

# Towards a Unifying Global Identity: A Framework on Discrimination Based on Work and Descent, Including Caste



Map not to scale

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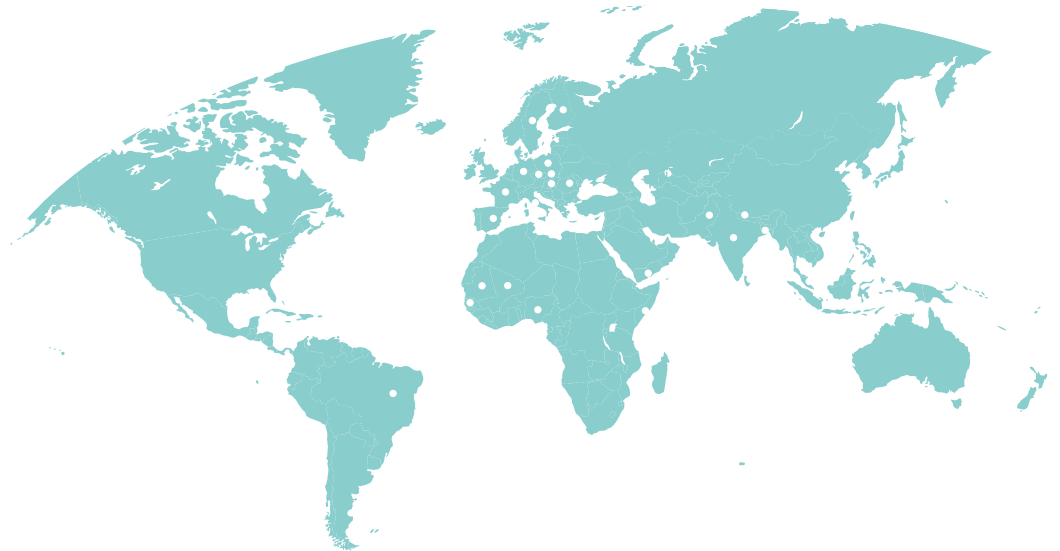
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Towards a Unifying Global Identity:  
**A Framework on  
Discrimination Based on Work  
and Descent, Including Caste**



# Abbreviations

**ADRF:** Asia Dalit Rights Forum

**APFDC:** Asia Parliamentarians Forum on Dalit Concerns

**CAT:** Committee Against Torture

**CEDAW:** Committee on the Elimination of Discrimination against Women

**CERD:** Committee on the Elimination of Racial Discrimination

**CRC:** Committee on the Rights of the Child

**DWD:** Discrimination Based on Work and Descent

**ECOSOC:** United Nations Economic and Social Council

**EU:** European Union

**FIDH:** International Federation of Human Rights

**HRW:** Human Rights Watch

**ICERD:** International Convention on the Elimination of Racial Discrimination

**IMADR:** International Movement Against All Forms of Discrimination and Racism

**MENA:** Middle East and North Africa

**MRG:** Minority Rights Group International

**NCDHR:** National Campaign on Dalit Human Rights

**SC:** Scheduled Caste

**UDHR:** Universal Declaration of Human Rights

**UN:** United Nations

**WCAR:** World Conference Against Racism

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# 1 | Summary

*“Slavery does not merely mean a legalized form of subjection. It means a state of society in which some men are forced to accept from others the purposes which control their conduct.”*

**B.R. Ambedkar**, Writings And Speeches

**T**he handbook highlights discrimination based on work and descent (DWD), which affects over 260 million people across the globe today. DWD is the term used to address various forms of discrimination, including caste-, work- and birth-based discrimination. While DWD is often presumed to be limited to the South Asian continent, it is a global phenomenon, affecting various communities across the globe.

Affected communities face discrimination based on their birth into certain castes/social groups, and those occupying the lowest position in the social hierarchy who are considered to be ‘unclean’. Communities have segregated living spaces, with severely restricted access to public and private services of housing, water and sanitation, health, education, land and employment.

Typically associated with notions of ‘purity’ and ‘pollution’, this form of discrimination includes the practice of ‘untouchability’, which imposes strong restrictions on the community. As a consequence, there is a huge gap between the general population and DWD communities on human development indicators. It has also produced appalling economic inequalities and poverty of significant magnitude

for affected communities. Women from these communities get further marginalized and excluded.

The current position of DWD communities across the globe provides substantial evidence of the ongoing economic inequality faced by the community. In addition, violence is used as a tool to subjugate communities and obstruct any attempts of resistance by the communities affected by DWD to challenge the unequal social order. In spite of a rise in awareness in the past few decades, the violence and atrocities has not subdued in most countries.

Affected communities include the Dalits in South Asia, Burakumin in Japan, Al-Akhdam in Yemen, different caste groups in Africa, Quilombo in Brazil, Roma in Europe, and the Diaspora community in the United Kingdom, United States of America and Malaysia. Although there are differences in the way it manifests on the ground, there are certain similarities in terms of discrimination, inequality and social exclusion for the affected communities.

This entrenched discrimination and exclusion violates the right to education, health, water, housing, land, employment and equal treatment before the law for the DWD communities. Although DWD is prohibited by constitutional provisions in few countries, discriminatory practices continue to exist in both private and public spheres.

Noteworthy progress has happened in a few countries in recent years. For instance, the Scheduled Caste/Scheduled Tribe POA Act in the Indian Constitution is specifically aimed at protecting the rights of Dalits. It also requires the state to

set up Special Courts to arbitrate Scheduled Caste offenses. Similarly, with the Equality Act 2010, the UK Constitution has included caste as a form of discrimination.

For the past few decades, the world has risen to the fact of prevalence of discrimination based on work and descent. International human-rights institutions, governments and civil society organizations have jointly adopted few measures for elimination of abominable practice of DWD for equality and justice for all.

However, in many countries, the government's measures to tackle DWD are largely absent or poorly enforced. DWD as a form of discrimination is prohibited by international human-rights law as stated in the Universal Declaration of Human Rights, as well as several other international covenants. Hitherto, enough attention has not been paid to translating these guidelines to practice, as a result of which huge populations across the world are violated of their basic human rights.

There is a need to recognize and understand that the disadvantages, restrictions and barriers faced by these communities are explicit, and need additional and specific mechanisms to address them. There is an urgent need to evolve a unifying global identity and an international UN convention to eliminate Discrimination based on Work and Descent with the following basic elements:

1. Official recognition to those DWD affected communities
2. A common human-rights framework, with strategies to end 'untouchability' and 'Discrimination based on Work and Descent', including Caste
3. Due recognition to the rights of the growing population of DWD affected children and youth
4. Statutorily mandate reservations in employment, procurement and services in both private and public sectors

## List of Countries Affected by Discrimination based on Work and Descent, Including Caste

### South Asia

India, Nepal, Pakistan  
Bangladesh, Sri Lanka

### South East Asia

Malaysia

### Far East Asia

Japan

### Middle East and North Africa

Yemen

### Africa

Senegal, Somalia,  
Mauritania, Mali, Nigeria

### South America

Brazil

### Europe

UK, Czech Republic,  
Finland, France, Germany,  
Hungary, Italy, Poland,  
Romania, Slovakia, Spain,  
Sweden

### Diaspora

UK and USA

5. Establish legal mechanisms with follow-up measures
6. Evolve a common legal policy framework, with strategies for women facing DWD. This should cover educational and economic empowerment by accessing land resources, education, and employable and entrepreneurial skill development for gainful occupation
7. Give due recognition to the rights and entitlements of communities of DWD, particularly women in all areas of life
8. Ensure equal rights to political participation for affected communities

9. Establish effective and inclusive monitoring mechanisms for reviewing the implementation of laws and policies, budgets and schemes
10. Understand the exclusion of DWD communities during humanitarian crisis and ensure special mechanisms in place to address this form of discrimination.

It is against this backdrop that the handbook has been made to reflect on the current scenario of discrimination based on work and descent in the global context and to move towards a common framework to address this.





## 2 | Introduction to Discrimination Based on Work and Descent (DWD)

**D**iscrimination based on work and descent (DWD) is the UN terminology for caste discrimination. The term has been used by several UN human-rights bodies, including treaty bodies and Special Rapporteurs, reaffirming that this form of discrimination is prohibited under international human-rights law. It continues to be one of the most wide-ranging human-rights violation, prevailing for decades and having affected almost 260 million people globally. Often misunderstood as a South Asia concept, it is a reality for many countries across the globe: the highest concentration of affected communities is in South Asia<sup>1</sup>, and there are also affected communities in Africa, Middle East and the Diaspora.

It is used as a mechanism to socially organize people who are severely discriminated and restricted in accessing social-economic and political resources and opportunities. This system implies not only the denial of equality and freedom but also denial of basic human rights. Based on one's occupation and descent, it can be defined as "any distinction, exclusion, restriction or preference based on inherited status such as caste, including present or ancestral occupation, family, community or social origin, name, birthplace, 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"<sup>2</sup>.

This hierarchical system places individuals on a social hierarchy based on the notions of purity and pollution. Those

at the bottom of this hierarchical structure are the most excluded communities not only in socio-cultural processes but also political and economic domains. They continue to be subjected to different forms of 'untouchability' or social disabilities on the basis of their birth into 'lower caste'.

The social and cultural stigma of impurity and pollution puts them in a vulnerable position. As rightly pointed out in the Special Rapporteur Report on the human right to safe drinking water and sanitation, stigma can be understood "as a process of dehumanizing, degrading, discrediting and devaluing people in certain population groups, often based on a feeling of disgust"<sup>3</sup>. This stigma involves widespread social segregation of those affected by it, by segregated living spaces and by confining them to degrading jobs they cannot free themselves off.

Women from these excluded communities experience many forms of discrimination arising from their low social position in the caste system. They get further marginalized, excluded and discriminated against. The nexus of caste, class and gender places women in a triply disadvantageous position, and makes them extremely vulnerable. They are the most marginalized community, and face multiple forms of exploitation and discrimination in both public

1. A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

2. A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

3. A/HRC/21/42 July 2012 -Report of the Special Rapporteur on the human right to safe drinking water and sanitation Catarina de Albuquerque

and private life. This also has negative implications for these women to have access to health, wage, employment, assets, education, social mobility and political participation. Such discrimination leads to systematic exclusion of these communities. They are often victims of caste-based violence, particularly sexual violence.

Of the more than 260 million people affected by DWD or caste-based discrimination (CBD) globally, around 210 million (80 percent) live in South Asia: India (201 million, or 16.6 percent of the total population), Nepal (about 3.6 million, or 13.6 percent in the total population), Bangladesh (3.5 to 5.5 million), Pakistan (330,000 to 2 million) and Sri Lanka (4 to 5 million).

