

TOWARDS AN EU POLICY FRAMEWORK FOR THE EFFECTIVE ELIMINATION OF DISCRIMINATION BASED ON WORK AND DESCENT

1. Introduction

Caste discrimination is considered one of the largest and most serious human rights issues in the world today, affecting an estimated 260 million people globally. The majority of victims are Dalits living in South Asia where they are exposed to discrimination which violates a broad range of their basic human rights.

Dalits are forced to live separately from other groups and have limited access to services, employment, land and markets. They are subjected to gross forms of violence with limited access to justice and redress, and to humiliating and degrading treatment by state and non-state actors. Such acts are often committed with impunity. The persistence of caste discrimination has been noted with concern by a large number of UN bodies.

Caste discrimination is a major cause of poverty and an obstacle to achieving the Millenium Development Goals. As a root cause of conflict in many affected countries, this form of discrimination is also a threat to security and democracy.

In 2009, the UN Human Rights Council published the draft United Nations Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent¹ and the High Commissioner for Human Rights, Ms Navanethem Pillay, called for concerted international action to endorse the draft UN norms.

The EU, committed to mainstreaming human rights and democratisation into its policies and action, has increasingly voiced its concern about caste discrimination. In line with the objectives of general EU human rights principles and the EU's efforts to combating all forms of discrimination, IDSN recommends the EU to acknowledge caste discrimination as a thematic human rights and development issue.

This paper proposes a framework for a comprehensive response by the European Union and recommends actions for EU bodies and member states to address discrimination based on work and descent.

2. Description of caste-based discrimination

In Asia, the main affected countries are India, Nepal, Pakistan, Bangladesh, Sri Lanka and Japan. Named by several states as 'scheduled castes', affected people in most of South Asia have chosen the term 'Dalit' for themselves. Although the caste system in South Asia has its roots in Hinduism, caste discrimination is also

¹ (A/HRC/11/CRP.3) Final report of Mr. Yozo Yokota and Ms. Chin-Sung Chung, Special Rapporteurs on the topic of discrimination based on work and descent

practiced within non-Hindu communities. It extends to other parts of Asia and includes communities in Yemen, many African countries and the South Asian Diaspora in countries such as the United Kingdom.

Caste systems are hereditary and hierarchic systems of social groupings distinguished by degrees of purity, social status, and exclusion. Those belonging to the lowest caste are considered 'impure' by other caste groups. Such systems are inherently contradicting the universal principles of non-discrimination, dignity and equality. Although subject to similar forms of discrimination across South Asia, the situation of Dalits in caste-affected countries and within regions differ, and state responses are in different stages of recognition of the problem, development of legislative, policy and institutional measures and their implementation.

Common discriminatory practices include prohibition and restrictions on access to inter alia water, temples, public offices, health services, land, markets, and employment. Widespread discriminatory treatment in the education system and the labour market results in deprivation and infringes grossly on many basic rights.

Dalits are frequent victims of violent attacks, murder, harassment, burning of villages, and other forms of atrocities, including rape against Dalit women. Impunity for the perpetrators of such crimes permeates the justice and law enforcement systems in all caste-affected countries. Dalit women are subject to multiple forms of discrimination and face higher levels of poverty and exclusion. The most serious impediment to addressing caste discrimination is an absence of legislation, or a *de facto* denial of equality before the law.

Dalits have traditionally been forced to undertake demeaning and hazardous jobs that are considered impure, such as manual scavenging². According to the ILO, Dalits constitute the largest single group in South Asia subjected to forced and bonded labour.

The right to equal political participation is a key concern for affected communities. In many countries, Dalits have either been denied political participation or, where provisions exist for Dalit political empowerment, they are left with limited influence. Threats and violence during election campaigns have occurred to prevent Dalits from voting or running for political office. The lack of accurate and disaggregated data on the socio-economic situation and demographic development of Dalits is a general concern and remains a serious obstacle for their equal participation in public life.

Dalits must be specifically targeted in development and humanitarian assistance³, or they will remain marginalised. According to the ILO, "purely developmental approaches to improving the lot of the Dalits are insufficient, if the underlying structural causes and caste barriers are not simultaneously addressed".

Business operations in caste-affected countries risk being based on the economic exploitation or seclusion of caste-affected communities and others at the 'low' end of the caste hierarchy. The European Union has an important role in ensuring that EU-based companies live up to their human rights responsibility.

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

³ Making things Worse: How Caste-Blindness in an Indian Post Tsunami recovery has exacerbated vulnerability and exclusion,(2007) http://idsn.org/uploads/media/Making_Things_Worse_report.pdf

In summary, the analysis points toward three crucial aspects of addressing the situation of Dalits and similarly affected communities; the human rights context, the development process and the context of globalised markets and corporate social responsibility.

