

**Discrimination (Employment and Occupation) Convention,
1958 (No. 111)**

India (ratification: 1960)

Observation, CEACR 2009/80th Session

The Committee notes the Government's report, as well as the observations made by the Akhil Bhartiya Safai Mazdur Congress, a trade union, in their communication dated 28 August 2009 which was forwarded to the Government on 18 September 2009.

Discrimination based on social origin. Articles 1, 2 and 3 of the Convention. The Committee notes the information provided by the Government regarding the implementation of India's quota system for employment by the central and state governments of persons considered to belong to "scheduled castes, scheduled tribes and other backward classes". The Committee notes that as of 1 January 2006 persons considered to belong to the scheduled castes, which amount to 16.23 per cent of the Indian population according to the Eleventh Five-Year Plan (2007-12) ("11th Plan"), were represented in central government services as follows: 13 per cent in group A; 14.5 per cent in group B; 16.4 per cent in group C; and 18.3 per cent in group D (excluding sweepers). In November 2008, a special recruitment campaign was launched to fill up the backlog of reserved vacancies. No new information is at the Committee's disposal regarding the achievements of the reservation system in state government employment. The Committee further notes the detailed information provided on the various programmes and schemes aimed at the educational and economic empowerment of the scheduled castes, including education grants, coaching, loans and subsidies. In this context, the Committee also notes that the 11th Plan points to the need for new measures to address the persisting exclusion and discrimination of the scheduled castes, including with regard to employment. More specifically, the Plan states that there is a need to complement protective legislation with "promotive legislation which should cover the rights of scheduled castes with respect to education, vocational training, higher education and employment" (paragraph 6.48), and it also mentions the possibility of affirmative action in the private sector. ***Recalling that discrimination in employment and occupation against men and women on account of being considered to belong to a certain caste is unacceptable under the Convention and that continuing measures are required to end such discrimination, the Committee requests the Government to continue to provide comprehensive information on the implementation of the various existing schemes and programmes in this regard, including the reservation system for the public service***

at the central and state levels. The Committee also asks the Government to provide information on the design and implementation of any new measures, including those referred to in the 11th Plan. Finally, the Committee reiterates its request to the Government to provide information on the specific measures taken to launch and intensify awareness-raising campaigns on the prohibition and unacceptability of caste-based discrimination in employment and occupation, including information on the steps taken to seek the cooperation of workers' and employers' organizations in this regard.

With regard to the enforcement of protective legislation, the Committee notes the Government's indication that the Protection of Civil Rights Act, 1955, which provides punishment for the practice of untouchability, is implemented by the respective state governments and union territory administrations. The Government provided statistical information on the cases handled by the police and the courts. According to this information, the total number of court cases regarding scheduled castes under the 1955 Act was 2,613, only 63 of which resulted in a conviction. Similarly, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which aims at the prevention of offences against persons belonging to scheduled castes and tribes is implemented by the states and union territories. According to the Government's report, there were 104,003 cases before the courts in 2007 under the 1989 Act, out of which 6,505 resulted in a conviction. The statistical information suggests that under both Acts large numbers of cases remained pending. The Committee notes the Government's indications that the Parliamentary Committee on the Welfare of the Scheduled Castes and Scheduled Tribes recommended that the competent central ministries and the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes meet regularly to devise ways and means to curb offences of untouchability and atrocities and ensure effective administration of the two Acts. A dedicated committee was set up for this purpose which held three meetings in 2008-09. The Committee also notes that the 11th Plan called for enforcement of the two Acts in letter and spirit and suggests measures to educate judicial officers, public prosecutors and police officials, with a view to ensuring more and speedier convictions. The Government's report states that some 430 million rupees have been provided to 25 states and union territories to strengthen the enforcement of the two Acts. **The Committee requests the Government to continue to provide detailed information on the measures taken to ensure strict enforcement of the Protection of Civil Rights Act, 1955, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, including the measures mentioned in the 11th Plan, and on the number and outcome of the cases handled by the competent authorities.**

The Committee recalls its comments over many years regarding the practice of manual scavenging and the fact that *Dalits*, and very often *Dalit* women, are usually engaged in this practice due to their social origin in contravention of the Convention. The Committee notes that, according to the

