

# CASTE-BASED DISCRIMINATION IN SOUTH ASIA



June 2009

SITUATIONAL OVERVIEW, RESPONSES AND WAYS  
FORWARD

**Study commissioned by the European Commission to the  
International Dalit Solidarity Network**

*THIS REPORT MAY ALSO BE CONSULTED ON THE EUROPEAID WEBSITE AND AT [WWW.IDSN.ORG](http://WWW.IDSN.ORG)*

---

## EXECUTIVE SUMMARY

The study was commissioned to the International Dalit Solidarity Network by the European Commission in advance of its workshop on Indigenous peoples, minorities and Dalits in Dhaka, Bangladesh, 15-17 June 2009.

Caste discrimination is one of the most serious human rights issues in the world today, adversely affecting more than 260 million people globally. The majority of people suffering from caste discrimination are Dalits (or 'outcastes') living in South Asia. The caste system is a strict hierarchical social system based on underlying notions of purity and pollution. Those at the bottom of the system, who call themselves Dalits, suffer discrimination influencing all spheres of life and violating a cross-section of basic human rights including civil, political, social, economic and cultural rights.

Caste-based discrimination entails social and economic exclusion, segregation in housing, denial and restrictions of access to public and private services and employment, and enforcement of certain types of jobs on Dalits, resulting in a system of modern day slavery or bonded labour. The study finds that among the most serious impediments to addressing caste discrimination is either a lack of law or a de facto denial of equality before the law, resulting in the lack of protection of caste-affected people against violent attacks and other crimes, and impunity for such crimes.

It is furthermore concluded that caste discrimination is not only a serious violation of human rights but also a major obstacle to achieving development goals. Victims of caste discrimination are routinely denied access to water, schools, health services, land, markets and employment. The exclusion of Dalits and similarly affected communities by other groups in society lead to high levels of poverty among affected population groups and exclusion, or reduced benefits, from development processes, and generally precludes their involvement in decision making and meaningful participation in public and civil life.

The study also outlines how over the last decade, the international community has increasingly expressed its concern about discrimination based on work and descent (the UN terminology for caste-based discrimination). The volume of UN observations and recommendations on this issue is growing; many UN Special Rapporteurs have expressed their concerns, and UN treaty bodies have systematically addressed this issue in relevant country reviews. Moreover, a set of draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent has been published by the UN, although further action needs to be taken by the Human Rights Council to ensure follow up to the comprehensive study and adoption of the UN Principles and Guidelines.

This study does not attempt to cover all aspects of caste based discrimination, nor does it include comprehensive country analyses. Rather, it describes the main characteristics of caste discrimination, the consequences and the challenges faced by Dalits; it offers perspectives on caste-sensitive human rights and development programming. References to country level research, and reports of other resource institutions, including NGOs are found in Annex I along with references to EU highlights and UN recommendations related to caste discrimination or discrimination based on work and descent in Annex II.

Development actors such as governments, NGOs, and multinational and bilateral institutions, have a particular responsibility to ensure that caste discrimination is addressed fully in their programmes of cooperation in caste affected countries. Special measures must be applied in development and relief programmes, as well as in other forms of cooperation, to avoid a repetition of the engrained patterns of discrimination against Dalits and their exclusion from development and relief benefits. We hope that this study will serve as a useful starting point for the European Commission in this respect and as operational advice on the integration of Dalits issues into EC development cooperation.

Rikke Nöhrind, IDSN Coordinator, 9 June 2009

**IDSN** is a network organization that works on a global level to eradicate caste discrimination. In caste-affected countries, network movements try to mobilize their governments to fulfill their human rights obligations. In Europe and the United States, national Dalit Solidarity Networks and international associates raise international awareness and stimulate action by governments and multilateral institutions.

# TABLE OF CONTENTS

<b>BACKGROUND.....</b>	<b>1</b>
<b>MAIN ISSUES IN DEVELOPMENT AND HUMANITARIAN ASSISTANCE .....</b>	<b>1</b>
<b>THE CASTE SYSTEM .....</b>	<b>2</b>
<b>CASTE-BASED DISCRIMINATION, HUMAN RIGHTS AND POVERTY.....</b>	<b>3</b>
<b>FORCED OCCUPATION, BONDED LABOUR, AND EXPLOITATION AT THE LABOUR MARKET .....</b>	<b>4</b>
<b>DALIT WOMEN .....</b>	<b>5</b>
<b>NATIONAL RESPONSES.....</b>	<b>6</b>
<b>COUNTRY SNAPSHOTS.....</b>	<b>6</b>
<b>CASTE-BASED DISCRIMINATION AND THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK.....</b>	<b>9</b>
<b>PROGRAMMING FOR CASTE-SENSITIVE DEVELOPMENT.....</b>	<b>10</b>
<b>OPERATIONAL GUIDANCE FOR PROGRAMMING.....</b>	<b>11</b>
<b>HUMAN RIGHTS, POLITICAL DIALOGUES AND CONSULTATIVE MECHANISMS .....</b>	<b>12</b>
<b>HUMANITARIAN ASSISTANCE – RELIEF AND REHABILITATION.....</b>	<b>12</b>
<b>ANNEX I – CASTE-BASED DISCRIMINATION IN SOUTH ASIA - REFERENCES AND LINKS</b>	
<b>ANNEX II – CASTE-BASED DISCRIMINATION – EU AND UN HIGHLIGHTS</b>	
<b>ANNEX III – INTRODUCTION TO THE DRAFT UN PRINCIPLES AND GUIDELINES ON THE EFFECTIVE ELIMINATION OF DISCRIMINATION BASED ON WORK AND DESCENT</b>	

## BACKGROUND

It is estimated that caste-based discrimination affects the lives of approximately 260 million people globally. The existence of this form of discrimination based on millennia-old social norms, in both private and public spheres, results in gross violations and systemic denial of the human rights of people born into “untouchable”, “out-caste” or “low caste” status. The geographic spread of practised forms of caste discrimination is wide, most obviously in South Asia and some other parts of Asia, but includes similarly affected communities in some African countries, the Middle East and the Diaspora.

Caste-based discrimination takes multiple forms based on the underlying notions of purity and pollution. It includes social and economic exclusion, segregation in housing, denial and restrictions of access to public and private services and employment, and traditionally prescribed occupations of the most demeaning and hazardous kind. De facto denial of equality before the law, the lack of protection of caste-affected people against violent attacks and other crimes, and impunity for such crimes are among the fundamental expressions of continued caste discrimination. Victims of caste discrimination are routinely denied access to water, schools, land, markets and employment; the exclusion of Dalits and similarly affected communities by other groups in society and the inherent structural inequality in these social relationships, leads to high levels of poverty among affected population groups and exclusion, or reduced benefits, from development processes, and generally precludes their involvement in decision making and meaningful participation in public and civil life.

Discrimination based on work and descent (*the UN terminology for caste-based discrimination*) is not only a serious violation of human rights but also a major obstacle to achieving development goals. Inequalities inevitably obstruct development and ineffective allocation of human resources due to this form of discrimination also distorts the labour market and affects the efficiency of the economy.

## MAIN ISSUES IN DEVELOPMENT AND HUMANITARIAN ASSISTANCE

Discrimination on the basis of caste is a predictable type of discrimination occurring internally and undermining the impact of both development and humanitarian assistance programmes, if not addressed explicitly and systematically. So-called ‘caste blindness’ in any such operation in caste-affected countries leads automatically to a replication of the existing patterns of exclusion and marginalization in society and may even exacerbate the effect of such patterns. As marginalization of caste-affected groups is founded on structural injustices and the denial of basic human rights, it is necessary to address the underlying causes to avoid distorting or undermining the impact of aid programmes intended to address poverty and marginalization.

