

Guidance Tool on Descent-Based Discrimination

**Key Challenges
and Strategic Approaches
to Combat Caste-Based
and Analogous Forms
of Discrimination**

United Nations Network on Racial Discrimination
and Protection of Minorities



UNITED NATIONS



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CONTENTS

	<i>Page</i>
Acronyms and abbreviations	v
Key to color-coded boxes	vi
I. Introduction, purpose and methodology	
1.1. Introduction	1
1.2. Methodology: a human rights-based approach to United Nations programming	5
II. Descent-based discrimination	
2.1. The extent and form of descent-based discrimination	
2.1.1. Inability or restricted ability to alter inherited status	11
2.1.2. Socially enforced restrictions on marriage outside the community	12
2.1.3. Private and public segregation and subjection to dehumanizing discourses of pollution or untouchability ..	13
2.1.4. Limitation of freedom to renounce inherited occupations or degrading or hazardous work	14
2.1.5. Subjection to debt bondage	15
2.1.6. Generalized lack of respect for their human dignity and equality	15
2.1.7. Descent-based discrimination is not gender-neutral	17
2.2. Regional and national efforts to combat descent-based discrimination	19
III. International standards and mechanisms	
3.1. International standards	25
3.2. Human rights mechanisms	32
IV. Ensuring the participation of right-holders and engaging with duty-bearers and other relevant stakeholders	
4.1. Ensuring the participation of affected descent-based communities	37
4.2. Promoting accountability and access to justice for descent-based communities	40
4.3. Building strategic partnerships with duty-bearers and other relevant stakeholders	
4.3.1. State actors and institutions	44
4.3.2. National human rights institutions and equality bodies ...	46

4.3.3. Other relevant actors	
Civil Society	48
The private sector	49
Trade unions	51
Development agencies and other donors	51
Regional mechanisms	52

V. Coordinating United Nations efforts to combat descent-based discrimination

5.1. Inter-agency coordination	55
5.1.1. Examples of possible means and activities to help coordinate the work of UNCTs on descent-based discrimination	57
5.1.2. Improving staff diversity	58
5.2. Addressing descent-based discrimination in the United Nations Development Assistance Framework and Common Country Assessment process	59
5.3. Other entry points to combating descent-based discrimination ..	61
5.3.1. The 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs)	61
5.3.2. Human Rights up Front (HRuF)	62
5.3.3. Poverty reduction strategies	64
5.3.4. Humanitarian emergency assistance	65

VI. Leaving no one behind: pursuing evidence-based actions, policies and programming

6.1. Collecting disaggregated data	71
6.1.1. How can the collection of disaggregated data, including along gender lines, target descent-based discrimination?	74
6.1.2. Which sources should inform the development of monitoring frameworks and indicators?	75
6.1.3. How can the United Nations support better data collection?	76
6.2. Framing questions for analysis and action	77
6.2.1. Questions for situational analysis	78
6.2.2. Identifying key areas of intervention to address the situation of descent-based communities	79
6.3. Translating findings into action and programmes	85

ACRONYMS AND ABBREVIATIONS

CAT	Committee against Torture
CCA	Common Country Assessment
CEDAW	Committee on the Elimination of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CERD	Committee on the Elimination of Racial Discrimination
CRC	Committee on the Rights of the Child
CSO	Civil society organization
DWCP	Decent Work Country Programme
HRBA	Human Rights-Based Approach
HRCttee	Human Rights Committee
HRC	Human Rights Council
HRuF	Human Rights up Front
ICAT	International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ICCPR	International Covenant on Civil and Political Rights
ICEDAW	International Convention on the Elimination of All Forms of Discrimination against Women
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	Convention on the Rights of the Child
IFRC	International Federation of Red Cross and Red Crescent Societies
IFAD	International Fund for Agricultural Development
ILC	International Labour Conference
ILO	International Labour Organization
NGO	non-governmental organization
NHRI	national human rights institution
OHCHR	Office of the High Commissioner for Human Rights
PRSP	Poverty Reduction Strategy Papers
RC	Resident Coordinator
SDGs	Sustainable Development Goals
UNCT	United Nations Country Team
UNDAF	United Nations Development Assistance Framework
UNDG	United Nations Development Group

UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	Office of the High Commissioner for Refugees
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children’s Fund
UPR	universal periodic review

