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Agenda item 9

Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

Contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance,

- 5- The concept of intersectionality has been further adopted and applied by feminists and scholars from many different marginalized groups to understand and analyse the intricacies of discrimination and exclusion. For example, scholars from Dalit, Indigenous and Muslim communities have further contributed to the development of the concept in the global South context. Scholars have highlighted the significance of elements such as caste, religion and ethnicity in understanding the complexities of discrimination and exclusion. The intersectional concept highlights caste and religion as a central axis of oppression in a larger global South context and expands the analysis of systemic oppression such as caste- based discrimination. These scholars have illustrated how Dalit women's bodies, cultural identities and work have historically been materially constructed and regulated through discourse by way of critical historiography, ethnographic inquiry and autobiographical writing. They have highlighted the fact that Dalit women remain marginalized, even in feminist academic spaces and communities, and have contended that any feminist account that refuses to recognize the oppressions of caste continues to be structurally flawed and complicit in the sustenance of the hierarchy of castes. By situating the lived experience of Dalit women in their specific social, sexual and cultural contexts and foregrounding caste as a constitutive axis of gendered subordination, Dalit feminist scholars and writers such as Baby Kamble, Urmila Pawar and Shailaja Paik have provided a critical grounding to dominant caste feminist paradigms and highlighted the intersectionalities of caste in understanding discrimination and caste-based violence and oppression.[7](#)
- 10 - Intersectionality is both a concept and a framework that can guide responses to systemic racism and intersectional discrimination through exposing patterns of discrimination that may otherwise be hidden or overlooked in existing legal and policy frameworks. [14](#)

Intersectionality has laid the foundation for understanding that systemic violence, such as racial discrimination, including caste-based discrimination, and gender-based violence, are not just cumulative but interconnected. The foundational recognition of the intersectional nature of discrimination and related systemic violence calls for the adoption of an intersectional response to enhance the protection of marginalized racial and ethnic groups.¹⁵ An intersectional approach demands the identification and disruption of the power structures and privilege, which are often a result of colonialism, enslavement, caste oppression and patriarchy, as interconnected systems of historical and contemporary oppression and marginalization. It places the lived experiences of those who experience racial, multiple and intersecting forms of discrimination at the centre and calls for actively ensuring the recognition and enablement of their autonomy and agency. It also recognizes that the experiences of discrimination of racially and ethnically marginalized communities, including caste-oppressed communities, are complex, fluid and never monolithic; static, one-size-fits-all responses to racial discrimination and intersectional discrimination will not be effective. In addition, taking an intersectional approach to discrimination is effective at identifying and debunking the racialization, racial stereotyping and caste prejudices that all too often rely on portraying racial and ethnic groups, including caste-oppressed communities, as homogenous.

- 16- Special procedures have provided further guidance to States on their obligations to address intersectional discrimination under international human rights law.¹⁷ For example, the thematic report on global extractivism and racial equality¹⁸ of the Special Rapporteur's predecessor has been recognized for its comprehensive and systemic analysis of how the extractivism economy involves multiple and intersectional social categories and structures of domination.¹⁹ Another example is a report of the Working Group on discrimination against women and girls in which the Working Group established that, for legal guarantees of gender equality to benefit all women, implementation frameworks and strategies must be responsive to the intersections of sex-based discrimination with other grounds of discrimination, such as race, ethnicity, religion or belief, language, political affiliation, health, status, age, class, caste, national or social origin, property, birth, and sexual orientation and gender identity.²⁰
- 27- Dalit persons in South Asian countries, including Bangladesh, India, Nepal, Pakistan and Sri Lanka, face intersectional discrimination stemming from overlapping identities of caste, gender, sexual orientation, economic status, disability and religion. These intersecting factors reinforce marginalization, limiting access to education, employment, health, political participation and justice among Dalit persons. For example, 70.4 per cent of Dalit women reported difficulty in accessing healthcare when they needed it.³⁷ These challenges are the result of systemic caste-based discrimination, inadequate healthcare infrastructure in marginalized areas, and economic vulnerabilities. This triple-layered marginalization, often termed "tripartite marginalization", is rooted in caste, gender and poverty, further exacerbating their exclusion from essential health services. Dalit women are particularly affected and are disproportionately trapped in informal, hazardous labour situations, such as manual scavenging. ³⁸ The interconnection between caste and occupation further

