

Excerpt from the OHCHR - [UN Guidance Tool](#) on Descent-based Discrimination

6.2.2 Identifying key areas of intervention to address the situation of descent-based communities

Human rights are universal indivisible, interdependent and interrelated. A human rights assessment should encompass the situation with respect to the full range of rights - economic, social and cultural rights, as well as civil and political rights – and include analysis of patterns of discrimination in society. The categories in this section are aligned with human rights standards and the questions themselves highlight the most commonly cited issues of concern for descent-based communities.

Civil and political rights

- Do descent-based communities enjoy the **right to vote and stand for election** on the basis of equal and universal suffrage? Do they enjoy the right to due representation in government and legislative bodies, in law and in practice? What can be done to promote their integration in decision making bodies?
- Do descent-based communities enjoy non-discrimination in **access to citizenship**?¹
- Do descent-based communities enjoy the rights to **freedom of thought, conscience and religion** on equal footing with other communities, in law and in practice?
- Are members of descent-based communities **free to marry** outside their community?²
- Do descent-based communities have **access to information** relating to public policies and decisions taken on their behalf, especially when they are not involved in the decision-making processes?
- Do possibilities or mechanisms exist to ensure that the contributions of descent-based communities are taken into account and/or included in **public policies**?
- In what ways can the UN to build the capacity of descent-based communities to participate in decision-making and monitor the implementation of human rights obligations?

Accountability and Access to justice³

- Which steps have been taken to secure **equal access to justice** for all members of descent-based communities, including, for example, by providing **legal aid and** facilitating **group claims**?
- Are **non-discrimination laws** fully and equally implemented for members of descent-based communities?
- Are descent-based communities **able to access mechanisms of complaint** regarding government practices that affect them?
- Are there any **monitoring and evaluation systems to assess the impact of government policies and programmes** on descent-based communities?
- Have there been cases of **violence and atrocities**, including sexual violence, against members of affected communities? What are the main causes of violence against these communities?⁴

- Have there been cases of **gender-based violence** against members of descent-based communities (women, children and men)? In these cases, has there been remedial action (investigation, trial and reparations)?
- Do **NHRIs** receive **complaints** from descent-based communities alleging breach of their rights? How do affected communities use these **mechanisms**?
- Are cases of **violence** and other crimes against descent-based communities systematically **investigated and prosecuted**, and if not, why not? Do descent-based communities have **access to remedies** in a differentiated manner from other communities?
- Do descent-based community members **participate in all civil society initiatives** established by government? Are **law enforcement actors** implicated in incidents of violence and other abuses against descent-based communities? Does the government have in place a system to recruit members of descent-based communities into the police and other law enforcement agencies?
- Are members of descent-based communities and human rights defenders therein, subject to **arbitrary arrests and detentions** and are they otherwise **discriminated against in the criminal justice system**?
- What measures can be taken to **build accountability and capacity for public officials and law enforcement agencies** with a view of preventing injustice against descent-based communities?

Economic, Social and Cultural Rights⁵

- Do the main social **indicators**, such as hunger, child mortality rates, health conditions, and school enrolment, reflect any particular difference between the conditions of descent-based communities and other groups? What are the differences between women and men from descent-based communities, and between women from descent-based communities and members of the general population?
- Are descent-based communities **segregated** from other members of the population, including in housing, education, employment, and cultural or religious practices? Are descent-based communities subject to other forms of **untouchability practices**? If so, what kinds of practices? What measures are in place to prevent, prohibit and eliminate **practices of segregation** in these and other areas?
- How can the UN help the Government improve **social policies** that support the provision of basic social services for descent-based communities?
- Do descent-based communities have **equal access to markets**,⁶ **employment and income-generating opportunities**?⁷ Is there a tendency for women or men belonging to descent-based communities to be concentrated in certain occupations or sectors?⁸
- Do persons belonging to descent-based communities experience or present special **health** concerns? Are they, for example, exposed to particular health risks as a result of their occupations or do incidences of poverty-related diseases or malnutrition affect them differently from the rest of the population? If so, what are the causes? Do women from descent-based communities suffer from a higher incidence of maternal mortality and other reproductive health concerns?⁹

- To what extent do persons from descent-based communities enjoy the **right to adequate housing** and how is this enjoyment related to their situation with regard to **access to land and property**?¹⁰
- Do public and private **education** systems include children of all communities on equal footing, including children from descent-based communities? Do children from descent-based communities experience harassment, discrimination and other forms of abuse in public or private educational institutions? Are there systems to monitor the implementation of national laws or policies on right to education and a system to track children who drop out or are at risk of dropping out?¹¹
- Do school curricula and teachers' narratives reinforce discriminatory attitudes? Is human rights education included in **textbooks**? What kinds of training do teachers receive to overcome any inherent biases and to ensure integration of children from all communities?
- Can descent-based communities freely express their cultural/religious identities? Are their contributions to cultural life promoted by the State in line with minority rights provisions?