KEY TO COLOUR-CODED BOXES

Key concepts

Spotlight on United Nations action/in-country developments

Key messages

Key resources

I. INTRODUCTION, PURPOSE AND METHODOLOGY

1.1. Introduction

Promoting and encouraging respect for human rights without discrimination is one of the main purposes and principles of the United Nations, as enshrined in article 1 of the United Nations Charter. **All United Nations agencies, funds and programmes are governed by, and have a mandate to promote, the principles of the United Nations Charter.** As clearly stated in the *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*, meeting this mandate is not optional; it is a duty for the whole United Nations System.¹

Across the globe, millions of people face segregation, exploitation, and physical and psychological abuse because of their **caste or other inherited status**² into which they are born. Most of the affected communities are in South Asia—where they are known as Dalits—but similarly affected groups are also found elsewhere in Asia as well as in Africa (especially West Africa and the Horn of Africa), in the Middle East, and among the diaspora communities from South Asia and Africa.³ As the findings of United Nations human rights mechanisms make clear, descent-based discrimination is not restricted to one region or one belief system.

Even though United Nations human rights instruments do not refer explicitly to caste-based or analogous forms⁴ of discrimination, related jurisprudence has made it clear that these treaty norms also cover those forms of discrimination, and that States therefore have a legal obligation under international law to address such discrimination. This

¹ The United Nations Charter, which establishes the mandate of the United Nations, sets out that a central purpose of the United Nations is “promoting and encouraging respect for human rights and for fundamental freedoms for all”, without discrimination (art. 1). *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*, para. 22, available from <https://undg.org/wp-content/uploads/2016/10/UNDG-Guidance-Note-on-Human-Rights-for-RCs-and-UNCTs-final.pdf>.

² The Special Rapporteur on minority issues has noted that the term “caste” refers to a strict hierarchical social system that is often based on the notions of purity and pollution, in which individuals placed at the bottom of the system may face exclusion and discrimination in a wide range of areas. The concept of “caste system” is primarily associated with the South Asian region, where its existence is linked to the religiously sanctioned social structure of Hinduism, which identified four original and endogamous groups, or castes, called varnas. At present, the term “caste” has broadened in meaning, transcending religious affiliation. Caste and caste-like systems may be based on either a religious or a secular background and can be found within diverse religious and/or ethnic groups in all geographical regions, including within diaspora communities.

Report of the Special Rapporteur on minority issues (A/HRC/31/56), paras. 26 and 27.

³ *Ibid.*, para. 31. See also Expanded working paper by Mr. Asbjørn Eide and Mr. Yozo Yokota on the topic of discrimination based on work and descent (E/CN.4/Sub.2/2004/31), para. 35.

⁴ Similar forms.

has been stated particularly forcefully by the Committee on the Elimination of Racial Discrimination (CERD) in the 2002 **General Recommendation No. 29** on descent-based discrimination, in which the Committee concluded that discrimination based on descent covers caste and analogous systems of inherited status and is thereby covered by the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD).

In March 2013, the United Nations Secretary-General endorsed the *Guidance Note on Racial Discrimination and Protection of Minorities* setting out a framework for United Nations action with a view to ensuring a comprehensive and coherent United Nations approach on racial discrimination and protection of minorities, from headquarters to regional and country presences.

The *Guidance Note* contains 19 recommendations for the United Nations system on how to address racial discrimination and protection of minorities in line with the **Universal Declaration of Human Rights**, the **United Nations Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities** and other key standards. The *Guidance Note* also recommends that “United Nations action and policies should reflect the fact that persons targeted for **discrimination based on descent, in particular caste-based discrimination** and related practices, are in a number of contexts in a particularly marginalized position and in need of focused attention.”⁵

In 2014, the **United Nations Network on racial discrimination and protection of minorities**⁶ developed an Action Plan to support the implementation of the recommendations contained in the *Guidance Note*. This guidance tool responds to the specific action point of preparing “guidance for the United Nations system on key challenges, priorities and strategic approaches to combat discrimination based on work and descent.”⁷

⁵ *Guidance Note of the Secretary-General on racial discrimination and protection of minorities*, para. 20, available from www.ohchr.org/Documents/Issues/Minorities/GuidanceNoteRacialDiscriminationMinorities.pdf.