exacerbates the status of Dalit women, particularly in the context of manual scavenging. A vast majority of those occupied in manual scavenging are Dalit women who are subjected to persistent discrimination, including denial of access to basic facilities such as clean water, healthcare and goods and services. ³⁹ Dalit persons with disabilities also face restricted access to adaptive employment, exacerbating poverty. Caste and gender-based violence reinforce social hierarchies and often occur with impunity due to systemic discrimination within justice institutions. Manifestations of this violence differ between countries in South Asia and include trafficking and forced prostitution, sexual violence against Dalit women to enforce caste-based oppression and forced religious conversions and marriages of Dalit and minority girls. In Nepal, a high proportion of survivors of trafficking in persons are Dalit women. Women who are Badi Dalit, a subcategory of Dalit, are subjected to historical stereotypes and prejudices and remain highly vulnerable to trafficking and forced prostitution. ⁴⁰ LGBTQ+ Dalit persons are also at high risk of physical and sexual violence. Dalit children face corporal punishment and severe social exclusion in schools. Dalit children with disabilities face heightened risks of abuse due to lack of accessible support.

30- Systemic, racial and historical analyses of discrimination, oppression and marginalization, as well as analysis of privilege, are essential elements of an intersectional lens and approach. Such analyses can serve to address the denial of past atrocities and existing manifestations of systemic racism and confront and disrupt the legacies of the past

and ongoing oppression.⁴³ It is therefore vital that such analyses inform all measures to address systemic racism and intersectional discrimination. The Special Rapporteur is concerned about information regarding the superficial and inconsistent use of the term “intersectionality” without accompanying analysis of race, class, caste and privilege and the oppressive systems that are at the root of the different layers of inequalities commonly experienced by those from marginalized racial and ethnic groups. ⁴⁴ This reflects a concerning erasure of the foundational elements of an intersectional approach, which risks diluting the transformative potential of the concept and framework to disrupt and dismantle systemic racism and intersectional discrimination.

Centring lived experiences through full and effective representation and participation

32- The diverse and fluid lived experiences of those who have faced systemic racism and intersectional discrimination are an important element of an intersectional approach. Lived experiences provide authenticity and insight into the dynamics and manifestations of multiple and intersecting forms of discrimination and can inform vital systemic, racial and historical analysis. They can also offer a sound basis, alongside disaggregated data, as discussed below, for the development, implementation and evaluation of measures to address multiple and intersecting forms of discrimination. Listening to those with experiences of systemic racism and intersectional discrimination also helps avoid assumptions and stereotyping, which can often present marginalized racial and ethnic groups

as monolithic. Focusing on lived experiences within an intersectional framework helps preserve authenticity and prevents the appropriation of marginalized experiences. It moreover recognizes the autonomy and agency of those with experiences of systemic racism and intersectional discrimination. The full and effective representation and participation of marginalized racial and ethnic groups and caste-oppressed communities within all policy, legal and other decision-making spaces are vital in this respect. The right to participation is enshrined within international human rights law, including article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and articles 19, 21 and 25 of the International Covenant on Civil and Political Rights.

33- Despite these provisions in international human rights law and the importance of representation and participation to an intersectional approach, those with lived experiences of facing multiple and intersecting forms of discrimination often face barriers to realizing their rights in this regard. While the Special Rapporteur welcomes the information she received from States such as Azerbaijan, El Salvador, Germany and Spain about efforts to include the right to participation of those from marginalized racial and ethnic groups in national policy measures, she also received concerning information about barriers to representation and participation in a range of contexts. These include Dalit communities experiencing low representation in policymaking in India; people of African descent not being able to adequately realize their right to representation and participation in the United States; the exclusion of women from minority groups in decision-making in Middle Eastern countries; and racialized groups, particularly those from the global South, facing barriers to participation in the work of the United Nations human rights mechanisms.[45](#)

Disaggregated data

39- Collecting data that are disaggregated by race, ethnicity, caste and all other identities and grounds for discrimination and are able to capture intersectionality was consistently described as being an important element of an intersectional approach in the submissions.[54](#) Many United Nations human rights entities, including the Special Rapporteur, have also highlighted the importance of the collection and publication of disaggregated data and recommended that States strengthen and expand their efforts in this regard, including by capturing intersectional discrimination. [55](#) Data that are fully disaggregated, collected according to the principles of consent and self-identification and effectively capture intersectional discrimination play an important role in recognizing the existence, experiences and heritage of racialized persons and groups. Disaggregated and intersectional data are therefore a powerful tool to tackle the “invisibilization” of racialized communities and their experiences. Data can also challenge racial stereotypes and reveal systemic disparities and inequalities affecting marginalized racial and ethnic groups.[56](#)