

Recommendations on Good Practice and Strategies to Eliminate Caste-Based Discrimination

The foundation of all good practices is the adherence to democratic principles and human rights norms. The caste system is perpetuated by unequal access to power and structures of exclusion. The caste system and caste-based discrimination will not be fully eliminated until equal access to power is achieved. Fundamental to this is the full and effective participation of persons affected by caste-based discrimination in mechanisms of governance at all levels.

There is, therefore, an urgent need to respond to the call by United Nations (UN) Member States, UN experts, and institutions to identify good practices for the elimination of caste-based discrimination¹ and to document and share experiences for the successful implementation of these good practices.²

Governments should exercise leadership at the local, national and international level to eliminate caste and caste-based discrimination through the application and promotion of good practices. Their efforts should be encouraged and supported by other actors, including civil society organisations, multilateral and bilateral development agencies, international financial institutions, the private sector, UN, European Union (EU), South Asian Association for Regional Cooperation (SAARC), Organization of American States (OAS), Association of Southeast Asian Nations (ASEAN), African Union (AU), Arab League of Nations, and relevant international organisations.

Overview of Progress Made:

The attention of the international community has been brought to the existence and persistence of various forms of caste-based discrimination occurring around the world. This practice has been established firmly as a violation of international human rights law.

The monitoring of existing mechanisms to prohibit caste-based discrimination has led states to adopt strengthened standards and to improve adherence to legislation. Important progress has been made in the adoption of progressive reforms to eliminate caste-based discrimination, such as that made by Nepal in the constitutional, legislative and institutional measures enacted to date for addressing caste-based discrimination.

National movements, solidarity platforms, and an international network for combating caste-based discrimination have been established and transnational links between them have been forged. Alliances have been built with other groups who experience endemic forms of discrimination, including in the context of the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and related forms of Intolerance. Innovative strategies for advocacy and capacity-building to combat caste-based discrimination have been developed, including mass mobilisation, political and institutional reform, budget monitoring, media links, and documentation of human rights issues.

Important actions have been taken by the UN human rights mechanisms,³ including the UN Treaty Bodies, the former UN Sub-Commission on the Promotion and Protection of Human Rights, and UN Special Rapporteurs, to bring attention to caste-based discrimination, to affirm its prohibition under international human rights law, and to advise governments on the implementation of existing law to prohibit caste-based discrimination and the adoption and implementation of new measures towards this end. The Universal Periodic Review of the Human Rights Council has also been used effectively to bring focus on caste-based discrimination in a wide range of states and has generated recommendations for states to combat this discrimination.

¹ When caste-based discrimination is noted this is meant to include also 'untouchability'.

² For a list of political statements on the need for sharing good practices to eliminate caste discrimination, please see: <http://idsn.org/idsn-consultation/best-practice-statements/>

³ Please see the *UN Compilation of References to Caste-based Discrimination by UN Treaty Bodies, Universal Periodic Review, and UN Special Procedures, IDSN (November 2011)*, available at: www.idsn.org/UNcompilation

The UN High Commissioner for Human Rights has recognised the persistence of caste-based discrimination and firmly stated that it constitutes the “very negation of the human rights principles of equality and non-discrimination”. Constructive engagement with the Office of the High Commissioner for Human Rights has grown significantly and this partnership has helped to initiate vital cooperation with states and other UN agencies for the elimination of caste-based discrimination.

Key principles:

The following cross-cutting principles can be used as a framework for mainstreaming good practices and strategies to eliminate caste-based discrimination into legislative, policy and programme activities.

Non-discrimination: Caste-based discrimination is prohibited by international human rights law. This form of discrimination should be recognised in all measures to address discrimination. Prohibition of discrimination on the basis of caste, descent and/or analogous systems should be included among grounds for non-discrimination in all legislative and policy provisions.

Participation: All persons affected by caste-based discrimination have a right to participate in decision-making that will affect them or the regions where they live. This participation should be effective participation, comprising, *inter alia*, information sharing, dialogue, consultation, joint decision-making and cooperation in the implementation of decisions made. This participation should occur at all stages of the programme management cycle, from design of policies and programmes to the implementation, monitoring and evaluation stages. The equal participation of women should be ensured.