⁶ The United Nations Network on racial discrimination and protection of minorities was created by the Secretary General to enhance dialogue and cooperation between relevant United Nations Departments, Agencies, Programmes and Funds. Coordinated by OHCHR, the Network brings together over 20 United Nations Departments, Agencies, Programmes and Funds, all of which have identified senior staff as focal points for this purpose (current members include DESA, DOCO, DPA, DPI, DPKO, ILO, OCHA, OHCHR, OSAPG, PBSO, UNAIDS, UNAO, UNDP, UNEP, UNHCR, UNESCO, UNICEF, UNFPA, UNICEF, UNITAR UNODC, UN-Women and WFP).

⁷ Action Plan on the implementation of the *Guidance Note of the Secretary-General on racial discrimination and protection of minorities*, para. 3.1.d. Reflecting the fact that a person’s caste can also be determinative of his or her occupation, caste-based discrimination is also addressed under the title “discrimination based on work and descent”, a term that emerged in 2000 in the then Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/RES/2000/4). In the subsequent years, the Sub-Commission appointed two Special Rapporteurs to undertake a comprehensive study on discrimination based on work and descent, resulting in the Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent (A/HRC/11/CRP.3).

This Guidance Tool helps lay the foundation for more concerted and system-wide action by the United Nations on the issue of discrimination based on descent, including caste-based and analogous forms of discrimination. It also complements the *Guidance Note of the Secretary-General on Racial Discrimination and Protection of Minorities* as well as various other United Nations guidelines and tools referenced throughout this document. The main target group for this guidance tool is **United Nations Country Teams (UNCTs) and Resident Coordinators (RCs)**⁸ but the tool is also useful for other stakeholders that are working to address and combat descent-based discrimination.

The Guidance Tool is meant to enable the United Nations system to:

- Understand the conceptual issues and fundamental principles related to addressing discrimination based on descent as well as the intersection between discrimination based on descent and gender;
- Apply a human rights-based approach and a gender perspective when formulating programmes and strategies to combat descent-based discrimination;
- Obtain guidance on key challenges, priorities and strategic approaches to combat discrimination based on descent;
- Increase opportunities for meaningful participation and representation of descent-based communities in development processes;
- Share lessons learned in relation to the development, reform and implementation of legislation, policies and programmes to address this form of discrimination;
- Integrate a non-discrimination approach in United Nations Development Assistance Frameworks and Common Country Assessment processes.

Throughout the tool, the reader can find concrete suggestions for actions that UNCTs can take to address descent-based discrimination, including in **section 6.3** on translating findings into action and programmes.

⁸ UNCTs exist in 136 countries and cover all 180 countries with United Nations programmes. UNCT denotes all the entities of the United Nations system that carry out operational activities for development, emergency, recovery and transition. A UNCT ensures inter-agency coordination and decision-making at the country level. For more information, see <https://undg.org/about/un-country-level>.

Overview of the tool

This Guidance Tool has been divided into six chapters.

Chapter I: Introduction and purpose clarifies the purpose and methodology of the tool.

Chapter II: Descent-based discrimination provides an overview of the form and global dimension of descent-based discrimination, including the intersectional discrimination faced by women and girls from descent-based communities.

Chapter III: International standards and mechanisms outlines relevant norms and standards under international human rights law, as well as the human rights and labour mechanisms available to address descent-based discrimination.

Chapter IV: Ensuring the participation of descent-based communities and engaging with other stakeholders presents concrete suggestions as to how the United Nations can involve affected descent-based communities, relevant duty-bearers and other stakeholders in addressing descent-based discrimination, including in relation to accountability and access to justice.

Chapter V: Coordinating United Nations efforts to combat descent-based discrimination focuses on how the United Nations can address descent-based discrimination through interagency coordination and by including the issue in Common Country Assessments and the United Nations Development Assistance Framework and highlights a number of entry points to address discrimination such as the Sustainable Development Goals, Human Rights Up Front, early warning signs and humanitarian emergency assistance.

Chapter VI: Leaving no one behind: Pursuing evidence-based actions, policies and programming highlights a number of methods that the UNCTs can use to integrate a non-discrimination focus into their work, including an introduction to a human rights-based approach to data collection and statistics and a list of questions that can be used in planning processes related to United Nations programming.

The **Annexes** presents the full text of General Recommendation No. 29 of CERD (Annex 1) and a list of possible opportunities for UNCTs to engage with human rights mechanisms (Annex 2).