Experience shows that without a proactive approach specifically targeting Dalits and similarly affected communities in e.g. relief efforts they will be left out, denied access to shelter or even refused relief packages and eventually compensation to restore their livelihoods<sup>1</sup>. Development, education and health services often fail to reach discriminated groups due to lack of consideration of caste dynamics in communities, such as the routine denial of access to health facilities for members of caste-affected groups in some places, or the fact that discrimination from teachers and fellow students is a principle cause of high drop-out rates among Dalit children.

Women of caste-affected communities face triple discrimination as women, as poor and as Dalits, and special attention must be given to analysis of gender issues and planning programmes that address the particular problems faced by women in the intersection of gender and caste discrimination.

---

<sup>1</sup> Making things Worse: How Caste-Blindness in an Indian Post Tsunami recovery has exacerbated vulnerability and exclusion, Tim Gill (2007) [http://idsn.org/uploads/media/Making\\_Things\\_Worse\\_report.pdf](http://idsn.org/uploads/media/Making_Things_Worse_report.pdf)

Dalit children constitute a particularly vulnerable group with a relatively high mortality rate compared to non-Dalits. An overwhelming majority of child labourers and trafficked children in caste affected countries are thought to be Dalits.

Globalization and market developments have diverse implications on caste-affected communities, which constitute the largest single group in South Asia subjected to forced and bonded labour and other forms of gross exploitation in the labour market. These forms of human rights violations do not appear to be diminishing in spite of the contemporary focus on corporate social responsibility, increasing international investment in notably India, and the growing number of agreements on economic and trade relations, including those between the EU and caste-affected countries.

Some of the underlying reasons for the failure to overcome the above mentioned development challenges have been identified as pertaining to a lack of relevant strategies and tools, ranging from a lack of disaggregated data and appropriate analyses, tools to prepare caste analysis and power relations mapping, and appropriate benchmarking and monitoring mechanisms. Insufficient involvement of Dalits and similarly affected communities in development processes and as staff, and the absence of a consistent dialogue between stakeholders at all levels on this dimension, are pointed to as barriers that need to be overcome.

## THE CASTE SYSTEM

Caste can be defined as a hereditary and hierarchic system of social grouping distinguished by degrees of purity, social status, and exclusiveness. Those who do not belong to any of the four main varnas (Brahmins, Kshatriyas, Vaishyas, and Shudras) are considered 'impure' and thus 'polluting' to other caste groups. They are seen as 'untouchables', are named by several states as 'scheduled castes' and have chosen the name "Dalit" for themselves, which means 'broken people'.

The caste system is based on the underlying principle that each caste has a fixed hereditary occupation by birth. Occupations under the caste system are compulsory and endogenous, resulting in exclusion of one's caste from carrying out the occupations that 'belong' to another caste. Dalits have traditionally been prohibited from engaging in certain types of jobs, such as food production, and forced to undertake jobs that are considered impure, such as leather work and manual scavenging<sup>2</sup>. There is a *de facto* prohibition on inter-caste marriage and where inter-caste relationships are attempted violent community action occurs. The caste system is further subdivided into sub-castes of a hierarchical order. The caste system continues to exist, while the dominant castes wish to uphold their power and dominance. Part of the explanation lies in the fact that caste hierarchy and caste consciousness have been socially internalized through centuries. It is not only the dominant powers, but also the Dalits themselves that maintain their subordination and self-suppression through acquired learning and socialization.

Dalits are a diverse group, yet easily identifiable through their name, place of origin and residence, occupation, father's occupation, educational institution, clothing, and accent. Although subject to similar forms of discrimination across South Asia, the situation of Dalits in caste-affected countries and within regions and states differ for historical and political reasons. Dalits live spread out across the countries, in the rural areas in segregated habitations yet close to the dominant caste villages.

Generally, disaggregated and accurate data on the situation of Dalit women, men and children are in high demand in most of the affected countries. Some studies indicate, however, that practices of "untouchability" and other forms of caste discrimination have decreased over time in some countries (e.g. Sri Lanka, India, and Nepal), with huge differences in practices in different regions and states. Whereas some forms of discrimination seem to have diminished, for example, among the younger generation in Nepal, economic empowerment of Dalits in India is increasing, frequently resulting in backlashes and conflict with dominant castes.

The accuracy of official censuses is generally questioned, especially by Dalit organizations, as underestimating the actual number of Dalits. This has a major bearing on quota systems, proportional representation in politics and

---

<sup>2</sup> Manual scavenging is the task forced upon or traditionally 'assigned' to Dalits to remove human faeces from dry latrines with minimum equipment.

share in development budgets, an issue currently highly debated in India and Nepal. In Bangladesh and Sri Lanka no quota system exists and in Pakistan a 6% quota for government jobs for minorities has been reinstated but it is not implemented<sup>3</sup>. In Sri Lanka, the state has turned a blind eye to caste discrimination assuming that a welfare state approach would eliminate discrimination and social and economic disadvantages.

In Pakistan and Bangladesh most Dalits belong to a religious minority and are numerically few. Although founded and socially sanctioned by Hinduism, the practice of caste discrimination cuts across religions and regions. Whereas only few studies have included empirical evidence on caste-related discrimination in Muslim dominated communities, assumptions are that it is a widespread practice embedded in all parts of society<sup>4</sup>. The report of the Sachar Committee documents extensive caste-based discrimination within Muslim communities in India<sup>5</sup>. In Sri Lanka, caste discrimination is most prevalent among the Tamil speaking part of the population, especially in the tea plantation areas, but also practiced in the Sinhala community and within the realm of Buddhist culture.<sup>6</sup>

The Dalit movement has a long history in India; a strong movement was led by Dr. B.R. Ambedkar<sup>7</sup> at the time of the independence movement from colonial powers. The Dalit movement is well established and diverse; in Nepal a very significant mobilization among Dalit organizations has taken place over the last decades. Only recently have human rights organizations and Dalit activists come together and started mobilizing systematically for the rights of Dalits in Bangladesh, Pakistan and Sri Lanka. In all countries, except perhaps for Sri Lanka, Dalits have organized themselves at local, regional and national level often supported by human rights organizations.

Except for perhaps in India, there is a lack of official segregated data on caste affected population groups, including census data, and generally a high need for comprehensive surveys and research.

## CASTE-BASED DISCRIMINATION, HUMAN RIGHTS AND POVERTY

Dalits in South Asia, and similarly affected groups elsewhere, are generally much poorer than the average population; their rights are not protected and respected; and the universal principles of non-discrimination, dignity and equality are a far cry from reality. Caste discrimination influences all spheres of Dalits' lives and constitutes violation of a cross section of human rights including civil, political, social, economic and cultural rights. The violations continue unabashedly, and the situation is barely improving. In 2008 the Indian state of Uttar Pradesh witnessed an increase in atrocities against Dalits by 4.47 per cent in comparison to cases registered in 2007.<sup>8</sup>

The prohibitions, restrictions and violations against Dalits are multiple; they are committed and enforced by both state and non-state actors, and are often the result of sanctioned impunity in the police and justice systems. A survey in rural India demonstrates that "untouchability" is not only present in most of rural India but has adapted to new socio-economic realities taking on new forms<sup>9</sup>. The "untouchability" practices are rooted in economic and political inequality based on a social norm of 'graded inequality'. A comparable study in Nepal found 205 distinct practices.<sup>10</sup>

Denial of or restricted access to water, temples, public offices, health services, cremation grounds and dominant castes' villages are among the most common practices enforced on Dalits. Discriminatory treatment in schools, educational institutions, and restaurants are likewise common; social interaction at religious festivals and weddings

<sup>3</sup> Caste-Based Discrimination in South Asia "Long Behind Schedule – A study on the Plight of Scheduled Caste Hindus in Pakistan, Zulfiqar Shah, 2007

<sup>4</sup> Caste-based discrimination in South Asia: A study of Bangladesh, Iftekhar Uddin Chowdhury, 2008

<sup>5</sup> The social, economic and educational status of Muslim community in India, Report of the Sachar Committee, 2006

<sup>6</sup> Research report; Casteless or Caste-blind, Kalingo Tudor Silva et al., 2008

<sup>7</sup> Dr. B.R. Ambedkar (1891-1956), a Dalit lawyer and architect of the Indian Constitution, was a much revered Dalit leader, politician and writer. He is still an icon of the Dalit movement.