3. United Nations' initiatives on Discrimination based on Work and Descent

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 2005, the Commission on Human Rights mandated the Sub-Commission to undertake a comprehensive study on this subject. The final report (A/HRC/11/CRP.3) published in 2009 contains the draft UN Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent (hereafter UNPGs) based on existing international human rights principles and obligations. The framework affirms that discrimination based on work and descent is a form of discrimination prohibited by international human rights law as proclaimed by the UDHR, and inter alia, the ICCPR, ICESCR, ICERD, CEDAW, ICRC and ILO Convention No. 111.

Treaty bodies concerned with this issue in country examinations are the Committee on the Elimination of Racial Discrimination (CERD), the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee Against Torture and the Committee on the Rights of the Child. General Recommendation No. 29 on 'descent-based discrimination' adopted by CERD in 2002 interprets and applies relevant provisions of the International Convention on the Elimination of Racial Discrimination to situations of caste discrimination and analogous forms of discrimination. Countries addressed in treaty body and UPR reviews on this topic are India, Nepal, Pakistan, Bangladesh, Sri Lanka, Yemen, Japan, the United Kingdom, Nigeria, Mali, Chad, Senegal, Mauritania and Madagascar.

UN Special Procedures have expressed their concerns about caste discrimination. In 2009, ten mandate holders mentioned human rights violations against Dalits in their reports and communications. In the UN HRC, the EU and its member states have raised questions and recommendations on this topic. In September 2009, the EU reaffirmed that caste discrimination remains a priority issue.

4. EU Action to address caste discrimination

In 2009, the European Commission commissioned IDSN to conduct a study 'Caste-based discrimination in South Asia'⁴, and the Commission included the topic at a regional workshop. Since 2005, the EIDHR has included particular provisions to support NGOs in their work against caste discrimination, and other Commission grant facilities for NGOs have been made available to support work in this field.

⁴ [IDSN study on caste-based discrimination in South Asia \(commissioned by the European Commission\)](#)

Commissioners of the European Union have on several occasions reiterated that the EU takes this problem seriously.

The European Parliament has addressed the issue in resolutions and reports in 2000, 2002, 2003 and 2005, and 2008 and 2009. The Committee on Development organised a hearing on the topic on 18 December 2006. On 1st February 2007, the European Parliament adopted resolution [B6-0021/2007](#) on the Human Rights Situation of the Dalits in India and in June 2008, four European parliamentarians co-sponsored a hearing on caste discrimination in South Asia.

In November 2009, the Swedish Presidency hosted an informal briefing on caste-based discrimination for members of The Asia-Oceania Working Party (COASI) and COHOM.

5. Recommendations for actions

The EU has made human rights a central aspect of its external relations in its *engagement with third countries*; through its *action in multilateral fora* such as the United Nations; and through its *development policy and instruments*. Acknowledging caste discrimination as a major and cross-cutting concern, this policy framework for the effective elimination of discrimination based on work and descent suggests action within these three main spheres.

It is recommended that:

Multilateral cooperation

- The Council, the Commission and member states should recognise caste discrimination as a priority human rights issue and integrate measures for its elimination in strategies and communications;
- The EU should take immediate action to ensure the endorsement of the UNPGs in the UN Human Rights Council;
- The Council, the EEAS and member states, should promote the use of the UNPGs as a guiding framework for the effective elimination of discrimination based on work and descent with governments, multilateral organisations and other relevant institutions;
- The Council, the Commission/the EEAS and member states should integrate their concern for this form of discrimination into communications, including annual EU human rights reports, demarches and public statements, and raise individual cases of human rights violations on the basis of caste.
- The Council, the Commission/the EEAS and member states are strongly recommended to make systematic use of reports on caste discrimination and recommendations by UN Special Procedures and Treaty Monitoring Bodies; and to keep track of progress;
- The EU is urged to systematically raise issues on caste discrimination in its statements and positions in the UN HRC and other UN fora, and to pursue concerns on this topic raised by treaty bodies and special procedures;

- The Commission is encouraged to cooperate with the Office of the High Commissioner on the effective elimination of discrimination based on work and descent and to seek to address this problem in the joint cooperation project between the EU and the OHCHR on the Fight against All Forms of Discrimination;

Engagement with third parties

- The Presidency/the Council/the EEAS should request Heads of Missions (HOM) in caste-affected countries to pursue discrimination based on work and descent in human rights and policy dialogues with third parties; and to prepare a HOM report on the issue;
- HOM in caste affected countries should continuously address caste discrimination in human rights reports and fact sheets, taking note of, inter alia, UN Treaty Body observations and the UNPGs.
- The EEAS/HOMs should undertake to ensure that the issue of caste discrimination will be included in future dialogues with caste-affected countries and at all levels, and is included in programming discussions and country strategy papers;
- The EEAS and HOMs should ensure regular consultations on this topic with civil society organisations and the involvement of representatives of affected communities;
- EU delegations should take special measures to avoid caste biases in their own recruitment practices and office environments.

Programming to ensure effectiveness and equality in development and humanitarian assistance to caste-affected countries

The European External Action Service/the Commission

The EEAS is advised to integrate concern for the effective elimination of discrimination based on work and descent into policies, instruments and programmes; and specifically to operationalise programming to address Dalit human rights, poverty and development issues in caste-affected countries; and to take note of and promote the implementation of UNPGs.