A note on sources

The main sources that are used in this guidance tools are United Nations documents including recommendations and reports from treaty bodies and Special Procedure mandate-holders. Some sources from civil society organizations have also been used. It is important to note that information on the specific issues affecting descent-based communities in regions outside of South Asia is sorely lacking. United Nations agency studies and reports focused on the issue of descent-based discrimination in these regions could help provide much needed evidence and data to inform policy and programming.

Language matters

United Nations agencies should take care not to inadvertently perpetuate or reinforce the very stigma and stereotypes that they seek to ameliorate. For example, when referring to communities considered to be “lower” or “upper” caste, or when making reference to a more restrictive language adopted by the Government, quotes should always be used so as not to perpetuate, reinforce, or legitimize these hierarchies or discriminatory language. Where possible, it may be preferable to identify the affected communities by the names by which they identify themselves (e.g. Dalits in certain South Asian countries, the Buraku people of Japan, and the Muhamasheen of Yemen) and to refer to “upper” caste communities as dominant castes.

It is also important to use consistent terminology throughout the United Nations system that reflects the self-identification of the persons and groups concerned and to be mindful of not adopting terminologies that may only reflect the perception of the government.

1.2. Methodology: a human rights-based approach to United Nations programming

A human rights-based approach focuses on the realization of the rights of excluded and marginalized populations who are left behind, and those whose rights are at risk of being violated. It includes understanding how **laws, social norms, traditional practices and institutional responses** positively or negatively affect the enjoyment of human rights. For instance, human rights-based analysis may reveal capacity gaps in legislation, institutions, policies and voice. In consequence, legislative capacities may need to be strengthened to bring national laws into compliance with treaty obligations. Institutional reforms may be needed to improve governance, strengthen capacities for budget analysis and to provide people with effective remedies when human rights are violated. Policy reforms may be needed to combat discrimination, and to ensure consistency between macroeconomic and social policies.⁹

Under a human rights-based approach, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law, including all civil, cultural, economic, political, social, and labour rights, as well as the right to development.

The table below highlights some of the benefits of applying a human rights-based approach when formulating programmes and strategies to combat descent-based discrimination.

⁹ OHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, p. 27, available from www.ohchr.org/Documents/Publications/FAQen.pdf.

What is a human rights-based approach?

- An approach that is normatively based on **international human rights standards** and principles that takes into account the specific recommendations of the UPR process, treaty bodies, and special procedures.
- An approach that aims for the progressive **achievement of all human rights**.
- An approach that **focuses on discrimination**, disadvantages, and marginalization in development processes and in the provision of humanitarian relief.
- An approach that recognizes that human beings are **rights-holders** and establishes obligations for States and other actors as **duty-bearers**.
- An approach that supports the capacity of duty-bearers to promote and protect human rights, and of rights-holders to claim their rights and access services.

Why use a human rights-based approach to address descent-based discrimination?

- It recognizes that **structural power inequalities** exist within societies and uses the human rights framework to empower people to claim their rights and hold duty-bearers **accountable**.
- It promotes the active and meaningful **participation** of claim-holders throughout the development process.
- It promotes the principle of **non-discrimination** with particular attention to the situation of vulnerable and disadvantaged groups within society.
- It supports the mandate of United Nations agencies to **promote equality and ensure inclusive development**.

In the **United Nations Common Understanding on the Human Rights-Based Approach**¹⁰ adopted in 2003, the United Nations system agreed that all development cooperation shall further the realization of human rights, and that human rights standards and principles shall guide all development cooperation and programming. This agreement is operationalized in the **United Nations Development Assistance Framework Guidelines** through the recognition of this approach as one of the key programming principles of the United Nations Development Assistance Framework. It also requires that all stages of programming be guided by human rights standards, as reflected in the international treaties, as well as by principles such as participation, non-discrimination and accountability.¹¹

In particular, the following elements of a human rights-based approach should be considered in all United Nations policies and programmatic work addressing descent-based discrimination:

¹⁰ United Nations, "Common Understanding on the Human Rights-Based Approach", available from <http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>.

¹¹ HRBA Portal, available from <http://hrbaportal.org>. See also *Guidance Note of Secretary General on racial discrimination and protection of minorities*, para. 12.

