



Joint written response for CERD consultation with civil society 23 November 2016

By

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By adopting General Recommendation 29 in 2002 the Committee explicitly included “caste” within the scope of the Convention. Identifying several factors that could lead to discrimination on the basis of caste and analogous systems of inherited status including “inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality”.

Caste based discrimination affects more than 206 million people worldwide and to this date the Committee has issued caste-related comments and recommendations to 18 states.¹

Though mainly present in South Asia the International Dalit Solidarity Network (IDSN) is working to address caste-based discrimination in a number of countries and regions around the world. This submission contains inputs from IDSN member organizations working on the ground in Nepal and the UK - both of whom will be present at the Consultation on 23 November - and focuses on the challenges of racial discrimination, civil society initiatives to combat caste-based discrimination and engagement with CERD in these particular country contexts.

1. What are the key challenges and issues of racial discrimination in your country/region today and how do you work to address them?

Nepal

The Dalit community in Nepal is the most marginalized and excluded constituting around 13.6% of the total population of the country.²

The issues of caste-based discrimination and untouchability in Nepal are multi-faceted and have adverse impacts on the socio-economic and political life of the Dalit community. Half of Nepal’s Dalits live below the poverty line and have limited access to justice and education and are more likely to be victims of forced prostitution and bonded labour. In the aftermath of the 2015 earthquake Dalits have reported discrimination and negligence due to caste prejudice in relief and rescue services.

¹ IDSN compilation of UN references to caste (October 2016): <http://idsn.org/un-2/compilation-of-un-references-to-caste-discrimination/>

² National Population and Housing Census 2011, Government of Nepal Central Bureau of Statistics 2012.

Despite numerous commitments of the Government of Nepal to address these issues, Dalits are yet to enjoy their basic human rights and freedoms due to lack of effectiveness of the state mechanisms, a lack of resources and non-implementation of legislation.

Nepal is party to 24 human rights instruments including the International Convention on the Elimination of all forms of Racial Discrimination (ICERD). In its last examination of Nepal in 2014 the Committee expressed concern about the presence of caste-based discrimination and the culture of impunity surrounding this practice. The Government is yet to submit their second report to the Committee which was due in March 2008. This has created a substantial gap for interaction between CERD and Civil Society in Nepal and sends an unfortunate signal about the Government's inattention to racial discrimination and Dalit rights issues.

Following a lengthy negotiation process, the new constitution of Nepal was finally adopted on the 20 September 2015 and contained several clauses addressing non-discrimination, equality and proportional inclusion principles, that serve to guarantee the rights and equal participation of Dalits. Specifically -the provision on Dalits in Articles 40 and the prohibition against untouchability in Article 24 of the Constitution serve as useful tools for Civil Society to address caste based discrimination on the ground. Furthermore, the Nepalese Government has expressed support for the UN Draft Principles and Guidelines to end caste discrimination.³

The Nepal National Dalit Social Welfare Organisation (NNDSWO) is promoting Dalit rights through research and awareness-raising initiatives informing about the new constitution and legal provisions to combat caste-based discrimination in Nepal. The organization is continuously administrating projects and campaigns with a focus on Dalit rights. From 2013-2015 the NNDSWO collaborated with other CSOs on the EU funded project "SAJHA PAHAL" (Collective action against caste discrimination and untouchability).

United Kingdom

In the UK caste-based discrimination continues to lack formal legal prohibition. Although in 2013 the UK government amended the Enterprise and Regulatory Reform Bill (now Act), imposing a duty on the Minister to activate Clause 9 (5)(a) of the Equality Act 2010 [EA 2010], to make 'caste an aspect of race', the legislation outlawing caste discrimination is yet to be implemented.

In 2006, Dalit Solidarity Network-UK (DSN-UK) published 'No Escape: Caste Discrimination in the UK' a report on the existence and impact of caste discrimination in the UK.⁴ It was the first national study that explored this issued and outlined recommendations for further research to develop, capture and understand the complex and wide canvas of caste discrimination in the UK. The study found that Dalits face discrimination in the sectors of employment, healthcare, education and politics. The significance of the report was that it identified the existence of the caste based discrimination in UK for the first time, which gave grounding and impetus to tackle caste based discrimination in the UK.⁵

³ A/HRC/11/CRP.3

⁴ Savio Lourdu Mahimaidass & Dr Nidhi Sadana, *No Escape: Caste Discrimination in the UK, Dalit Solidarity Network UK Report*. Dalit Solidarity Network UK, London, 2006.pp.1-24.

