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PREVENTION OF DISCRIMINATION

**Expanded working paper by Mr. Asbjørn Eide and Mr. Yozo Yokota
on the topic of discrimination based on work and descent***

* The authors did not provide the reason for the late submission of this working paper, which is required in accordance with paragraph 8, section B, of General Assembly resolution 53/208.

is observed, to varying degrees, in the diaspora communities in East and South Africa, Mauritius, Fiji, Suriname, the Middle East (for example in Bahrain, Kuwait and the United Arab Emirates), Malaysia, the Caribbean, the United Kingdom of Great Britain and Northern Ireland, North America, and other countries and regions. Some reports indicate ongoing discrimination against Midgan-Madibhan in the Somali diaspora, and in certain West African diaspora communities. However, relevant information in this area is very limited and further study is still required.

36. The main focus in this section of the current working paper is on the South Asian diaspora in the United States of America and the United Kingdom of Great Britain and Northern Ireland. Experiences of other communities and in other countries have been referred to where information was available to the authors.

South Asian diaspora

Intermarriage

37. The area where discrimination is most common among members of the South Asian diaspora is the social prohibition against intermarriage between castes. Although this is less prevalent than in (rural) India, and the prohibition is weakening among second and third generation members of the South Asian diaspora, matrimonial advertisements (especially in media organs specifically serving the South Asian diaspora, such as *India Abroad*, *The Asian Reporter*, etc.) still show a preference for marriage within one's own caste. Many of the dating/matrimonial web sites catering to South Asian communities in the United States of America and the United Kingdom (such as www.indiandating.com, www.indianmarriages.com, www.indianmatches.com, www.shaadi.com, and www.kaakateeya.com) also demonstrate this, as there is generally a section for caste in the profile. Many contributors do list their caste, although a few do not.

38. In an interview broadcast on *BBC Radio 4* in April 2003 entitled "The Caste Divide", Parar Bagawar, proprietor of the Suman Marriage Bureau, one of the oldest and largest "Asian" matrimonial agencies in the United Kingdom, confirmed that "people are still mentioning the issue of caste and bringing it up when it comes to marriage". He said that "people don't want to marry into a lower caste". He also indicated that many lower-caste members would prefer to marry someone from the same background, for fear of being victimized. The strongest stigma is against intermarriage with members of the former "untouchable" community. As a result, some people change their names to disguise their backgrounds. According to Parar Bagawar, people sometimes investigate through marriage agencies the origins of persons claiming high-caste status.

39. Some community leaders consider that for many in the South Asian diaspora in the United States of America, it is easier to marry outside one's race than outside one's caste. An online article by Anamika Arora, "Selfless Service Aims to Bring Solidarity and Awareness at the Shri Guru Ravidas Sabha of New York",⁴ indicates that caste is also very influential in Sikh marriages in the United States. Some religious leaders in the Tamil community in New York indicate that preference is still given to marrying within one's caste.

40. In the South Asian diaspora in Canada, most marriages are said to take place within caste groups. It is reported that when inter-caste marriages do take place, families of the upper-caste bride or groom will often boycott the wedding ceremony.

41. According to an article published in the newspaper *The Star* in Kuala Lumpur in 1997,⁵ caste awareness and associated preferences are also reflected in matrimonial advertisements placed in media organs in Malaysia by members of the minority Indian community, and marriage brokers may be expected to take caste into account when finding suitable matches. One researcher observed that:

“Caste has, indeed, such a strong hold in marriage matters that inter-caste marriages between different categories of higher-caste status sometimes do not take place with parents’ approval, much less between higher- and lower-caste members. Abolition of caste discrimination in this area remains a distant dream.”⁶

Commensality

42. Social avoidance of commensality (the act or practice of eating/drinking together) is also demonstrated among members of the South Asian diaspora, although to a much lesser degree than in South Asia itself. For example, it is reported that at a factory in Wolverhampton in the United Kingdom, upper-caste Jat women refused to take water from the same tap as lower-caste people. Another reported example took place during an inter-temple sport tournament where the majority Jats refused to eat the sanctified food (*Langar*) as it was made by the lower-caste Chamaars.⁷

43. In the United States, it has been reported that social functions among the Tamil community of New York are dominated by upper-caste traditions and the different caste members eat separately. In general, lower castes will often avoid social interaction with upper castes or some will hide their caste if they do socially interact.