<sup>8</sup> According to the Asian Centre of Human Rights, the records of the Uttar Pradesh Police show that 6,942 cases of atrocities were registered in 2008 in comparison to 6,628 in 2007. The ACHR's "India Human Rights Report 2009" documents the many human rights violations committed in India, including atrocities against Dalits.

<sup>9</sup> Untouchability in Rural India, Ghanshyam Shah et al, 2006 (Action Aid). The study covers 565 villages in 11 states.

<sup>10</sup> Existing practices of Caste-based untouchability in Nepal a strategy for a campaign for its elimination, Bhattachan et al., Action Aid, 2001

is limited for Dalits who are often expected to perform ritual functions in services of dominant castes, including washing, drum beating, skinning of animals.

Prohibitions on food involve in many instances restrictions on 'dining together' and on being served food cooked by a Dalit. *De facto* prohibition on ownership of lands and access to certain jobs on par with the rest of the population and other segregation practices lead to marginalization from mainstream society and economic development, which essentially means that Dalits are among the most excluded groups in the world. They fall at the bottom of development statistics with the majority of Dalits belonging to the poorest of the poor. Most of the Dalit households therefore also suffer from food deficiency.

As a general rule, Dalits have either been denied political participation or, where provisions exist for Dalit political empowerment, exclusionary mechanisms often within parties, and at the local level of governance, leave Dalits with limited influence. Threats, harassment and even violence before elections and at election polls occur to prevent Dalits from voting or running for political office.<sup>11</sup>

Dalits are subjected to violent attacks, murder, harassment, burning of villages, and other forms of atrocities on a daily and sometimes systematic basis. The gruesome violence against Dalits and Dalit communities by 'dominant' castes is, despite much documentation, underreported and un-responded to by governments. Impunity for the perpetrators of crimes against caste-affected groups permeates the justice and law enforcement systems in all caste-affected countries. Dalit cases are often not reported, investigated or prosecuted properly. Policemen, lawyers and judges often belong to dominant castes and they are unwilling to investigate, prosecute and hear cases of crimes against Dalits. Very few cases of crimes against Dalits lead to conviction<sup>12</sup>.

## FORCED OCCUPATION, BONDED LABOUR, EXCLUSION FROM OR EXPLOITATION AT THE LABOUR MARKET

Traditionally, Dalits are assigned to certain occupations such as cleaning sewers, sweeping and removing human waste, also termed 'manual scavenging', which is extremely hazardous and dehumanizing work. In India, manual scavenging was outlawed in 1993, yet today 1.3 million Dalits, the majority of whom are women, are employed by municipalities in this form of occupation.<sup>13</sup>

Most Dalits in South Asia are, in practice, excluded from accessing properly paid jobs and owning land. Many rely on private loans to sustain life and pay back with bonded labor for themselves and their children. Bonded and forced labor, prohibited by international law as a form of slavery, keep millions of Dalits and indigenous people enslaved in the agricultural and industrial sectors in South Asia. The ILO concludes in its Global report: "Tackling the challenges" 2007, that purely developmental approaches to improving the lot of the Dalits are insufficient, if the underlying structural causes and caste barriers are not simultaneously addressed. The report clearly shows that there is a close correlation between being poor and being vulnerable to discrimination, and between being subject to multiple and persistent forms of discrimination at work and being vulnerable to forced labour or child labour.

When Dalits challenge the unjust practices imposed on them by dominant castes, including forced labour, dominant castes use violent means to reinforce their position and keep Dalits in their place. Violence, subjugation of Dalit women, including rape, and social boycotts against entire Dalit communities, are common means of retaliation, which makes the assertion of rights for Dalits a threat to their life, security and income.

Whereas in India decades of quota systems for "scheduled castes" and "scheduled tribes" in education, political office and public employment has secured some influence, such as advances in education for a relative high number of Dalits and tribals, it does not automatically lead to equal access and treatment at the labour market. Restrictions, prohibitions and subtle mechanisms of discrimination mean that Dalits constitute only a very small percentage of the formal work force. They have limited access to the labour market and to market facilities such as loans, and they are also discriminated against in the modern urban sector in regards to recruitment, remuneration,

<sup>11</sup> Dalit Election Watch, May 2009, <http://dalitvotes.in/>

<sup>12</sup> Caste an Eye on the Dalits of India, IDSN, 2006, [www.idsn.org](http://www.idsn.org)

<sup>13</sup> Estimates from the Indian Movement against Manual Scavenging, <http://safaikarmachariandolan.org>

types of jobs held compared to their level of education. Reservation in the private sector is an issue publicly debated in India; discussion on the role of the private sector in combating caste discrimination also extends to multinational companies and other investors.<sup>14</sup>

Discrimination in wages in both the formal and informal sector is widespread across the region. This particularly applies to rural areas where Dalits mainly work as casual labourers, where they are often paid much less than the minimum wage or in kind.

In Pakistan, there is an estimated 1.7 million bonded laborers in the Sindh region alone and an overwhelming majority of them are Dalits<sup>15</sup>. Entitlement to land is a key issue confronting Dalits throughout the region, and the denial of a share in economic opportunities is generally prevalent. In India, Dalit assertion and a gradual and relative economic foothold in some regions is a cause of conflict and retaliation by dominant castes, often intertwined with religious diversity and connotations.

## DALIT WOMEN

Studies of Dalit women present clear evidence of widespread exploitation, violence and indecent, inhumane treatment.<sup>16</sup> Their social position makes them vulnerable to a number of human rights violations such as physical and verbal abuse, forced labour and slavery, trafficking, abduction, naked parading, and sexual violence including rape and gang rape. Dalit women are also subjected to discrimination based on specific social customs and religious practices, including the devadasi, jogini and Badi systems of forced prostitution. Violence including sexual assault is used by dominant castes as a social mechanism for humiliating entire Dalit communities. Police personnel often neglect or deny Dalit women of their right to seek legal and judicial aid. In 2006 in India, the official conviction rate for Dalit atrocity cases was just 5.3%.<sup>17</sup>

In Nepal, for example, the literacy rate of Dalit women is 24,2% compared to a national literacy rate of 43% and the life expectancy is 50,8 years for Dalit women compared to a national female average of 58,9 years<sup>18</sup>. Dalit women in Nepal rank at the bottom of the composite empowerment and inclusion Index in a World Bank/DFID study<sup>19</sup>, i.e. 0,21 against 0,34 of the average national female index. According to the report, caste and gender together account for a third of the variation in empowerment and inclusion levels. The conclusion was drawn, however, that caste is a more powerful predictor of empowerment/inclusion than gender.

