

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

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Africa

56. Descent-based discrimination is mainly of three types in Africa. First are caste systems based on “occupational specialization of endogamous groups, in which membership is based on ascription and between which social distance is regulated by the concept of pollution”.¹ The second is discrimination based on real or perceived descent from slaves, leaving many in “virtual” slavery, unable to leave their owner’s employ for fear of reprisals or starvation. The third is against the hunter-gatherer societies and their descendants. This marginalization may contain aspects of a purity-pollution dyad, as well as degrees of real or perceived occupation specialization.²

57. Many African states have adopted measures to tackle caste-based discrimination. Some have adopted constitutional provisions guaranteeing freedom from discrimination. Others have enacted laws banning caste discrimination and slavery. However, these provisions have not been enforced.

58. In Nigeria, discrimination against Osu descendants remains a concern. Osu people were historically “owned” by deities among communities in Igboland, in south-east Nigeria. They were dedicated and “sacrificed” to these gods and were forced to live on the outskirts of villages to be the target of any bad luck that might occur. Being an Osu is a position ascribed at birth, based on descent.³

59. Chapter IV, article 42, of the Constitution guarantees the right to freedom from discrimination for every citizen of Nigeria. In addition, the 1958 Osu Abolition Law legally abolished work- and descent-based discrimination. However, concerns remain about persistent allegations that members of Osu and other similar communities are still subjected to social exclusion, segregation and mistreatment, as well as discrimination in employment⁴ and marriage (CERD/C/NGA/CO/18, para. 15). Since the enactment of the Osu Abolition Law, no cases have been prosecuted in connection with the law because no claims of its violation have been made (CERD/C/SR.1720, para. 3). In this regard, the Committee on the Elimination of Racial Discrimination has made recommendations to Nigeria (CERD/C/NGA/CO/18, para. 15).

60. Caste systems exist within several ethnic groups in Senegal. All characteristics of caste can be found among the Wolof community, principally divided between the *geer* and the *neeno*. The Constitution of Senegal proclaims the right of all citizens to equal protection of the law regardless of race, religion, sex, or origin, a reference to one’s caste background (art. 1), and prohibits all acts of racial, ethnic and religious discrimination (art. 5). However, the extent to which *neeno* castes approach the courts for legal redress on discrimination claims is negligible.⁵

61. In Somalia, society is divided into patrilineal segmented and ranked clan groups.

¹ A. Tuden and L. Plotnicov, *Social Stratification in Africa* (New York, The Free Press, 1970), p. 16.

² The International Dalit Solidarity Network, “Discrimination based on descent in Africa” (London), seventh to ninth pages.

³ Human Rights Watch, “Caste discrimination” (note 52), p. 9.

⁴ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2008, Geneva, doc. No. (ILOLEX) 092008NGA111, para. 4.

⁵ Human Rights Watch, “Caste discrimination” (note 52), p. 9.

Among Somalia's minorities, the "occupational groups" include Midgan (or Madhiban), Tumul and Yibro.⁶ These groups are also known as "sab", a collective term for "lowcaste". Tumul are traditionally blacksmiths; Yibro, ritual specialists; and Midgan, traditionally hunters and leatherworkers, but who also undertook various arts and craft work, male circumcision and female genital mutilation. The few educated members of occupational groups work in any chosen field, but most work in manual and service jobs.⁷ The occupations of the sab groups are generally regarded as polluting. The sab groups are also feared and avoided as they have a reputation for occult practices. With the disappearance of their traditional lifestyles, and as a result of conflict, many have moved to urban settlements or internally displaced persons camps or fled to refugee camps in neighbouring countries. It is also reported that members of sab groups in the Somali refugee diaspora continue to suffer discrimination from members of other Somali clans.

62. The situation of minorities varies in terms of geographical areas. In Somaliland, article 8, paragraph 1, of the Constitution of May 2001 states that all citizens "shall enjoy equal rights and obligations before the law, and shall not be accorded precedence on grounds of colour, clan, birth, language, gender, property, status, opinion, etc". Under article 8, paragraph 2, "precedence and discrimination on grounds of ethnicity, clan affiliation, birth and residence is prohibited"; and "programmes aimed at eradicating long lasting bad practices shall be a national obligation". However, there is no specific antidiscrimination legislation.⁸ Puntland has provided little protection or assistance to minorities and the parliament has no seats reserved for small minority communities, including for Madhiban.⁹

⁶ Martin Hill, *No Redress: Somalia's Forgotten Minorities* (Minority Rights Group International, 2010), p. 12.

⁷ Ibid.

⁸ Ibid., p. 17.

⁹ Ibid., p. 19.