1. The principle of participation and inclusion of representatives of affected communities, particularly where processes and issues may impact them directly;
2. The principle of accountability within a framework of specific human rights entitlements and corresponding obligations established under international law;
3. The principle of gender equality that requires that the multiple and intersecting forms of discrimination that women and men, and girls and boys and in particular, experience are addressed in United Nations programmes;
4. The collection and disaggregation of data in view of identifying systemic patterns of discrimination and inequality.¹²

Integrating human rights into development programming brings an important lens for understanding development issues and can help achieve better, more effective and sustainable development results.¹³

Given that descent-based communities are often the most disadvantaged in society, there is a sound basis for the engagement of all agencies, funds and programmes in the protection of their rights. While OHCHR has the lead role for the promotion and protection of human rights within the United Nations system, other United Nations organizations play a crucial role in promoting the implementation of human rights standards, including, among others, UNDP in its mandate to support countries in their development path; UNICEF in its mandate to promote the rights of the child; UN-Women on gender equality and women's rights; ILO with regard to international labour standards; UNHCR on the situation and rights of refugees, asylum seekers, internally displaced persons and stateless persons; UNFPA on reproductive rights; WHO on the right to health; and UNESCO on freedom of expression and cultural rights.

United Nations funds, programmes and agencies, through their mandated programmes and activities, contribute to the realization of human rights by building the capacity of international, regional and national actors (e.g. parliaments, governments, judiciaries, NHRIs and civil society) to promote and protect human rights through reform and implementation of legal frameworks, policies, plans and programmes. In doing so, United Nations funds, programmes and agencies engage with human rights mechanisms, including by way of informing the work of and using recommendations arising from these mechanisms. It is also important to note that recommendations from human rights mechanisms constitute an essential part of applying HRBA to development programmes and operational activities of the United Nations development system.

¹² See chapter V for more information on a human rights-based approach to data and statistics.

¹³ *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*, p. 6. Concrete examples and case studies are available on the United Nations HRBA Practitioners' Portal.

Applying a gender perspective

Achieving women's rights, gender equality and eliminating all forms of discrimination is at the heart of a human rights-based approach. A gender perspective should look at how human rights issues affect, women, men and others¹⁴ differently and pay particular attention to multiple and intersecting forms of discrimination. A human rights-based approach and gender integration are complementary and mutually reinforcing, and can be undertaken without conflict or duplication. They are in fact two of the five United Nations programming principles. This means not only looking at human rights violations that particularly affect one category of people (e.g. girls from descent-based communities may be more prone to sexual exploitation) but also how human rights violations that appear "neutral" on their surface may have a different impact in relation to the gender of the affected person (e.g. in detention facilities, men belonging to a caste perceived as "lower" may be more exposed to corporal punishments than men from castes perceived as dominant). Only by applying a gender and human-rights based approach can adequate measures be proposed. It contributes to ensuring policies and programmes do not reinforce existing harmful gender stereotypes.

The principle of gender equality requires that the multiple and intersecting forms of discrimination that women and men, and girls and boys in particular, experience are addressed through appropriate means identified in consultation with them, and that such measures advance their empowerment. To achieve gender equality, **gender integration** is one of the key strategies of United Nations-supported analysis and strategic planning and programming.¹⁵

Key messages

- Under a human rights-based approach, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law, including all civil, cultural, economic, political, social and labour rights, and the right to development.
- A gender perspective that looks at how human rights issues affect women, men and others, and pays particular attention to multiple and intersecting forms of discrimination, is critical in addressing descent-based discrimination.

¹⁴ Not all persons identify as men or women. Various non-binary gender identities exist, including *hijra*, *fa'afafine*, third gender and others. Several States permit non-binary or indeterminate gender markers on official documents including Australia, Bangladesh, India, Nepal and New Zealand.

¹⁵ United Nations Development Group (2014), *Resource Book for Mainstreaming Gender in United Nations Common Programming at the Country Level*.

Key resources

- United Nations (2013), *Guidance Note on Racial Discrimination and Protection of Minorities*
- United Nations Development Group (2015), *Guidance Note on Human Rights for Resident Coordinators and the UN Country Teams*
- United Nations Development Group (2015), *The United Nations System and Human Rights: Guidelines and Information for the Resident Coordinator System*

Human Rights-Based Approach

- United Nations Practitioners Portal on Human Rights Based Approaches to Programming
- Human Rights-Based Approach Common Learning Package
- OHCHR (2006), *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*
- UNDP (2012), *Mainstreaming Human Rights in Development Policies and Programming: UNDP Experiences*