Commonly known as Dalits, they are distinguished by their occupations of the lowest status, segregated living spaces, and severely restricted access to social, economic and political resources and opportunities. They continue to be subjected to traditional or/and modern forms of 'untouchability' practices, or the imposition of social disabilities by reason of their birth into 'low' castes. As a result, they are at the bottom on most development indicators in each country.

There are both commonalities and differences in the way caste manifests on the ground across the South Asian Region, the universal feature being inequality, discrimination and social exclusion.

For example, in Far East Asia, in Japan, the Buraku form a minority group with approximately 3 million people. They are considered to be the untouchable group, mainly engaged in unclean occupations, including leather making.

In the Middle East, in Yemen, the Muhamasheen, also known as Al Akhdam, form a minority group subjected to descent-based discrimination. As per data from unofficial sources, their population varies between 500,000 and 3.5 million; there is no official data available for the same<sup>4</sup>. They are mainly engaged in 'unclean' occupations, namely garbage collection, sweeping and cleaning toilets and drains.

Caste-based divisions are central to several ethnic groups in West African countries. Countries in West Africa that have societies with hierarchical caste structures include Mali, Mauritania, Senegal, Gambia, Guinea, Guinea-Bissau, Ivory Coast, Niger, Burkina Faso, Cameroon, Ghana, Liberia, Sierra Leone, Algeria, Nigeria and Chad. One of the most hierarchical communities is the Wolof of Senegal. The Neeno, who fall at the bottom of the caste ladder, make up 10-20 percent of the Wolof society<sup>5</sup>.

In the South Asian diaspora, a caste system can be seen in other regions, including Africa (Mauritius, South Africa), Europe (United Kingdom of Great Britain and Northern Ireland), the Americas (United States of America, Canada and Suriname), the Middle East (Bahrain, Kuwait and United Arab Emirates), Malaysia, Australia and the Pacific (Fiji)<sup>6</sup>.



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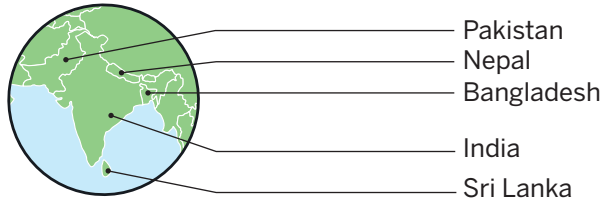
4. A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

5. Discrimination based on descent in Africa – Summary paper 2002

6. A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

# 3 | Overview of population affected by discrimination based on work and descent: region and country wise

## South Asia



## India

In India, the caste issue is highly politicized and sensitive. According to the 2011 census, 'Scheduled Castes' (the official term for Hindu, Sikh and Buddhist Dalits) constitute 201 million people. This figure does not include Dalits who have converted to, or are born and raised within, a non-Hindu religious community such as Muslims and Christians. The total Dalit population, therefore, exceeds the official data.

Based on Hindu religious philosophy, Indian society is divided mainly into four castes, or varnas, namely Brahmins, Kshatriyas, Vaishyas and the Shudras, who are at the bottom

of the hierarchy. Some who fall outside the caste system are known as 'untouchables'. However, a caste system can also be seen among other religions like Buddhism, Sikhism, Christianity and Islam who are mainly converts from Hinduism.

In India, caste is used as a mechanism to socially organise people into caste groups, wherein their rights are determined by birth and are fixed. Untouchability as a practice has imposed strong disabilities on people just on the basis of their position in the caste ladder, and it still continues to be a reality for certain sections of society. Based on the concept of purity and pollution, Dalits are engaged in the most 'unclean' and menial occupation. There are over 1.2 million Indians engaged in manual scavenging; of these, over 95% are Dalits, who are compelled to undertake this inhuman and degrading task under the garb of 'traditional occupation'<sup>1</sup>.

'Though the practice of untouchability has declined to a certain level in the public sphere' (Shah, 2001), incidence of violence against Dalits have not shown a similar pattern. They remain persistent in different forms like murder, individual and gang rape, physical assault, verbal abuse,

1. Alternate report to The Committee on the Elimination of Racial Discrimination (CERD) - To the joint 15th to 19th Periodic Report of the State Party (Republic of India)<sup>5</sup>. Discrimination based on descent in Africa - Summary paper 2002

**Total population:** 1,252 million

**Community population:** 201 million

**Communities:** Dalit or Scheduled Castes, formerly known as Untouchables. Numerous sub-castes exist such as the Chamars, Arunthathiyurs, Pallars, Bhangis, Malas, Madigas, etc.

**Traditional occupations:** Leather workers (cobblers, skinning dead cows), manual scavengers (*safai karamcharis*), sweepers, cremation workers, toddy tappers, drummers to bring news of the dead, removers of dead animal carcasses, landless agricultural labourers



naked parading, and so on.

Women constitute almost half the total scheduled caste (SC) population, but they experience many forms of discrimination arising from their low social position in the caste system. 'They are targeted as a way of humiliating entire Dalit communities. This undermines not only their dignity and self-respect, but also their rights to equality and development. The nature of violence against Dalit women is accompanied by equally systemic patterns of impunity for the perpetrators'<sup>2</sup>.

Dalits are the worst sufferers in the unequal social order. Practices like the Devadasi system, exploitation of Dalit labour through begar (free labour), bonded labour or child labour are still common. In India, the anti-caste movement began in the 19th century under the inspiration of Jyotiba Phule and was carried on under the leadership of Dr. BR Ambedkar, who launched a national struggle against untouchability and for the liberation of Dalits.

In spite of constitutional safeguards and special legislation for the protection of 'Scheduled Castes', violations of their

fundamental human rights continue on a massive scale. Atrocities committed against Dalits with impunity exist because the implementation of relevant national legislations [e.g. the SC's and ST's Prevention of Atrocities (POA) Act 1989] in India remains weak, and conviction rates are shockingly low.

India responds to international attention to caste discrimination by referring to it as an 'internal issue' and a 'family matter', which the UN and its member-states are not entitled to deal with, especially since constitutional and legal protective mechanisms are already in place. Unfortunately, the issue here is that relevant legislations are not implemented and are even flouted with gross impunity.

## Nepal

With a Hindu majority in the population, like India, Nepal also has a four-fold caste system namely:

1. Tagaddhari (sacred-thread wearing or twice-born), including the Bahun-Chhetris
2. Matawali (liquor drinking, i.e. indigenous people)
3. *Pani nachalne choi chhito halnu napanne* (Castes from whom water is not acceptable and contact with whom does not require purification by sprinkling of water)
4. *Pani nachalne choi chito halnu napanne* (Castes from whom water is not acceptable and contact with whom requires purification by sprinkling of water)<sup>3</sup>

Based on this categorization, communities are placed in a social hierarchy that has led to caste-based untouchability and discrimination against Dalits. Almost

<sup>2</sup> Alternative report to the UN Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) for the examination of the 4th and 5th periodic reports of India at the 5th CEDAW session in July 2014- June 2014

<sup>3</sup> Caste Based Discrimination in Nepal – Working Paper Series, Volume III Number 08

**Total population:** 27.8 million

**Community population:** 3.5 million

**Communities:** Dalits

**Traditional occupations:** Removers of dead animal carcasses, manual scavengers, artisans and singers

half of Nepal's Dalits live below the poverty line. They are mostly landless, and have low life expectancy and literacy levels compared to the dominant caste population. Dalits are routinely subjected to untouchability and discrimination in many forms, although some progress is seen in recent years.

Dalit women are subjected to discrimination based on specific social customs. They constitute the most vulnerable group among Dalits. 'The effect of discriminatory practices continues to remain in day-to-day life in spite of abolishment of such practices by law. For instance, Dalit women still face a high degree of social and economic exclusion, and the traditional harmful practices of chhaupadi, kamlari and child marriage continue in spite of legal abolition of these practices'<sup>4</sup>.

Dalit movements in the country have secured some constitutional provisions regarding non-discrimination, equality and protection in Nepal's interim constitution. In 2011, Nepal enacted the Caste-based Discrimination and Untouchability (Offence and Punishment) Act, which metes out penalties for a range of discriminatory offences. In the international arena, the government has expressed support for the Draft UN Principles and Guidelines to Eliminate (Caste) Discrimination based on Work and Descent, thus showing willingness to involve the international community in addressing issues of caste-based discrimination and setting an example for other countries with caste systems.

According to the official 2011 census, Dalits constitute 13.6 percent of the total population (about 3.6 million people), but researchers and Dalit organizations assess this number could be above 20 per cent, or as many as 5 million people.

## Pakistan

**Total population:** 182.1 million

**Community population:** 2.5 million

**Communities:** Dalits

**Traditional occupations:** Sweepers, washermen, barbers, cobblers, brick makers

Dalits in Pakistan mostly belong to the Hindu minority. They face double discrimination due to their religious status—as non-Muslims in a majority Muslim state—as well as their caste belonging. They are officially known as 'Scheduled Castes', and suffer numerous forms of abuse, from bonded labour to rape. Crimes against them are often committed with impunity.

Officially, and in the absence of more recent disaggregated data, the number of Dalits is about 330,000, which amounts to 0.25% of Pakistan's total population. But, researchers say, the real figure may be as high as 5 million<sup>5</sup>. However, this data does not include 'lower castes' within the Muslim community, who live under similarly depressed conditions

<sup>4</sup> Civil Society's Alternate Report On CEDAW Convention – Nepal 2016

<sup>5</sup> Alternative Report submitted to the CEDAW Committee for the examination of the 4th periodic report of Pakistan at the 54th CEDAW session in February 2013 – Scheduled Caste Women in Pakistan

and face similar forms of discrimination.

Scheduled Caste Hindus are concentrated mainly in the Sindh region, and live in rural areas. They are mostly landless and continue to work as bondless slaves with big landowners. Although mainstream Islamic ideology completely denies any place to caste in Pakistan, its presence in the form of social intercourse, birth-based occupation, segregation in residence and taboo in social relationship is very widely recognized. It also plays an important role in structuring kinship and political economy of the country<sup>6</sup>.

Among Muslims, based on their traditional occupation, people are categorised into social hierarchy, wherein Mochi (cobblers), Pather (brick maker) and Bhangi (sweeper) are considered to be at the bottom of the hierarchy. Other titles such as Musalman Sheikhs, Mussalis (both used for Muslim Dalits) and Masihi (Christians) are communities identified as untouchables based on their specific occupation and are segregated from other communities.

Dalit women in Pakistan are extremely vulnerable due to their socio-economic status in society. They are usually engaged in hard conditions of work such as bonded labour, cotton picking and working in brick kilns. 'A gender-based division of labour leaves women the task of unpaid, reproductive and domestic work, as well as menial, informal work, for which they receive lower wages than men'<sup>7</sup>.