As in Nepal, surveys and statistics on poverty and empowerment in other caste affected countries relegate Dalit women to the lowest position in society, only contested by those of indigenous people in a few countries. In rural India, 70% of Dalit women are illiterate<sup>20</sup>.

<sup>14</sup> Business operations in caste-affected countries are at a high risk of being based on the economic exploitation or seclusion of caste-affected communities and others at the "low" end of the caste hierarchy. See the Ambedkar Principles for foreign investors in South Asia to address caste discrimination at <http://idsn.org/business-csr/ambedkar-principles/> and the Dalit Discrimination Check – A tool for companies at <https://hrca.humanrightsbusiness.org/>

<sup>15</sup> See also "Poverty, discrimination and slavery - The reality of bonded labour in India, Nepal and Pakistan" by Krishna Prasad Upadhyaya, Anti-Slavery International, 2008 and "THE CHOICE OF REFORMS - The human rights situation of ethnic, linguistic, religious minorities, scheduled castes Hindus and indigenous people in Pakistan" – a Joint NGO report to the UN Committee on the Elimination of Racial Discrimination (CERD) for the examination of the 15th-20th periodic reports of Pakistan at the 74th CERD session in February 2009

<sup>16</sup> Irudayam, A., Mangubhai, J.P. and Lee, J., 2006. *Dalit Women Speak Out: Violence against Dalit Women in India*. Chennai: National Campaign on Dalit Human Rights, National Federation of Dalit Women, and Institute of Development Education, Action and Studies

<sup>17</sup> National Crimes Record Bureau, *Crimes in India 2006* (2007).

<sup>18</sup> Democracy, Gender Equality and Women's Literacy: Experience from Nepal, Unesco Kathmandu Series of Monographs and Working Papers: No1, Sushan Achaya, 2004

<sup>19</sup> Nepal: Unequal Citizens - Gender, Caste and Ethnic Exclusion in Nepal (Gender and Social Exclusion Assessment) 2006, World Bank/DFID [http://siteresources.worldbank.org/INTNEPAL/Resources/Unequal\\_Citizen\\_Summary](http://siteresources.worldbank.org/INTNEPAL/Resources/Unequal_Citizen_Summary)

<sup>20</sup> NSSO; 1999-2001 (Untouchability in Rural India, Ghanshyam Shah et al, 2006)

## NATIONAL RESPONSES

The recognition of caste discrimination as a human rights offence by affected governments differs, as does the state responses. In India, caste-based discrimination and the practice of “untouchability” is prohibited by the Constitution (1950), and a series of special legislative measures have been enacted in the 80s and 90s for the prevention of atrocities against Dalits. A vast number of special statutory bodies have been set up and a range of policy and budgetary measures have been put in place. In spite of this model legislation, violence and atrocities against Dalit are rampant and on the increase, effectively with impunity for perpetrators. Reservation policies for “Scheduled Caste/Scheduled Tribes” in education, employment in the public sector and political representation are in force, but effectiveness in implementation is yet to be fully ensured.

Whilst the Government of Pakistan has recently given recognition to the existence of caste discrimination and accepted the need to give redress to victims<sup>21</sup>, there are still discriminatory provisions in the law, and the country has no legislative measures specifically protecting the rights of Scheduled Castes, i.e. no special act to make caste discrimination a punishable crime with due prosecution of perpetrators. On the contrary, Dalits are often harassed and humiliated by the police and the justice system when seeking access to justice.

The change in the political system in Nepal signals a new beginning for Dalits in Nepal. Until 2007, Dalits had been almost totally excluded from political processes and positions in state institutions such as the judiciary, military and police. The underlying forms of caste discrimination have been one of the root-causes of conflict in the country. The Dalit movement has over the past decades challenged the exclusion of Dalits in the decision making and development processes. The current constitution-making process provides new opportunities and scope for ensuring Dalit rights in new constitution, followed by special legislation, remedial provisions and policy measures. A quota system in public employment and provisions for proportionate political representation has recently been adopted.

In Sri Lanka and Bangladesh, national and special legislation and special measures are non-existing. In Bangladesh caste discrimination is widespread and *de facto* sanctioned by the State. The Constitution’s ban on caste discrimination is not enforced; discriminatory practices are still in place in a number of government run institutions.

## COUNTRY SNAPSHOTS

### Pakistan

Dalits in Pakistan, officially termed “Scheduled Castes”, are mostly part of the Hindu minority and fall victim to double discrimination on the basis of their religion and their caste. According to researchers no reliable official data on the number of Dalits exists<sup>1</sup>. The official figure is approximately 330,000 whereas researchers claim the numbers could be as high as 2,000,000. These data however do not include ‘lower castes’ within the Muslim community, living under similarly depressed conditions.

Poverty among Dalits in contemporary Pakistan is rampant, and education and health statics leave Dalits at the bottom of society. Both in rural and urban industries Dalits are exploited grossly as a work force. In the Sindh and Punjab provinces the majority of Dalits live as bonded and forced labourers enslaved by landlords. The only reservation policy is a reinstated 6% quota for minorities in public services, which however is not being enforced.

<sup>1</sup> Long Behind Schedule – A study on the plight of schedule caste Hindus in Pakistan, Zulfiqar Shah et al., 2007

<sup>21</sup> The Government of Pakistan has on two occasions acknowledged the existence of caste-based discrimination in Pakistan in the Universal Periodic Review (4<sup>th</sup> UPR session, 2008) and the examination by the UN Committee on the Elimination of Racial Discrimination (CERD 74<sup>th</sup> session, 2009)

## India

Home to the vast majority of South Asia's Dalits, about one fifth of the population, caste discrimination is a highly politicized and sensitive issue in India. Despite constitutional safeguards and special legislation for the protection of Dalits, violations of fundamental human rights occur on a massive scale. The extreme and violent crimes committed against Dalits (in India called atrocities) and the widespread impunity for perpetrators, do not fit well with India's image as the world's largest democracy. A global market player and regional super power, India responds to international attention to caste discrimination by referring to it as an 'internal issue' and a 'family matter', that need not be dealt with by the United Nations, especially since constitutional and legal protective mechanisms are in place<sup>1</sup>.

According to the official census the 'scheduled castes' constitute 167 million, however the actual number is more likely closer to 200 million. The official census does not include Dalits who have converted or are born and raised within a non-Hindu religious community. Estimation of the total Dalit population including Dalit Muslims and Christians comes in at 200 million people.

In recognition of the scale and gravity of this problem, the European Parliament adopted resolution B6-0021/2007 on the Human Rights Situation of the Dalits in India, on 1st February 2007, after a hearing on caste discrimination, in the Development Committee.