Gender Equality

- OHCHR's Online training course on a human-rights based approach to gender integration, "Gender equality, human rights and me"
- United Nations Development Group (2014), *Resource Book for Mainstreaming Gender in United Nations Common Programming at the Country Level*
- UN-Women (2011), *United Nations System-Wide Action Plan on Gender Equality and the Empowerment of Women* (United Nations-SWAP)
- UN-Women (2015), *United Nations Country Team Performance Indicators for Gender Equality and the Empowerment of Women* (the "Scorecard")
- UN-Women Training Centre, "I know gender: An introduction to gender equality for United Nations staff"
- UNHCR (2011), *Age, Gender and Diversity Policy*

II. DESCENT-BASED DISCRIMINATION

This chapter gives an overview of the form and global dimension of descent-based discrimination, including the intersectional discrimination faced by women and girls from descent-based communities. The chapter also highlights a number of regional and national efforts to combat descent-based discrimination.

2.1. The extent and form of descent-based discrimination

Descent-based discrimination undermines, fundamentally, the dignity of the persons concerned, affecting a full spectrum of **civil, political, economic, social, and cultural rights**. Descent-based discrimination fuels violations of the right to education and employment, undermines access to justice and, all too often, catalyses sexual violence and other crimes targeted at women and girls. It is a **large-scale human rights problem** that requires decisive attention and action.

Although the severity and manifestation of descent-based discrimination varies from region to region, as does the lived experience of the communities affected, several common features tie these communities together. As articulated in CERD's *General Recommendation No. 29 on Descent-Based Discrimination*, the existence of communities who suffer from discrimination on the basis of caste and analogous systems of inherited status may be recognized on the basis of various factors including some or all of the following:

- i. inability or restricted ability to alter inherited status;
- ii. socially enforced restrictions on marriage outside the community;
- iii. private and public segregation, including in housing and education, access to public spaces, places of worship, and public sources of food and water;
- iv. subjection to dehumanizing discourses referring to pollution or untouchability;
- v. limitation of freedom to renounce inherited occupations or degrading or hazardous work;
- vi. subjection to debt bondage;
- vii. generalized lack of respect for their human dignity and equality.¹⁶

2.1.1. Inability or restricted ability to alter inherited status

Caste and analogous systems of inherited status are, at their root, social hierarchies wherein certain groups are branded as inferior based on their **birth into a particular social group**. In such systems, the marginalized status so acquired cannot be removed simply by individual merit or achievement.¹⁷

¹⁶ CERD, General Recommendation No. 29, para. 1.

¹⁷ Discrimination based on work and descent (E/CN.4/Sub.2/2003/24), para. 45.

Restrictions on social and economic mobility imposed by such systems can still remain in place despite significant changes in the economic structure of countries in which communities are discriminated against on the basis of descent.¹⁸ Research indicates, for example, that descent-based discrimination can be manifested within the middle class and in non-traditional occupations (or contemporary labour markets such as in the IT industry) through persistent wage gaps and discriminatory hiring practices against those considered to be “lower” castes.¹⁹ The findings of human rights mechanisms also indicate that when immigrants from descent-based communities settle in other countries, they often bring caste status and inherent discrimination with them when they move.²⁰

Furthermore, in societies where **caste and religion** are intertwined, religious conversion has been viewed as a way of altering inherited status, and therefore escaping descent-based discrimination. It is often the case that members of discriminated castes who convert to other religions lose out on the basic safeguards provided to them in policies of affirmative action, while the previous caste status and related social bias remains at the social level.²¹

2.1.2. *Socially enforced restrictions on marriage outside the community*

Intermarriage can help to dispel the stereotypes and persistent artificial divisions in highly stratified societies. However, in caste and analogous systems, rigid social norms of purity and pollution are often socially enforced through prohibitions on marriage

¹⁸ For example, in societies where de facto slaves and descendants of slaves are assigned the lowest status, slave status is passed through the generations: some people continue to live as slaves to their masters, while others bear the social status because their ancestors were enslaved, but no longer have ties to their family’s traditional masters. Often people of slave descent who have achieved economic and political success in urban areas are still regarded as a part of the slave caste by the communities they originated from, showing their inability to alter inherited status. See also Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Mission to the Niger (A/HRC/30/35/Add.1), para. 47.