Scheduled Castes in Pakistan represent the poorest of the poor in the country. Although the constitution of Pakistan forbids discrimination based on caste, the government has done very little to remove caste-based discrimination. The absence of any legislative or legal measures to prevent caste discrimination has worsened conditions for the Dalit community. Moreover, this denial is clearly reflected in developmental schemes and programmes of the country—

there are very few developmental schemes for Dalits. Such official denial of caste brings double discrimination for Dalits in Pakistan.

## Bangladesh

In Bangladesh, caste discrimination affects both the Hindu and the Muslim population, and perpetuates the poverty trap these communities are caught in. While Hindu Dalits are often categorized as Harijans, Muslim Dalits are classified as Arzals.

Dalits exist far below the poverty line, with extremely limited access to health services, education and employment. They live in colonies with very poor housing and work opportunities, and are almost exclusively employed in menial jobs. Here, the segregation is based on traditional occupations associated with specific groups or communities that are considered low in the status hierarchy and are often low paid.

Dalits lack access to education, face extreme poverty, endure health and housing problems, and have unequal access to work, putting them low in all development indicators of the country. A large number of child labourers in Bangladesh are Dalits. Members of minorities, most of whom are Dalits, hold almost no official positions. 'Untouchability' is rampant.

Estimates of the number of Dalits in Bangladesh vary from 3.5 to 5.5 million. Similar to the Hindu notions of purity and pollution, Muslims also follow a hierarchical social order.

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6 Comparative Contexts of Discrimination: Caste and Untouchability in South Asia. Economic and Political Weekly, 45(48), 99-106 - JODHKA, S., & SHAH, G. (2010)

7 Alternative Report submitted to the CEDAW Committee for the examination of the 4th periodic report of Pakistan at the 54th CEDAW session in February 2013 – Scheduled Caste Women in Pakistan

**Total population:** 156.6 million

**Community population:** 4-6 million

**Communities:** Harijans/Arzals

**Traditional occupations:** Sweepers, cleaners of private and public toilets, drains and other dirty places

Dalit women face discrimination at different levels. While other groups of women and some Dalit men are moving forward in education, economic empowerment, access to justice and government services, Dalit women are left behind<sup>8</sup>. They face various kinds of human-rights violations, including abductions, sexual harassment, rape, torture, threats and intimidation, and lack of access to public services.

They have been much overlooked in the development and rights discourse, and have only recently been able to raise their voice. Having started to engage with the government and international donors, Dalit organizations working for Dalit rights and entitlements have now managed to place the issue of caste discrimination on the state agenda.

## Sri Lanka

Sri Lanka has three parallel caste systems for each of the country's main population groups: the Sinhalese majority; the Sri Lankan Tamils to the north and the east; and the Indian Tamils, who are mainly found in tea plantations and at the bottom of the urban social hierarchy.

Within the Sinhala community, lower caste groups, including the Rodi, occupy the lowest position in the caste system. They have low levels of education, suffer extreme

poverty and lack assets. They are under constant pressure to pursue hereditary caste occupations such as removing dead animals and dirt. The Rodi continue to be segregated, particularly with regards to their residence, with little or no proximity to the upper caste community.

In the Sri Lanka Tamil caste system, the bottom status is collectively occupied by different groups identified as Panchamar, and are considered untouchables.

Indian Tamils trace their origin back to the colonial era, when they were brought to plantations as indentured labourers. Although the Sinhalese have managed to

**Total population:** 20.5 million

**Community population:** 2.5 million

**Communities:** Sinhalese caste system: Rodi or Rodiya; Tamil caste system: Pallars, Nalavas and Paraiyars

**Traditional occupations:** The Tamil caste system is occupation-based as well as hereditary. Pallars and Nalavas (descendants of former slaves) work on lands of dominant castes, while Paraiyars are engaged in so-called unclean occupations.

overcome their low caste status in the caste hierarchy through the Sri Lankan Welfare state, Tamil Dalits still continue to face caste-based discrimination.

While the caste system has diminished over the years, some of its forms continue to exist. "Unlike the Hindu caste system founded on the basis of religious notions of purity and pollution, caste systems in Sri Lanka have relied

<sup>8</sup> Alternative Report to the 65th session of the UN Commission on the Elimination of Discrimination Against Women – Discrimination against Dalit women in Bangladesh

more on a kind of secular ranking upheld by the state, land ownership and tenure, religious organisations and rituals, and firmly-rooted notions of inherent superiority and inferiority” (Shah). Women can be seen especially as a vulnerable group because of the widespread ethnic, caste, class and gender discriminations faced by them.

Although caste is recognized and caste discrimination is firmly entrenched in Sri Lankan society, the issue is rarely discussed in public. More than 150 years of social exclusion and the restriction of movement for Indian Tamil plantation workers is a clear indication of the ‘caste-blind’ policies of both state and non-state actors, including international agencies, which do not address caste discrimination in Sri Lanka.

The estimated number of Dalits experiencing caste discrimination in Sri Lanka is 4 to 5 million, or 20 to 30 percent of the total population. In Sri Lanka, there is no common identity as ‘Dalits’ among ‘lower’ castes, and it has been difficult for them to organize themselves, in contrast to the situation of Dalits of India and Nepal.

## South East Asia



Malaysia

## Malaysia

**Total population:** 29.7 million

**Community population:** 1.2 million

**Communities:** Dalit diaspora from South Asian Countries

**Traditional occupations:** Plantation workers and other manual labours

Discrimination based on work and descent continues to affect diaspora communities in several countries, including Malaysia. Caste-based discrimination is visible among minority Indian communities in Malaysia. Most Malaysians of South Asian descent are Tamils, whose ancestors came from South India. Malaysia also has people from Sri Lanka, North India and from elsewhere in South Asia.

Traditionally, based on the concept of hierarchy, social segregation is particularly visible in the community's



attitude towards intermarriage. “Many families seeking to arrange marriages place matrimonial ads that include caste requirements, and marriage brokers may be expected to take caste into account when finding suitable matches”<sup>9</sup>.

Traditionally, they were plantation workers and are now mainly occupied as manual labourers. Social avoidance of commensality is also visible among the South Asian diaspora, though at a much lesser level than in India. Segregation based on caste is visible in access to employment as well as education. Malaysia constitutes almost 2 million Indians, out of which 60-65 percent are Dalits. Caste also plays a major role in politics, with very little representation from the community.

9 A Report by Human Rights Watch for the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. Vol. 13, No. 3(G)

## Far East Asia



Japan

## Japan

In 17th century Japan, the feudal stratified society of Tokunaga regime (1603-1867) placed two groups at the bottom of the system, referring to them as Senmin (humble people): eta (extreme filth) and Hinin (non-human). The descendants of Senmin, now known as Burakumin, have continued to face discrimination based on their caste position, and are considered an outcast group. Their official numbers are 1.2 million, but unofficial figures place them at almost 3 million. The Buraku are mainly engaged in unclean

**Total population:** 127.3 million

**Community population:** 3 million

**Communities:** Burakumin

**Traditional occupations:** Disposal of dead cattle, hide tanners, leather production, security guards and sweeping

occupations, including leather making. Their work involved disposing of dead cattle, or as hide tanners and other leather-related crafts, while Hinin became security guards and executioners.

'The Buraku system was officially abolished by the Emancipation Edict of 1871, though discrimination against Buraku persists to this day'<sup>10</sup>. Buraku continue to be segregated in terms of residence, as they are categorised as 'dirty' and 'inappropriate' to associate with. The Buraku suffer from lower level of education as compared to other communities; Buraku women especially experience lower level of literacy, and even employment, placing them in a vulnerable position. They are also victims of sexual violence.

'In Japan, a survey by the Buraku Liberation League revealed that Buraku women experienced discrimination in a wide range of areas, including marriage, employment and healthcare, and approximately 30 percent had suffered from sexual violence'<sup>11</sup>.

In Japan, specific legislations have been passed with the aim of improving living conditions of the Buraku community by increasing their access to education, employment, and providing redress in cases of discrimination.

10 A Report by Human Rights Watch for the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. Vol. 13, No. 3(G)

11 A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

## MENA (Middle East and North Africa)



Yemen

## Yemen

In Yemen, the Al-Akhdam community, which literally translates into “the servants”, is a minority community and is regarded as an ‘untouchable’ outcast group. Tracing back to the 5<sup>th</sup> and 6<sup>th</sup> century of Yemini history, they are descendants of Christian African warriors. With the advent of Islam, Christian African warriors were defeated and subsequently exiled. Some of the African army that was left

**Total population:** 24.4 million

**Community population:** 3.5 million

**Communities:** Al- Akhdam

**Traditional occupations:** Cleaning jobs, begging, collecting waste and plastic

behind came to be collectively recognized as Al-Akhdamto become an “untouchable” caste. However, there are several parallel popular beliefs in terms of this community’s origins.

The government data of 2004 puts their numbers at 153,133, but unofficial sources claim 500,000-3.5 million persons belong to this minority group<sup>12</sup>. For centuries, this group has been most marginalized in social, economic and political spheres. It has suffered perpetual discrimination and oppression in the hands of both state and non-state actors.

The community has been isolated on the basis of work they are associated with. Some major problems affecting the Muhamasheen population are the lack of access to basic amenities like housing, employment, education and basic social services. This has a negative effect on the overall socio-economic status of the community, including their health conditions.

The Akhdam are deprived of access to electricity, water and proper sanitation, and 95% have no official ownership of land where they have built their compounds<sup>13</sup>. They reside in isolated areas, away from other communities, where almost no basic facilities are available. Akhdam women are easy targets of violence and abuse. They are usually subject to hate-based attacks and sexual assaults, without any legal or social recourse.

With the strong arrangement of purity and pollution in terms of access to employment and conditions of work, this group is denied access to employment within the businesses of food production/distribution and hospitality. With practices of physical marginalisation and social exclusion from mainstream society, they are considered ‘dirty’ and are mostly found in cleaning jobs, begging, and collection of waste and plastic. This is especially common among women. Due to lack of access to education, they are not

found much in the private sector. Child labour is common among this community, which adds to the vicious cycle of unemployment and lack of access to education.

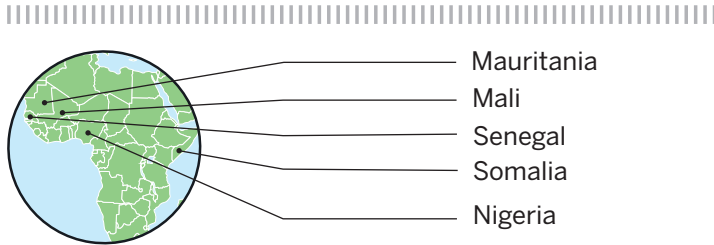
Governments in Yemen have failed to recognise the discrimination and oppression faced by the Al-Akhdam community and the massive human-rights violations against them. There are no legislations that criminalize the practices of persecution, exclusion and discrimination against the Al-Akhdam, as a result of which these practices go unnoticed, unreported and unpunished. In spite of the 1991 Constitution that provides equality to all citizens, there are no indications of this law being extended to members of the Al-Akhdam community. Here, the Yemini government also fails to abide by the basic principle of Universal Declaration of Human Rights and International Human Rights Conventions that it has ratified.

