**11th January 2023**

To,

**Office of the United Nations High Commissioner for Human Rights (OHCHR)**

United Nations Office at Geneva

CH 1211 Geneva 10

Switzerland

Respected High Commissioner,

***Sub: Submission of written contribution to inform the High Commissioner’s report on the Rights of the Child and Inclusive Social Protection to be presented at the 54th session of the Human Rights Council in September 2023.***

I welcome the OHCHR’s initiative to prepare a report on the rights of the child and inclusive social protection, to be presented to the Council at its fifty-fourth session. As an academic and member of the civil society I am submitting my inputs on all the questions listed in the call for the same. Please do note that all inputs to the questions in relation to rights of the child and inclusive social protection are in the context of India.

I hereby consent for the publication of my written contribution on the OHCHR website.

Yours sincerely,

**Dr. Preethi Lolaksha Nagaveni.** BA.LLB[Hons.],LLM, NET, AIBE, PhD

PhD (Law) Lancaster University, United Kingdom

Advocate, High Court of Karnataka, Bangalore, India

Email: [preethi8811@gmail.com](mailto:preethi8811@gmail.com)

1. **What social protection systems are in place for children in your country? Please provide examples of specific laws and regulations, measures, policies, and programmes directed at ensuring children’s access to inclusive social protection.**

India, under Article 21-A of its Constitution, has guaranteed Right to Education, from the age of six to fourteen years, as the fundamental right of every child and has enacted a good number of legislations and put in place variety of administrative measures to protect the rights of children. Prominent among them include the Juvenile Justice (Care and Protection) Act, 2000 amended in 2015; the Prohibition of Child Marriage Act, 2006; The Right of Children to Free and Compulsory Education Act, 2009;The Protection of Children from Sexual Offences Act, 2012 and the Child Labour (Prohibition and Regulation) Act, 1986 amended in 2016. Mid-day meals for children studying in government run schools is also one of the important programs in place.[[1]](#footnote-1)

1. **What are the main gaps and challenges to children’s enjoyment of social protection in law, policy, and practice in your country and the impacts on children’s rights ?  Please provide any relevant statistical or disaggregated data based on age, gender, disability, ethnicity, religion, sexual orientation and gender identity, migration status, or other categories. Please consider the specific situation of marginalized children and those in vulnerable situations in your response.**

The Scheduled Castes in India number 201,378,372 people, constituting 16.63% of the total population as per the latest 2011 Census of India.[[2]](#footnote-2) They have been historically subjugated, economically deprived, socially excluded and politically marginalised. Among the Scheduled Castes are also manual scavengers who are people engaged in *inter alia* manually cleaning nightsoil with bare hands.[[3]](#footnote-3) Manual scavenging is the most visible practice of untouchability in the 21st century India, the Constitution of which abolished it in 1950.[[4]](#footnote-4) As per the 2011 Census of India, there were 794,000 cases of manual scavenging in the country. This number however does not include septic tanks, sewers and railway tracks which are also cleaned by manual scavengers.[[5]](#footnote-5) Children belonging to Scheduled Castes in general face various kinds of caste discrimination in the society. However it is more in the case of children of manual scavengers, since their occupation is seen as ‘unclean’ and ‘dirty’ by the society. A survey revealed that routinely teachers and members of society subjected the children of manual scavengers to forced labour as part of their daily experience of attending schools.[[6]](#footnote-6) Many manual scavengers cite the iniquitous caste system and poverty as root causes for their grim reality. Studies have shown that many manual scavengers start their occupation as child scavengers in violation of various international human rights conventions including the Convention of the Rights of the Child to which India is a State Party.[[7]](#footnote-7) Prominent rights which are violated include right to health, right to education, right against child labour, right against slavery, right against untouchability and the most fundamental right to life with dignity.

1. **What are the good practices initiated by the Government to ensure that social protection benefits the rights of children in your country?**

On the specific issue of manual scavengers, the Government of India through the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, provides for rehabilitation of manual scavengers. The rehabilitation scheme *inter alia* provides for scholarships for children of manual scavengers.[[8]](#footnote-8) If implemented rigorously it would help in the educational advancement of such children, which in turn would help in the economic improvement of manual scavenger families. However studies have shown the non-implementation of the rehabilitation scheme and the ever prevalence of manual scavenging even in 2022.[[9]](#footnote-9) In order to protect the educational rights of the children, the governments also provide various scholarships to students belonging to vulnerable castes and classes. But these policies must be implemented to their letter and spirit.

