



Contribution from the International Dalit Solidarity Network IDSN

Questionnaire 2: “Racism, Racial Discrimination, and the Right to Development”

The Expert Mechanism on the Right to Development (EMRTD) has identified five themes on which it intends to submit studies to the Human Rights Council during its mandate term. One of these studies is on *Racism, racial discrimination and the right to development*. Article 5 of the Declaration on the Right to Development enjoins states to take resolute steps to eliminate the violations of the human rights of peoples affected by racism and racial discrimination. The elimination of racism is therefore recognized as essential to fulfilling the right to development. The objectives of the study are:

- 1) To examine racism and racial discrimination as barriers to the operationalization of the right to development in the context of state obligations. This includes examining how systemic racism within individual state jurisdictions impede the right to development, for example, by exacerbating poverty and inequality.
- 2) To examine systemic and institutional racism as it manifests in policies affecting persons outside the state’s jurisdiction, in the context of the right to development.
- 3) To examine the obstacles, if any, that racism and racial discrimination pose to international cooperation and global partnerships on the right to development.

In order to obtain a broad representation of views to inform the thematic study, the EMRTD is seeking written contributions by Member States, civil society and other relevant stakeholders through responses to the questionnaire below.

Please note that you can choose to answer all or some of the questions below

Questionnaire

- 1- Do you consider racism and racial discrimination nationally and internationally to be obstacles to implementing the right to development in the country concerned? (e.g. does it affect social inclusion, economic equality, and poverty?)**

Yes, from IDSN experience, racial discrimination and racism are concrete obstacles to implementing the right to development. The ICERD (Article 1.1) 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.”

In line with Article 1.1 ICERD, the CERD has defined in General Recommendation 29:

“Confirming the consistent view of the Committee that the term “descent” in article 1, paragraph 1, the Convention does not solely refer to “race” and has a meaning and application which complement the other prohibited grounds of discrimination,

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.”¹

We believe this provision is entirely compatible with Article 5 of the UN Declaration on the Right to Development, which reads:

“States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid , all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.”

Since intersectionality is a key component in equality and development nowadays, Article 1 of the CEDAW should be taken into consideration:

“[...] the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other

¹ U.N. Doc. A/57/18 at 111 (2002).

field.”

Moreover, Article 2 of the UN Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent states:

“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.”

During the Interactive Dialogue with the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, anti-Semitism, xenophobia and related intolerance, at the 45th session of the Human Rights Council (Sep 2020), clearly emphasized that caste-based discrimination falls within her mandate.²

The above citations do not exclusively relate to civil and political, or economic, social and cultural rights, but also many to equal participation in many aspects of social life, including the right to development. They have been articulated frequently in the formulation of targets and monitoring of the implementation on the right to development.

The different forms of caste-based discrimination perpetuate poverty and exclusion across generations. Their implications for delivering the Sustainable Development Goals (SDGs) are not given the same significance as other characteristics, such as sex, age or disability.³

At a first remark, the invisibility or even denial by countries affected by caste-based discrimination is an important obstacle to implement the right to development.

² <http://webtv.un.org/search/id-sr-on-racism-24th-meeting-44th-regular-session-human-rights-council/6172003148001/#t=1h47m20s>

³ [Bond: Caste and Development: Tackling work and descent-based discrimination to achieve the SDGs for all](#), p. 2.

2- How do racism and racial discrimination nationally and internationally affect vulnerable communities in the concerned country?

In the case of caste-based discrimination, persons affected are drastically excluded from participation in political affairs, public debates, and other issues that impact their lives directly.

The very fact that the affected individuals are segregated from society, is a sign that the enjoyment of an equal right to development is severely compromised. As the CERD has underlined:

“While noting that the State party has prohibited several practices of caste-based segregation, the Committee remains deeply concerned by reports that such segregation persists in practice, preventing marginalized castes, including Dalits, from safely marrying members of other castes, and from accessing places of worship, public spaces, public sources of food and water, educational facilities and housing facilities occupied by members of other castes (arts. 2–3 and 5).”⁴

When it comes to intersectionality, children affected by caste-based discrimination are severely excluded from access to education, health and social services, posing serious risks to their integral development and human being and rights holders.⁵ Dalit and Adivasi children represent 75% of the school dropouts in India.⁶ Frequently, Dalit children when attend school. It is widely known that these children are segregated in the classroom by being blocked from interacting with other children or by been ordered to clean the school toilets and classroom during the class breaks.