Notes

¹ Refugees, asylum-seekers, stateless persons and IDPs returnees who belong to so called "lower castes" are at further risk of marginalization, and are at heightened risk of experiencing barriers in accessing inter alia birth registration, marriage registration, nationality, health care, education, the right to work, amongst other rights.

² Rigid social norms of purity and pollution are socially enforced through strict prohibitions on inter-marriage. In many affected countries, strong social barriers remain in place against marriage between "lower" and "higher" castes. Where inter-marriages take place, the condemnation, particularly from dominant castes, can be quite severe, ranging from social ostracism to acts of punitive violence. Cf. UN Doc. A/HRC/14/10, para. 39, and E/EC.4/Sub.2/2004/31, para. 37.

³ See **Chapter 4** on promoting accountability and access to justice for descent-based communities.

⁴ Violence, especially against women, is often a tool used by both state and non-state actors to maintain the "low" status of descent-based communities, and may be deployed in response to their assertion of rights.

⁵ Information on monitoring economic, social and cultural rights can be found at OHCHR, Manual on Human Rights Monitoring (Chapter 20), available at: <http://www.ohchr.org/Documents/Publications/Chapter20-48pp.pdf> [Accessed 15 September 2015]. See also OHCHR Fact Sheet 33: Frequently Asked Questions about Economic, Social and Cultural Rights, for an explanation of "progressive realization" of these rights, available at: <http://www.ohchr.org/Documents/Publications/FactSheet33en.pdf> [Accessed 16 November 2015]

⁶ On the issue of equal access to markets, UNCTs could survey how the private sector has responded to descent-based discrimination – e.g. voluntary provisions, openness to further legislation and monitoring of hiring.

⁷ The denial of free choice of employment and the allocation of labour on the basis of one's membership in a particular social group are hallmark features of descent-based discrimination. Affected communities are often forced to work in "polluting" and degrading occupations, such as manual scavenging, and are subject to exploitative labour arrangements such as bonded, forced, or migratory labor. Children from affected communities are also vulnerable to child labour in these and other areas.

⁸ Communities affected by discrimination based on descent are more likely to be forced into occupations that are deemed too filthy or unclean for others to perform. Sanitation jobs—including street cleaning and the handling of human waste and animal carcasses—are functions almost exclusively performed by Dalits in Bangladesh, Sri Lanka, India and Nepal. The Al Akhdam of Yemen is similarly engaged in the disposal of human waste. See also, ILO, "Diversity in the workforce: why it is good for business", available at: <http://www.dalits.nl/pdf/DiversityInTheWorkforce.pdf> [Accessed 15 September 2015]

⁹ High levels of poverty and a lack of access to adequate food, water and sanitation all have a cumulative and detrimental impact on health leading to greater incidence of childhood malnutrition and higher maternal mortality rates. Affected communities may face disproportionate occupational health hazards as a consequence of being relegated into professions that involve handling human excrement and animal flesh. Communities affected by descent-based discrimination may also endure a higher burden of disease. As noted by WHO and UNICEF, children of lower socioeconomic class or caste, among other categories, "suffer from cumulative inequities" and are "are subject to higher prevalence rates of pneumonia and diarrhea, and more difficult access to health services despite being in greater need of those services." Health-related concerns are compounded by the fact that affected communities may be denied equal access to health care facilities leaving many of their conditions untreated. WHO and UNICEF, Ending Preventable Child Deaths from Pneumonia and Diarrhea by 2025: The integrated Global Action Plan for Pneumonia and Diarrhea (GAPPD) (2013), p. 17, available at: http://apps.who.int/iris/bitstream/10665/79200/1/9789241505239_eng.pdf?ua=1 [Accessed 15 September 2015]

¹⁰ A lack of access to land, an inability to own land, and forced displacement from land can constitute crucial elements in the subordination of caste-affected communities. See also, E/CN.4/2005/48, para. 62

¹¹ Poverty, combined with the experience of discrimination, drives the deprivation of education for many children from descent-based communities. In many countries, marginalization in education is intrinsically linked to one's "low" status. In Yemen, for example, a staggering 90% of Muhamasheen community members are illiterate. To some extent, these differences in educational attainment stem from wider socio-economic factors, including poverty and lower parental education. But it is also increasingly well-understood that discrimination in schools plays an equally pernicious role, compromising both the quality and availability of education of children from descent-based communities, resulting in high dropout rates and a low representation of these communities in institutions of higher education. In UNESCO, Reaching the Marginalized (2010), available at:

<http://unesdoc.unesco.org/images/0018/001866/186606E.pdf> [Accessed 15 September 2015]. See also Unesco and Unicef: All Children in School by 2015: Global Initiative on Out-of-School Children: South Asia Regional Study covering Bangladesh, India, Pakistan and Sri Lanka (2014), pages 15, 40, 42, 50, 60, 61 and 87, available at: http://www.unicef.org/education/files/SouthAsia_OOSCI_Study_Executive_Summary_26Jan_14Final.pdf [Accessed 15 September 2015]