Accountability and access to remedies: States are accountable for the elimination of caste-based discrimination. Persons affected by caste-based discrimination should have equal access to remedies for violations of their human rights.

Substantive equality and special measures: In order to achieve substantive equality and to overcome caste-based discrimination, states and other actors can adopt special measures in the social, economic, cultural and other fields, with the aim of ensuring full and equal enjoyment of human rights and fundamental freedoms.

Intersectionality: Intersecting forms of discrimination on the basis of gender, age, disability, sexual orientation, religion and ethnicity should be taken into consideration when addressing caste-based discrimination.

Non-retrogression: Measures must be taken to ensure that persons affected by caste-based discrimination do not experience retrogression in access to or enjoyment of their human rights. The progressive realisation of human rights must not discriminate against anyone on the basis of caste.

Data and monitoring: Data to monitor the effects of caste-based discrimination should be collected systematically and transparently. Such data should be disaggregated to analyse intersecting forms of discrimination. Data should be collected in a manner that is consistent with international standards on privacy protection including, *inter alia*, informed consent and adherence to ethical standards. Data collected should be accessible to persons affected by caste-based discrimination and such persons should participate in all aspects of the design of methodology and collection of data.

Good Practices:

1. Effective frameworks, policies, and institutions

- a. Constitutional and legislative provisions should prohibit discrimination, including on the basis of caste, descent and/or analogous systems of inherited status. Governments should review and enact or amend legislation to this end, including prohibiting the practices of 'untouchability' in both the public and private spheres. Governments should ensure that responsible institutions are capable of implementing these legislative provisions. New legislation, budgets, multi-year plans, policies, programmes and schemes should be subjected to mandatory equality impact assessments prior to adoption in order to prevent harmful impacts and to ensure positive benefits for disadvantaged groups. Such equality impact assessments should be public and should include the full and effective participation of disadvantaged groups.
- b. Governments must create functional institutions of justice. Access to justice should be ensured following violations of the right to non-discrimination and other crimes committed against caste-affected communities, including through measures to combat impunity, support to legal aid, adequate compensation for victims, training for justice sector employees, like the police and judiciary, and monitoring of access to justice for caste-affected groups. Delays to the adjudication process must be eradicated in order to make justice possible. Governments must undertake fundamental reforms of the policing system in order to ensure access to justice for all. An independent legal aid system should be introduced, including with a mandate to intervene on behalf of victims and communities. A system for the protection of victims and witnesses should be adopted.
- c. Human Rights Defenders should be safeguarded and their right to freedom of association respected. Governments must undertake prompt and impartial investigations of crimes committed against Human Rights Defenders.
- d. States and international organisations should endorse and adopt the draft UN Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent in the UN Human Rights Council to serve as a framework for developing further policies and institutions. States should establish a follow-up monitoring mechanism, such as a UN Special Rapporteur on Discrimination Based on Work and Descent, to promote and oversee compliance with the UN Principles and Guidelines.
- e. National Action Plans on human rights should be adopted and implemented fully and should include targeted intervention to eliminate caste-based discrimination. Such plans can include legislative review and reform; targeted budgetary allocations; private sector guidelines; collection of data on caste-based discrimination (including disaggregation by gender and age); and the adoption of special measures. National Action Plans should be time-bound, adequately resourced and routinely monitored for impact. Civil society organisations should be enabled to participate in the design and monitoring of National Action Plans.
- f. Statutory bodies to address caste-based discrimination and 'untouchability' practices, such as National Dalit Commissions, should be created or strengthened. Such bodies should have adequate resources and personnel, independence, and institutional authority to fulfil their mandate. Processes of appointment to such statutory bodies and other state human rights and justice institutions, should be transparent and accountable to parliaments and should include fair and proportional representation of Dalits or other caste-affected groups, including women from these groups.
- g. UN Country Teams should integrate into the Common Country Assessment and UN Development Assistance Framework strategies for eliminating caste-based discrimination. Persons affected by caste-based discrimination should participate in this strategy

development, implementation, monitoring and evaluation. All UN agencies should implement affirmative action policies and measures in order to proportionately employ persons affected by caste-based discrimination, including women, in all development activities. UN Country Teams should assist with the implementation of recommendations made on caste-based discrimination by UN Treaty Bodies, the Universal Periodic Review, Special Rapporteurs, and other UN human rights mechanisms.

