

IDSN input to the Online Discussion on Accountability in the Post-2015 Agenda (16 December 2012)

This input is submitted on behalf of the International Dalit Solidarity Network; an international network working for the elimination of caste-based discrimination globally (www.idsn.org)

How can we ensure an accountability framework that takes into account human rights principles and obligations to assure delivery on the post-2015 development agenda?

1. ***What is accountability?:*** *What do we mean by accountability in the context of a global development framework (e.g. by whom, to whom, on which basis)?*

For Dalits, the major challenge to accountability in a development framework is that they are excluded from the rest of society, because they are considered “untouchable”, “polluting” and “sub-human”. As a consequence, they are systematically excluded from equal access to basic services, equal distribution of resources, and equal participation in public and private life. Caste-based exclusion and segregation are manifest in relation to access to food, education, housing, water and sanitation, land, job opportunities, among other things.

In addition, the lack of accountability in governance for Dalits is caused by the non-enforcement and non-implementation of laws protecting their rights. Therefore, accountability for Dalits means ensuring *access to justice*, the *enactment* and *implementation* of anti-discrimination laws that explicitly recognize their rights, appropriate *allocation* of targeted funds, *social inclusion*, and *equal participation* of Dalits in public and private life.

In this discussion, it may be good to look at some of the good practices and strategies to enhance accountability for Dalits in caste-affected countries. In 2011, an International Conference was held on this subject, where Dalit activists from all over the world came together with representatives from governments and NHRIs, UN and EU delegations, researchers, and other civil society activists to mention some. As a result, a [Joint Declaration and Global Call for Action to Eliminate Caste-Based Discrimination](#) and a [Report on Good Practices and Strategies to Elimination Caste-Based Discrimination](#) was issued based on case examples, presentations, and discussions. In the Joint Declaration, the following recommendations on how to promote “Effective frameworks, policies, and institutions” were made:

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 of behalf of victims and communities. A system for the protection of victims and witnesses should be adopted.

When addressing the need for ensuring accountability for the most marginalized, including the Dalits, IDSN would like to underline the need for *integrating* the principle of non-discrimination and equality in the post-2015 framework. As was mentioned by Mac Darrow from the OHCHR in the Online Discussion concerning possible steps for the national tailoring of post-2015 goals, this would help ensure that the most disadvantaged communities and regions are prioritized (in his input of 11 Dec).

With regard to promoting accountability for the most marginalised, many different actors have an important role to play – including governments, national human rights institutions, the UN and other multilateral institutions, donors, and civil society. The observations and recommendations made by UN human rights bodies, such as the UN Treaty Bodies, Special Procedures, and the Universal Periodic Review mechanism, provide an important tool in pointing out governments’ human rights responsibilities. IDSN recommends that these are systematically used by all these actors to promote accountability mechanisms in governance structures. As a “good practice”, IDSN has prepared a compilation of all recommendations by these human rights bodies as a monitoring instrument for governments, and bilateral and multilateral actors working with development and human rights in caste-affected countries:

www.idsn.org/UNcompilation

2. **Why is accountability important?:** *To what extent have the MDGs fostered accountability and what are the accountability gaps? How might “accountability” principles and mechanisms strengthen incentives for delivering on a new global development agenda?*

With regards to achieving the MDGs, caste discrimination has been a major obstacle in realizing the existing goals. Victims of caste discrimination are routinely denied access to water, schools, health services, land, markets and employment. The social exclusion of Dalits and similarly affected communities lead to high levels of poverty among affected population groups and exclusion, or reduced benefits, from development processes. It furthermore precludes their involvement in decision making and governance, and their meaningful participation in public and civil life.

The UN Independent Expert on minority issues has pointed out that progress to meet the MDGs for many of the most disadvantaged groups, including Dalits, has not met expectations. In an input to the post-2015 theme on “Inequalities”, Ms. Rita Iszak has stated that “without significant and continuing efforts to raise attention to the need for solutions that work for disadvantaged minorities, post 2015 strategies at the national level may in some cases continue to follow the same patterns, priorities and models that have proved to be flawed in their ability to address minority needs” (Online submission: “The case for attention to national, ethnic, religious & linguistic minorities in the Post-2015 Agenda”).

