

A global Call for concrete Action for the Total Elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action –

Contribution from the International Dalit Solidarity Network

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Introduction

The International Dalit Solidarity Network (IDSN) was founded in March 2000 to advocate for Dalit human rights and to raise awareness of Dalit issues nationally and internationally. IDSN is a network of international human rights groups, development agencies, national Dalit solidarity networks from Europe, and national platforms in caste-affected countries. The network has had a significant impact on the internationalization of caste discrimination as a critical human rights issue. Through engagement with UN, EU and other multilateral institutions, IDSN has successfully lobbied for action-oriented approaches to address 'untouchability' and other human rights abuses against Dalits and similar communities that suffer discrimination on the basis of work and descent. IDSN bases its work on contributions from members and associates. Joint interventions in the United Nations and the EU constitute a major part of IDSN's activities. The network produces crucial input in the form of documentation, strategic interventions and lobby action and also supports national level lobbying. Interaction between members adds to the dynamics of the network.

IDSN is pleased to submit to the Human Rights Council Advisory Committee its inputs to a study on appropriate ways and means of assessing the situation, while identifying possible gaps and overlaps in combatting racism, racial discrimination, xenophobia and related intolerance.

Caste-Based Discrimination

Caste discrimination affects an estimated 260 million people worldwide, the vast majority living in South Asia. It involves massive violations of civil, political, economic, social and cultural rights. Caste systems divide people into unequal and hierarchical social groups. Those at the bottom are considered 'lesser human beings', 'impure' and 'polluting' to other caste groups.

They are known to be 'untouchable' and subjected to so-called 'untouchability practices' in both public and private spheres. 'Untouchables' – known in South Asia as Dalits – are often forcibly assigned the most dirty, menial and hazardous jobs, and many are subjected to forced

and bonded labor. Due to exclusion practiced by both state and non-state actors, they have limited access to resources, services and development, keeping most Dalits in severe poverty.

They are often de facto excluded from decision making and meaningful participation in public and civil life. Lack of special legislation banning caste discrimination or lack of implementation of legislation, due to dysfunctional systems of justice and caste-bias, have largely left Dalits without protection. Despite policy development and new legislation in some countries, fundamental challenges still remain in all caste-affected countries.

The progress that has been made is, to a large extent, a consequence of the tireless work of Dalit civil society groups in South Asia. They have also managed to place caste discrimination firmly on the international human rights agenda. UN bodies and EU institutions are paying increasing attention to this issue.

The division of a society into castes is a global phenomenon not exclusively practiced within any particular religion or belief system. In South Asia, caste discrimination is traditionally rooted in the Hindu caste system, according to which Dalits are considered 'outcasts'. However, caste systems and the ensuing discrimination have spread into Christian, Buddhist, Muslim and Sikh communities. They are also found in Africa, other parts of Asia, the Middle East, the Pacific and in Diaspora communities.

The hierarchical division of a society placing inherent privileges and restrictions by birth run contrary to the belief that "all human beings are free and equal in dignity and rights" as stated in Article 1 of the Universal Declaration of Human Rights. Caste discrimination involves massive violations of civil, political, economic, social and cultural rights. Caste-affected communities are denied a life in dignity and equality.

Caste-Based Discrimination and Human Rights at the United Nations System

During the last decades, IDSN has compiled the works of the UN human rights protection mechanisms, which altogether has accounted to 165 direct references on caste-based discrimination.¹ Hence, it is plausible to conclude that there is a solid recognition among the UN human rights family of caste-based discrimination as an important manifestation of race discrimination.

Caste-based discrimination was studied thoroughly by the former UN Sub-Commission on the Promotion and Protection of Human Rights, leading to the adoption of the Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent² in 2006. According to this instrument

Discrimination based on work and descent is any 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. This type of discrimination is typically associated with the notion of purity and pollution and practices of untouchability, and is deeply rooted in societies and cultures where this discrimination is practiced.³

¹ International Dalit Solidarity Network, [Compilation of UN references to caste discrimination](#), out of which, 21 references from the HRC Special Procedures mandates, 58 specific recommendations of the HRC Universal Periodic Review, and 86 recommendations of the several treaty-bodies.