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12 Alternative report submitted to the UN Committee on Economic, Social and Cultural Rights when reviewing the second periodic report of Yemen: HUMAN RIGHTS SITUATION OF THE AL-AKHDAM IN YEMEN, May 2011

13 Alternative report submitted to the UN Committee on Economic, Social and Cultural Rights when reviewing the second periodic report of Yemen: HUMAN RIGHTS SITUATION OF THE AL-AKHDAM IN YEMEN, May 2011

# Africa



## Senegal

In Senegal, the caste system exists with several ethnic groups, but it is more pronounced among the Wolofs. The Wolof community is divided between the Geer (freeborn/nobles) and the Neeno (people of caste). The Wolof community forms the country's largest ethnic group, and is based on strict hierarchical relationships. The Neeño, who are at the bottom of the hierarchy, are divided into various castes groups such as blacksmiths and leather workers, all of whom are traditionally considered to be of a low rank in Wolof society and their position is not alterable. The Neeno

**Total population:** 14.1 million

**Community population:** 1.5 million

**Communities:** Wolof-Neeno

**Traditional occupations:** Blacksmiths, leatherworkers, midwives, circumcision performers

constitute 10-20% of Wolof society.

These caste groups are hereditary and endogamous, with their occupation governed by the concept of purity and pollution. Members of the Neeno groups are seen as polluting because of their work and their descent. For instance, contact with griots, particularly through their sweat, is seen as polluting, partly due to the extra tasks of circumcision, undertaking and midwifery they have traditionally performed. Although many no longer do, the concept of pollution remains engrained. Other forms of segregation include exclusion from key initiation societies, burial in separate cemeteries and refusal of right to bear arms. Traditionally, the Wolof also refuse burial to the griots, instead placing their bodies in the hollows of baobab trees<sup>14</sup>.

In the Wolof community, the concept of caste is based on occupational groups. The superior category in the caste ladder is occupied by the Geer, which traditionally comprises farmers, fishermen, warriors and animal breeders. The Neeno are further divided into sub-castes: the Jeff-lekk comprise artisans, while griots and jesters constitute the Sab-lekk. The third category, Noole, who are relatively few in number, make up servants and courtesans.

The artisans are further divided into four sub-castes, namely blacksmiths or jewelers, shoemakers, woodcutters and weavers. Beneath the Neeno is the category of Jaam or slaves—they are deemed to be outside the caste system. Over time, the migration of Wolofs to cities and larger towns has led to greater access to educational and professional opportunities for Neeno castes, though serious problems remain<sup>15</sup>.

14 Discrimination based on descent in Africa – Summary paper 2002

15 A Report by Human Rights Watch for the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. Vol. 13, No. 3(G)

Prejudices and discrimination against the Neeno community has led to them having reduced access to basic amenities like education, health, housing and employment. One of the strong prohibitions relates to residing in places occupied by members of the other community. Discrimination based on caste continues to exist, especially in the socio-political sphere.

Even though the Government of Senegal has ratified almost all international and regional (Africa) human-rights instruments, including the Universal Declaration of Human Rights, discrimination based on caste is still prevalent in Senegalese society. Further, though the Senegalese constitution asserts the rights of all Senegalese to equal protection of the law and freedom from discrimination, regardless of caste and descent, discrimination against Neeño continues.

## Somalia

**Total population:** 10.5 million

**Community population:** 1 million

**Communities:** Sab ('low caste'), Midgan (Mahdibhan), Tumul, Yibir

**Traditional occupations:** Blacksmiths (Tumul), hunters and leatherworkers (Yibir, Midigan)

Caste has been an integral part of Somalian society for centuries now. The 'lowest' castes in Somalia are called Sab and are considered polluted. The three main groupings under Sab are Midigan, Tumul and Yibir. Together, they constitute 1 percent of the total population of Somalia,

but they don't have any territorial, genealogical or ethnic foundation.

The concept of purity plays a very big role among the Sab in Somalia. The outcaste group is considered to be 'dirty' and traditionally forbidden to socialise with other communities. 'They are considered by other Somalis to have become impure ('*haram*'). Origins of this perceived impurity are unclear, but maybe related to both the nature of their occupations, seen as polluting, and myths concerning their hunting and eating traditions that are seen as against Shahri'a precepts'<sup>16</sup>.

Traditional occupational roles are ascribed, wherein the Tumul are the blacksmiths, and the Yibir and Midigan are the hunters and leatherworkers. The Midigan are considered to be former slaves, or servants to a noble clan group. The Midigan constitute the largest Somali outcaste family, and its sub-clans include the Madhiban, Maxamed Gargaarte, Muuse-Darye, Tumaal, Yibir, Howle, Mahaad. These groups are stigmatized as being of 'unholy origin' and belonging to 'polluting' occupations.

Restriction and isolation against this group have taken multiple forms such as restriction on possession of land, cattle or horses, denial of education, employment and health services. This group is socially and physically segregated from other communities and endogamy is strictly practiced. There is restriction in terms of employment; the Sabs are mainly engaged in traditional occupations or menial tasks. In terms of political representation, in Somaliland, they are still under-represented with only one seat in Parliament. Apart from this, discrimination against them includes being targeted for hate speech and prohibition of intermarriage.

The unrecognized state of Somaliland has stated that

<sup>16</sup> Discrimination based on descent in Africa – Summary paper 2002

programmes aimed at eradicating long lasting bad practices shall be a national obligation, but has not introduced any specific anti-discrimination laws. People from these excluded communities continue to face extreme forms of isolation and discrimination, which acts as an obstacle in their attainment of civil, political, economic and social rights.

## Mauritania

**B**onded labour based on caste and descent also exists in Mauritania, where social hierarchies and exploitation are rooted in the former slave trade. The status of 'slave-caste' is ascribed to a person at birth. It all began in historical times when the white moors raided and enslaved people from the indigenous black population. They are today known as the Haratine or the Black Moors. The Haratine constitute the largest ethnic group and make up 40-60 percent of the total population. Regarded as the 'slave caste', they face extreme forms of discrimination and marginalization.

Mauritanian society is largely made up of three social groups. The first is the ruling Arab-Berber population known as the 'white moors' or Bidan. The second are black Africans living near the border with Senegal, coming from diverse groups such as the Wolof and Soninkes; many have ethnic

**Total population:** 3.9 million

**Community population:** 0.3 million

**Communities:** Moors

**Traditional occupations:** Slaves, unpaid menial jobs, blacksmiths



ties with Mali and Senegal, and are farmers. The third group are the Haratin, known as the "black moors".

The Haratin comprise slaves and ex-slaves belonging to the Bidan. Throughout their life, they work for their masters for no pay. Mauritania's stratified society means former slaves or descendants of slaves still live under the stigma of their 'slave-class' and are ostracized by society. The Special Rapporteur on contemporary forms of racism has observed that Mauritanian society has been deeply marked by continuing discriminatory practices of an ethnic and racial nature.

Economic, political and social marginalization of the Haratin in Mauritania is well-reported. When in slavery, they are denied education and employment other than unpaid menial jobs; many are not allowed to marry. The Haratin identity remains strong, and due to the existing social hierarchy in Mauritania, it has been reported that "Haratins are often considered slaves and therefore have difficulties holding key political positions".

Legal provisions against slavery do exist. One example is the anti-slavery bill, passed in August 2015. However, the practice reportedly remains extensive, affecting mainly the Haratin. 'According to some estimates, 50 per cent of the Haratin community is subjected to de facto slavery through domestic servitude and bonded or forced labour; 90 per cent of those affected are women.'<sup>17</sup>

## Mali

**T**he Tuareg community, traditionally nomadic people of pastorist and trading occupations, are found in different parts of Africa, including Mali. A rigid caste system operates

17 A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

**Total population:** 15.3 million

**Community population:** Population details are difficult to obtain

**Communities:** Bellah

**Traditional occupations:** Slaves, unpaid manual labourers

that divides the community into nobles, freeman and slaves. Known as Bellah, the slaves were traditionally raided from neighboring countries. Although slavery has been abolished by law, it is still practiced among the Bellah community, especially in remote areas.

They were traditionally brought as slaves and worked as unpaid manual labourers, producing goods for their 'owners'. The position of the Bellah as 'slaves' has put them in a disadvantaged position in terms of access to basic rights. Slavery is a status ascribed at birth for the Bellah community, with very little scope of any change. Women face double discrimination as a member of slave caste and also because of their gender.

'Some people have described the Bellah as a "traditional indentured servant caste", as they have not been "forced" into slavery. However, the existence of local NGOs that are working against this practice suggests that not all Bellah are willing to accept this situation'<sup>18</sup>.

## Nigeria

Within the Igbo communities, the "osu" system occupies a unique space in descent-based discrimination. Unlike the hierarchical system based on occupational specialization, within this system, osu individuals were held

to be 'owned' by the deities. However it is often referred to as 'caste system'.

The system is passed down generations by inheritance and descent, and people from these communities cannot generally overcome these distinctions. One acquires the osu status through inheritance and marriage. The osu are referred to by various names: Osu, Ume, Ohu, Oru, Ohu Ume, Omoni (Okpu-Aja), they all have the same connotation in Igboland.

**Total population:** 173.6 million

**Community population:** 2-4 million

**Communities:** Osu, Oru

**Traditional occupations:** Assistants to high priests to serve deities of the shrine, blacksmiths, potters, leatherwork, weaving, arranging funerals, midwifery, castration and drumming

Being considered to be 'owned' by the deities, they were dedicated and sacrificed to these Gods, and are considered to be sub-human being and unclean class. They have a strong system of residential segregation, wherein the osu people are usually forced to live outside, on the outskirts of the villages to be targets of any bad luck that might befall the village.

Osu are considered to be impure and any contacts with them is considered to be polluting. There are strict restrictions in terms of eating together. There is a strong system of endogamy, a taboo when broken leads to ostracism and exploitation of individuals and their children.

<sup>18</sup> Discrimination based on descent in Africa – Summary paper 2002

There is also a widely-held belief that touching an Osu automatically turns you into an Osu<sup>19</sup>.

The Osu people mostly do not have any access to land and are discriminated against in traditional society. Besides this, they are also buried in separate cemeteries. There is a huge economic disparity between the Osu and people from other communities. This marginalization prevents Osu from attaining their rights, particularly in employment and marriage.

'Although Osu share the same legal status as other Nigerians—the Osu system was outlawed with the passage of the Osu System Law and the Laws of Eastern Nigeria in 1956 and 1963—members of the Osu community are still shunned as Pariahs and denied social equality'<sup>20</sup>.