- h. The European Union and the South Asian Association for Regional Cooperation should adopt strategies for political dialogue and policy reform to address caste-based discrimination.⁴ This strategy should be applied in measures for EU and SAARC Member States, bilateral dialogues with caste-affected states and in supporting the emergence of international mechanisms to combat caste-based discrimination in the UN and other fora. Attention should be given to addressing caste-based discrimination in country strategy papers, human rights dialogues and trade agreements.
- i. Governments should follow the Guiding Principles for the Implementation of the UN "Protect, Respect and Remedy" Framework and should work with the private sector to ensure businesses comply with human rights standards, including the prohibition of caste-based discrimination. The private sector should abide by these Guiding Principles, along with the Ambedkar Principles. Multinational corporations based in home states should be held accountable to legal standards on non-discrimination in their operations in host states, including the Ambedkar Principles.
- j. Governments should introduce mandatory human rights education, including education on non-discrimination and equality, into primary schools. Human rights education, including on issues of caste-based discrimination, should be introduced also at the secondary and tertiary levels, including in legal education.

2. Addressing multiple discrimination against Dalit women

- a. Governments should take into account the situation of women and girls in all measures taken to address caste-based discrimination and should adopt specific provisions to ensure the human rights of women and girls affected by caste-based discrimination. Particular attention should be paid to combating intersecting forms of discrimination in the sectors of education, employment, health care, access to land and personal security.
- b. Women from caste-affected communities should be supported to increase participation at all levels of political governance as well as in other decision-making structures. The formation of high-level skills in capacity building training for Dalit women should be prioritised, in order to provide them with opportunities for employment in donor and other international organizations at the regional and global level, which will lead to increased development and financial support to eliminate caste-based discrimination. Proportional representation of caste-affected women elected into parliaments, legislatures and local governance systems should be mandated. Gender discrimination within caste-affected communities should be challenged through programmes of dialogue and sensitisation of men.
- c. National Human Rights Institutions in every caste-based country are encouraged to bring out an annual White Paper to appraise their performance in relation to caste and gender-based human rights violations.

⁴ Further recommendations for an EU Policy Framework can be found at <http://idsn.org/international-advocacy/eu/idsn-recommendations/>.

- d. Gender-disaggregated data on caste-based discrimination should be collected. This data should be collected in consultation with affected women and should aim for the participation of affected women in the design, collection and evaluation of data.
- e. Women and girls affected by caste-based discrimination are particularly vulnerable to various forms of sexual violence, forced and ritual prostitution, trafficking, domestic violence and punitive violence when they seek justice for crimes committed. Measures should be taken to increase protection from these crimes and to tackle impunity and discrimination in access to justice. Such measures can include police and judicial training and monitoring, legal assistance for prosecution of crimes, strengthening laws against domestic violence and other forms of violence against women, awareness campaigns to help prevent exploitation, and investing resources into education for women and girls affected by caste-based discrimination.

3. Humanitarian standards and a framework to eliminate caste-based discrimination in humanitarian response

- a. All governments and non-state actors involved in humanitarian response should take measures to tackle exclusion and discrimination in all humanitarian programmes, including disaster response and disaster risk reduction efforts.
- b. Strategies and tools should be developed in the planning, implementation and monitoring of programmes, including participatory capacity assessment and vulnerability mapping, inclusion monitoring and social equity auditing. All actors should be trained in tackling caste-based discrimination and measures should be adopted to address and challenge 'untouchability' practices in disaster response.
- c. The agency of affected communities should be strengthened to ensure their effective participation in all levels of decision-making and in humanitarian operations.
- d. These measures must be adopted and sufficiently funded by all governments and non-state actors.