² Final report of Mr. Yozo Yokota and Ms. Chin-Sung Chung, Special Rapporteurs on the topic of discrimination based on work and descent, UN Doc. A/HRC/11/CRP.3 (Annex). These guidelines followed the process of the adoption, by the sub-Commission's, resolution 2000/4 declaring that discrimination based on work and descent is a form of discrimination prohibited by international human rights law. The Sub-Commission consequently adopted a resolution 2003/22 calling for a further working paper to examine legal, judicial, administrative and educational measures taken by the Governments concerned; to identify additional communities affected by discrimination based on work and descent; and to prepare a draft set of principles and guidelines for the effective elimination of discrimination based on work and descent. Studies were prepared by Mr. [Goonesekere](#) (2001); by [Mr. Yoko and Prof. Eide](#) (2002); and by [Prof. Chung and Mr Yokota](#) (2006). Following the submission of two preliminary reports, the Special Rapporteurs were mandated in resolution 2006/14 with the task of preparing a final report at the 58th session of the Sub-Commission. This session was the final session of the Sub-Commission, which was then replaced by its successor body, the Human Rights Council Advisory Committee.

³ Ibid, p. 8.

Regarding the Durban Process, despite the fact that caste-based discrimination has not been explicitly addressed at both conferences in 2001 and 2009, thereby effectively silencing the much needed debate on caste discrimination, there was an active movement of civil society organizations advocating for the international community to openly recognize this type of discrimination as “of the most serious and widespread global human rights challenges today, affecting large proportions of societies in many regions of the world, which continues to function as a deeply rooted system of grave human rights violations”.⁴

Among the treaty-bodies, the CERD, already in 2002, adopted the General Recommendation No. 29 interpreting the term “descent” in article 1(1) of the ICERD,

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.⁵

Hence, it is plausible to affirm that caste-based discrimination falls within the scope of the ICERD and therefore this convention constitutes an effective framework to improve analysis and reporting on governments’ performance. Affected countries are ever since obliged to report to the CERD Committee taking into consideration the specific recommendations made by this Committee. This General Recommendation also lists a number of measures to be taken by States parties to the ICERD, in order to combat caste-based discrimination, including (a) the identification of descent-based communities who suffer from caste and analogous systems of inherited status through factors such as “inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited

⁴ [Position paper](#) adopted on the occasion of the Durban Review Conference (2009), endorsed by Human Rights Watch, International Dalit Solidarity Network, National Campaign on Dalit Human Rights (India), Asian Forum for Human Rights and Development, International Movement Against All Forms of Discrimination and Racism, Lutheran World Federation, Pax Romana, Human Development Organisation (Sri Lanka), Nepal National Dalit Social Welfare Organisation, Feminist Dalit Organisation (Nepal) and Dignity International.

⁵ CERD, General Recommendation No. 29, UN Doc. CERD/C/61/Misc.29/rev.1. See also reference to caste-based discrimination in the works of the CERD: General Comment No.31: General Recommendation on the Prevention of Racial Discrimination in the Administration and Functioning of the criminal Justice System – 2005; and General Recommendation No. 32 on special measures – 2009.

occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality”⁶; (b) incorporation of explicit prohibition of descent-based discrimination; (c) review of legislation that affects the relevant communities; (c) formulate and put in action a national strategy in accordance to Articles 1 and 2 of the ICERD; (d) adoption of special measures in favor of descent-based groups and communities; (e) establishment of statutory mechanisms to promote and monitor the situation of these communities; (f) educational measures for the public at large on the situation of victims of descent-based discrimination; (g) dialogue between members of descent-based communities and members of other social groups; (g) periodic surveys on the reality of descent-based discrimination, including disaggregated information on the geographical distribution and economic and social conditions of descent-based communities, including a gender perspective.

Descent-based discrimination is also recognized in the works of other treaty-bodies, such as the Human Rights Committee⁷, the CESCR⁸, the CEDAW Committee⁹, and the Committee on the Rights of the Child.¹⁰

On the part of the UN special mandates, the Special Rapporteur on minority issues, Ms. Rita Izsák-Ndiaye, presented to the Human Rights Council in 2016 a report dedicated to caste-based discrimination. The Rapporteur covers specific areas of impact of discrimination in caste-based and analogous systems in relation to core human rights along with initiatives and good practices to address caste-based discrimination. The Rapporteur recognized that caste-based discrimination leads to “extreme exclusion and dehumanization of caste-affected

⁶ Ibid.