44. In Malaysia, this is seen within rather than outside the home. Some families, for example, refuse to dine with or accept food and drinks from people they suspect of being lower caste.

45. From Trinidad, there are some reports of restricted commensality, for example with Trinidadian Brahmin priests at rituals. In Guyana there are examples of upper castes not wanting to eat at the homes of lower-caste members.⁸

Places of worship

46. Caste divisions appear to continue to affect access to and the organization of places of worship in the South Asian diaspora. For example, among Indian Christians in the diaspora, denomination is often associated with caste identity. Caste divisions are reported to have led to splits in church congregations. In 1981, there was a split in the Tamil Church in New York that led to the formation of a new Dalit Tamil Church in Elmhurst, New York.

47. Despite the ideology of Sikhism, which aims at transcending caste distinctions, such distinctions remain present in practice in the diaspora. In the United States and in Canada, in Vancouver in particular, Ramdasi and Ravidasi Sikhs are not completely accepted by Jat and

Katri Sikhs, and so *gurdwaras* (Sikh houses of worship) are segregated in terms of caste. Similarly, as pointed out by Anamika Arora (see above), the Shri Guru Ravidas Sabha of Queens, New York, is a *gurdwara* mainly for lower-caste Sikhs, and upper-caste Sikhs would not feel appropriate worshipping there. This is also observed in the United Kingdom, for example with the Guru Ravidass *gurdwara* in Bedford.⁹

48. Leadership roles at the Hindu Temple in Flushing, Queens, New York, are also said to reflect traditional caste hierarchies. In the United Kingdom, due to caste prejudices, many lower-caste members have also formed their own separate organizations and temples. An example of this is the Central Valmik Sabha and Valmiki temples.¹⁰ Some, such as Suresh Grover of the National Civil Rights Movement in the United Kingdom, feel the proliferation of places of worship on caste lines is creating profound divisions.

Employment

49. Caste discrimination has also been alleged in the area of employment in both the United Kingdom and United States. For example, Pinaki Mazumder, a professor of engineering at the University of Michigan, has filed an unprecedented federal civil rights lawsuit, claiming discrimination based on caste and national origin. He claims that discrimination by an Indian administrator of a higher caste in the engineering department affected his performance reviews and pay raises. The lawsuit also alleges that the university did nothing to stop the bias, trivialized his concerns, and retaliated against him when he complained.¹¹

50. Other incidents of caste discrimination in the area of employment are alleged, but they rarely have led to a formal complaint or legal action.

51. In Mauritius, a highly qualified woman from the South Asian community stated that she would never get a high position in the State bureaucracy because she was a Brahmin.¹²

Politics

52. In the United Kingdom, caste is alleged to have played a discriminatory role in politics. For example, Ram Lakha, a Labour councillor, alleges that there was much resentment when his name was put forward by members of the Labour Party in 1989 and upper-caste members waged a campaign to remove him as he was lower caste.¹³

53. Some in the United Kingdom feel that leaders of the Asian community are promoting racial equality but not doing enough to promote equality within the Asian community. An example has been given of a local upper-caste councillor in Coventry who authored a booklet promoting the caste system and its practices. In 1995, Prashotam Lal Joshi prepared a booklet entitled *A guide to minority ethnic customs, religions and aiming systems in Coventry* which stated "Caste is inherited by birth and one cannot change or leave one's caste. Hindus in Britain may wish to observe the caste system and wish to avoid dining and intermarriage with members of other castes." The draft booklet was withheld and an apology was issued by the Council; however, no disciplinary action was taken (Naresh Puri, *The Caste Divide*).

54. Caste was also a driving force in a lengthy dispute between two prominent Malaysian Indian politicians, the president of the All Malaysian Indian Progressive Front (IPF), Datuk M. G. Pandithan, and the president of the Malaysian Indian Congress (MIC) party, Datuk Seri S. Samy Vellu. In 1988, Pandithan, then the vice-president of MIC, was expelled from the party for accusing the party of practising caste-based politics that favoured higher castes. In 1997, Vellu rejected Pandithan's claim that "casteism is a deep-rooted issue in Malaysia which is silently but strongly being practised". Pandithan was particularly critical of the existence of some 22 registered caste-based associations in Malaysia, dedicated to assisting members of their own caste socially and financially. These associations sometimes impose caste-based restrictions on members, such as banning exogamous marriages.¹⁴

Media

55. Caste consciousness is also promulgated through the media, especially in the United Kingdom, where there is a large Asian media establishment. Many songs played on South Asian radio mention the upper-caste Jats and encourage caste consciousness and notions of caste superiority. South Asian DJ Bobby Friction has referred to many Asian songs which allude to the power of the Jats. Some car stickers in the United Kingdom have been seen with the words "Jattan de putt", proclaiming the superiority of the Jats.