4. Forced and bonded labour and discrimination issues in employment

- a. Forced and bonded-labour impacts disproportionately on caste-affected groups, including children. Governments, in cooperation with the International Labour Organization, development agencies, the private sector and trade unions, should implement, enact and fully enforce legislation and action plans prohibiting forced and bonded-labour. This should include the use of rigorous monitoring mechanisms, prosecution of those violating the laws and rehabilitation support for those affected by forced and bonded-labour. The right to freedom of assembly and association should be respected. Donors should differentiate the level of assistance to governments depending on the progress made towards the abolishment of bonded-labour.
- b. Governments should enforce measures for the immediate ending of manual scavenging. Women disproportionately are relegated to manual scavenging and long term sustainable measures should be taken to increase their capacity to pursue proper employment opportunities, including improving literacy, job skills training and entrepreneurial skills.
- c. Governments should adopt legislation to prohibit discrimination on the basis of caste or analogous systems in any public and private sector employment. The introduction or extension of reservation policies in the public and private sector should be considered. Governments should take necessary steps to remove the customary constraints on leaving traditional caste-based occupations and enable individuals to access alternative employment. Policies to this

end could include increasing access to finance and markets for small businesses, improving functional literacy and offering targeted job-skills training.

- d. Private companies should work to eliminate caste-based discrimination within their own organizations as well as within the operations of their subsidiaries and throughout their supply chain. Businesses and other private sector actors should apply the Ambedkar Principles in all of their operations. Corporate Social Responsibility (CSR) Funds should be used to achieve and implement these goals.
- e. The Dalit Discrimination Check is an essential tool to enable businesses to identify caste-based discrimination and to take steps to eliminate it in their operations. Private companies should adhere to the UN Global Compact principles on, *inter alia*, discrimination in respect of employment and occupation and should work with governments to ensure that all of their operations comply with human rights standards, using the Guiding Principles for the Implementation of the UN “Protect, Respect and Remedy” Framework.
- f. Civil society organisations should work in broad coalitions to address the issue of bonded-labour more effectively and special attention should be given to the role the media can play in achieving positive change.

5. Access to services, resources and development

- a. Caste-based discrimination prevents equal access to public services (e.g. housing, water and sanitation, health care, education). Governments should ensure equal access to quality public services for all, allocating appropriate budgets to do so, whilst monitoring access and delivery of services. All actors responsible for delivery of public services should be trained in how to identify, monitor and eliminate caste-based discrimination.
- b. Governments must protect and promote the poorest and most excluded, ensuring that economic growth is equitable and sustainable. Priority should be given to providing access to financial services and credit for both formal and informal workers. Resources should be allocated to providing technical and higher education and promoting entrepreneurship for caste-affected communities.
- c. Governments should take immediate measures to redistribute land to the landless, to adequately meet their agriculture and housing needs. Land titles should be provided to both women and men (preferably to women or jointly where appropriate). Governments need to prevent the encroachment of land owned by persons affected by caste-based discrimination and eviction of these communities. Extractive industries which continue to cause displacement, environmental devastation and conflict need to be properly regulated and compensation provided. CSR funds should be spent in a transparent and accountable way, promoting affirmative action and allocated to promoting the rights of caste-affected communities.
- d. Governments should ensure that national and sub-national budgets are transparent, accessible and participatory, at all levels of planning, implementation, review and audit, especially for those affected by caste-based discrimination. All expenditure in relation to caste-affected communities should be subject to a social audit. Specific budget allocations should be made for women from caste-affected groups and the expenditures monitored (see also section 2).
- e. Any diversion of funds, misallocation or underspend should be a criminal offence.
- f. The state should allocate adequate budget spending to ensure that there is no development and welfare deficit. Such measures need to be time bound and measurable. Targeted schemes, provisions and benefits, including social protection, are needed to reduce inequality.