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19 Discrimination based on descent in Africa – Summary paper 2002

20 A Report by Human Rights Watch for the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. Vol. 13, No. 3(G)

## South America



Brazil

## Brazil

**Q**uilombo are runaway African slaves who settled down with Portuguese, Brazilian aboriginals, Arabs and Jews in Brazil. Being federally-recognised descendants, there are estimated 4,000 Quilombo descendant communities in Brazil.

In the 18<sup>th</sup> century, with the growth in sugar plantations, there was an increase in slave trade. When they escaped, they organised themselves in distant farms and developed their communities called Quilombos. They have grown throughout Brazil, but the first Quilombo that was established is known as Palmares in Northeastern Brazil.

Even after decades of settling down, they are discriminated verbally as slaves. Even the end of slavery did not solve the issue of social exclusion of former slaves. They are still discriminated in terms of income, access to land, education and employment. In public services, including jobs, they are often discriminated and attacked because of their skin color and descent.



**Total population:** 200.4 million

**Community population:** 4000 communities (population not clearly estimated)

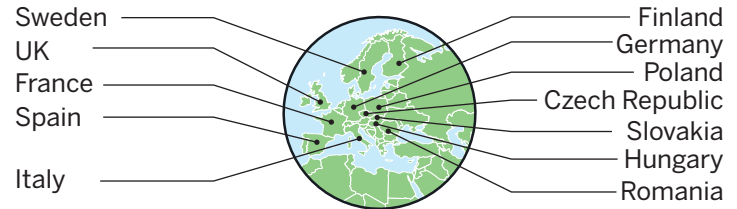
**Communities:** Quilombola

**Traditional occupations:** Plantation workers

The Brazilian government has given them rights that are similar to Brazilian aboriginals. However, the marginalisation of blacks is still reflected in Brazilian society. The struggle for equal rights was achieved to some extent in the 1988 Constitution, which extends equal rights and protections to all. Apart from this, the “Brazil Quilombola Program” gave land titles to the Quilombos that allowed them to remain on the land they live on.

Even with access to land, they often do not have access to water, health and even education. There also remain cases wherein the Quilombos have been pushed out of their own cultural land, putting them in a vulnerable position. Unemployment remains a serious concern among the Quilombos, with a majority living below the poverty line. Quilombo still needs to be integrated with mainstream society.

## Europe



## UK

Caste and its subsequent discrimination tend to move with South Asians who have relocated to the United Kingdom. Caste discrimination is visible among the South Asian communities in UK. The 1950s, 60s and 70s saw a wave of migrants from Asia to UK. It has been estimated that people of South Asian origin in UK constitute around 4 percent of the total population i.e. around 2.3 million.

Some religious groups are mainly from the lowest castes communities, namely Ravidassia, Valmiki, Ramdasis and Ambedkarite Buddhists. A majority of Christians who have migrated from the Indian sub-continent also belong to the Dalit community. Unofficial estimates put the number of Sikhs in Britain at around 500,000, with one-third traditionally belonging to the Dalit community. It has been estimated that 250,000 Dalits live in the UK<sup>21</sup>. However,

21. Alternative Report to the UN Committee on the Elimination of Racial Discrimination in review of the 21-23 periodic reports of the United Kingdom - Caste-Based Discrimination in the UK

**Total population:** 64.1 million

**Community population:** 0.25 million

**Communities:** Dalit diaspora from South Asian Countries

**Traditional occupations:** They have left behind traditional occupations and have taken on modern occupations



the exact figure is unknown due to issues regarding identification as 'Dalit' and also because of lack of caste data in census.

Here, untouchability is practiced both in the form of direct and indirect discrimination. Discrimination is included in the areas of employment, education and religious institutions, access to goods and services, and particularly in relation to access to temples. The more direct forms of discrimination manifest themselves in various forms of violence and public harassment.

This deeply entrenched form of discrimination is also very much a part of the Diaspora communities in the UK. In the UK, communities, to maintain caste lines, strictly follow the system of arranged marriage. This has led to the continuation of the caste system within the South Asian diaspora in UK.

The caste system is prevalent in a variety of forms in the UK, but it has not received much recognition from the government. There is almost no legislation, or safeguards, apart from the Equality Act 2010, which identifies caste-based discrimination in order to counter it. The government acknowledged the existence of caste discrimination, but initially preferred a community education program to legislation.<sup>22</sup>

## Czech Republic, Finland, France, Germany, Hungary, Italy, Poland, Romania, Slovakia, Spain, Sweden and the United Kingdom

**Total population:** 411.8 million

**Community population:** 14 million

**Communities:** Roma/Cinti/Gypsies

**Traditional occupations:** Blacksmiths, horse dealing, music as trade



The Romani or Roma-Sinti people's origin can be traced back to undivided India, which included parts of Pakistan and North India. They constitute one of the largest minority groups, of around 14 million people.

It is assumed that the migration of Roma people from India to Europe was most likely triggered by Turkey's conquest of North Indian regions like Punjab, Sindh and Rajas in the 11th century. It is suggested that while some Roma managed to flee, others were brought to Europe as slaves. The Roma migrated to Europe via Persia, Armenia and Asia Minor between the 11th and 14th century<sup>23</sup>.

Being from the North-west part of the Indian sub-continent, Europeans call them gypsies because of their mobile lifestyle. Specific anti-Roma racism is termed 'anti-ziganism', or 'anti-gypsyism'. They have historically been

22 IDSN briefing paper (2014): Caste discrimination in the UK

23 The Roma People in Europe- Peace Research, Richardson Institute, (2014)

one of the most vulnerable and poorest people who have faced centuries of discrimination in Europe. People from this community experience high levels of poverty, illiteracy and unemployment, particularly because of the discrimination faced by them in access to education, employment, housing and health facilities.

Roma children are educated in 'special' schools meant for disabled students. There are also widespread incidences of violence against this community. In several European states, Roma people are victims of "ghettoisation", a system wherein the people from this community are made to live in specific parts of towns, away from rest of the population.

They follow a strict system of residential segregation. Governments are antagonistic towards this system of ghettoization towards the Roma community, and deny their responsibility. For instance, Bulgarian authorities consider "the

gravest problem to which Bulgarian Roma are confronted" (according to the Council of Europe) is a "heritage of the past" and not "a deliberate governmental policy"<sup>24</sup>.

In certain European states, Roma people are targets of state-sponsored violence. For instance, Roman women as well as men are sterilized in several countries from the beginning of the 20th century. Such cases continue to exist even today. In Bulgaria, an informal initiative in January 2012 called for a law that would put in place forced sterilisation of Roma people at birth<sup>25</sup>.

State actions of violent evictions, destruction of goods, denial of liberty, and racist attitudes, forced sterilisation and segregation in public spaces are against the Charter of Fundamental Rights and the Treaty on the European Union. The government does not have any explicit focus on the situation of the Roma.



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24 Roma people in Europe in the 21st century: violence, exclusion, insecurity'; A European Association for the Defense of Human Rights report.

25 Roma people in Europe in the 21st century: violence, exclusion, insecurity'; A European Association for the Defense of Human Rights report.

# 4 | Description of nature and forms of discrimination and its adverse impacts

Violence is used as a tool to subjugate communities and obstruct any attempts of resistance by communities affected by DWD to challenge the unequal social order. In spite of increasing awareness in the past few decades, violence and atrocities have not subdued. If anything, in some countries, like India and Nepal, violence seems to have increased in recent years. The lack of disaggregated data from countries makes it impossible to estimate this at the global level.

Atrocities are more intense as they are perpetrated to remind communities affected by DWD about their status in the caste-based social structure, and to ensure they remain there. These atrocities are committed to ensure that DWD-affected communities live a life of indignity, humiliation and exclusion from mainstream society; so that they continue to provide caste-based services 'so essential for society' and remain at the bottom-rung without access to higher education and better economic opportunities.

DWD, including caste, as a form of discrimination is prohibited by international human-rights law as proclaimed by the Universal Declaration of Human Rights, as well as several international covenants. It is also prohibited by the International Labour Organization Convention No 111. In addition to being human-rights violations, they are also impediments to development. When members of the DWD community challenge these restrictions and prohibitions, there is an outbreak of violence and atrocities committed against the community.

## The 4 Main Forms of DWD

### 1 Prohibitions, distinction and restrictions



- Prohibited from eating with members of other castes
- Prohibited from inter-marriages
- Prohibited from entering village temples
- Prohibited from wearing sandals or holding umbrellas in front of dominant caste members
- Prohibited from entering dominant caste homes
- Prohibited from riding a bicycle inside the village
- Prohibited from contesting elections and exercising their right to vote
- Notions of purity and pollution

### 2 Forced and Menial Labour



- Bonded Labor
- Forced labour, attached labour
- Manual scavenging (cleaning human excreta with bare hands)
- Child labour

### 3 Discrimination and exclusion from civic amenities



- Separate glasses for Dalits in village tea stalls
- Segregated housing
- Discriminatory seating arrangements and separate utensils in restaurants
- Segregation in seating and food arrangements in village functions and festivals
- Discrimination in access to health services
- Social boycotts by dominant castes for refusing to perform their “duties”
- No access to common/public properties and resources (wells, ponds, temples, etc.)
- Prohibiting from hoisting the national flag during Independence or Republic days
- Denial to access land ownership
- Separate burial grounds
- Segregation (separate seating area) of Dalit children in schools

### 4 Violence



- Violence against Dalit women
- Forced to vote or not to vote for certain candidates during elections
- Sub-standard wages
- Derogatory terms in speech and writing against the excluded communities
- Foisting of false cases
- Assault, attempt to murder, murder
- Rape of women, children
- Gang rape
- ‘Honour killings’

# 5 | Overview of national laws for the protection of population affected by discrimination based on work and descent

Policies, legislations and constitutional provisions	Country-specific policies
Official recognition of DWD	Brazil, EU, India, Japan**, Nepal, Nigeria, Senegal, UK
Statutory reservations in employment and education	Bangladesh****, India, Japan***, Nepal
Anti-discrimination laws	Bangladesh, Brazil, EU, India, Japan*, Malaysia*, Mali, Mauritania, Nepal, Nigeria, Pakistan, Senegal, Somalia*, Sri Lanka, UK
Caste- and gender-based atrocities	India, Nepal
Education and economic empowerment of DWD women	Brazil, EU, India, Nepal
Political participation	India, Nepal
Economic rights/targeted public finance and budgets	Brazil, India, Japan**, Nepal
Access to justice	EU, Japan**, India, Mali, Mauritania, Nepal, Nigeria
Rights of DWD children and youth	Bangladesh, Brazil, EU, India, Nepal
Inclusion in disaster-risk reduction	Bangladesh, India

\*Here 'caste' is not used as one of the prohibited grounds of discrimination. However, the constitution of Somalia and Japan uses the term 'clan' (art. 11) and 'race, social status or family origin' (art. 14) as prohibited grounds of discrimination. The Constitution of Malaysia prohibits discrimination on the basis race, descent or place of birth.

