



International Dalit Solidarity Network

WORKING GLOBALLY AGAINST DISCRIMINATION BASED ON WORK AND DESCENT

**IDSN recommendations on relevant issues to be considered
at the 17th session of the Human Rights Council (30 May – 17 June 2011)**

Item 3: Education – Equal opportunity in access to education for Dalits

In his report on the promotion of equal opportunity in education (A/HRC/17/29), the Special Rapporteur describes different sources of inequalities, and concludes by formulating recommendations based on human rights standards. For the 260 million persons, who are affected by discrimination based on work and descent, lack of equal opportunity in education is one of their key concerns. The Dalits in South Asia face widespread discrimination, alienation, social exclusion, and physical abuse at all levels of education, from primary education to university. A recent study from India reveals that teachers, local governments, and community members routinely subject children of manual scavengers to discrimination and forced labour as part of their daily experience of attending school and living in their communities ([Understanding Untouchability](#) by Navsarjan Trust, 2010). Illiteracy and drop-out rates for Dalit children are generally high, compared to that of other children. Recently, an alarming trend of suicides among young Dalit and Adivasi students in higher education indicates the consistent harassment that these students face due to their caste background. While caste discrimination is explicitly prohibited in the constitutions of most affected countries, many of them fail to take specific legislative measures to address the issue. India is the exception, where reservation policies and quota systems benefit the so-called Scheduled Castes and Scheduled Tribes. However, the continued widespread discrimination that Dalit students encounter on a daily basis indicate that more needs to be done by affected governments to ensure implementation of laws, programmes and quotas.

A specific set of recommendations on education are contained in the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent. This draft framework constitutes a guiding framework for governments, international institutions, UN expert mechanisms and private actors that seek to comprehensively address issues pertaining to this form of discrimination.

Questions to the Special Rapporteur (Interactive dialogue 31 May)

- According to the Special Rapporteur, which special measures should governments, UN agencies, and international institutions take to ensure equal access to education for persons affected by discrimination based on work and descent?
- Has the Special Rapporteur encountered any best practices in this field?
- What steps can national and local governments take to effectively reduce dropout rates and increase enrolment rates among children of caste-affected communities at all levels of public and private schooling, and to ensure adequate means of physical access to schools for children living in dominant caste neighbourhoods and armed conflict areas?
- To what extent can a framework such as the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent provide a useful tool to promote equal access to education for affected communities?
- How can such draft UN principles and guidelines be used and promoted as part of the Special Rapporteur's mandate?

More information

- [IDSN briefing note on Dalits access to education](#) incl. action-oriented recommendations and international human rights standards (May 2011)
- Link to the [draft UN principles and guidelines for the effective elimination of discrimination based on work and descent](#)

Item 3: Women's rights – Dalit women

The OHCHR compilation on good practices in efforts aimed at preventing violence against women (A/HRC/17/23) published for the 17th HRC session contains various examples of what governments and agencies can do in this regard.

Dalit women represent one of the largest socially segregated groups anywhere in the world. They are discriminated against three times over: they are poor, they are women, and they are Dalits. Vulnerably positioned at the bottom of caste, class and gender hierarchies, Dalit women in South Asia experience endemic gender-and-caste discrimination and violence as the outcome of severely imbalanced social, economic and political power equations. Their socio-economic vulnerability and lack of political voice, when combined with the dominant risk factors of being Dalit and female, increase their exposure to potentially violent situations while simultaneously reducing their ability to escape.

When considering discrimination and violence against Dalit women, impunity is the key problem Dalit women face today – not only while seeking legal and judicial redress for violence, but also while attempting to access and enjoy their fundamental rights and freedoms. When considering India, the CEDAW committee expressed concern about the policy of non-interference in the personal laws of communities, the non-implementation of legislative and policy initiatives, narrow definition of rape in the current Penal Code, and the lack of legal protection against sexual and gender-based crimes against women perpetrated during communal violence.

In spite of international and national legal mechanisms, Dalit women still face discrimination. The CEDAW Committee has stated that certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.¹ The CERD Committee has also recommended in its General Recommendation No. 29 that states take all measures necessary in order

Questions to the Special Rapporteur on violence against women and for the Annual day discussion on women's human rights (10 June):

- Based on your experience with addressing multiple forms of discrimination against women, what type of special measures could states take to address *de facto* discrimination against Dalit women? Which best practices have been encountered in this particular field?
- What type of legislation is needed to protect Dalit women from marital rape, communal sexual violence, and rape as punishment for breaking caste-taboos?
- What can be done to eliminate the sexual exploitation of Dalit women through social customs and religious practices such as the devadasi and jogini systems of forced prostitution?
- To what extent can a framework such as the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent provide a useful tool to promote Dalit women's rights in affected countries?