⁵ Evidence of Caste Discrimination in the form of case studies and testimonies have been presented to Government by a number of organisations since 2004 in the UK including ACDA, CasteWatchUK, Federation of Ambedkarites & Buddhists Organisations UK, British Asian Christian Council, Shri Guru Valmiki Sabha International, Central Valmiki Sabha International, Association for Community Cohesion, Shri Guru Ravidass Sabha UK (SGRS-UK), the voice for all Shri Guru Ravidass Temples in the UK, Voice of Dalits International, and Dalit Solidarity Network UK.

Exact figures on the numbers of Dalits in the UK are unknown due to issues around identification as a 'Dalit', lack of detailed research, and the absence of caste data in the census. However, it is accepted that there is a significant 'population pool' of people of Dalit origin numbering 150,000 to 500,000 and spanning the various sub-continental countries and religions. People of South Asian origin in the UK number 2.3 million or 4% of the total population. Some religious groups are almost wholly from the lowest castes, for example Ravidassia, Valmiki, Ramdasis and Ambedkarite Buddhists. Christians with roots in the Indian sub-continent are also often low caste or Dalit. Unofficial sources claim that the number of Sikhs in Britain is likely to be around 500,000, and that one third of this number traditionally belongs to the Dalit category.⁶ A very conservative estimate is that at least 250,000 Dalits live in the UK.

The 'untouchability mindset' all too often persists in the form of direct and indirect discrimination. Ancestry is identified in a number of ways, including on the basis of name (although names may be changed), place of origin, former occupation, family members' occupations, place of worship, education, social circle and on the basis of community knowledge. Therefore, it is of little surprise that such a deeply entrenched form of discrimination also exists within the Diaspora communities in the UK.

DSN-UK aims to change values and practices through policy changes, advocacy and working jointly with other likeminded groups, building strategic alliances to maximise advocacy opportunities and build a stronger network of organisations. The objectives of the organization include working with the UK Parliamentarians; businesses operating in caste-affected countries; supporting international advocacy efforts to address caste-based discrimination at the UN, EU and other international institutions; and increasing media attention on all aspects of caste-based discrimination.

2. What has been your experience, as civil society, of engaging with CERD to date?

IDSN and its members engage with CERD prior to and during reviews of caste affected countries, including submitting alternative reports, attending and speaking at committee meetings in Geneva. Prior to state reviews IDSN members have found it of great use and help that civil society's shadow reports are available on the CERD website. Moreover, IDSN and members have noted that their inputs have been reflected in the concluding observations' recommendations, making their voices heard at the international level and encouraging states to implement relevant changes.

General Recommendation no. 29, confirming that the term "descent" includes caste and analogous systems of inherited status, has been a great tool for advocacy to prohibit caste-based discrimination in the countries concerned. The General Recommendation has been utilized by a number of other UN Human Rights bodies including special procedures, which has added significant weight in our advocacy work. The Special Rapporteur on contemporary forms of racism has continuously recommended the implementation of General Recommendation 29 and has invited Governments to consider creating a consultative body of regional human rights institutions with the aim to raise awareness about caste.

⁶ "Hidden Apartheid – Voice of the Community", (ACDA), 2009

3. How can the CERD improve and enhance its engagement with civil society, and its work on racial discrimination for greater impact on the ground?

Potentially more could be done to encourage states to involve civil society organisations in the follow-up processes and actions.

Some states fail to submit their reports in due time which creates substantial gaps in information and limits the possibility for dialogue between the Committee and CSOs. In order for the Committee to stay updated on developments and CSO initiatives to combat caste-based discrimination on the ground, the Committee should consider ways to interact with and receive information from Civil Society independently of state reporting-cycles.

A better coordination with special procedures including the Special Rapporteur on the situation of human rights defenders; minority issues⁷; contemporary forms of racism; and slavery could enhance CERD's impact on the ground. The Committee could play an important part in taking forth a UN wide action plan on caste, drawing on the recommendations issued by other UN Human Rights Bodies and should consider making a Thematic Consultation on Caste Based Discrimination in collaboration with other Treaty Bodies and Special Procedure mandate holders to consider the possibility for a joint review process on recommendations and a road map for action to improve their implementation.

In their dialogue with and recommendations for states, CERD should push for national action plans to eliminate caste-based discrimination, as well as for the proper mechanisms to oversee their implementation, in line with recommendations made by other UN bodies.

⁷ In March 2016 the Special Rapporteur on minorities issues Ms. Rita Iszak-Ndiaye released a report on minorities caste based discrimination (A/HRC/31/56). In line with the UN principles and Guidelines on caste discrimination A/HRC/11/CRP.3, the UN expert issued a number of recommendations for states, including a recommendation on the urgent development and implementation of comprehensive national action plans and budgets to combat discrimination based on caste and analogous systems in caste-affected countries.