Measures to mainstream Dalit issues must be an integral part of all relevant sector programmes; include promotion of targeted measures for Dalit inclusion and benefits, and be taken into consideration in projects and civil, scientific and cultural cooperation between EU and affected countries.

Policies and programmes must take fully into account the needs and circumstances of Dalit women and the vulnerability of Dalit children.

The EEAS is further advised:

- To include the topic of caste discrimination in the drafting of reports and fact sheets and in the preparations of policy dialogue meetings wherever possible;

- To mainstream concerns of people discriminated on the basis of work and descent, and related issues of human rights, poverty and exclusion, into relevant framework agreements and strategic documents concluded with government of caste-affected countries;
- To develop practical tools for the design, implementation and monitoring of policies to mainstream Dalit issues;
- To undertake and support studies on the topic; and to assess the scope for regional initiatives in South Asia;
- To enhance EEAS monitoring and evaluation mechanisms to effectively assess the impact of EU action on the situation of people affected by discrimination based on work and descent;
- To address EU institutional and human resource needs and supporting tools in this particular field
- Member states seek to reflect these policy recommendations in their bilateral cooperation with affected countries.

The Council, the EEAS and the member states are recommended to encourage non-discrimination and affirmative action policies of EU-based companies in their interaction with caste-affected countries and promote the use of relevant principles and tools.

EIDHR

The EEAS is recommended to incorporate this issue into its legislation; giving specific recognition to discrimination based on work and descent in the legal text of relevant instruments, such as the EIDHR and to make provisions for support to Dalit organisations and initiatives to combat this form of discrimination.

ECHO

In recognition of evidence that caste discrimination is rampant in situations of disaster mitigation, relief and rehabilitation assistance, ECHO is advised to develop standards and tools for ensuring an ethical and equitable response in caste-affected countries.

5. Conclusions

The Council and its subsidiary bodies, including the Asia-Oceania Working Party (COASI), the Commission/EEAS and member states, must integrate their concern for the vast community of people affected by discrimination based on work and descent into all (relevant) policies, programmes, projects and instruments;

Taking note of, inter alia, the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent; the work of the UN Treaty Bodies and Special Procedures on this topic, the EU commissioned study on Caste Based discrimination in South Asia, European Parliament resolution [B6-0021/2007](#) on the Human Rights Situation of the Dalits in India, the Council is urged to endorse a policy framework for the effective elimination of discrimination based on work and descent.

The Council, the Commission, HOMs, member states and the European External Action Service (EEAS) are urged to pursue policy dialogues with governments of caste-affected countries and to encourage affected governments, as part of their overall development, human rights and growth strategies, to pursue objectives to eliminate caste discrimination and to take immediate steps to stop violence and atrocities against Dalits, including the practice of manual scavenging.

Through its future human rights and democracy directorate the EEAS should include caste discrimination among its thematic issues and pursue the recommended policy action toward mainstreaming in policy and external assistance.

The Commission is advised to establish a sub-group for the effective elimination of discrimination based on work and descent to provide a forum in exchange of information, building of expertise and monitoring progress and implementation of the policy recommendations.

IDSN, May 2010

List of key references and links:

European Union

[IDSN Study on Caste-based Discrimination in South Asia](#) - with annexes including UN and EU highlights, and a comprehensive reference list (Commissioned by the European Commission, 2009, updated version as of April 2010)

[European Parliament Resolution B6-0021/2007 on the human rights situation of the Dalits in India](#)

United Nations

[Draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent](#) (UN Human Rights Council, 2009)

[‘Tearing down the wall of caste’](#) (Opinion piece on caste discrimination by the UN High Commissioner for Human Rights, Navi Pillay, 2009)

UN references to caste discrimination by [UN Special Procedures \(2005-2010\)](#)

UN references to caste discrimination by [UN Treaty Bodies \(1996-2010\)](#)

UN references to caste discrimination by the [Universal Periodic Review \(2008-2009\)](#)

Research and Documentation

Regional Research Reports and Working Papers on Caste Discrimination in South Asian countries from the Indian Institute of Dalit Studies available at <http://idsn.org/country-information/>

[‘Equality at Work: Tackling the Challenges’](#) (ILO Global Report 2007)

[Understanding Untouchability - a Comprehensive Study of Practices and Conditions in 1589 Villages](#) (The Robert F. Kennedy Center for Justice & Human Rights and Navsarjan Trust, 2010)

[Making things Worse: How Caste-Blindness in an Indian Post Tsunami recovery has exacerbated vulnerability and exclusion](#) (Timothy Gill for Dalit Network Netherlands, 2007)

Guidelines and Tools

The Ambedkar Principles [Download the full pdf-file of the Ambedkar Principles, published by IDSN](#)

Dalit Discrimination Check: [> Access the web version here](#) - select 'HRCA Portal' on the webpage and create a user account.