Even when opportunities are created by the law, insufficient enforcement impedes the full equal participation in public affairs. For instance, in Nepal, the National Dalit Commission has been implemented only in Kathmandu.⁷ although a system of electoral quotas, the insufficient enforcement of the relevant provision has not proportionately included Dalit women in

⁴ CERD, Concluding Observations on Nepal, CERD/C/NPL/CO/17-23, para. 13.

⁵ CRC, Concluding Observations on India, CRC/C/IND/CO/3-4, para. 79.

⁶ Scroll.in: [How the Right to Education is failing the very children it was meant to benefit](#) (2015).

⁷ CERD, Concluding Observations on Nepal, CERD/C/NPL/CO/17-23, para. 9.

electoral positions. It has also led to an over-representation of Dalit women in lower and local positions.⁸

To make the point that equality is indispensable for development, we quote the issue of digital technologies, modernization and racism. During the Interactive Dialogue with the Special Rapporteur on Racial Discrimination, Racism, Anti-semitism and Related Forms of Intolerance, September 2020, IDSN was of the view that automation of sanitation services in countries in South Asia would improve the lives of millions of Dalits working as manual scavengers and sanitation workers, who are subject to one of the worst forms of labour, according to the ILO standards. Also in this context, the Special Rapporteur on the Right to Safe Water and Sanitation, in his visit to India, although praising the country for its ambitious sanitation plan, noted that exclusion of Dalits in this plan posed a serious problems.⁹ During the interactive dialogue with the latter, IDSN International Associate, The International Movement Against All Forms of Discrimination and Racism (IMADR), delivered a [statement](#) underscoring that “[m]anual scavengers have been named as ‘frontline’ warriors in the ‘war’ against COVID-19, giving them a false status of importance but in reality they are taking on the most dangerous tasks of cleaning medical and virus-affected waste - without being provided with any safety equipment.”

3- *How is the concerned country addressing racism nationally and internationally in the context of operationalizing the Right to Development for enhanced implementation of SDGs? (e.g. through laws, policies and other pragmatic interventions)*

4- *Does the concerned country have an anti-racism legal or policy framework? If so, which actors are actively engaged in the implementation?*

Yes, many constitutional and legal provisions are in force, in many countries, to ban caste-based discrimination:

In Nepal, it can be mentioned: The Caste-based Discrimination and Untouchability (Offence and Punishment) Act (2011); The National Plan of Action against Human Trafficking (2011).

⁸ CEDAW, Concluding Observations of Nepal, CEDAW/C/NPL/6, para 28 (a) and (b).

⁹ UN Doc. A/HRC/39/55/Add.1.

The Constitution of Bangladesh, Art. 28, prohibits discrimination on the ground of caste. It is expected that a comprehensive anti-discrimination legislation is adopted shortly in that country.

In India, Article 15 prohibits discrimination on the basis of caste. Moreover, the Scheduled Castes (SCs)⁵³ and the Scheduled Tribes (STs) (Prevention of Atrocities) Amendment Act (2015), were adopted.

However, implementation of the constitutional and legal provision remains a challenge.

Implementation of the SDGs in those countries has relied greatly on civil society participation. In 2019, the Feminist Dalit Organization (FEDO), of Nepal, has provided national reports to be analysed at the High Level Political Forum and at the Beijing +25 process, for instance, recommending the government to formulate and implement specific program to ensure economic rights of Dalit women.¹⁰

5- ***Are there any targets or indicators for assessing/measuring the effectiveness of actors responsible for implementing national and international anti-racism laws/policies/programs?***

IDSN has formulated its recommendations for states affected by caste discrimination to develop specific indicators on caste and use disaggregated data for the implementation and monitoring of the 2030 Sustainable Development Goals. Relevant to Goal 1, IDSN has recommended:

“This goal should take into account the links between inequality and various forms of discrimination and social exclusion, including caste-based exclusion. Caste-discrimination is a major cause of inequality and poverty and perpetuate poverty in affected communities, which are in need of targeted attention in the implementation of the SDGs.”¹¹

¹⁰ [FEDO Report on Dalit Women: Beijing +25](#): “The Government should formulate and enforce the specific programs to ensure the economic rights of Dalit women as defined by constitution, international laws and instruments that Nepal has ratified and in line with Sustainable Development Goals”.

¹¹ See the full report: [Sustainable Development Goals \(SDGs\), Recommendations by IDSN](#)

Moreover, IDSN's strategy 2019-2023 was carefully tailored in accordance with SDGs related to the elimination of caste-based discrimination. Long-term objective 1: "Dalit women and children are free from caste and gender-based discrimination" is articulated with SDG Goal 5: Achieve gender equality and empower all women and girls. Long-term Objective 2: "Caste-related labour, land and resource exploitation is eliminated, including forced and bonded labour" is articulated with SDG Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all. Long-term objective 3: "Inequality based on caste is eliminated and Dalits participate actively and equally in decision making processes", is articulated with SDG Goal 10: Reduce inequality within and among countries.¹²

6- a. Please indicate which are the good practices, shortcomings and lessons learned in addressing racism at national levels? What are the challenges and opportunities?