<sup>1</sup> Caste and the world, S. ANAND, the Hindu, May 24, 2009 - <http://www.hindu.com/mag/2009/05/24/stories/2009052450180500.htm>

## Nepal

About 47% of the Dalits in Nepal live below the poverty line.<sup>1</sup> They are landless and suffer from poverty to a much greater extent than the dominant caste population. The Dalit movement has over the past decades challenged the exclusion of Dalits in the decision making and development processes in Nepal. The interim constitution indicates a degree of success for the Dalit movement in securing some constitutional provisions for non-discrimination, equality and protection. The international donor community have also to some extent addressed the situation of Dalits lately, mainly under a social inclusion paradigm. In spite of proportional election provisions Dalits are, in fact, represented with only 8% in the current constitutional assembly. The National Dalit Commission and other institutional mechanisms work towards securing Dalit rights and development in the restructuring of the state, though under difficult political circumstances. The official Dalit population is set at 13% of the total population (2001 census), a figure which has been highly contested by researchers and Dalit organizations, who assess that Dalits constitute between 20 and 25%.<sup>1</sup>

<sup>1</sup> Caste-based discrimination in South Asia – A study on Nepal, Krishna B. Bhattachan, Tej B. Sunar and Yasso Kanti B. Gauchan, 2008

## Bangladesh

Caste hierarchies and discrimination permeate both Muslim and Hindu populations in Bangladesh, and perpetuate the poverty trap the country is caught in. Dalits live on an amount far below the poverty line with extremely limited access to health and education services, and are almost exclusively employed in 'the service sector' in urban areas. They suffer from very poor housing conditions and lack of employment opportunities. Most Dalits have no formal education except a few with 1-2 years of education in formal and non-formal education or a very negligible number of graduates from primary/high schools and colleges.

Different governments have been able to undermine the principle of minority and basic human rights protection, including the constitutional safeguards given after Bangladesh's independence in 1971. Minorities, the majority of which are Dalits, hold almost no official positions in state institutions and political office.

The Dalits of Bangladesh have been much overlooked in the development and rights discourse and have only recently been able to raise their voices and mobilize for their rights, including the right to development. They have started to engage with government and international donors and in a very short span of time have managed to place the issue of caste discrimination on the agenda.

The estimates of the number of Dalits in Bangladesh vary from 3,5-5,5 million.<sup>1</sup>

<sup>1</sup> Chowdhury, 2008

## Sri Lanka

Caste hierarchies are present in the Sinhalese as well as the Sri Lankan and Indian Tamil populations. While many "low caste" Sinhalese have managed to overcome their disadvantaged position through the Sri Lankan welfare state, the Tamil Dalits or 'lower castes' have seen their struggle overshadowed by the Sinhalese-Tamil divide. Yet, caste discrimination is still entrenched in society. More than 150 years of social exclusion and the restriction of mobility for Indian Tamil plantation workers indicate that the 'caste-blind' policies of both state and non-state actors including international agencies do not adequately address caste discrimination in Sri Lanka. Preliminary studies suggest that proportionately to the general population 'lower castes' constitute a large number of IDPs in Sri Lanka who are also the most vulnerable group, subjected to dual discrimination on the basis of ethnicity and caste in camps.

The estimated number of people experiencing caste discrimination in Sri Lanka is 4-5 million or 20-30 percent of the total population. In Sri Lanka, there is no common identity as 'Dalits' among the 'lower castes'.

## CASTE-BASED DISCRIMINATION AND THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK

Caste-based discrimination or “discrimination based on work and descent” is prohibited by international human rights law and constitutes a violation of the most fundamental human rights principles, including non-discrimination. Over the last decade, UN treaty bodies have increasingly addressed the issue of caste discrimination in their country examinations, and UN Special Rapporteurs have expressed their concerns in thematic reports and communications to governments. The Universal Periodic Reviews of caste-affected countries have also resulted in increased attention to this issue.<sup>22</sup>

Discrimination based on work and descent has been the subject of several working papers of the UN Sub-Commission on the Promotion and Protection of Human Rights. In 2002 the UN Committee on the Elimination of Racial Discrimination (CERD) adopted its General Recommendation No. 29 on ‘descent-based discrimination’, which interprets and applies relevant provisions of the International Convention on the Elimination of Racial Discrimination to situations of caste-based discrimination and analogous forms of discrimination.

In 2005, two experts of the UN Sub-Commission were mandated by the Commission on Human Rights to undertake a comprehensive study on this subject. Their final report, submitted in 2007, contains draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent, which are based on existing international human rights principles and obligations. This soft law instrument establishes principles and guidelines for how state and non-state actors can prevent and address this human rights problem and suggests general and special measures to be taken by governments, international agencies, educational institutions, non-governmental organizations and the private sector.

The draft UN Principles and Guidelines underline that “all states have a duty to acknowledge discrimination based on work and descent, to take all necessary constitutional, legislative, administrative, budgetary, judicial and educational measures to eliminate and prevent discrimination based on work and descent ... and to respect, protect, promote, monitor and implement the human rights of those facing discrimination based on work and descent”<sup>23</sup>.

The specific recommendations in the draft UN Principles and Guidelines relate to physical security; combating segregation, access to justice and equal political participation; equal employment opportunities and free choice of occupation; forced, bonded and child labour; health, education, adequate food, water and housing; public awareness raising; multiple discrimination against women; survey and research; international cooperation; and humanitarian and development assistance, among other things.

The final report on discrimination based on work and descent was published by the Human Rights Council in May 2009. Now the draft UN Principles and Guidelines, contained in the report, need to be taken up by the Human Rights Council, to ensure effective follow up to the comprehensive study and adoption of the UN Principles and Guidelines.

The UN Sub-Commission study and draft Principles and Guidelines, the CERD General Recommendation No. 29, other UN human rights instruments and treaty body recommendations form a valuable base for international as well as country level efforts toward the elimination of caste-based discrimination.

<sup>22</sup> Annex II contains a comprehensive overview of relevant references by UN treaty bodies, Special Procedures and the UPR mechanism.

<sup>23</sup> Draft UN Principles and Guidelines for the Effective Elimination of Caste Based Discrimination: “Discrimination based on work and descent is a form of discrimination prohibited by international human rights law as proclaimed by the Universal Declaration of Human Rights and, inter alia, by the International Convention on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and the International Labour Organization Convention No. 111.”

Definition of discrimination based on work and descent: “Discrimination based on work and descent is any distinction, exclusion, restriction, or preference based on inherited status such as caste, including present or ancestral occupation, family, community or social origin, name, birth place, place of residence, dialect and accent that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life. This type of discrimination is typically associated with the notion of purity and pollution and practices of untouchability, and is deeply rooted in societies and cultures where this discrimination is practiced”.

The draft UN Principles and Guidelines address the responsibility of international agencies to ensure, “that the development and humanitarian assistance projects which they support are consistent with efforts to eliminate discrimination based on work and descent. Humanitarian organizations should recognize affected communities as being at special risk of rights violations and deprivations, and prioritize the distribution of aid accordingly and further seek to prevent and address the multiple forms of human rights violations resulting from this form of discrimination”.<sup>24</sup>

## PROGRAMMING FOR CASTE-SENSITIVE DEVELOPMENT

To help eliminate caste-based marginalization, exclusion and poverty, human rights violations and various forms of “untouchability” and discrimination, also in the context of EC cooperation with third parties, is possible. The issue needs to be addressed within development cooperation, humanitarian assistance, political dialogue, trade agreements and other relations.

Ensuring that caste-based discrimination is comprehensively addressed in EC programmes and areas of cooperation would require a minimum framework and programming guide for mainstreaming as well as programming interventions targeted at Dalits.

A first step in programming would be to undertake a political, social, and economic analysis of the situation of Dalits combined with a critical assessment of their access to justice, resources, jobs and services. An assessment must include provisions in national legislation, existing policy measures, institutional frameworks and the functioning of state mechanisms, and should furthermore build on recommendations by UN bodies.

Any mapping of legal and institutional frameworks for the protection of Dalits must be accompanied by an assessment of the effective functioning of state mechanisms and administration of justice for Dalits.

In India and other caste-affected countries the key issue is implementation; the persistent lack of enforcement of law and non implementation of special provisions and policy measures, where they do exist, leave little effect besides the paper work, which is often used as show pieces by governments.