\*\*Law on Special Measures for Dowa Projects was enacted in 1969 and was in force until 2002

\*\*\**Buraku* community in Japan had reservations in the private sector.

\*\*\*\*1 percent admission quota for Dalit students in certain universities.

In each row, countries are arranged in alphabetical order



## 6 | Challenges in addressing DWD

**F**or the past few decades, the world has risen to the prevalence of discrimination based on work and descent. International human-rights institutions, governments and civil society organisations have jointly adopted a few measures to eliminate the abominable practice of DWD for equality and justice for all.

In spite of some recognition at both the national and

international levels, caste-based discrimination continues to be practiced as one of the most wide-ranging human-rights violation that perpetuates and maintains inequality across South Asian countries, as well as Japan, Yemen, and some African countries like Mali, Nigeria, Senegal and Southern Mauritania, among others. It continues to persist mostly because of the following factors:

## 1. Entrenched in culture and tradition: practiced as social norms

Discrimination based on work and descent, also known as caste-based discrimination, is deeply entrenched in culture and tradition, and is widespread across the globe. These cultures and traditions have a long-standing history, which however cannot be justified today. This social hierarchy is traditionally justified by religious doctrines, and is distinguished by degrees of purity, social status, exclusion and segregation.

Interestingly, there are distinct similarities across different regions in how such discrimination manifests itself. The caste system in South Asia has its roots in Hinduism; however, this discrimination is widely visible also in non-Hindu communities. Untouchability and segregation lays down the common basis of discrimination based on work and descent. In most parts of the world, caste has survived for ages without much change. It forms a very strong part of tradition, in spite of a number of laws and policies against it.

In India, caste is used as a mechanism to socially organize people. The imposition of social disabilities based on untouchability remains very much a part of the country. Dalits are segregated and still not allowed to use the same wells, visit the same temples, drink from the same cups in a tea stall or even claim their own land. The concept of purity and pollution is so engrained within the caste system that the affected community continues to be marginalized, and face multiple forms of exploitation and discrimination in the hands of state and non-state actors.

Although its form varies across regions, it finds similarities in other parts of the sub-continent, including Nepal, Pakistan, Sri Lanka and Bangladesh. In Bangladesh, the

categorization is closely associated with traditional caste-based occupations. “This continued identification of caste groups with traditional occupations also reflects continuity of their social and economic realities, and near absence of any kind of diversification of their occupations and economic life” (Shah, 2010).

Similarly, among the Rodiya’s in Sri Lanka, untouchability and segregation is based on descent and blood, or according to their hereditary roles and functions. Based on their low social status, “untouchables” are made to perform specific work during Hindu rituals<sup>1</sup>. Caste-based divisions are even central to African countries. In the Wolof society in Senegal, segregation is based on people’s engagement in specific activities.

In light of the long-standing history of caste system across countries, it has become a symbol of tradition and rigidity. In fact, it is often used as a justification for physical and social exclusion and segregation of the so-called ‘low-caste’ community from the rest of society, which has increasingly led to deprivation among the excluded groups.

## 2. Denial, non-recognition and invisibility to ‘caste reality’

Despite its long-standing history and discrimination associated with it, the caste system has little visibility and very little legal recognition in most countries. The invisibility of this community in the economic and political situation of the country is not a new phenomenon. The pattern of invisibility frames

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<sup>1</sup> A Report by Human Rights Watch for the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. Vol. 13, No. 3(G)



the basic mode of representation of their voices. In particular, women's voices from these communities are completely unheard or conveniently ignored. There is a lack of adequate coverage of their voices; even when covered, it is limited to only a few aspects that represent their "stereotypical image".

This invisibility is clearly evident in existing policies and constitutional provisions for development of the community. Outside South Asia, the reference to the term 'caste' is particularly limited. For instance, in Japan, constitutional provisions prohibit discrimination based on, inter alia, "race, social status or family origin" (art. 14). In the Constitution of Somalia, "clan" affiliation is one of the prohibited grounds for discrimination (art. 11)<sup>2</sup>.

Similarly, in Japan, the 'Law on Special Measures for Dowa Projects' was maintained only until 2002. Although the law helped improve the living conditions of the Buraku community, its non-existence today shows the government's attitude of invisibility towards the community. A common response of the state to the recommendation of the Special Rapporteur is that caste and discrimination based on work and descent is an internal problem, and there is no need for unnecessary interference by external mechanisms.

### **3. Inadequate and ineffective policies, legislation and constitutional provisions for protection and promotion of human rights of communities affected by DWD**

**T**here are few laws and mechanisms available for the protection of human rights of population affected by

DWD. Some of these laws were adopted as a result of work done by civil society and others due to work by state or international institutions. Countries mired with the practice of DWD have resisted attempts of international human-rights institutions under the pretext of "non-interference in practicing cultural rights".

The lack of recognition of the existence of discrimination based on work and descent or caste also implies lack of specific policies or legal provisions that would enable a dignified life for affected communities. "Due to entrenched and dehumanizing discriminatory practices by both state and non-state actors, Dalits in South Asia and other communities elsewhere, such as the Muhamesheen in Yemen and the Haratines in Mauritania, are deprived of their basic civil, political, economic, social, and cultural rights"<sup>3</sup>

Although there are some specific state policies in a few countries, they are enforced poorly, resulting in discriminatory practices still persisting. For instance, an initiative by the Indian government to have a Scheduled Caste Sub-Plan and Tribal Sub-Plan in financial budgets is a progressive step for inclusive development, but its implementation has been deficient across the country.

There are many countries with almost no state policies for affected communities, making them even more vulnerable. It is imperative to recognize that the absence of policies or services for socially marginalized communities is a prominent source of economic inequality. Given the existing levels of inequalities, it has become important to give serious reconsideration to development policies for inclusive growth across the globe.

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2 A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

3 Alternative report submitted to the UN Committee on Economic, Social and Cultural Rights when reviewing the second periodic report of Yemen: Human Rights Situation Of the Al-Akhdam in Yemen



#### **4. Access to justice remains elusive for communities affected by discrimination based on work and descent**

Various international covenants and charters, and even national constitutions, have long recognized access to justice as a basic human rights. Yet, in reality, communities affected by DWD have repeatedly, and blatantly, been denied justice. In few countries affected by DWD, specific state policies and legislation are available to combat caste-based discrimination and to criminalize discriminatory practices. However, attitudinal prejudice and poor levels of implementation of legislative measures and accountability result in prevailing impunity, and the continuation of discrimination based on work and descent. Violence and the threat of violence against the community often go unreported, allowing a culture of invisibility, silence and impunity by both state and non-state actors.

The Special Rapporteur on Minority Issues highlighted: “Due to caste prejudice or deference shown to perpetrators from higher castes, law enforcement officers may refuse to register and/or investigate cases brought by individuals from lower castes. In some instances, these officers perceive caste-based discrimination as a social issue to be solved within the community rather than a crime. Refusal to register such cases as criminal offences is justified as preserving “social harmony”<sup>4</sup>.

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4 A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

## 5. Converges with vulnerability, poverty and social exclusion

Discrimination based on work and descent entails social and economic exclusion, and discrimination particularly in their access to land, water, entrepreneurship, markets, education, health services and employment. This exclusion and discrimination faced by the community often leads to high incidence of poverty among them and precludes them from meaningful participation in public life.

Untouchability, which is the basis of caste-based discrimination, involves denial of equal rights and opportunities due to the association of pollution with so-called untouchable people. As rightly pointed out by Thorat and Sabarwal: “the untouchables have suffered from double denial, namely the denial of equal rights—civil, social, cultural, religious and economic that are clearly specified in the customary laws of caste system—as well as the denial of rights due to their untouchable status involving “forced non-association”, leading to a lack of participation in various spheres of society, culture and economy” (Thorat and Sabarwal, 2010)<sup>5</sup>.

Based on the principle of inequality, the caste system is certain to produce economic differences of significant magnitude. In most countries in South Asia, namely India, Sri Lanka, Nepal and Bangladesh, sanitation jobs that include manual scavenging, street cleaning and handling of animal carcasses are exclusively performed by the Dalit community because of the association of pollution with these activities.

For instance, in Bangladesh, members from the community make up a majority of the 5,500 cleaners in the Dhaka City Corporation. They have very little access to basic amenities and are paid little over U.S. \$1 a day. They breed pigs for Dhaka’s minority community, and also work as vendors and rickshaw pullers<sup>6</sup>.

In India, a vast majority of Dalits lives in rural areas. However,

their access to agricultural land is much lower as compared to their share in total population. The denial of access to land helps uphold the hierarchical structure of society and determines the economic position of each social group in the village. As per the 2011 Socio Economic and Caste Census, nearly 45 percent of SC households are landless and derive a major part of their income from manual casual labor (Indian Express). Manual scavenging is mainly performed by Dalits, with Dalit women accounting for 95 percent of manual scavengers<sup>7</sup>.

This rigid stratification not only makes it difficult for them to have access to jobs but also limits them to lower wages. The Buraku in Japan face severe discrimination in access to job opportunities. “Hiring detectives to investigate the background of job applicants is reported to be common. Research highlights that if investigations result in the person being considered as Buraku in origin, the individual is likely not to be further considered in the selection process”<sup>8</sup>.

Similarly, the Al-Akhdam in Yemen carry out what are culturally considered as the most polluting works. With no contracts issued and no minimum benefits, workers face constant insecurity; they are underpaid, indentured labour at municipal services—manual sanitation workers and street sweepers, verbalized as Ummal Al-Nadhafah in towns and cities<sup>9</sup>. Their vulnerability is compounded by a lack of access to basic human rights.

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5 Caste and Social Exclusion: Issues Related to Concept, Indicators and Measurement by Sukhadeo Thorat and Nidhi Sadana Sabharwal

6 A Report by Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. Vol. 13, No. 3(G)

7 A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

8 A/HRC/31/56 January 2016 Human Rights Council – Report of the Special Rapporteur on minority issues Rita Izsak

9 The human rights situation of Al-Akhdam in Yemen - UPR Yemen 2014 - [http://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/Yemen/UPR\\_joint\\_submission\\_IDS\\_N\\_AYN\\_June\\_2013FINAL.pdf](http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Yemen/UPR_joint_submission_IDS_N_AYN_June_2013FINAL.pdf)

## 6. Uprooted and geographically scattered communities

The issue of discrimination based on work and descent is a pattern observed in different parts of the globe. Although it varies across different communities in severity, manifestation and experience, the commonality is inequality and discrimination.