IDSN and partners have been engaging with development related issues for a long period. More recently, IDSN has articulated its gender strategy on Dalit Women with several SDGs, for instance explaining why caste and gender justice is key to the UN Global Goals and promoting the voices of Dalit female leaders as "agents of change". Regarding Goal 16 (Peace, Justice and Strong Institutions), IDSN noted with concern that Dalit women suffer from severe limitations in access to justice and widespread impunity in cases where the perpetrator is a member of a dominant caste, 'above' Dalits in the caste system. Dalit women are therefore considered easy targets for sexual violence and other crimes, because the perpetrators are rarely convicted. For example, in India, studies show that the conviction rate for rapes against Dalit women is under 2% compared to a conviction rate of 25% in rape cases against women in India generally.¹³

b. Please indicate which are the good practices, shortcomings and lessons learned in addressing racism at international levels? How do these enhance or undermine the realization of human rights and development?

IDSN consists of a solidarity network that articulates the voices of Dalit rights defenders in the international spaces and amplifies their voices as protagonists of their own processes, in the

¹² <https://idsn.org/about-us/what-we-do/strategy/>

¹³ [IDSN, Caste and Gender Justice](#), p. 9.

spirit of the “agents of change” spirit of the SDGs. It maintains a strong presence at the EU and UN human rights institutions.

In promoting the elimination of caste-based discrimination, IDSN network has contributed with the elaboration of international standards. These include:

- [CERD General Recommendation No. 29, on discrimination based on descent](#)
- [Special Rapporteur on Minority Issues study: Minorities and discrimination based on caste and analogous systems of inherited status](#)
- [OHCHR “Guidance Tool on Descent-Based Discrimination: Key Challenges and Strategic Approaches to Combat Caste-Based and Analogous Forms of Discrimination”](#)
- [Draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent](#)

IDSN has also provided support to its members in participating in several instances, such as periodic review of treaty-bodies, sessions of the Human Rights Councils, meetings with OHCHR staff and support in side-events.

Addressing caste-based discrimination, as a form of racial discrimination has indeed enhanced the visibility of Dalits and other affected groups, in terms of the violations sustained.

At the same time, participation of Dalit leaders and defenders at UN for a has been blocked consistently by the ECOSOC Forum on Non-Governmental Organisations. IDSN has been trying to obtain its [consultative status](#) for over a decade.

- 7- Please indicate if/how anti-racism and non-discrimination have been integrated into formal education and in the training of officials in national and international institutions, including those involved in operationalizing the country’s development agenda as well as global development agendas such as the 2030 Agenda.**

From civil society initiatives, the Nepal’s National Dalit Commission is mandated to create awareness programmes to end caste- based discrimination. It started in 2013, a “Ten-year Strategic Plan,” focusing on working with Dalit CSOs and with media to raise awareness and

generate support for implementing the Caste Based Discrimination and Untouchability Act. Moreover, the Nepalese School Reform Program has put in place measures to eradicate caste-based discrimination, practices and attitudes among teachers and other educators.¹⁴

8- Do you consider racism an obstacle to international cooperation and global partnerships on the right to development? If so, how does this manifest?

Yes, racism is an obstacle for international cooperation and global partnerships on the right to development. Caste-based discrimination is considered a transnational phenomenon, affecting many countries from different regions from the globe. For instance, in the existence of caste discrimination in a number of value supply chains may affect good trade relations between countries, distort product prices in exports and imports, affect the payment of fair salaries in export and import countries and create an environment of tolerance to worst forms of labor, including modern slavery. In the study “Caste in Global Supply Chains” elaborated by Ethical Trade Initiative and IDSN, it is shown that caste-affected countries are home to over half of those working in slavery and child labour in the world. Experts agree that over 80 per cent of those in bonded labour or child labour in India, Nepal or Pakistan are either Dalits (lowest castes) or from indigenous groups. Forced and bonded labour as well as child labour, involving Dalits, has been documented across sectors including in garments, leather, agriculture, construction, carpet weaving and stones and minerals.¹⁵

¹⁴ Bond: [Caste and Development: Tackling work and descent-based discrimination to achieve the SDGs for all](#), p. 37.

¹⁵ [ETI: Caste in Global Supply Chains \(2019\)](#).