Therefore “monitoring and evaluation” of effectiveness of existing legislation and policies must be incorporated as part of development or human rights strategies, in addition to necessary initiatives to enhance formulation of laws and policies for Dalit rights, protection and equal participation in development. In addressing the issue, the EU could enhance its own monitoring and evaluation system to assess the impact of government and EU programmes vis-à-vis the situation of Dalits.

A framework for EC programming and possible operational guidelines should also address the institutional need for specific knowledge, practical guidelines and supporting tools for eliminating this form of discrimination. It could contain basic ‘minimum’ recommendations at various levels i.e. project, programme and national level, and for certain priority sectors. Outlining steps towards building the institutional and human resource capacity of the EU, including the Commission, in this particular field, is highly recommended.

A simple step-by-step process towards enhancing EC programming in caste affected countries can be applied with the following components.

<sup>24</sup> Draft UN Principles and Guidelines for the Elimination of Discrimination based on Work and Descent, paragraphs 60 - 61

## OPERATIONAL GUIDANCE FOR PROGRAMMING

### Mapping of the situation of Dalits

- Who are they; where in society are they placed; what is their current status, and what forms of particular discrimination do they suffer?
- Map key Dalit organizations (national, regional and sector-wise) and relevant resource institutions, including National Dalit and Human Rights Commissions (and other relevant specialized agencies);
- Map the national framework: Constitutional provision, protective legislation, its enforcement and effectiveness of the administration of justice, policy measures and implementation, national action plans (mainstreaming / inclusion of Dalit concerns and objectives) and special initiatives;
- Map/monitor key trends in human rights violations against Dalits;
- Identify key issues and priorities of Dalits, including gender imbalances and other challenges;
- Assess degree of political recognition and process for inclusion of Dalit rights and concerns, in the human rights, development and political dialogue with third parties;
- Assess the scope for joint donor coordination and initiatives relying on a consistent dialogue and the involvement of Dalit representatives and organizations through consultative mechanisms

### Programming for inclusiveness and addressing caste discrimination systematically, requires considerations at all levels of EU Interventions, including in:

- Country Strategy Papers and reviews
- Human rights analysis and reporting
- Programme preparation, analysis and formulation
- Programme implementation, reporting, monitoring, evaluation and review
- EC and co-funded programmes and projects
- Policy dialogues, including human rights dialogues
- Application of supporting tools at programme, project and institutional levels, for example power relations mapping and social equity audits, may be useful

### Measures to eliminate caste discrimination and to facilitate inclusion can furthermore be systematically addressed through the means of:

- Mainstreaming, integration, targeting, and use of special measures;
- Establishing appropriate mechanisms for implementation, dialogue and coordination with affected communities, the government and other donors;

- Developing tools to identify discrimination and exclusion affecting different social groups and evolving mechanisms to facilitate inclusion;
- Identifying sectors for assistance relevant for caste-affected communities' needs and priorities within the field of poverty reduction and equal access to services;
- Strengthening Dalit organizations, Dalit leadership capacity and Dalit programmes;
- Strengthening the involvement also at decision making level of Dalits in programme management and implementation of projects;
- Designing monitoring and evaluation tools to assess impact on caste-affected communities based on disaggregated measurable targets for reducing disparities between Dalits and others, in relation to human development and poverty indicators.

## HUMAN RIGHTS AND POLITICAL DIALOGUES WITH AFFECTED COUNTRIES AND CONSULTATIVE MECHANISMS

Human rights violations against Dalits have been amply documented over the last decade by human rights and Dalit organizations, national human rights commissions, and in some cases by the states' own institutions. UN treaty bodies have increasingly addressed the issue in their investigations of caste affected countries, leaving a trail of specific concluding observations and recommendations to governments. Within the purview of dialogues on human rights, democracy, good governance as well as development and humanitarian assistance, treaty body recommendations and other reports can constitute a valuable and legitimate basis for consultations with governments, and is recommended for use by the European Union. Systematic involvement of Dalit organizations and other representatives of affected communities in consultation processes fall in line with the EU's existing policies and could be enhanced.

## HUMANITARIAN ASSISTANCE – RELIEF AND REHABILITATION

### In the aftermath of the Tsunami

Experiences in relief and rehabilitation after the Tsunami in 2006, point to discrimination on the basis of caste as an unquestionable fact. Discrimination was present at all phases of the recovery process, from the denial of rice, the refusal to share emergency shelters, the forced removal of bodies, and the relief materials provided, through to the compensation and provision of livelihood assistance and housing. It was a systematic and predictable type of discrimination, which was largely avoidable, as documented in a research report "Making Things Worse". The report provides evidence and analysis of caste discrimination in post-tsunami recovery operations in the coastal areas of Tamil Nadu, India, and concludes that agencies implementing disaster programmes did not take steps to ensure they were not contributing to the caste divide.<sup>25</sup>

Gill (2007) points out that discrimination was not planned or organized centrally by the caste fishermen; it merely played out its natural course as a result of thousands of years of an unchallenged caste system. It was the *lack* of planning and organization to tackle the discrimination that ensured it took place. As is often the case, discrimination was not generally malicious, but stemmed rather from an unwillingness to confront the discrimination and go against the tide. In other words, it was discrimination by default. The existing situation is one of long-term, systematic, caste-based discrimination; and unless government, civil society bodies and funding agencies have analyses, strategies and training programmes designed to counter this inherent discrimination, they effectively reinforce it, by giving only to those with the loudest voice and the strongest influence, at the expense of the most vulnerable and least organized.

<sup>25</sup> Making things Worse: How Caste-Blindness in an Indian Post Tsunami recovery has exacerbated vulnerability and exclusion – Tim Gill (2007) [http://idsn.org/uploads/media/Making\\_Things\\_Worse\\_report.pdf](http://idsn.org/uploads/media/Making_Things_Worse_report.pdf)

## Discrimination in the relief efforts in the Bihar floods in 2008

Documentation on discrimination in the relief efforts, provided by Dalit Watch, points to a series of grossly discriminatory practices.<sup>26</sup>

*In the rescue process*, Dalits faced difficulties when trying to escape the flood by boat: Non-Dalits were often not allowing the Dalits to board the boats; Dalits were charged more compared to the dominant castes; there was segregation of seating on boats; rescue teams approached Dalits after rescuing dominant castes or separate boats were arranged for Dalits; and often Dalits were made to guard the households of the dominant castes when they were rescued.

*In relief camps*, Dalits experienced the following forms of discrimination, not in all cases, but sufficiently frequent to be seen as an overwhelmingly systematic pattern; they were kept in separate camps or they were not allowed to enter into the camps where dominant castes were located. Dalit families were not registered in the relief camps. The relief materials given to Dalits were of poorer quality and less in quantity compared to what was given to the dominant castes, for example, unbroken rice was given to the dominant castes, broken rice to Dalits.

The relief materials distributed in Dalits camps were being looted by members of the dominant castes without sanctions. Food and other relief materials were distributed to dominant castes before anything was given to the Dalit communities; dominant castes got more food as compared to the Dalits in the camps. Segregation of seating while serving food and segregation in cooking food were observed, and in some cases dominant castes refused to eat food because Dalits were served before they were served. In many cases dominant castes did not allow Dalits to dine with them. Also in provision of water Dalits faced discrimination, they had either no access or restricted access to hand pumps, or the hand pumps were located far from the Dalits populated areas. In other cases, hand pumps were accessible to the Dalits only after the dominant castes had taken water. In many cases, Dalits were not allowed to use the common toilets in relief camps and Dalits' tents were situated very close to the toilet areas. Finally, Dalits were forced to do the unclean jobs.