IDSN therefore reiterates the points raised by the OHCHR that the post-2015 development framework must address pervasive *inequalities* and dismantle *discrimination*; must be built on strong *accountability* mechanisms; and must represent an agenda that allows free and meaningful *participation* for all.

In particular, IDSN recommends *the explicit inclusion of caste discrimination* in the formulation of goals and targets to reach the post-MDGs. An example of this would be to mention caste as one of the prohibited grounds of discrimination, alongside other forms of discrimination (for example with regard to the point about producing *disaggregated data* to dismantle entrenched patterns of discrimination, mentioned in OHCHR’s Thematic Think Piece on the Post-2015 Agenda, p. 6).

If not, there is a high risk that the issue – and the group as a whole – may be overlooked or neglected in efforts taken to address inequalities and promote accountability in governance. Many examples and cases have even shown that the situation of the most marginalized, like the Dalits, are worse off in some situations after development interventions and post-disaster management, if appropriate measures and adequate assessments are not made.

On the same note, the UN Special Rapporteur on the human right to safe drinking water and sanitation argues that the inclusion of equality and non-discrimination considerations in the design and implementation of policies and programmes benefits the most marginalized members of society and those most discriminated against. In her input to the Online Discussion on Water in the Post-2015 framework, Ms. Catarina de Albuquerque refers to Dalits as one of the specific groups that are excluded from access to water and sanitation (A/67/270, para. 32). She mentions that: “Being disadvantaged relates to different factors such as ethnicity, language, religion, caste, gender, age, disability, nationality, and others. While the focus of the equity discourse is often on people living in poverty, it must not be forgotten that the world’s poorest are not randomly distributed — they disproportionately share one or several of the factors that commonly lead to exclusion and discrimination” (A/67/270, para. 36).

3. **Recommendations for post-2015:** *Based on the above, what should be key principles for accountability in the post-2015 agenda? What should be key criteria when designing a monitoring framework (including new global goals, targets and indicators) to measure progress on a post-2015 agenda? Are there innovative and effective examples of accountability mechanisms (at the local, national, regional or global levels) that could be drawn upon in designing the post-2015 framework, and ensuring that post-2015 commitments are implemented in practice? What governance gaps need to be filled before 2015 to support a sound post-2015 accountability framework?*

The key principles for mainstreaming good practices and strategies to eliminate caste-based discrimination into legislative, policy and programme activities were discussed at the International Consultation held on this theme in 2011. Based on the outcomes of this consultative discussion, IDSN recommends that the key principles to ensure accountability for Dalits in the post-2015 agenda should be the following:

- **Non-discrimination:** Caste-based discrimination is prohibited by international human rights law and should therefore 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.

The full text is contained in the [Joint Declaration and Global Call for Action to Eliminate Caste-Based Discrimination](#).

A concrete suggestion is to include measures to eliminate caste-based discrimination in *national plans of actions*. This would ensure a holistic approach to tackling the most pressing development and human rights concerns, and would aim at ensuring accountability for the most marginalized. With regard to caste-based discrimination, IDSN recommends that general frameworks like the [draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent](#) (published by the UN Human Rights Council in 2009, A/HRC/11/CRP.3) are endorsed and used by governments as a guiding framework for the formulation of such national action plans.

IDSN GENERAL RECOMMENDATIONS TO THE POST-2015 FRAMEWORK – from the perspective of promoting accountability for Dalits in the global development agenda:

- Inclusion and social development should be at the heart of the post-2015 agenda, and the framework be based on the principles of equality, non-discrimination, and participation.
- The post-2015 framework should address the root causes to inequalities and poverty, focusing on the poorest and most marginalised groups including Dalits and similarly excluded communities.
- The post-2015 framework should have a strong focus on multiple forms of discrimination, including the intersection between caste and gender-based discrimination.
- Human rights indicators should be used to develop and assess the goals and targets of the post-2015 framework to ensure that equal access and distribution of resources are integrated in the post-2015 framework from a rights-based perspective.
- The post-2015 framework should mainstream the collection of disaggregated data and research on intersecting forms of discrimination, including caste-based discrimination, as a way to measure inequalities and to develop and implement programmes to address the systematic patterns of marginalization and exclusion at the root of poverty and exclusion. This data should be collected in consultation with affected

groups, and should especially aim for the participation of women in the design, collection, evaluation of data, and impact assessment.

For more information about IDSN's work and recommendations, go to: www.idsn.org