

DURBAN REVIEW CONFERENCE

“Communities Empowered to Resist Discrimination and Exclusion”

Statement by Mr. Githu Muigai

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ladies and Gentleman,

First of all, I would like to thank the organizers for inviting me for this side event. I am happy to have the possibility of addressing issues of discrimination based on descent or inherited status during this Durban Review Conference.

I would like to start by recalling that the issue of discrimination based on descent has been included in the joint contribution submitted by special procedures mandate-holders to the preparatory process of the Durban Review Conference. By highlighting this issue in our joint contribution, we the special procedures as a whole expressed our serious concern about this form of discrimination.

An estimated 250 million people around the world are at risk of violations of civil, political, social, economic and cultural rights, including violence, marginalization and discrimination, on the grounds of systems based on inherited status. This includes human rights violations on a wide array of areas, including prohibition or limitations on ability to alter inherited status, socially enforced restrictions on marriage outside the community, public and private segregation, including in housing and education, and access to public spaces and places of worship and public sources of food and water, limitation of freedom to renounce inherited or degrading occupations or hazardous work, as well as subjection to debt and bondage.

Since the World Conference against Racism in Durban, the issue of discrimination based on descent has been on the international agenda. Despite the objection of some member States, the main human rights bodies working in the area of racism and discrimination have stated clearly that prohibition of this type of discrimination falls within the scope of existing instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination.

In this regard, the Committee on the Elimination of Racial Discrimination (CERD), at its forty-ninth session, concluded that “the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention”. It also stated that discrimination on the grounds of caste constitutes a form of racial discrimination and that “the term ‘descent’ has its own meaning and is not to be confused with race or ethnic or national origin”.

More broadly, in its General Recommendation XXIX (2002) concerning discrimination on the grounds of descent, CERD further clarified its position by “strongly reaffirming that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights”.

Ladies and Gentleman,

As we can see, the legal framework on discrimination based on descent is unambiguous. Yet, it has not been implemented properly. Robust action will be required from Governments if we are to advance in the fight against discrimination based on descent.

The vital first step in addressing this issue is for Member States to recognize that discrimination on the grounds of descent constitutes a form of racial discrimination prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In the absence of such recognition it will not be possible to effectively address the serious human rights violations and discrimination suffered by individuals and groups on grounds of caste and other systems of inherited status.

Without intruding the mandate of the Special Rapporteur on violence against women, I cannot fail to mention that policies to address discrimination based on descent need to take into account the gender dimensions of caste discrimination. In this regard, Durban noted the following: "There is a growing recognition that various types of discrimination do not always affect women and men in the same way. Moreover, gender discrimination may be intensified and may occur concurrently with other forms of discrimination, such as racial, ethnic or religious discrimination. Without a thorough gender analysis of all forms of discrimination, violations of the human rights of women might escape detection and remedies to address racism, racial discrimination, xenophobia and related intolerance may also fail to meet the needs of women and girls. Efforts to address gender discrimination should incorporate approaches to eliminate all forms of discrimination, including racial discrimination".

While the legal framework is essential, it is however not sufficient. The views of large sections of the population in countries with systems of inherited status are informed by ideas based on such systems. These views are ingrained in the minds of many and have developed over years and generations. Governments and political leaders have a key role in combating racism, racial discrimination, xenophobia and related intolerance. As such, they should take the initiative by raising awareness and challenging long-entrenched perceptions and helping to shape public opinion to move towards fairer societies based on the equality of all human beings. These initiatives should be further complemented by meaningful legislative amendments to ensure equality and prohibit caste-based discrimination.