- g. Governments must take urgent measures to ensure appropriate legal and institutional measures to address corruption, within the framework of international norms and conventions. Measures to promote public accountability of these institutions, including proactive disclosure of budgets, should be adopted.
- h. All multilateral and bilateral agencies must uphold the Paris Declaration and uphold the Millennium Development Goals (MDGs) (2015+) commitments.

6. Public awareness and campaigns against the caste system or caste-based discrimination

- a. Governments, civil society organisations and the corporate sector should undertake nationwide public awareness campaigns to help eliminate the caste system. These campaigns should ensure that everyone in society is aware that the caste system is a violation of human rights and as such should be on the national agenda.
- b. Governments, civil society organisations and the corporate sector should recognise, promote and encourage the communities affected by caste-based discrimination to increase their own capacity to use media strategically and to produce their own media resources.
- c. Governments, civil society organisations and the corporate sector should sensitise and mobilise mainstream media to ensure their participation in public awareness campaigns to eliminate the caste system.

7. 'Untouchability' practices and inter-community experiences

- a. Governments should outlaw the caste system and prevent, prohibit and eliminate practices of 'untouchability' directed against persons affected by caste-based discrimination, in the public and private spheres, including in the areas of housing, education, employment, water resources, personal relations (such as marriage) and the use of public spaces. Inter-communal relations at the local level should be monitored to document changes in 'untouchability', exclusion and social interaction and to help prevent violence.
- b. 'Untouchability' practices and gender discrimination in educational institutions should be eliminated through curriculum reform to remove prejudicial content from textbooks and other educational resources, training and monitoring of teachers, and sensitisation programmes for students.
- c. Governments should take steps to secure rights of marriage for persons affected by caste-based discrimination who wish to marry freely. This should include prevention and punishment of crimes committed against inter-communal marriages.

8. Civil society strategies – linking local, national, and international

- a. Civil society organisations should promote parallel action strategies at the local, national and international level. They should research, document and share information on good practices to eliminate caste-based discrimination and caste-based violations of human rights. Attention to caste-based discrimination should be mainstreamed into civil society work on affected countries or relevant themes. Information sharing and meaningful involvement should be a two-way process to ensure that actors at local, national and international levels are equally aware of and able to influence issues and developments in their respective spheres of activity.

- b. National platforms on the elimination of caste and caste-based discrimination should be created. These platforms should focus on asserting political pressure for accountable governance and should systematically monitor public institutions, including especially those on justice, to achieve reforms. (See also section 1)
- c. Civil society organisations should build alliances with civil society organisations focused on caste-based discrimination, and vice versa, in order to mainstream attention to caste-based discrimination across relevant sectors of advocacy and service-delivery. Hiring practices in civil society organisations should eliminate caste-based discrimination and should adopt special measures to recruit staff from affected groups.
- d. Donors should provide funding and technical support aimed at strengthening civil society organizations, including provision for social movements. Funding structures should be multi-year to enable more effective project implementation. Targeted resources should be allocated to civil society organisations focused on caste-based discrimination that are managed by Dalits or other caste-affected groups.
- e. Recommendations made on caste-based discrimination at the UN, ILO or other international or regional bodies should be linked to national and local level follow-ups and monitoring of compliance with recommendations. Actions can include translation, making outputs relevant to local contexts and enabling local-level inputs to tools like shadow reports or country visits of UN Special Rapporteurs. Civil society organisations should liaise systematically with parliamentarians on the follow-up to such recommendations.
- f. Civil society organisations focused on caste-based discrimination should build the leadership and empowerment of women and young people. Capacity-building can include language training or providing translation, management skills and opportunities to enhance leadership skills. Women and youth should participate equally in all aspects of organisational activity. Civil society organisations focused on caste-based discrimination should have at least 50 percent female staff and should include women in leadership positions. (See also section 2)
- g. Civil society organisations should build alliances with media and build media strategies, including by sharing information across countries. (See also section 6 (b))
- h. Religious communities and organisations should be encouraged to initiate and participate in inter-faith dialogue, with a possibility to work together to overcome social exclusion, to affirm and safeguard human dignity and to transform cultures of domination and discrimination.