

UN High Commissioner for Human Rights
Office of the High Commissioner for Human Rights
Geneva, Switzerland

Civil Society Space Report - Input

E-mail submission: civilsociety@ohchr.org

27 September 2017

International Dalit Solidarity Network (IDSN) input to the Report of the High Commissioner for Human Rights on Civil Society Space

Re: Reprisals against and hindered access of Dalit human rights defenders to UN organisations and mechanisms - Continued deferral of IDSN's application for ECOSOC status in the Committee on NGOs

The **International Dalit Solidarity Network (IDSN)** makes this submission with reference to [Human Rights Council resolution 32/31](#) on civil society space requesting the High Commissioner to prepare a compilation of information on procedures and practices in respect of civil society involvement in regional and international organisations, including the UN, and civil society's contribution to their work, challenges and best practices. IDSN would like to bring to your attention to some limitations in and hindered access to communication with the United Nations, its representatives and mechanisms by Dalit human rights defenders.

IDSN has been trying to formalise its association with the UN and obtain ECOSOC Status for the past 9 years. Yet, its application has been deferred by the Committee on NGOs for the whole time, and specifically it is being blocked by one member - namely India. IDSN's access to the United Nations, its representatives and mechanisms and international human rights mechanisms is being restricted. The case we are submitting to you outlines the abuse of the rules of procedures of the ECOSOC Committee on NGOs and resolution 1996/31 on consultative relationship between the UN and non-governmental organizations as well as a disregard for Human Rights Council resolution 32/31:

- *Recognizing the crucial importance of the active involvement of civil society, at all levels, in processes of governance and in promoting good governance, including through transparency and accountability, at all levels, which is indispensable for building peaceful, prosperous and democratic societies;*
- *Reminds States of their obligation to respect and fully protect the civil, political, economic, social and cultural rights of all individuals, inter alia, the rights to freedom of expression and opinion and to assemble peacefully and associate freely, online as well as offline, including for persons espousing minority or dissenting views or beliefs, and that respect for all such rights, in relation to civil society, contributes to addressing and resolving challenges and issues that are important to society, such as ... empowering persons belonging to minorities and vulnerable groups, combating racism and racial discrimination, ... the realization of all human rights and the implementation of the 2030 Agenda for Sustainable Development;*
- *Emphasizes the importance of civil society space for empowering persons belonging to minorities and vulnerable groups, as well as persons espousing minority or dissenting views or beliefs, and in that regard calls upon States to ensure that legislation, policies and practices do not undermine the enjoyment by such persons of their human rights or the activities of civil society in defending their rights;*

- *Emphasizes the essential role of civil society in sub-regional, regional and international organizations, including in support of the organizations' work, and in sharing experience and expertise through effective participation in meetings in accordance with relevant rules and modalities, and in this regard reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with sub-regional, regional and international bodies, and their representatives and mechanisms.*

The continued, deliberate denial and delay of IDSN's application for ECOSOC consultative status on no legitimate grounds, impairs IDSN's right to communicate freely with international human rights mechanisms and effects the extent to which the organisation can cooperate with the UN. In turn, this amounts to exclusion of and reprisal against a civil society organisation hindering its legitimate work with the UN. It is a case of discrimination.

IDSN's application for ECOSOC status was first considered by the Committee on NGOs at the Regular Session in January 2008. IDSN has altogether received [82 written questions](#); all posed by India, a member of the Committee. The application has now been deferred by the Committee for 9 years. During the process, no objections have been made to IDSN's application on technical or procedural grounds, and IDSN has always provided full, transparent and timely information in response to all questions received. The application was most recently considered at the 2017 Resumed Session in May and was once again deferred due to two questions from India. IDSN's application is the longest pending dating back to 2008 (submitted in 2007 but first considered in January 2008). The application will be reviewed again at the 2018 Regular Session. The experience over the last nine years reveals that one member of the NGO Committee (India) can effectively hinder consideration of an application (IDSN's) through continued presentation of questions, many of which are repeated or duplicated. This, despite the fact, that IDSN has followed the prescribed rules with due diligence.

IDSN works on a global level for the elimination of caste-based discrimination. The network consists of member organisations in caste-affected countries, Dalit Solidarity Networks in Europe and international and regional associates. IDSN produces documentation, prepares joint submissions and undertakes strategic interventions and lobbying at the international level. IDSN furthermore supports Dalit rights interventions at the UN, and cooperates with the UN human rights mechanisms, including treaty bodies, Special Procedures, the UPR mechanism, and the OHCHR on caste-based discrimination. Caste-based discrimination, which is estimated to affect 260 million persons worldwide - as outlined by the UN Special Rapporteur on Minority Issues, Ms. Rita Izsák-Ndiaye, in her thematic report in 2016 on caste-based discrimination - is a violation of international human rights law as recognised by UN human rights bodies and independent expertsⁱ, and a human rights priority for the OHCHR.ⁱⁱ Caste-based discrimination has been addressed by the UN Secretary-General and UN High Commissioner for Human Rights in statements and reports. Please see [a compilation of these references](#).