⁷ HRCtee, General Comment No.18 on Non-discrimination – 1989, para. 6; and General Comment No.25, para. 15.

⁸ CESCR, General Comment No. 20 on Non-discrimination – 2009, paras. 24 and 26.

⁹ CEDAW Committee, General Recommendation No. 33 on women’s access to justice 2015, para. 8; General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations – 2013, para. 36; General Recommendation No.28 on the Core Obligations of States Parties under Article 2, para. 18; General Recommendation No. 25 on Temporary Special Measures, para. 12.

¹⁰ CRC, General Recommendation No.7 on Implementing Child Rights in early Childhood – 2005, para. 11 (iv); and General Comment No. 17 on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31) – 2013, para. 52.

groups translates into individuals and communities often being deprived of or severely restricted from enjoying their most basic civil, political, economic, social and cultural rights.”¹¹

The report also presented a global overview on the issue highlighting situations and practices such as in South Asia, the Dalits that “represent the victims of the most grave forms of caste discrimination, are often assigned the most degrading jobs and subjected to forced and bonded labour, have limited or unequal access to resources (including economic resources, land and water) and services, and are disproportionately affected by poverty.”¹² Besides the Dalits, the Rapporteur highlighted the Sinhala, Sri Lanka Tamil and Indian Tamil groups in Sri Lanka¹³; and the *senmin* (humble people): the *eta* (extreme filth) and *hinin* (non-human) in Japan.¹⁴ In the Middle East, the Rapporteur referred to the Muhamasheen (Al Akhdam) minorities in Yemen.¹⁵ In Africa, the Rapporteur recognized that the Arab-Berbers (Moors), in Mauritania, suffer the severe effects of caste stratification, including slave-like practices (Haratine);¹⁶ in Madagascar around 18 tribes practice caste systems such as Merina and the Bara, leaving vulnerable particularly the Andevo (descendants of slaves) minority;¹⁷ the plight of the Osu descendants in Nigeria¹⁸; the Geer and the Neeno in Senegal¹⁹; and the so-called “occupational groups” in Somalia.²⁰ The Rapporteur also warned about caste discrimination among the diaspora communities including in Mauritius, South Africa, United Kingdom, United States, Canada, Suriname, Malaysia, Australia and Middle-East countries.²¹ The Report also showed the impact of caste-based discrimination on a broad range of human rights.

¹¹ HRC, Report of the Special Rapporteur on minority issues, UN Doc. A/HRC/31/56, para. 22.

¹² Ibid, para. 32.

¹³ Ibid, para. 35.

¹⁴ Ibid, para. 36.

¹⁵ Ibid, para. 37.

¹⁶ Ibid, para. 39.

¹⁷ Ibid, para. 40.

¹⁸ Ibid, para. 41.

¹⁹ Ibid, para. 42.

²⁰ Ibid, para. 43.

²¹ Ibid, para. 45.

Also noteworthy are the works of the Special Rapporteur on Contemporary forms of Racism, which has, during the last decade, reported about concrete instances of caste-based discrimination and relevant trends. For instance, in the 2012 report to the HRC,²² on the correlations between between socio-economic inequality and racial discrimination, the Rapporteur, invoking the Durban Review Conference²³, noted with concern that “that racial discrimination and segregation in schools, poorer educational achievements and a low quality level of education still characterize the experiences of certain groups of individuals, including [...] victims of caste-based discrimination.”²⁴ In the 2013 Report to the GA²⁵, the Rapporteur underscored that “the caste system continues to be the source of discrimination against the Dalits who have a low hierarchical status according to tradition and beliefs. A disproportionate percentage of the Dalits live in abject poverty and face discrimination and exclusion at social, economic and political levels.”²⁶ The report reveals instances of abuses by school teachers and fellow students, forced manual scavenging, exclusion of access to public services such as, health drinking water, electricity, toilets, forced prostitution, and exposure to health hazards.²⁷

The Special Rapporteur on the Right to Safe Drinking Water and Sanitation, in his visit report to India (2018) noted that the country visited has made considerable progress in providing access to water and sanitation to the population at large. However, groups such as the Dalits, the Adivasis and nomadic tribes “are still being left behind, either due to lack of access to

²² HRC, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, Prevention of racism, racial discrimination, xenophobia and related intolerance in line with the provisions of the Durban documents, UN Doc. [A/HRC/20/33](#) (2012).