This wide geographical scatteredness of the community across the nation-state and across the globe makes it challenging to address the issue of discrimination based on work and descent. Affected communities are characterized by their wide dispersion, unlike certain ethnic communities or indigenous communities, who are compactly populated in a given area, with a fair amount of control over land and other natural resources till they were evicted by colonizers or modern industrial forces. One of the major reasons behind this dispersion is their eviction from their rootedness to a particular land, with prohibitions of land ownership and any capital formation in earlier years. In many parts of the world, they were enslaved or near slave like by several dominant communities.

## 7. Unorganized globally

One of the major issues in terms of implementation of policies for excluded groups is the lack of resources to form associations, as a result of which they remain unorganized. Communities affected by DWD live in remote and difficult conditions, with low awareness, little access to technology, electricity and other means of connection for networking and building solidarity with peer communities in other countries.

The lack of an organisation of communities affected by

DWD thus provides no scope for collective voicing of the violations and advocating for improved policies, mechanisms and support systems to address human-rights violations of communities affected by DWD. Organization of these groups requires certain material resources and independence, which seems to be difficult on the ground. Caste discrimination can be eliminated, but it requires action at different levels, from the grassroots to state, national and international, for which the community needs to be organized.

## 8. Lack of global unifying identity

There has been limited research and advocacy in countries besides India and few South Asian countries on the practice of DWD. Communities affected by DWD remain dispersed and unaware of the existence of similar practices in other countries. As a result, no efforts have been made by communities, state and civil society actors to bring the communities together with a common binding terminology of “Community affected by DWD”.

Discriminated communities are predominately known by the names given to them by wider society, the state or by movements. Most names given to the DWD community have their origin in very derogatory and humiliating ways; in fact, they are also been used as abuses.

For instance, in India, the names given to the Dalit community are often synonyms for abuses. Similar is the case with the African descent in the US. In India, Dr. B.R. Ambedkar had given a unifying name for the Scheduled Caste, ‘Dalit’, which has given strength to a unified national movement. Moreover, any DWD communities could identify themselves with this term. Henceforth, there is a need to name ourselves with a unifying identity like that of indigenous or afro descent.

# 7 | Towards a unifying global identity and a framework on discrimination based on work and descent including caste

Structures similar to DWD, including caste, have their roots in history of several parts of the world. The South Asian experience is quite evident. However, it is not an apparent part of history in the Middle East, North Africa, Egypt, Iran, Central Asia, China and Japan, Europe, Scandinavia, South America and Mexico.

There is documented evidence of this in history<sup>1</sup>. At the global level, these systems generally have a five- or four-fold hierarchy: priestly category, warrior/king/nobleman category, merchant category, artisan/craftsman category and servant/slave category. This rigid occupational hierarchy has imposed several prohibitions on the communities, especially to move from one category of occupation to another.

Over the years, those have been consolidated into rigid systems. Further, economic, political and cultural sanctions were imposed on the communities in the framework of discrimination based on work and descent, including caste. These restrictions and sanctions were often dealt with such severity, resulting in various forms of violence.

Dr. B.R. Ambedkar, icon of Dalits in the sub-continent and representing Dalits of undivided India, organized most of the excluded castes that were scattered all across the

sub-continent (currently Pakistan, Sri Lanka, India and Bangladesh). He grouped all of them as depressed classes; he attempted a global unifying identity for several caste identities, including Chamar, Mahar, Mang, Valmiki, Bhangi, Madiga, Mala etc.

There are over 1,000 caste groups in India<sup>2</sup>, given the name 'Dalit' as a unifying name. Mr. MK Gandhi had given the name 'Harijans'<sup>3</sup>, which was supposed to mean 'children of God'. This name was later rejected by the communities in India as it has a negative connotation (by being fatherless in this world). Currently, for a large part of the South Asian sub-continent, 'Dalits' has come to represent a unifying identity for those being discriminated by work and descent.

Dr. B.R. Ambedkar internationalized the issue of the erstwhile untouchables (Dalits). He compared the untouchability of South Asia to the system of 'slavery' as existed in North America. Through his letter to W.E.B. Du Bois from the National Association for Advancement of Coloured People (NAACP), he tried to emphasize the issue

1 Ghurye, G.S. (1950), 'Elements of Caste Outside India' in "Caste and Class in India pp149-164

2 "The Constitution (Scheduled Castes) Order 1950". Lawmin.nic.in. Retrieved 2013-11-30.

3 Harijan, (Nov. 1. 1936). M.K. Gandhi, Collected Works of Mahatma Gandhi, Vol-62, New Delhi: Publication Division, Ministry of Information and Broadcasting, Government of India (1975) p. 92

of caste, which, on many grounds, is similar to race. He highlighted the issue of 'untouchables' in India, which is similar to the position of blacks in America, and tried to invoke the attention of the United Nations through W.E.B. Du Bois.

Further attempts must have been submerged by his involvement in the national freedom movement and writing of the Constitution. Dr. Ambedkar tried to bring the issue of Dalits to the United Nations around the time of the inception of the Universal Declaration of Human Rights (UDHR) of the UN. This could be regarded as the first wave of global identity of DWD communities.

The second wave to globally unify the communities discriminated by work and descent, including caste, had begun in the year 2000 as part of the preparatory process of the UN World Conference against Racism (WCAR). Although the Conference took place in September 2001 in Durban, preparations for the conference like the evolution of the agenda, drafting of the Declaration and the Programme of Action started with the preparatory committees' meetings as well as satellite conferences to have a global participation of the communities.

As part of the preparatory process of the UN World Conference Against Racism, the Bellagio Consultation<sup>4</sup> was convened by Gay J. McDougall, a member of the United Nations Committee on the Elimination of Racial Discrimination. The objective of this Consultation was to bring together a diverse group of experts from around the world to formulate recommendations on the core themes and possible outcomes of the World Conference.

The Consultation recommended to include caste systems as one of the sources of discrimination and also 'groups subject to discrimination on the basis of descent (such as the Dalits and the Burakumin)'. However, in the final agenda,

both these recommendations were objected to and later removed from the agenda of the UN World Conference.

At another level in the UN, the need for a UN framework to address the issue of caste-based discrimination was presented at the Sub-Commission through NGO interventions by the National Campaign on Dalit Human Rights (NCDHR), International Movement Against All Forms of Discrimination and Racism, International Dalit Solidarity Network, Human Rights Watch (HRW), Minority Rights Group International (MRG), Anti-Slavery International, International Federation of Human Rights (FIDH) along with other human rights organizations from around the world in August 2000.

As a result, in the same session in August 2000, a resolution<sup>5</sup> was passed by the Sub-Commission to address the issue of caste and discrimination based on work and descent, and to identify affected communities, examine existing constitutional, legislative, and administrative measures for the abolition of such discrimination, and make concrete recommendations for the effective elimination of such practices.

The Sub-Commission appointed a Sub-Commission expert, Dr. R.K.W. Goonesekere, to prepare and submit a working paper on it. The resolution aimed and reaffirmed that discrimination based on work and descent is prohibited under International Human Rights Law. In August 2001, Goonesekere presented his working paper on work and descent-based discrimination to the Sub-Commission's fifty-third session.

The working paper, due to time constraints, has a limited

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4 Bellagio Consultation on the UN World Conference Against Racism, January 2000 <http://www.hrlawgroup.org/resources/content/BellagioEnglish.pdf>

5 U.N. Subcommission on the Promotion and Protection of Human Rights, "Discrimination Based on Work and Descent," E/CN.4/SUB.2/RES/2000/4, August 11, 2000.



focus to the Asian countries of India, Nepal, Pakistan, Sri Lanka and Japan. This report emphasized on the manifestations of caste- and descent-based discrimination and abuse across different countries.

This report was just an introduction to the prevalence and global dimensions of caste-based discrimination. Moreover, this report was also an entreaty to the government to give close and systematic attention to the problem of caste discrimination at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance and beyond.

The presentation of the paper, and the following debate in the Sub-Commission, was the first time that caste and discrimination based on work and descent was discussed as a major source of human-rights violations worldwide by a UN human rights body<sup>6</sup>. The Sub-Commission also determined by consensus to extend the study to other regions of the world where work and descent-based discrimination

<sup>6</sup> CASTE DISCRIMINATION: A GLOBAL CONCERN: A Report by Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. <https://www.hrw.org/reports/2001/globalcaste/caste0801.pdf> - Smita Narula has brought this report for HRW.



continues to be experienced.

Several meetings in preparation for the WCAR highlighted the need to address caste-based discrimination. This included the Asia-Pacific experts' seminar in Bangkok, the European NGO meeting in Strasbourg, the African experts' seminar in Addis Ababa, the NGO forum in Tehran, the Asia-Pacific NGO meeting in Kathmandu, the global conference against racism and caste-based discrimination in New Delhi, and various satellite conferences, including the Bellagio consultation.

Also, in September 2001, several Dalit networks from India, led by NCDHR, participated in the NGO

conference. Along with other international human-rights organizations like Minority Rights Group, IMADR, Anti Slavery International, Human Rights Watch brought out the nature of discrimination faced by communities affected by hierarchical systems and structures like caste across the world.

Roma Community leaders, CSO leaders from Nigeria, International Movement against all forms of Discrimination and Racism (IMADR) raised these issues at the CSO conference of the world conference against racism. The Dalit issue was one of the three issues selected by civil society to be presented to the heads of state at the high-level panel. In



spite of all these efforts, there was a blockage of discussion of the issue of discrimination based on work and descent, including caste, in the inter-governmental fora of the WCAR process, as well as in the Declaration and the Programme of Action of the World Conference.

There was a breakthrough on the issue of DWD including caste, when Professor Patrick Thornberry, member of the ICERD (International Convention on the Elimination of Racial Discrimination), moved for a thematic discussion on descent-based discrimination.

In 2002, CERD adopted UN General Recommendation 29 on descent-based discrimination, which recommends that all states take “steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status”(General Recommendation XXIX on article 1, paragraph 1, on the Convention (Descent) of CERD). This General Recommendation constitutes an effective framework to improve analysis and reporting on governments’ implementation of their obligations on this issue, and has been used as a reference in many country reviews and thematic debates by treaty- and charter-based bodies.

In 2004, Special Rapporteurs Mr. Asbjørn Eide and Mr. Yoko Yakota submitted their report on Prevention of Discrimination: on the topic of discrimination based on work and descent to the ECOSOC. In this report both Mr. Eide and Mr. Yakota categorically identified caste or DWD communities in the globe, including Bangladesh, Burkina Faso, India, Japan, Kenya, Mali, Micronesia, Nepal, Pakistan, Senegal, Sri Lanka and Yemen. Further, they found DWD identities in various diaspora in Europe and Americas, as well as similarly discriminated communities exist around the world. This report also introduced the first introductory

recommendations for Principles and guidelines for the eliminations of discrimination based on work and descent.