More information

- [IDSN background information about Dalit women](#)
- Link to the [draft UN principles and guidelines for the effective elimination of discrimination based on work and descent](#)

¹ General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures

Item 6: Universal Periodic Review of Nepal

The Universal Periodic Review of Nepal took place in the Human Rights Council on 25 January 2011. In the [report of the working group](#) (A/HRC/17/5), a high number of observations and recommendations were made on the issue of caste-based discrimination and Dalit rights in the following paragraphs: 28, 30, 33, 37, 59, 68, 71, 74, 83, 87, 96, 106.8, 106.21, 106.24, 106.49, 106.53, 107.6, 107.11, 107.12, 108.10, 108.11, 108.12, 108.31, 108.35.

Many questions and recommendations raised by delegations on the caste issue concerned legislative measures, some general, others more specific. Several states called on Nepal to initiate legislative measures to effectively address and eradicate long-standing discrimination, including the adoption of the 'untouchability' bill. One recommendation concerned the involvement of Dalits in the constitution-making process, and another called on Nepal to ensure that the new constitution fully guarantees the right to equality and non-discrimination.

The abovementioned recommendations, if implemented, would greatly benefit the rights of Dalits in Nepal. States are therefore recommended to follow up on these recommendations by asking how the Government intends to implement them.

Follow up questions to the Government of Nepal

- What steps are the Government of Nepal taking to ensure that the recommendations contained in the report on the working group on the issue of caste-based discrimination are implemented?
- Does the Government intend to address these issues under a general national framework and action plan?
- How does the Government intend to disseminate information and follow up on the UPR exercise nationally, e.g. through consultations with civil society and other concerned stakeholders?

More information

- [Compilation of caste-related recommendations in the report of the working group \(UPR Nepal\)](#)
- Link to [all documents](#) related to the UPR Nepal exercise, incl. NGO reports, recommendations, and analysis of outcome (specifically on caste-based discrimination)

Item 9: Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

During his work as a mandate holder, Mr. Muigai has called for proper implementation and robust action of governments to advance the fight against this caste-based discrimination. He has also recalled the need for taking into account gender dimensions of caste discrimination and thorough gender analysis to meet the needs of women and girls. Furthermore, he has called on states to rally around the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent at the 64th session of the UN General Assembly in 2009.

Discussion on best practices in the fight against racism (15 June)

The draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent is a comprehensive framework developed to eliminate discrimination based on work and descent. They constitute a best practice example of the general and special measures that governments and their agencies, UN and other international agencies, educational institutions, non-governmental organizations and the private sector can take to enhance their efforts to eliminate caste-based discrimination.

It is the first soft law instrument that has been developed to establish principles and guidelines for how state and non-state actors can prevent and address this massive human rights problem affecting the lives of an estimated 260 million people globally. Based on existing international human rights principles and obligations, the framework proposes general and special measures to be taken by multiple stakeholders.

Questions to the discussion on the best practices in the fight against racism:

- To what extent can a framework such as the draft UN principles and guidelines for the effective elimination of discrimination based on work and descent provide a useful tool to enhance the response and increase the recognition of the fight against caste-based discrimination nationally and internationally?

- How does the Special Rapporteur envisage that governments and their agencies, UN and other international agencies, educational institutions, non-governmental organizations and the private sector can make practical use of the framework?
- How can the provisions of this draft framework be mainstreaming into relevant development policies and programmes?
- Has the Special Rapporteur encountered any good practices in efforts to eliminate discrimination based on work and descent? In the views of the Special Rapporteur, what would be the added value of a study and compilation on best practices in this regard?

More information

Read the [draft UN principles and guidelines](#) on discrimination based on work and descent

Follow-up to publication of the final report on discrimination based on work and descent (A/HRC/11/CRP.3)

The final report on discrimination based on work and descent was published by the Human Rights Council in May 2009 (A/HRC/11/CRP.3). This was a result of a decision to publish all completed and submitted reports by the former UN Sub-Commission on the Promotion and Protection of Human Rights (A/HRC/10/117). Since then, the HRC has not taken any steps to follow-up on the findings of the study, which is the first comprehensive study on discrimination based on work and descent..

In a [written statement](#) submitted on the occasion of the 17th session of the Human Rights Council, the International Movement Against All Forms of Discrimination and Racism (IMADR) and the International Dalit Solidarity Network call on the Human Rights Council to recognise the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent as an important international framework and instrument to effectively eliminate this form of discrimination. Furthermore, the members of the Human Rights Council are urged to ensure that the issue is addressed comprehensively by the Council, for instance in a panel discussion on „good practices to effectively eliminate discrimination based on work and descent“

IMADR and IDSN also appeals to relevant Governments and their agencies, UN and other international agencies, Special Procedures, and Treaty Bodies to make use of the principles and guidelines. They are based on existing international human rights principles and obligations and constitute a strong tool to encourage specific anti-discrimination legislation and relevant policy measures. They can therefore, in their existing format, be promoted and applied by multiple stakeholders as a guiding framework to effectively eliminate caste-based discrimination.

More information:

Read about the [UN Sub-Commission study on discrimination based on work and descent](#)