## The European Commission support to relief efforts

The European Commission supported relief efforts with considerable grants to state actors and non-state actors to mitigate the consequences of the Bihar floods. The various forms of discrimination faced by Dalits in the case of the Bihar floods and the Tsunami makes it clear that humanitarian agencies such as ECCO and EuropeAid need to present a set of minimum requirements for humanitarian grants to state and non-state actors to ensure non-discrimination – also on the basis of caste - in provision of relief, and rehabilitation of affected communities.

While there has been no systematic assessment of the potential negative impact of climate change on Dalit communities, who often live in low and marginal lands, in inadequate housing constructions, or in areas with high flooding risks, it can be assumed that Dalits will not only be severely affected, but doubly affected as they are likely to face continuous discrimination in disaster mitigation, relief and rehabilitation. Such patterns may repeat themselves in post-conflict and emergency situations in other affected countries, including Sri Lanka and Pakistan.

<sup>26</sup> Dalit Watch, National Campaign on Dalit Human Rights, 2008

## Recommendations - Ten minimum requirements in disaster mitigation, relief and rehabilitation assistance:

1. To ensure that in any disaster, manmade or natural, it is made mandatory at the relief stage of the operations, that an initial mapping of the communities affected by the disaster is undertaken so that those engaged in the relief work are aware whether communities that are usually excluded in the social process ( those discriminated on the basis of work and descent ) are victims of the disaster.
2. The applications/project proposals that are made for raising resources for such relief work and submitted for assistance from the European Commission should contain very specific details on the presence of or absence of such discriminated communities among the victims of the disaster. If such communities do exist, then the 'special measures' that will be undertaken by the relief agency to ensure the specific inclusion of the communities in the implementation of the relief programme needs to be specifically outlined.
3. Commitments should be made by the grant receiver as part of the contractual obligations to take measures against discrimination.
4. Special attention needs to be made to ensure that the location of the relief camps, or sites from where the relief activities are carried out, are easily accessible to the 'excluded' communities and that where necessary, special sites are created to ensure that the relief activities could be easily accessible to the excluded communities on par with the rest of the communities.
5. While these are special conditions that relief organizations are expected to follow in such circumstances, agencies must also ensure that no direct or indirect forms of exclusion in relief work is undertaken on behalf of or by governmental, quasi governmental or other private agencies in their relief work.
6. It is recommended that a check list against 'habitual' acts of discrimination in relief and rehabilitation be applied in the assessment, planning and monitoring phases. (See examples of discrimination above).
7. If acts of exclusion in the programme are witnessed, partners engaged in the relief activities being carried out with European Commission assistance shall have the moral responsibility to bring these specific acts of exclusion in relief to the senior functionaries of the government so that they are attended to immediately by them and do not have to wait for the relief work to be completed to be brought up in evaluations and reviews conducted thereafter.
8. Agencies engaged in relief work after the disaster and proceeding to carry out rehabilitation or reconstruction work need to ensure that in their own policy for rehabilitation of the victims of the disaster, as well as that of the government, the rehabilitation programme that is being envisaged to be undertaken directly considers the existence of 'excluded' communities and incorporates and attends to these communities in drawing up their plans of action, and will be monitored during implementation and form part of any evaluation.
9. Agencies must ensure that as far as possible the rehabilitation programs that are evolved attempt at first making the different caste communities agree to joint living / existence, non-exclusion and the specific inclusion of all 'caste' communities in housing, capacity building programs for the communities and employment generation programs or livelihood support programs. It is only such efforts that could gradually work towards more inclusive policies and programs.
10. Agencies engaged in such relief and rehabilitation works also need to ensure that representatives of the ' excluded ' communities are engaged as staff in the delivery phase of the relief and rehabilitation programmes, in order to ensure participation of the excluded communities in the relief and rehabilitation phase of the work.

# CASTE-BASED DISCRIMINATION IN SOUTH ASIA – REFERENCES AND LINKS

## IDSN – KEY REFERENCES

- IDSN website <http://www.idsn.org/>
- Introductory film (10 minutes): [I'm Dalit – how are you?](#)
- Tsunami report [“Making Things Worse” – Report on Discrimination in the aftermath of the Tsunami](#)
- [Subscribe](#) to IDSN news letter
- [Dalit Discrimination Check](#) – an online company tool to prevent caste-based discrimination
- Link to [IDSN publications](#)
- List of [IDSN members and associates](#)
- <http://www.dalitsouthasia.org/>

## REGIONAL RESEARCH STUDIES AND FACT SHEETS

In 2006-2007 a regional research project on caste-based discrimination in South Asia was carried out by the Indian Institute of Dalit Studies (IIDS) in association with national research teams and IDSN.

Go to IDSN's website for [additional country level information](#)

### SOUTH ASIA

[Comparative Contexts of Discrimination: Caste and Untouchability in South Asia](#)

### INDIA

[Fact sheet on caste discrimination in India](#)

### NEPAL

[Fact sheet on caste discrimination in Nepal](#)

[Working Paper on caste discrimination in Nepal](#)

[Caste-based discrimination in South Asia - a study on Nepal](#)

[RECASTING JUSTICE: SECURING DALIT RIGHTS IN NEPAL'S NEW CONSTITUTION](#)

[Joint Statement by New York University School of Law Center for Human Rights and Global Justice \(CHRGJ\), Dalit NGO Federation \(DNF\); and International Dalit Solidarity Network](#)

## **BANGLADESH**

[Fact sheet on caste discrimination in Bangladesh](#)

[Working Paper on Caste Discrimination in Bangladesh](#)

[Caste-based discrimination in South Asia - a study on Bangladesh](#)

## **PAKISTAN**

[Fact sheet on caste discrimination in Pakistan](#)

[Caste-based discrimination in South Asia - a study on Pakistan](#)

## **SRI LANKA**

[Fact sheet on caste discrimination in Sri Lanka](#)

[Caste Discrimination and Social Justice in Sri Lanka: An Overview](#)

[Caste-based discrimination in South Asia - a study on Sri Lanka](#)

# CASTE-BASED DISCRIMINATION - EU AND UN HIGHLIGHTS

## EUROPEAN UNION

### European Parliament

- In a report on the EU-India Free Trade Agreement negotiations the European Parliament calls upon the European Council and Commission to work together with the Indian Government to move towards ending caste based discrimination and reaching out to Dalits and Scheduled tribes and specifically to tackle bonded labour issues affecting the two communities (June 2009).
- In June 2008 four European parliamentarians co-sponsor a hearing on caste-based discrimination in South Asia in collaboration with IDSN.
- In February 2007 the European Parliament adopted European Union Resolution B6-0021/2007 on the human rights situation of the Dalits in India. In this resolution the institutions of the European Union called upon the Government of India to report on progress of the human rights situation of Dalits in India, and to take due note of the CERD Concluding Observations from review of India in February 2007. [Read the full text of the resolution.](#)
- In December 2006 the Committee on Development conducted a hearing on caste-based discrimination.
- Since 2001 and till date the European Parliament has in several resolution texts and Annual Human Rights Reports called for the elimination of discrimination based on work and descent.