IDSN has addressed its specific case with relevant mandate holders. In June 2016, a thematic report of the UN Special Rapporteur on the exercise of the rights to freedom of peaceful assembly and of association, Mr. Maina Kiai, noted the case to the Human Rights Council:

"the example of the International Dalit Solidarity Network which applied for ECOSOC status in January 2008. Up till today, 2016, it has not been given accreditation and has received 75 questions from one member of the NGO Committee, India. These questions are repeated over and over again, <..> procedure is being used to thwart IDSN" from gaining consultative status.
[Please read IDSN news pieces.](#)

In May 2016 more than [230 NGOs](#) signed a [letter](#) calling on the members of the UN Economic and Social Council (ECOSOC) to reform the practice of the Committee on NGOs that prevents certain human rights organisations, including IDSN, from associating freely with the UN. Eleanor Openshaw from International Service for Human Rights, was able to deliver the [concerns](#) expressed in the joint letter to the Committee and concluded that:

“unfortunately, in too many instances the Committee is reflective of the growing restrictions on civil society at the very time restrictions at the national level make access to the UN all the more crucial”.

IDSN submitted IDSN’s ECOSOC case to the Urgent Appeal Mechanism as an individual case for due consideration by the SR on Peaceful Assembly and Association and the SR on Human Rights Defenders in 2010, October 2014 and in June 2015. Furthermore, IDSN brought forward letters concerning the same case of reprisals for the UN Secretary-General’s HRC report on Reprisals in 2012, 2014 and 2015.

The continued exclusion of IDSN was also featured as a case study in chapter 5 in the International Service for Human Rights [Handbook](#) on NGO access to the UN and UN Committee on NGOs. The handbook highlights the statements of the UN Special Rapporteur on the exercise of the rights to freedom of peaceful assembly and of association both in his report to the General Assembly and in his statement at the GA. At the launch of the Handbook, hosted by the Permanent Mission of Australia, IDSN Executive Director, Rikke Nöhrind was invited to [present](#) the case of unjust deferral of IDSN’s application for ECOSOC status. The Handbook provides specific and very concrete recommendations to NGOs applying for ECOSOC status.

IDSN’s ECOSOC case was further discussed at the UN side-event in New York in June 2017, hosted by France, United Kingdom and Uruguay – *“The Committee on NGOs – improving working methods, encouraging civil society engagement”*. In addition to IDSN, other NGO representatives, whose UN participation was attempted blocked by the NGO Committee, called for reforms at the Committee. [Please read IDSN new piece covering the event.](#)

The continued deferral of IDSN’s application for accreditation has given rise to a number of questions and concerns on targeted reprisal against IDSN for its work with UN mechanisms, which is a primary focus of the organisation’s work, undertaken in cooperation with members and associates from caste-affected countries including India, home to up to 200 million Dalits.

IDSN is concerned that the current working methods of the NGO Committee and in our case, the continued questioning by India, exclude IDSN from freely associating with UN organisations in contrast to the principles of non-discrimination, equality, participation, transparency and accountability, laid out in resolution 1996/31ⁱⁱⁱ and work against the criteria for NGO participation stipulated therein. The continued questioning of IDSN is unreasonable; it is furthermore very time and resource demanding for an NGO wishing to make an effective contribution to the work of the UN.

IDSN has cooperated extensively with the UN over the last 15 years and would like to enhance cooperation with the UN human rights and development mechanisms in the future. This would be much facilitated by ECOSOC status. IDSN wants to be better able to monitor and influence the work in the UN on caste-based discrimination. Consultative status would provide for easy and direct access to various UN bodies, including the human rights mechanisms. Particularly, the ability to attain accreditation as an organisation, observe proceedings of the Human Rights Council, submit written statements and make oral interventions at the Human Rights Council, which would greatly enhance IDSN’s engagement with the UN.

Based on these observations, IDSN is sending this information, hoping that our case and this exclusion of civil society working on caste-based discrimination from freely associating with UN organisations will be included in the High Commissioners report and inform the practical recommendations to be compiled.

In line with the legal analysis, published in April 2016, of the UN Special Rapporteur on the exercise of the rights to freedom of peaceful assembly and of association, Maina Kiai, IDSN also notes the difficult environment for civil society, grave concern for reprisals against human rights defenders participating in UN events and processes and the increasingly shrinking space of civil society nationally and internationally. Human rights defenders – including Dalit social activists – are being intimidated, attacked and – in some cases – even murdered because of their activities.

As was noted at the 18 June 2015 Human Rights Council “Side-event on Caste- and Gender-based Forced and Bonded Labour” in Geneva, caste-based discrimination is globally the most neglected form of discrimination, including in defence of human rights defenders working on Dalit rights issues and the elimination of caste-based discrimination. Download the [report from the side-event](#).