Government's report, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, so far had been adopted by 20 states and all union territories. Five states that have not adopted the Act report that they do not have dry latrines or that they are scavenger free; two have adopted their own legislation on the subject. With regard to the Act's enforcement, the Government's report states that the state of Uttar Pradesh had reported 27,114 cases of prosecutions. Enforcement information regarding other states has not been provided. The Committee is also aware that in an order of 8 May 2009 the Supreme Court of India (*Safai Karamchari Andolan and others v. Union of India and others*) noted that a detailed report submitted by the petitioner showed that scavenger work is widely prevalent in various districts of the state of Rajasthan. The Committee further notes that the Akhil Bhartiya Safai Mazdur Congress provided findings of field research in Solapur and Pandarpur, two cities in the state of Maharashtra. This research found the continuing existence of manual scavenging, and that it was practiced by municipal employees belonging to particular castes. Similarly, the National Action Plan for the Total Eradication of Manual Scavenging by 2007, which was subsequently extended, refers to reports that in several states municipal employees still perform manual scavenging.

The Committee notes that the Government's efforts continued to concentrate on the conversion of dry latrines under the centrally sponsored Integrated Low Cost Sanitation (ILCS) Scheme. Following implementation difficulties, the Scheme has been reviewed and new guidelines have been effected since February 2008. The Government indicates that, within one year of the revision of the guidelines, the states of Andhra Pradesh, West Bengal, Nagaland and Assam had stated that they had no dry latrines in their states. According to the Government, only four states have reported the existence of such latrines (Bihar, Uttar Pradesh, Uttarakhand and Jammu and Kashmir). Under the revised ILCS Scheme it is envisaged that within a period of three years (2007-10) all remaining dry latrines will be converted. The 11th Plan referred to 342,000 remaining manual scavengers, while according to Government's report a total of 138,464 manual scavengers were still to be liberated under the ILCS Scheme as of 31 March 2009. A Self-Employment Scheme for the Rehabilitation of Manual Scavengers has been formulated to rehabilitate the remaining scavengers in a time bound manner by March 2009 through training, and extension of loans and subsidies.

The Committee notes that the Government has continued to take measures towards the elimination of the practice of manual scavenging. However, the Committee expresses **serious concern** that, despite these efforts, thousands of *Dalit* men and women still find themselves trapped in this inhumane and degrading practice. The Committee is particularly concerned at the apparent weak enforcement of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993, and that the practice even continues in employment under the Government's authority contrary to *Article 3(d)* of the Convention. **The Committee urges the Government to ensure the full enforcement of the 1993 Act and to take all measures**

necessary to ensure that the practice is eliminated effectively, including through low-cost sanitation programmes and promoting decent work opportunities for liberated scavengers. The Committee requests the Government to provide detailed information on measures taken regarding these issues and the results achieved, including statistical information. Please provide detailed information on: (i) the status of the pending litigation on the issue in the Supreme Court together with copies of any orders that may have been passed by the Court; and (ii) the enforcement of the 1993 Act at the central and state levels.

Equality of opportunity and treatment of women and men. The Government's report provides a general overview of the various vocational training programmes available to women under the responsibility of the central Government, including statistical information on the number of training institutions. The National Council for Vocational Training has recommended that state governments reserve 25–30 per cent of seats in the general Industrial Training Institute for Women. The Government also highlights the Support to Training and Employment Programme (STEP). It further indicates that the Unorganized Sector Workers Social Security Act, 2008, will facilitate the formulation of policies and programmes for women who have so far been deprived from social security coverage. In addition, the Committee notes that overall women appear to have benefited from the National Rural Employment Guarantee Act, 2005 (NREGA), on an equal footing with men. ***The Committee requests the Government to continue to provide information on the vocational training opportunities provided for women, particularly for jobs and occupations other than those traditionally considered "suitable" for women. The Committee also asks for information supported by statistics as to what extent the NREGA has led to employment of women in rural areas of the different states and union territories. The Committee welcomes the Government's indication that it is engaging in extensive consultations to finalize legislation on the protection of women against sexual harassment, and hopes that such legislation will be adopted in the near future.***

While appreciating the measures reported by the Government with a view to promoting women's equality, the Committee notes from the 11th Plan (paragraphs 4.41–4.46) that the labour force participation of women remains very much lower than that of men. In urban areas unemployment is much higher for young women than for men in the corresponding age group in both the unorganized and the private sectors. According to the Plan's analysis, women's labour force participation remains low principally due to wage rates for women being lower than for men for comparable occupations; to women being denied access to certain occupations; and skill development being provided only in a limited number of occupations. ***The Committee requests the Government to continue to provide detailed information on the measures taken to promote and ensure equality of opportunity in***

employment and occupation, in rural and urban areas, as well as the private, public and unorganized sectors. In this regard, the Committee also requests the Government to provide statistical information on the participation of men and women in employment, according to sector and employment status, if possible.