### European Commission

- In April 2009, the EU Commission decided to commission IDSN to undertake a study on caste discrimination in South Asia and requests IDSN to provide operational guidance on programming.
- In June 2009, a three days regional EU Commission workshop on Minorities, Indigenous People and Dalits was held in Dhaka, Bangladesh. [Link to IDSN news story](#)
- EIDHR instrument 2005-2006 and 2007-2011 contains reference to caste-based discrimination; Dalit organisations are eligible to some calls for proposals and funding is granted for projects in Nepal and India

### European Council

- In November 2009 a briefing on caste discrimination with COASI and COHOM members is hosted by the Swedish Presidency; represented as speakers are three Dalit leaders (Mr. Paul Divakar and Ms. Manjula Pradeep from India, and Mr. Bhakta Bishwakarma from Nepal) and IDSN Coordinator Rikke Nöhrind.
- In June 2007 COHOM decides to pursue an initiative to ensure the publication of the completed studies of the former UN Sub-Commission for the Promotion and Protection of Human Rights, including the final report on Discrimination based on Work and Descent (see below). This initiative was taken by the EU at the 10<sup>th</sup> session of the Human Rights Council, which lead to the adoption of

Human Rights Council decision A/HRC/10/117.

## **UNITED NATIONS**

### The Office of the High Commissioner for Human Rights

- In the OHCHR Strategic Management Plan 2010-2011 caste-based discrimination is mentioned as a thematic priority in the global struggle against discrimination and impunity.
- In October 2009, the UN High Commissioner for Human Rights issues an opinion piece "[Tearing down the wall of caste](#)" calling for eradication of the "shameful concept" of caste and caste-based discrimination, and for the endorsement of the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent in the Human Rights Council.
- In September 2009, the OHCHR expresses its full support to the struggle against caste discrimination as a high priority for the office.

### UN Sub-Commission on the Promotion and Protection of Human Rights

- A [study on discrimination based on work and descent](#) is undertaken by the former UN Sub-Commission on the Promotion and Protection of Human Rights as the first study to comprehensively address the nature, magnitude and global scope of caste-based discrimination. After the preparation of preliminary reports from 2000 and onwards, the Commission on Human Rights appointed two Special Rapporteurs to undertake a comprehensive study in 2005.
- At its 10<sup>th</sup> session in March 2009, the Human Rights Council decides to publish the completed and submitted reports of the former UN Sub-Commission (decision A/HRC/10/117).
- The [final report on discrimination based on work and descent](#), including a set of draft UN Principles and Guidelines formulated to address this form of discrimination, is published by the Human Rights Council in May 2009 (A/HRC/11/CRP.3).

### Draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent

- Based on existing international human rights principles and obligations, the draft UN Principles and Guidelines propose general and special measures to be taken by multiple stakeholders to prevent and address this massive and systematic human rights problem affecting the lives of an estimated 260 million people globally.
- When endorsed by the Human Rights Council, the instrument will constitute a strong tool to encourage specific anti-discrimination legislation and relevant policy measures for governments and their agencies, UN and other international agencies, educational institutions, non-governmental organizations and the private sector. [Download the full PDF version published by IDSN](#)

### UN Special Procedures

- The issue of caste discrimination is increasingly addressed by the UN Special Procedures in annual reports, thematic studies, mission reports and communications by several mandates, including: Racism, Slavery, Minority Issues, Adequate Housing, Right to Food, Education, Human Rights Defenders, Torture, Violence against Women, Freedom of Religion or Belief, and Water and Sanitation. See a comprehensive list of [references to caste discrimination by UN Special Procedures \(2005-2010\)](#)
- Two UN experts have explicitly called for further consideration of the draft UN Principles and Guidelines in the UN. At the 64<sup>th</sup> session of the UN General Assembly (October 2009) the UN Special Rapporteur on Contemporary Forms of Racism, Mr. Githu Muigai, recommended states to "engage in substantive

discussions on this topic” and called on states to take action on the draft UN Principles and Guidelines. At the 13<sup>th</sup> session of the Human Rights Council (March 2010) the Independent Expert on Minority Issues, Ms. Gay McDougall, welcomed and urged further discussions on the draft UN Principles and Guidelines in her annual report.

#### Universal Periodic Review

- Several references to caste-based discrimination were raised by a number of states in reviews of India, Pakistan, Sri Lanka and Bangladesh. Download a comprehensive overview of [references to caste discrimination in UPR reviews of affected countries \(2008-2009\)](#).
- Based on NGO reports submitted by IDSN in association with national partners, the stakeholders' reports prepared by the OHCHR on these countries also contained extensive references to caste-based discrimination. See a list of [NGO submissions on caste discrimination \(India, Pakistan, Sri Lanka and Bangladesh\)](#).

#### UN treaty bodies

- UN treaty bodies have extensively addressed the issue of caste discrimination in reviews of caste-affected countries and in some general recommendations, as shown in the references below. See a comprehensive list of UN treaty body recommendations and observations according to countries (1996-2010) [here](#), and find links to NGO reports on caste discrimination [here](#).

#### **UN Committee on the Elimination of Racial Discrimination (CERD)**

- CERD General Recommendation No. 29 on descent-based discrimination (2002) and CERD General Recommendation No. 32 on special measures (2009)
- India (2007, 1996), Pakistan (2009), Nepal (2004, 2001), Japan (2001, 2010), Yemen (2006), Nigeria (2005), Mauritania (2004), Madagascar (2004), United Kingdom (2003), Mali (2002), Senegal (2002), Bangladesh (2001), Chad (2009)

#### **UN Committee on Economic, Social and Cultural Rights (CESCR)**

- CESCR General Comment No. 20 on non-discrimination (2009)
- India (2008), Nepal (2008, 2001), Japan (2001)

#### **UN Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

- India (2007, 2000), Nepal (2004), Japan (2009)

#### **UN Committee Against Torture (CAT)**

- Nepal (2005)

#### **UN Committee on the Rights of the Child (CRC)**

- Bangladesh (2009), Mauritania (2009), Nepal (2005), India (2004, 2000), Pakistan (2003), Japan (2004)

#### **UN Human Rights Committee (CCPR)**

- India (2000)

# DRAFT UN PRINCIPLES AND GUIDELINES FOR THE EFFECTIVE ELIMINATION OF DISCRIMINATION BASED ON WORK AND DESCENT

## A COMPREHENSIVE FRAMEWORK TO ELIMINATE CASTE DISCRIMINATION GLOBALLY

The draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent is a legal framework developed to eliminate discrimination based on work and descent (*the UN terminology for caste discrimination*).

This soft law instrument is the first to establish principles and guidelines for how state and non-state actors can prevent and address this massive and systematic human rights problem affecting the lives of an estimated 260 million people globally. The drafting process of this framework is the result of a comprehensive UN study on discrimination based on work and descent undertaken by the former UN Sub-Commission on the Promotion and Protection of Human Rights in 2004-2007.

Based on existing international human rights principles and obligations, the framework proposes general and special measures to be taken by multiple stakeholders. The draft UN Principles and Guidelines constitutes a strong tool to encourage specific anti-discrimination legislation and relevant policy measures for governments and their agencies, UN and other international agencies, educational institutions, academia, non-governmental organizations and the private sector.

The draft UN Principles and Guidelines are contained in the final report on discrimination based on work and descent (A/HRC/11/CRP.3) which was published by the Human Rights Council in May 2009 pursuant to a Council decision to publish the completed and submitted studies of the former UN Sub-Commission. Further action needs to be taken by the Human Rights Council to ensure follow up to the comprehensive UN study and adoption of the UN Principles and Guidelines.

The International Dalit Solidarity Network recommends that all relevant state and non-state actors support and make use of the draft UN Principles and Guidelines; promote effective follow-up to the study in the Human Rights Council; and implement the recommendations contained in the draft UN Principles and Guidelines.

Read more about and download the draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent on [www.idsnp.org](http://www.idsnp.org)