Violence

56. Though caste-based violence appears to be rare in the diaspora population, there have been cases of physical violence against those who have entered into inter-caste marriages or eloped against their families' will. In an extreme example, Vijay Bulla, a man from Ann Arbor, Michigan, USA, was killed in October 1999 after he entered into a heated argument with Satish Mariswamy, a man he rejected as a suitor for his wife's sister in India as he was of a lower caste. Mariswamy was convicted of first-degree murder and given a life sentence.¹⁵

57. In the United States, there have been reports of physical fights when lower-caste members tried to stand for leadership in higher-caste *gurdwaras*. In the United Kingdom, there are reports of fights breaking out amongst university students when derogatory caste-based remarks are made (Naresh Puri, *The Caste Divide*).

Somali diaspora

58. Large Somali populations have existed, for generations in many cases, in Kenya, Ethiopia, Tanzania, Djibouti and Yemen. In a submission to the Committee on the Elimination of Racial Discrimination during a thematic discussion on 8 August 2002, prior to the adoption of the Committee's general recommendation XXIX on descent-based discrimination, Professor Asha Samad of the Somali International Minority Association (SIMA) declared that in all of these populations, Midgan-Madhiban and other outcast groups are the lowest rank of the society's stratification.

59. In addition, large numbers of Somalis have fled conflict in their own country, and either continue to languish in refugee camps in neighbouring countries or have found refuge in places as far away as Canada, the United States, the United Kingdom, the Netherlands, Australia, and Nordic countries.

60. According to Professor Samad, the Midgan-Madhiban and members of other outcast communities face ongoing discrimination, abuse and attack by members of the dominant clans even in the refugee camps. She says that in those Somali communities that have been admitted to other countries through asylum and other immigration processes, “clan and caste continue”.

61. Professor Samad alleges that “many ‘noble’ clan Somalis seeking refugee or political asylum have falsely claimed outcaste Midgan-Madhiban status” in order to enhance their asylum claims. “Quite often”, according to Professor Samad, “when such a false application is granted, the applicant then takes pain to overemphasize, within the Somali community, his or her actual noble status. ... Meanwhile, the Midgan-Madhiban in the diaspora still face caste discrimination within the Somali community.”

B. Other additional communities

“Caste” in the State of Yap, Federated States of Micronesia

62. As referred to above, the treaty body database itself discloses information on another community not previously referred to in the Sub-Commission’s discussions. During the review by the Committee on the Rights of the Child of the initial report by the Federated States of Micronesia under the Convention on the Rights of the Child in January 1998, the representative of the Government advised that the people of Yap were divided into a higher and a lower caste. Those in the lower caste had fewer traditional privileges and sometimes more obligations. She was not well informed about the degree of segregation involved. The national Government had taken up no position on the caste system but respected its existence. There had been no court cases at national or state level concerning discrimination on grounds of caste. In the State of Yap itself, the caste system was accepted as an integral part of social and political life (CRC/C/SR.440, para. 82).

63. Questioned about the implications of the caste system for children’s access to health and education services, she said that the caste system was difficult to describe because the expression carried such negative connotations throughout the world. She was able to state, however, that it was never used as a basis for selectivity or discrimination in the delivery of public services or in providing access to health and educational services.

64. The State party’s initial report had however alluded to an associated problem. Referring to the situation of health services, and specifically nursing services, the report indicated that “difficulties arise when the nurse ... is faced with evaluating the job performance of a lower-level staff member who is of a higher caste status than she” (CRC/C/28/Add.5, para. 263).

65. In its concluding observations, the Committee expressed its concern “at the existence of a caste system, especially in Yap State, and its incompatibility with the provisions of article 2” of the Convention, and encouraged the State party to “send additional information on the caste system” (CRC/C/15/Add.86, paras. 15 and 32).

The Fuga communities of Ethiopia

66. According to Herbert Lewis,¹⁶ “[v]irtually every Ethiopian Cushitic- or Semitic-speaking society for which evidence exists contains within it at least one endogamous group of hereditary