Thereafter, several other milestones have been achieved, General Comment No: 20 of the CESCR in 2009. While other Treaty Bodies including the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee Against Torture (CAT), and the Committee on the Rights of the Child (CRC) have addressed caste-based discrimination, and analogous systems of discrimination based on inherited status while examining country reports. Issues of caste discrimination have been addressed in the reports of Special Procedures Mandate Holders (including the Independent Expert on Minority Issues and the Special Rapporteurs on Racism). Some Mandate Holders have conducted country visits to DWD including caste affected countries (although many requests for visits are pending acceptance from governments).

Further to the Goonesekere working paper, the Sub-Commission, through the resolution 2003/22, appointed Mr. Asbjørn Eide and Mr. Yozo Yokota<sup>7</sup> for an expanded working paper on the topic of discrimination based on work and descent. The paper identified additional communities affected by discrimination based on work and descent in other parts of world, especially Africa and including diaspora communities in North America, the United Kingdom and other places.

This ‘working paper’ explores continuing structures existing in several Asian and African countries, as well as in Europe, which leads to various forms of routine as well as extreme human-rights violations. The paper also recommended that the Sub-Commission appoint a special

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<sup>7</sup> E/CN.4/Sub.2/2004/315 July 2004 - COMMISSION ON HUMAN RIGHTS, Sub-Commission on the Promotion and Protection of Human Rights Fifty-sixth session



rappporteur/s who would undertake a further study on the elimination of discrimination based on work and descent, focusing on the finalization of a draft set of principles and guidelines, in cooperation with relevant treaty bodies, special procedures and United Nations agencies.

Post these various phases in the upsurge created by the World Conference against Racism at Durban in 2001, which challenged the conscience of humankind against racism and other forms of inequality, cross-country solidarity building among Dalits has had a decade-and-a-half old history.

On that significant occasion, the powerful voice of the strong contingent of civil society organizations reverberated around the globe and caught the imagination of progressive human-rights activists and social intellectuals, media pundits and donor partners, UN agencies and international governments regarding the form of hidden apartheid suffered by Dalit communities in India. This voice grew louder and stronger, with Dalit communities in South Asian countries joining the chorus of protest against caste discrimination and violence suffered in their own respective countries, and asserting claims for their rights and entitlements.

It is in this background that the Asia Dalit Rights Forum, a

collective of Dalit rights activists, originated as a germinal idea at the World Social Forum 2004 in Mumbai, India. This led to events being organized for Dalit rights activists from Bangladesh, India, Nepal, Pakistan and Sri Lanka at the India Social Forum, Delhi, in November 2006. This collective idea of an Asia Dalit Rights Forum gained further clarity of perspective at the Karachi Social Forum in 2007. The rationale for this networking lay in the contiguity of the South Asian region countries, and the commonality of the systemic nature of discrimination and violence suffered by the people living in this region.

All these have impacted several resolutions passed in the EU and US. The International Dalit Solidarity Network (IDSN) has taken this issue to several bodies in the UN. As a result, EU passed a resolution B6-0021/2007<sup>8</sup> on the Human Rights Situation of the Dalits in India, and has also focused on suggestions and mechanisms to combat the issue. In 2007, the US House of Representatives passed a resolution<sup>9</sup> pledging to work with India to implement laws against caste discrimination, which was likely to impact organizations in India that do business with or receive funding from the US government.

Through the efforts of the Dalit Solidarity Network, UK, and several other human rights and Dalit organisations, on March 2, 2010 in UK, the United Kingdom's House of Lords adopted an amendment to the new UK Equality Bill, recognizing the existence of caste and DWD in the country, and paving the way for illegitimizing caste-based discrimination.

This has significantly influenced other countries within the EU to mandate a similar stand against caste and DWD,

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8 [http://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/EU/2012/EU\\_initiatives\\_on\\_caste-based\\_discrimination.pdf](http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/EU/2012/EU_initiatives_on_caste-based_discrimination.pdf)

9 H.Con.Res.139 — 110th Congress (2007-2008) <https://www.congress.gov/bill/110th-congress/house-concurrent-resolution/139> -

including informing and educating Dutch and Danish companies on the issue of caste and, more importantly, how to tackle this kind of discrimination through tools such as Ambedkar's Principles and Dalit Discrimination check.

Due to the continuous efforts of several organizations, networks and individuals, resolutions were passed and recognition of discrimination based on work and descent including caste became global. This called on the world to address this deeply entrenched problem of caste. Further to this, a very visible mechanism and principle to address DWD came in the year 2009 when Special Rapporteurs Mr. Yozo Yakota and Ms. Chin-Sung Chung, appointed by the Subcommission<sup>10</sup> presented the Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent.

Principles and Guidelines has firmly established that DWD is a form prohibited by international human-rights law. It is also prohibited by many domestic laws. However, it needs a comprehensive UN framework, based on which all states, as signees to the Universal Declaration of Human Rights, would not only acknowledge the existence of DWD but also 'take all necessary constitutional, legislative, administrative, budgetary, judicial and educational measures to eliminate and prevent discrimination based on work and descent in their territories and to respect protect, promote, implement and monitor the human rights of those facing discrimination based on work and descent.'<sup>11</sup>

Communities affected by DWD need a broad set of rights, ensured in a fair manner. They have the right to enjoy, on an equal footing of human rights and fundamental freedoms in the political, social, economic, cultural, or any field of public life. These include the right to physical security and life, right to freedom from violence, right to equal political participation, right to fair access to justice, right to own

land, right to equal access to public and social services, right to freedom of religion, right to marriage on free will, right to education, right to cultural identity, right to equal opportunity and free choice of employment, right to equal, just and favorable conditions of work, right to be free from forced or bonded labour, right to be free from cruel, inhumane or degrading treatment, right to health, and the right to adequate food, water, sanitation, clothing and housing.

The Draft Principles and Guidelines have received support and encouragement from the Special Rapporteur on Racism and the Independent Expert on Minorities, and was endorsed by the Government of Nepal. The Draft Principles and Guidelines is currently being referred in the UNDP Resource Guide on Marginalised Minorities, and a number of states have made presentations on discrimination based on work and descent in the Human Right Council on referring to the document.

At another level, the groups and networks in Asia felt the need to initiate a Parliamentarian's Forum, and thus the Asia Parliamentarians Forum on Dalit Concerns (APFDC), a forum of Parliamentarians from South Asia, was born. APFDC came together with the aim to address the issue of discrimination and exclusion faced by Dalit and excluded communities. APFDC was initially known as South Asian Parliamentary Forum for Dalit Concerns, and was renamed at SAARC 2014 Kathmandu. The Forum came together at the South Asian Parliamentarians' Conference on 'Dalit Concerns: Enabling Equity and Inclusion.'

Thus, tracing the history from what Dr B.R. Ambedkar started taking up, through different phases of Dalit rights, we have

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<sup>10</sup> A/HRC/11/CRP.3 18 May 2009 Human Rights Council – Report of the Special Rapporteurs Yozo Yakota and Chin-Sung Chung

<sup>11</sup> Ibid

reached a juncture where all efforts of different stakeholders, networks and individuals need to be transformed into a global framework to address DWD including caste. As one can see, earlier efforts have been limited to a country or a group of countries. There is a growing need for a unifying global identity and a global framework with specific principles to address DWD. There is a need for an international convention to eliminate discrimination based on work and descent including caste. Various experiences and expert consultations with discriminated communities have suggested that the Convention should have the following basic elements.

- **To give official recognition to those DWD-affected communities in countries where they have not been identified as such, so as to enable them to enjoy the benefits that are due to them.**
- **To bring a common human-rights framework with strategies to end 'untouchability' and 'Discrimination based on Work and Descent' including Caste across all countries and ensure that DWD communities, women in particular, live with equality and human dignity.**
- **To give due recognition to the rights of the growing population of DWD-affected children and youth, plan specially designed development projects that are relevant to their needs today, and accordingly allocate special budgets, and ensure their effective participation in the implementation and review process.**
- **To statutorily mandate reservations in employment, procurement and services in both private and public sectors, with penalties attached for non-compliance and non-implementation by the officers concerned in the government administration.**
- **To establish legal mechanisms with follow-up measures in all countries with a view to monitor the DWD caste and gender based atrocities committed against women and girls**

**of DWD communities.**

- **To evolve a common legal policy framework with strategies for women facing DWD. This should cover educational and economic empowerment by accessing land resources, education, and employable and entrepreneurial skill development for gainful occupation, as well as for building economic assets as a measure of security and self-reliance.**
- **To give due recognition to the rights and entitlements of communities of DWD, particularly women, in all areas of life by designing development schemes, as well as allocating adequate financial resources in the annual budget in proportion to their population.**
- **To ensure equal rights to political participation for affected communities, including the right to participate in public elections, and to equal opportunity to run and be elected to public office.**
- **To establish effective and inclusive monitoring mechanisms for reviewing the implementation of laws and policies, budgets and schemes, where these are in place, with strict penalties for non-compliance, negligence and dereliction of duty.**
- **To understand the exclusion of DWD communities during humanitarian crisis and ensure special mechanisms are in place to address this form of discrimination.**

There are over 260 million people spread across several countries over the world who are discriminated based on work and descent, including caste. Due to restrictions, prohibitions and the ensuing violence that is meted to them, they face routine and extreme forms of human-rights violations. Women and children among them are doubly vulnerable to these violations. Several movements among them have evolved to organize themselves and to address their issues at several levels.

Therefore, there is an urgent need to evolve a unifying global identity and an international UN convention to eliminate Discrimination based on Work and Descent.

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**C**aste is a global phenomenon that has plagued the world and history has traced its many manifestations across several countries globally. DR BR Ambedkar connected and dialogued with similar groups globally and thus what seemed like a South Asian problem found resonance with the discriminated groups elsewhere. These efforts were then continued by several organisations and during the Global Conference against Racism and Xenophobia the voices got louder and groups demanded recognition and “cast out Caste” was the anthem that roared in the conference. The attempt through this book is to trace the various forms of caste that exist today and drawing similar parallels worldwide. Affected communities include the Dalits in South Asia, Burakumin in

Japan, Al-Akhdam in Yemen, different caste groups in Africa, Quilombo in Brazil, Roma in Europe and the Diaspora community in the United Kingdom, United States of America and Malaysia. Although there are differences in the way it is manifested on the ground, there are certain similarities in terms of discrimination, inequality and social exclusion for the affected communities. Discrimination based on work and descent is the term used to address similar forms of discrimination including caste, work and birth based discrimination. It is against this backdrop that the handbook has been made to reflect on the current scenario of discrimination based on work and descent in the global context and to move towards a common framework to address discrimination based on work and descent.

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