¹⁹ Ashwini Deshpande, *Diversity in the Workforce: Why It Is Good for Business*, prepared in collaboration with ILO and the International Dalit Solidarity Network, available from www.dalits.nl/pdf/DiversityInTheWorkforce.pdf.

²⁰ E.g. CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: United Kingdom and Northern Ireland (CERD/C/GBR/CO/18-20), CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Suriname (CERD/C/SUR/CO/13-15).

²¹ Cf. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/17/40), para. 41. See also CERD, Concluding Observations of the Committee on the Elimination of Racial Discrimination: India (CERD/C/IND/CO/19), p. 21, and Report of the Special Rapporteur on freedom of religion or belief—Addendum—Mission to India (A/HRC/10/8/Add.3), para. 28.

outside the community. In many concerned countries, strong social barriers hinder marriage between castes.²²

Affected communities may experience violence if they do not conform to social norms associated with their caste, and inter-caste marriages can be frequent flashpoints for conflict. The condemnation, particularly by representatives of dominant castes, can be quite severe, ranging from social ostracism to acts of punitive violence.²³

2.1.3. *Private and public segregation and subjection to dehumanizing discourses of pollution or untouchability*

Segregation and untouchability are concepts that make descent-based discrimination unique, powerful and entrenched. The characterizations of affected communities are strikingly similar from continent to continent: affected community members are seen as “polluted”, “filthy”, “impure” and “lesser human beings”. These characterizations, in turn, are used to justify the social and physical segregation of these communities from so-called “higher” ones, as well as their exclusion from certain occupations and their involuntary monopoly over occupations and tasks that are deemed too “unclean” for others to undertake.²⁴

Segregation in the public and private domains has deep implications for the ability of affected communities to enjoy a range of human rights, and often extend to the realm of housing, education, places of worship, food delivery, and the provision of public services. Some examples of segregation practices are listed below:

- Violations of the right to freedom of religion or belief may include segregation practices prohibiting people from entering places of worship, from leading prayers, sitting at the first row at places of worship, performing religious rites, being buried in the same cemeteries, and participating in religious festivals;
- Affected communities may be denied access to communal water sources for fear that they will “pollute” the water supply.²⁵ Violence and physical attacks have,

²² E/CN.4/Sub.2/2004/31, para. 37.

²³ See also A/HRC/17/40, para. 39.

²⁴ For instance, in Nepal, during Dashain and Tihar festivals, non-Dalits traditionally sacrifice animals at the temples. When the festivals are over, Dalits have to clean the carcasses and are also made to eat the meat of the sacrificed animals which are considered “holy”, despite the fact that the meat is often rotten since a few days have passed since the animals were sacrificed. Refusal by Dalits to submit to such roles is seen as a rejection of traditional beliefs and could lead to stigma as well as violent repercussions from non-Dalits. In OHCHR, *Opening the Door to Equality: access to justice for Dalits in Nepal*, available from http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2011_12_07_Opening_the_Door_to_Equality_E.pdf.

²⁵ As explained by the Special Rapporteur on the human right to water and sanitation: “Individuals who find themselves stigmatised because of the perception that they are ‘dirty’ or ‘contagious’ may be socially ostracized and be denied access to water, sanitation and hygiene services, hence reinforcing the stereotype of uncleanness and prolonging a vicious circle”. A/HRC/21/42, para. 22.

'or example, been reported in instances where groups of people belonging to a so-called "lower" caste have attempted to access facilities in areas inhabited by dominant castes.²⁶ Women and girls from affected communities may be also forced to travel long distances to fetch water, or leave the relative security of their homes in order to relieve themselves;

- At schools, segregation practices can be translated into the denial of access to school water supplies and meals, segregation in classrooms and institutional exclusion such as poor investment in schools attended by children from affected communities. Children may also face discriminatory attitudes from fellow students and the community as a whole, in particular from "higher caste" members, who perceive education as a threat to village hierarchies and power relations;²⁷
- Affected communities may also be forced to live on the outskirts of villages or in segregated colonies or slums, away from dominant groups. The areas and housing conditions of the affected groups are typically among the poorest and least well serviced;
- Other segregation practices may also include prohibition on touching "lower" caste individuals and their possessions based on the belief that they are "polluted."²⁸

2.1.4. Limitation of freedom to renounce inherited occupations or degrading or hazardous work

The marginalized status and associated discrimination is also strongly associated with the **occupations or traditional occupational roles** of the groups concerned. These occupations are typically regarded by other members of society as dirty, inhumane and/or menial.

