

**Mandates of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on minority issues**

Ref.: OL IND 5/2025

(Please use this reference in your reply)

2 June 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 52/36 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the draft **Karnataka Rohith Vemula (Prevention of Exclusion or Injustice) (Right to Education and Dignity) Act** (referred to herein as the Rohith Vemula Act). This act was recently drafted by a committee set up in Karnataka to develop state level legislation aimed at prohibiting caste-based discrimination and harassment, particularly within higher education institutions. This important legislative initiative seeks to address the systemic barriers faced by Dalits, Adivasis, and other minorities and marginalized communities, defined within articles 15 (4), 16 (4), 30, 341 and 342 of the Constitution of India, especially within universities and other spaces of higher learning.

Caste-based discrimination is recognized and prohibited under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which India ratified in 1968 and applies to all state-level jurisdictions. As articulated in article 1(1) of ICERD, the term "racial discrimination" includes distinctions based on "race, colour, descent, or national or ethnic origin", and as affirmed by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 29 (2002), this includes caste and analogous systems of inherited status.

The timely passing into law of and effective implementation of the Rohith Vemula Act would be critical to address caste-based discrimination across many sectors of society, particularly in the field of higher education and other educational institutions affecting various communities. Furthermore, it would strengthen the compliance of your Excellency's Government with its international obligations, including under ICERD and the International Covenant on Civil and Political Rights (ICCPR), which India acceded to in 1979. Articles of the ICCPR outline the duty of States to ensure equality before the law and equal protection without discrimination of any kind. While stressing the importance of the timely enactment of the draft Rohith Vemula Act into Karnataka state law and ensuring its effective implementation, we wish to highlight several human rights considerations that should be considered during the ongoing development of the legislation.

We note that the current draft of the Rohith Vemula Act refers to Other Backward Classes, religious minorities, Scheduled Castes and Scheduled Tribes but does not prescribe specific protections for Dalits and Adivasis against disproportionate discrimination in various areas, including academic advancement, mental health

support, housing, fellowship opportunities, and protection from harassment and violence. Given the urgency of these issues, we respectfully urge that the Rohith Vemula Act be further developed to explicitly address discrimination against Dalits and Adivasis. In this respect we wish to highlight that, as also clarified in the “Protecting Minority Rights – A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation” guidelines (OHCHR 2022), legislation addressing discrimination should include all characteristics recognized in international law, as well as any other grounds that require protection in a particular societal context.

We note that Article 4 of the draft Rohith Vemula Act states, “there shall be no discrimination to a person belonging to Other Backward Classes, religious minority, Scheduled Caste and Scheduled Tribes in institutions of higher learning.” It does not, however, provide any kind of definition of direct or indirect discrimination. We consider that it would be vital for the Rohith Vemula Act to comprehensively define acts of direct and indirect discrimination, in line with applicable international human rights law standards, including article 1 of ICERD. Failure to effectively define discrimination could result in the legislative provisions being ineffective at providing comprehensive protection from all forms of such discrimination. There is also a risk that if discrimination is undefined, the legislation could be used to repress activities and expression that fall outside of the comprehensive prohibition of racial and other forms of discrimination in international human rights law, including those relating to the defense of human rights.

Articles 6 to 9 of the draft Rohith Vemula Act outline penalties to punish discrimination prohibited under the legislation, including one year imprisonment and a fine of ten thousand rupees. This risks the adoption of a punitive approach that may undermine the promotion of understanding, tolerance and friendship among racial or ethnical groups, as is mandated by article 7 of ICERD. In this respect we wish to highlight that the 2022 OHCHR guidelines, referred to above, make clear that in cases of discrimination punitive sanctions should be reserved for criminal acts with bias motives. These guidelines state: “as understanding of the field of anti-discrimination law has developed, it has become increasingly recognized that, if States are to ensure effective remedy – particularly if they are to discharge the obligation to ensure compensation and restitution for claimants – prohibitions on discrimination should be provided in the civil or administrative branches of law”. This is particularly the case when considering the sensitive nature of the higher education environment. In such a context, it would be advisable to adopt effective preventive measures including orientation programmes and educational awareness campaigns to address and eradicate caste-based discrimination. The Act should also mandate robust mechanisms for grievance redressal, protection for whistleblowers, and accountability measures for institutions that fail to act.

The right to participation is enshrined within international human rights law, including article 5 of the ICERD and articles 19, 21 and 25 of the ICCPR. In relation to the democratic process and the right to participate in public affairs, it is critical that the drafting and implementation of the Rohith Vemula Act actively include the voices of those who may experience caste-based discrimination and harassment, including Dalit and Adivasi students, scholars, and activists. We note that the current draft does not contain provisions to enact consultative and participatory mechanisms to guide the implementation of the legislation. We are also not aware of any consultations that have

taken place with individuals who have experienced case-based discrimination to inform the initial draft of the bill. We stress the importance and urgency of such consultative processes to integrate the voices of affected individuals and to uphold their rights to public participation. In this respect, we also urge that there is proportionate caste, gender and geographical representation from the state of Karnataka in the committee constituted to work on the ongoing drafting of the Rohith Vemula Act. The Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs (OHCHR, 2018) stress the need to ensure that marginalized communities can participate freely, safely, and meaningfully. Any public discourse around the Act must therefore safeguard against caste-based hate speech, disinformation, and retaliation against those advocating for their rights.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned observations.
2. Please explain what steps are being taken by your Excellency's Government to ensure that the Rohith Vemula Act effectively addresses the specific forms of caste-based discrimination, harassment and violence against Dalits and Adivasis in higher education institutions.
3. Please clarify whether efforts will be made to include a definition of direct and indirect discrimination, aligned with international human rights law standards including article 1 of ICERD, within the ongoing development of the Rohith Vemula Act.
4. Please provide information about whether action will be taken to revisit the approach to punishment of discrimination within the current draft of the Rohith Vemula Act. Will preventive measures and redress mechanisms, ensuring, where appropriate, restitution or compensation, for acts of direct and non-direct discrimination, protection for whistleblowers, and accountability measures be considered for inclusion within the Act?
5. What forms of consultation with individuals who have experienced case-based discrimination, including Dalit and Adivasi students, scholars, and activists, have been undertaken to inform the drafting of the Rohith Vemula Act? What future consultation processes are planned?
6. Please outline the expected timelines for the finalization and enactment into law of the Rohith Vemula Act?
7. What steps have been taken to ensure that the drafting committee constituted to work on the ongoing drafting of the Rohith Vemula Act has proportionate caste and gender representation and that representatives are from Karnataka?

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would be grateful if the present letter could be shared with all relevant ministries, parliamentary committees, and stakeholders involved in the development and consideration of the Rohith Vemula Act.

Please accept, Excellency, the assurances of our highest consideration.

K.P. Ashwini  
Special Rapporteur on contemporary forms of racism, racial discrimination,  
xenophobia and related intolerance

Nicolas Levrat  
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