

IDSN position paper on the Interrelations between Caste, Descent and Race

Caste discrimination and similar forms of inherited social exclusion affect an estimated 260 million people around the world. Most of the affected communities are in South Asia – where they are known as ‘Dalits’ – but similarly affected groups are found in Japan, Africa (especially West Africa and the Horn of Africa), Yemen, and among the South Asian Diaspora. Members of the affected communities experience systemic discrimination, and often severe violations of their civil, political, economic, social and cultural rights. Despite longstanding constitutional, legislative and affirmative action measures in India, the problem persists in that country, as in the other caste-affected countries.

The International Dalit Solidarity Network (IDSN) exists to assist the affected communities to claim their human rights, and to promote the elimination of caste discrimination and similar forms of inherited social exclusion, wherever such discrimination and exclusion is found.

IDSN considers caste (and related discrimination and exclusion) to be a unique phenomenon – though widely spread in different geographical regions and cultural contexts. Among other unique aspects of caste systems are the association with (traditional) occupation, beliefs concerning purity and pollution, and ‘untouchability’ practices. Although caste is distinct from the concept of race, both types of discrimination produce comparable forms of political, economic, and social exclusion.

The UN human rights system has extensively addressed situations of caste discrimination,¹ including through mandates and processes concerning ‘racial discrimination’. The UN Convention on the Elimination of All Forms of Racial Discrimination (ICERD) defines ‘racial discrimination’ as:

any distinction, exclusion, restriction or preference based on race, colour, *descent*, or national or ethnic origin which 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.

Numerous UN bodies and experts have repeatedly affirmed that the ‘descent’ limb of this definition encompasses caste. This was explicitly formulated by the UN CERD Committee in General Recommendation XXIX (2002). IDSN associates itself with and follows this interpretation.

Nevertheless, precisely because of its unique nature – as well as the vast numbers of people affected globally and the severity of associated human rights violations – IDSN believes that caste discrimination warrants separate and distinctive treatment in the UN human rights system. In an important step in this direction, UN experts have proposed a comprehensive set of UN Principles and Guidelines for the effective elimination of discrimination based on ‘work and descent’, which is defined as:

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.

¹ For a comprehensive list of UN references (Treaty Bodies, Special Procedures, UPR, etc), go to www.idsn.org

IDSN urges the UN Human Rights Council to adopt these Principles and Guidelines, which would provide valuable support to governments and communities seeking to eradicate entrenched forms of discrimination of this type.

Ultimately, IDSN considers the argument about whether caste is similar to race to be an unproductive debate on semantics. States have the principal duty to promote, protect and respect the rights of citizens affected by *all* forms of discrimination, including caste discrimination, in accordance with existing international human rights obligations. States must avoid serious implementation gaps of their obligations in order to adhere to the fundamental principles of equality and non-discrimination, regardless of the grounds on which discrimination is exercised.

It is time to move beyond semantics, to a clear assessment of what is required to address the persistent challenge of caste discrimination globally, and to comprehensive and effective implementation of the additional measures necessary to eradicate it.

References in International Human Rights Instruments

Universal Declaration of Human Rights (UDHR)

Article 2 reads:

- “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

International Convention on the Elimination of all forms of Racial Discrimination (ICERD)

Article 1(1) of the International Convention on the Elimination of Racial Discrimination (ICERD) defines ‘racial discrimination’ as follows:

- “Any distinction, exclusion, restriction or preference based on race, colour, descent, national or ethnic origin which 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.”

CERD General Recommendation No. 29 on ‘descent’ in article 1 (1)

The UN Committee on the Elimination of Racial Discrimination (CERD) confirmed its interpretation of ‘descent’, in the form of its General Recommendation No. 29, adopted on 22 August 2002. This General Recommendation:

- Confirms “the consistent view of the Committee that the term ‘descent’ in Article 1, paragraph 1 of the Convention does not solely refer to ‘race’ and has a meaning and application which complements the other prohibited grounds of discrimination”; and
- Reaffirms 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.”

CERD General Recommendation No. 32 on special measures

This CERD General Recommendation on the meaning and scope of special measures in the ICERD, adopted at its 75th session in August 2009, affirms General Recommendation 29 on Article 1, paragraph 1, of the Convention (Descent), which makes specific reference to special measures. The Committee also states that:

- "Special measures should be carried out on the basis of accurate data, disaggregated by race, colour, descent and ethnic or national origin and incorporating a gender perspective, on the socio-economic and cultural status and conditions of the various groups in the population and their participation in the social and economic development of the country."

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 2 (2) reads:

- "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

CESCR General Comment No. 20 on non-discrimination

General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights was adopted by the UN Committee on Economic, Social and Cultural Rights (CESCR) at its 42nd session in May 2009. In this General Comment, the Committee reaffirms CERD General Recommendation No. 29 that:

- "The prohibited ground of birth also includes descent, especially on the basis of caste and analogous systems of inherited status."
- The Committee recommends States parties to "take steps, for instance, to prevent, prohibit and eliminate discriminatory practices directed against members of descent-based communities and act against dissemination of ideas of superiority and inferiority on the basis of descent."

The World Conference against Racism (WCAR)

Durban Declaration and Programme of Action

The Durban Declaration and Programme of Action (DDPA) confirms that states have an obligation to promote and protect the human rights of victims suffering from discrimination on the grounds of descent (articles 2, 79, 123, 171) and multiple forms of discrimination (para. 2, 69). Article 2 of the declaration reads:

- "We recognize that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status."

Outcome document of the Durban Review Conference

The outcome document of the DRC:

- "Reaffirms the Durban Declaration and Programme of Action" (para. 1); and
- "Takes note of the interpretation given by the Committee on the Elimination of Racial Discrimination to the definition of the concept of racial discrimination as contained in the Convention, so as to address multiple or aggravated forms of discrimination" (para. 35); and
- "Notes with concern the increased instances of multiple or aggravated forms of discrimination and reiterates that such discrimination affects the enjoyment of human rights and can lead to particular targeting or vulnerability and urges States to adopt or strengthen programmes or measures to eradicate multiple or aggravated forms of discrimination, in particular by adopting or improving penal or civil legislation to address these phenomena" (para. 85).

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