In 2015, Human Rights Defenders Alert – India (HDRA) intervened in 104 cases of murder, assault, harassment and arbitrary arrest of human rights defenders with the National Human Rights Commission (NHRC) and various UN human rights mechanisms. In the first quarter of 2016 alone, HDRA has intervened in 60 cases. A number of these cases involve Dalit human rights defenders.

A report on the increasingly limited space for dissent in India was published by Human Rights Watch in May 2016. The report argued that the Indian authorities “*routinely use vaguely worded, overly broad laws as political tools to silence and harass critics.*” It added that such laws “*are used to stifle political dissent, harass journalists, restrict activities by nongovernmental organizations, arbitrarily block Internet sites or take down content, and target religious minorities and marginalized communities, such as Dalits.*”

Also, tight regulations on foreign contributions for civil society organisations (as stipulated in the Foreign Contributions Regulation Act or FCRA) are impeding the work of Indian civil society organisations and draconian laws are used to silence its critics, including Dalit human rights activists. The FCRA does not conform to international standards and the Act fails to provide convincing legal arguments for restricting such access for organisations that engage in activities of a ‘political nature’. In his analysis, Maina Kiai, noted that there may be an “*unacceptable risk that the law could be used to silence any association involved in advocating political, economic, social, environmental or cultural priorities which differ from those espoused by the government of the day.*”

All in all, there is compelling evidence that the Indian authorities are making it increasingly difficult for civil society organisations to operate in this shrinking space. In a “Citizens Report on 2nd Year of the NDA Government - 2016: Promises & Reality”, the Wada Na Todo Abhiyan coalition of civil society groups wrote that “*to ensure a vibrant presence of civil society, organisations should be allowed the freedom to operate and conduct their affairs in a flexible, non-interfering manner. The government’s approach appears to be stifling the civil society space.*” The report devoted an entire chapter to “Shrinking Civil Society Space” and urged the government to review various restrictive laws, including the FCRA.

The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, published a legal analysis in April 2016, in which he argued that the FCRA does not conform to international law, principles, and standards and that the restrictions contained in the Act are, “*likely to disproportionately impact those associations engaged in critical human rights work, those which address issues of government accountability and good governance, or represent vulnerable and minority populations or views.*”

In June 2016, the UN Special Rapporteurs on human rights defenders, Michel Forst, on freedom of expression, David Kaye, and on freedom of association, Maina Kiai, called on [the Indian government to repeal the FCRA](#), which they said was “*being used more and more to silence organisations involved in advocating civil, political, economic, social, environmental or cultural priorities, which may differ from those backed by the Government.*”

The European Parliament has also called on the Indian authorities to repeal those provisions of the Act “*which do not conform to international standards and potentially undermine the work of NGOs, including Dalit organisations and other organisations representing disadvantaged groups in Indian society, by impeding them from receiving funds from international donors.*”

IDSN member organisation - People’s Watch in India, first had their FCRA revoked by the Indian Government in 2012. The reason given for it, by the Indian Ministry of Home Affairs, was “*using foreign contributions to the detriment of India’s image*” by “*providing material and information to UN Special Rapporteurs and US Embassy and British High Commission officials...*” It is a clear example of reprisal

against those providing information and communicating with the UN mandates. [Please read IDSN article.](#)

The blocking of IDSN reflects a frightening trend in India for obstructing the work of civil society organisations and human rights defenders, particularly when it comes to Dalit, Adivasi and minority rights. Dalit rights activists across India have been feeling the pressure from both official and unofficial levels, especially when it comes to speaking about caste discrimination to an international audience. The silencing of human rights defenders raising legitimate human rights concerns in international fora is extremely worrying and runs counter to the founding principles of democracy.

It is our sincere hope that the exclusion of Dalit human rights defenders in international human rights mechanisms will be dealt with in the report and that the recommendations to be compiled will address these very concrete constraints on civil society space and freedom of association. This is to ensure effective NGO participation and that voice is given to Dalit human rights defenders working in conformity with the spirit, purposes and principles of the Charter of the United Nations, and for IDSN to effectively contribute to the work of the UN.

Sent on behalf of the Board and members of the International Dalit Solidarity Network

Contact email: chair@idsn.org

IDSN website: <http://idsn.org/>

ⁱ [Compilation of UN references to caste-based discrimination](#)

ⁱⁱ Caste-based discrimination is a priority in the OHCHR Strategic Management Plan 2014-2017. Furthermore, the UN High Commissioner for Human Rights has highlighted the issue on numerous occasions, specifically in 2009; “Caste is the very negation of the human rights principles of equality and non-discrimination. It condemns individuals from birth and their communities to a life of exploitation, violence, social exclusion and segregation” in an opinion piece, 19 Oct 2009: <http://idsn.org/international-advocacy/un/navi-pillay-on-caste-discrimination/>

ⁱⁱⁱ ECOSOC Resolution 1996/31 on Consultative relationship between the United Nations and non-governmental organizations