1. **Are there examples of how measures and responses to alleviate poverty through social protection systems in emergency situations or, for example, in response to the COVID-19 pandemic, have positively affected children’s rights, particularly to social security?**

In March 2020, i.e., two weeks after the World Health Organisation declared COVID-19 as a Pandemic, India, without any prior intimation, put its 1.3 billion people, on a lockdown for 3 weeks, which waslater extended. The days and weeks that followed brought to fore one of the darkest pictures of urban industrialized India, which is one of the fastest growing economies in the world. Millions of migrant workers with their families started to go back to their villages on foot. The sub-human, tearful and most pitiable living conditions of the migrant laborers came to the fore. One of the categories who suffered the most were the children of migrant laborers. Not only was their education affected, but their very survival was also in question. Many of them lost their lives, a human tragedy that could have been prevented if proper precautions were taken by the State. The government admitted on the floor of the Parliament that more than 14 million migrant laborers returned to their homes. When questioned about the number of migrant laborers who lost their lives while returning homes and if the government has provided any economic assistance or compensation to the victims’ families, the Union Minister for Labor and Employment replied that, ‘No such data is maintained’, and that the answer to the question on compensation, ‘does not arise, since there is no data’.[[10]](#footnote-10) So there was no social security guaranteed, in particular to children of migrant laborer during the first wave of Covid-19 pandemic.

1. **How can States deliver more effectively to ensure the effective implementation of universal social protection for children, including through international cooperation?**

The following points must be considered for effective implementation of universal social protection for children:

* The provisions of Constitution of India and domestic laws enacted for the protection of children must be strengthened further and rigorously implemented with stringent penal provisions for non-implementation.
* Steps must be taken to implement the International human rights conventions to which India is a State party like the Convention of the Rights of the Child, which protect the rights of children at all places.
* The international community must urge India to implement legislations to their letter and spirit, as children suffering in one country should not be isolated.
* Civil society and media must be proactive in bringing to light the cases of child labor, forced labor, child abuse, child trafficking and lack of social security to the mainstream so that light can be shed to this ever-growing problem.
* Judiciary must *suo moto* take up cases where the rights of children are violated, especially of those hailing from marginalized communities since they have limited means for recourse available.
* Government must evolve a comprehensive policy of partnership with civil society and NGOs who work for the welfare of children, to understand the root causes for the prevailing conditions of the children and work towards better implementation of laws ensuring social protection to them.

\*\*\*\*

1. ‘Pradhan Mantri Poshan Shakti Nirman (PM POSHAN), Ministry of Education, Government of India < <https://pmposhan.education.gov.in> > accessed 10th January 2023. [↑](#footnote-ref-1)
2. Chandramouli, ‘Release of Primary Census Abstract, Data Highlights’, Census of India, 2011, Registrar General and Census Commissioner, India, Ministry of Home Affairs (30th April 2013), < <https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/2013/INDIA_CENSUS_ABSTRACT-2011-Data_on_SC-STs.pdf>> accessed 10th January 2023; also see‘Scheduled Castes Population’, Census 2011, < <https://www.census2011.co.in/scheduled-castes.php> > accessed 10th January 2023. [↑](#footnote-ref-2)
3. Preethi Lolaksha Nagaveni, Untouchability, a Unique Form of Violation of Human Rights: A Study of Practice of Untouchability in the form of Manual Scavenging and Caste-based Discrimination in Higher Educational Institutions in India, (Doctoral Thesis, Lancaster University, U.K., 2022) 125. [↑](#footnote-ref-3)
4. Article 17, Constitution of India. [↑](#footnote-ref-4)
5. ‘How many Manual Scavengers are there in India? Official Data is Self-Contradictory’, News 18, < <https://www.news18.com/news/buzz/how-many-manual-scavengers-are-there-in-india-official-data-is-self-contradictory-1880197.html>> accessed 10th January 2023; also seePress Information Bureau, ‘Manual Scavenging’, Ministry of Social Justice and Empowerment, Government of India, < <https://pib.gov.in/newsite/PrintRelease.aspx?relid=133286>> accessed 10th January 2023; also see Preethi, Untouchability (n 3) 128. [↑](#footnote-ref-5)
6. ‘Dalit Children in India – Victims of Caste Discrimination’, < <https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/Dalit_children_in_India_-_victims_of_caste_discrimination.pdf> > accessed 10th January 2023. [↑](#footnote-ref-6)
7. Preethi, Untouchability (n 3) 157. [↑](#footnote-ref-7)
8. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013, Sec. 13 (1). [↑](#footnote-ref-8)
9. Preethi, Untouchability (n 3) 152-157. [↑](#footnote-ref-9)
10. Damini Nath, ‘Govt. has no data of migrant workers’ death, loss of job’, The Hindu (14th September 2020) < <https://www.thehindu.com/news/national/govt-has-no-data-of-migrant-workers-death-loss-of-job/article32600637.ece> > accessed 10th January 2023. [↑](#footnote-ref-10)