (75%) of the Dalit respondents said that the VHSCs do not give any importance to Dalit issues. While 55% of men interviewed said that VHSC members did come and inquire about the health-related issues of Dalits, only 4.3% of women said that this was true. Moreover, 74.4% of respondents said that there was hardly any participation by the Dalit community in the VHSCs⁵³ • In 2014, the NCRB reported 2233 registered rapes of SC women—an average of 6 rapes per day.⁵⁴ Moreover, the number of registered rapes of SC women has risen steadily over the years, from 1089 in 2003 to 2073 in 2013, marking a 47.5% increase over the past decade. One study of 500 Dalit women and girls who had experienced violence revealed that less than 1% of incidents of violence ended in convictions of the accused.⁵⁵ For 2014, the conviction rate for rapes of SC women stood at 34.9%, though this has to be understood against the backdrop of the high pendency rate of 81.6% for rape cases. The vulnerability of SC women is further exacerbated by their marital status. Widowed women face harassment, evictions, sexual exploitation and abuse from family members and other villagers.
<p>Right or area: 32. Members of minorities</p>			

⁴⁹ Black, Maggie, 2007. *Women in Ritual Slavery: Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, Southern India*. London: Anti-Slavery International: http://www.antislavery.org/includes/documents/cm_docs/2009/w/women_in_ritual_slavery2007.pdf.

⁵⁰Paul, S., 2012. Witches of India: Women without Defence, available at: <https://worldpulse.com/node/50282>.

⁵¹ UN High Commissioner for Human Rights Navi Pillay, 2013 (31 Jan.). ‘Pillay applauds Indian movement to eradicate ‘manual scavenging’, OHCHR News, available online: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E

⁵² (Source- C. Sathyamala et al. (2012). ‘Public Report on Health Some Key Findings and Policy Recommendations’, Economic and Political Weekly 47(21), pp.43-54)

⁵³ (Source- Sesharatnam, P. and P. Chittibabu. (2012). ‘Still some way to go: Communitisation of Health Services among Dalit Community’. Andhra Pradesh: People’s Action for Rural Awakening)

⁵⁴National Crimes Records Bureau 2014, *Crimes in India 2013*. Delhi: NCRB accessed online: <http://ncrb.gov.in/CD-CII2013/home.asp>.

⁵⁵Irudayam, A., Mangubhai, J.P. and Lee, J.G., 2011. Dalit Women Speak Out: Caste, Class and Gender Violence in India. New Delhi: Zubaan, available at: http://idsn.org/uploads/media/Violence_against_Dalit_Woment.pdf

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>138.118. Prevent and pursue through the judicial process, all violent acts against religious and tribal minorities, Dalits and other casts (Holy See);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>32 Members of minorities 8 Equality & non-discrimination 9 Racial discrimination 15.1 Administration of justice & fair trial 16 Right to an effective remedy, impunity</p> <p>Affected persons: - general - minorities/ racial, ethnic, linguistic, religious or descent-based groups</p>	<ul style="list-style-type: none"> • Despite these protections, atrocities against Dalit communities persist. In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014, according to the National Crime Records Bureau (NCRB). • A study in Andhra Pradesh, Jharkhand, Rajasthan, Tamil Nadu and Uttar Pradesh found that Dalit and Adivasi victims of atrocities face significant challenges at each stage of the process of accessing justice, including: barriers to registering complaints, delayed investigations, failure to arrest the accused, lack of understanding of rights and court processes, threats from the accused, pressure to compromise or adjourn cases prior to conclusion and humiliation during trial proceedings. According to India's National Legal Services Authority, in 2011, between April 1 and September 30, only 4% of recipients of legal aid services were from SC communities.⁵⁶ Although the Legal Services Authority Act, 1987 directs Legal Services Authorities (LSAs) to work closely with government agencies and non-governmental organizations to promote legal services to the poor, LSAs are not currently coordinating action with SC Commissions.⁵⁷ According to NCRB data, the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014.
<i>Right or area: 36. Human rights defenders</i>			

⁵⁶ India Current Affairs National Legal Services Authority: Performance cum achievements, 17 February 2012, accessed online on 15 July 2015: <http://indiacurrentaffairs.org/national-legal-services-authority-performance-cum-achievements/>

⁵⁷ Multiple Action Research Group, 2012 Needs assessment study of selected legal services authorities, New Delhi, commissioned by the Government of India Department of Justice and United Nations Development Program.

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>138.43. Enact a law on the protection of human rights defenders, with emphasis on those defenders facing greater risks, including those working on minority rights and the rights of scheduled castes and tribes (Czech Republic);</p> <p>Source of position: A/HRC/21/10 - Para. 138</p>	Noted	<p>36 Human rights defenders 5.1 Constitutional and legislative framework 8 Equality & non-discrimination 32 Members of minorities 33 Indigenous peoples</p> <p>Affected persons: - human rights defenders</p>	<ul style="list-style-type: none"> India's National Human Rights Commission (NHRC) has established <i>Focal Point for Human Rights Defenders</i> aimed at providing human rights defenders with 24-hour crisis support. The NHRC has also taken action on cases of atrocities perpetrated against particular DHRDs. For instance, on December 12, 2014, as a follow up to a National People's Tribunal on attacks on DHRDs, the NHRC held a roundtable conference that resulted in registration of DHRD Chandrakant Gaikwad's case by the NHRC. The Commission requested a report on the case from the Superintendent of Police of Pune District within 15 days. There remains, however, a need to take active steps to ensure police accountability for protecting all DHRDs who face retaliation. In cases of abuse, measures are required to ensure access to justice for DHRDs and rehabilitative support for their families. DHRDs remain at risk of retaliation for defending the rights of marginalized communities. The National Campaign for Dalit Human Rights (NCDHR), National Dalit Movement for Justice (NDMJ) have documented targeting of DHRDs on the basis of their caste, including assaults in public places, torture, illegal detention, harassment, forced disappearances, extra-judicial killings, illegal imprisonment, surveillance, targeting of family members, branding as Naxalites and anti-nationals and implication in false cases.⁵⁸ In response to an appeal by DHRDs following the murder of fellow DHRD, Chandrakant Gaikwad, UN Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekagggya, explicitly addressed the position of DHRDs in India: "Dalit rights activists strive for the promotion and realization of Dalits' civil, political, economic, social and cultural rights. The range of human rights violation they suffer is appalling."

⁵⁸ Report on Dalit Human Rights Defenders by NCDHR-National Dalit Movement of Justice (NDMJ), Submitted to the Special Rapporteur on Situation of Human Rights Defenders, 15 January 2011. See <http://www.ncdhr.org.in/latestinterventions/Report%20UN%20SR%20HRD.doc>