²³ Ibid, para. 15.

²⁴ Ibid, para 20.

²⁵ UNGA, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, (GA 68th session – September 2013), UN Doc. [A/68/333](#) (2013).

²⁶ Id., para. 63.

²⁷ Ibid., paras. 64 and 65. For example, “[a] study in South Asia found that Dalits were denied entry into private health centres or clinics in 74 out of 348 villages surveyed, or 21.3 per cent of villages. The study also found that in the case of 30 to 40 per cent of the Dalit villages surveyed public health workers refused to visit. In some villages, Dalits also were prohibited from public streets and even police stations.”

services or to the lower level of the services to which they have access.”²⁸ The Rapporteur noted specifically that

Dalits represent the victims of the gravest forms of caste-based discrimination, have often limited or unequal access to resources and services, including water and sanitation, and are disproportionately affected by poverty. In India, more than 20 per cent of Dalits still do not have access to safe drinking water and about 50 per cent of Dalit villages are denied access to water sources. During the visit, the Special Rapporteur heard numerous testimonies from Dalits regarding incidents where they have been unable to collect water from shared wells or public taps, or have been fined for touching or drinking from a common water tap. Some Dalits have been beaten and killed. Dalit women and girls have been subjected to physical assault and violence; in one incident a pregnant Dalit woman was assaulted and abused while she was defecating in the open. In several incidents Dalit women and girls were kidnapped and raped while returning from defecating in the open. Furthermore, Dalit students were not allowed to drink water directly from the water pot and were forced to request students from other castes to pour the water into their hands from a distance.²⁹

Conclusion

Caste-based discrimination is an important manifestation of racism, racial discrimination and related intolerance, affecting 260 million persons in different parts of the world. A follow-up of the Durban Declaration and Programme of Action should take into account persistent occurrences of this type of human rights violation, which touches the very essence of human dignity.

Caste-based discrimination has been considered a serious manifestation of racial discrimination by the several UN human rights bodies along the two last decades. Although this type of discrimination has not been explicitly referred to in the Durban Declaration (2001) and the Durban Review (2009), both instruments identify a number of principles and concrete manifestations of discrimination that apply to caste-based discrimination.

²⁸ HRC, Report of the Special Rapporteur on the human rights to safe drinking water and sanitation - Mission to India, UN Doc. [A/HRC/39/55/Add.1](#) (2018).

²⁹ Id., para. 25.

The former Sub-Commission has elaborated in-depth studies on the matter, including the Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, which were presented to the Human Rights Council. After a decade of the presentation of this instrument, it is high time that the Advisory Committee, as the successor of the former Sub-Commission, takes stock of the work done by the latter, in conjunction with the works of the UN treaty-bodies and special procedures.

Recommendations

The International Dalit Solidarity Network respectfully proposes the following recommendations to the Advisory Committee:

- Reaffirm, in line with several UN human rights bodies, caste-based discrimination as one of the contemporary forms of racism, racial discrimination, xenophobia and related intolerance through the works of the Advisory Committee;
- Take into consideration the several aspects of caste-based discrimination that lead not only to instances of discrimination, but also to violations of civil and political rights, and economic, social, and cultural rights;
- Take into consideration the intersecting forms of caste-based discrimination that affect disproportionately women, children, migrants, the elderly and other vulnerable sectors affected by caste schemes;
- Elaborate a specific study about caste-based discrimination in current times, taking into account current trends, challenges and opportunity to address this type of discrimination;
- Resumes the works of the former Sub-Commission, in particular the Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, taking into account the social, legal and other developments of the last decade, in order to present an updated version of this instrument, in consultation with member States, UN experts, civil society organizations and other relevant stakeholders.