Even where the **original occupational roles no longer exist**, the marginalization caused by association or identity with stigmatised traditional occupations may lead to members of the affected groups being relegated to the most menial jobs, whether or not those jobs are related to the original occupational roles.

In certain cases, the decision to remain tied to a traditional occupational role might also be linked to the lack or absence of adequate and accessible rehabilitation and social reintegration measures, such as alternative livelihood provisions.

²⁶ Report of the Special Rapporteur on the human right to water and sanitation (A/HRC/21/42), para. 36 (citing National Campaign on Dalit Human Rights, "Stigmatization of Dalits in access to water and sanitation in India", submission to the Special Rapporteur).

²⁷ Report of the Special Rapporteur on the right to education (A/HRC/17/29) dealing with the promotion of equality of opportunity in education.

²⁸ See, for example, Navsarjan Trust and the Robert F. Kennedy Center for Justice and Human Rights, "Understanding Untouchability: A Comprehensive Study of Practices and Conditions in 1589 Villages," Appendix 1: A List of Untouchability Practices, p. 40, (2010), available from www.indianet.nl/pdf/UnderstandingUntouchability.pdf.

2.1.5. *Subjection to debt bondage*

Employees belonging to groups that have been targets of long-standing patterns of discrimination, such as Dalits in South Asia, and in particular women within these groups, are more vulnerable to coercive employment practices than others.²⁹ Their “low” status often reinforces their poverty, marginalization, and exclusion and discrimination in access to education and other fields, making them more vulnerable also to slavery and slavery-like practices in areas ranging from manual scavenging³⁰ to forced prostitution.

2.1.6. *Generalized lack of respect for their human dignity and equality*

Descent-based discrimination has profound implications for the ability of affected communities to live a life of dignity and enjoy all human rights on equal footing with others. Affected groups remain often invisible from public policies and national budgetary allocations. Child labour is common and children of “lower” castes suffer high levels of illiteracy. For women, caste is a multiplier that can compound their experience of poverty and discrimination. The marginalization of communities affected by descent-based discrimination is often exacerbated by the profound **stigma** that is attached to their “low” status.³¹ The stigmatization of descent-based communities is also perpetuated by **negative stereotypes** in the media, textbooks, or on the internet, which contributes to the disempowerment of the communities themselves.³²

Eliminating descent-based discrimination requires developing an understanding of the ways in which affected communities experience discrimination so as to develop strategies to eliminate such discrimination. Descent-based discrimination has profound implications for the ability of affected communities to live a life of dignity and enjoy a range

²⁹ ILO, *Combating Forced Labour: A Handbook for Employers and Business*, 2015, available from www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_101171.pdf. See also Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), para. 51 (citing an ILO research showing a clear link in Asian countries between forced labour and long-standing patterns of discrimination. In India, the overwhelming majority of bonded labour victims in agriculture, brick making, mining and other sectors are from Scheduled Castes and Scheduled Tribes).

³⁰ See India: ILO’s efforts in addressing the practice of manual scavenging (Cf. United Nations in India, *Breaking Free: Rehabilitating Manual Scavengers*, available from <http://in.one.un.org/page/breaking-free-rehabilitating-manual-scavengers/>). See also Human Rights Watch, *Cleaning Human Waste: Manual scavenging, caste, and discrimination in India*, available from <https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india>.

³¹ A/HRC/21/42, paras. 12, 15, 20, 22, 24, 32.

³² See ICERD, Article 7: “States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination (...)”.

of human rights on equal footing with others. Even within descent-based communities, there may be groups that are particularly marginalized.³³

Legal frameworks, state policies, and political representation are a necessary but insufficient condition for the elimination of discrimination that is so entrenched in the psyche of affected societies.³⁴ Combating descent-based discrimination requires a **range of interventions**, including educational programmes, awareness raising initiatives and measures that step out of the formal and legal realm and into social spheres in order to address and work toward altering deeply rooted systemic, cultural and social prejudices, customs, beliefs and traditions.³⁵ In this regard, it is critical not only to engage both affected but also **dominant communities**, including through the media, educational systems, public outreach campaigns, and through faith/secular-based and other organizations.

Full and effective participation of affected communities in the development, implementation and evaluation of strategies aimed at empowering them is essential.³⁶ Such strategies should also include measures to achieve their socioeconomic empowerment and support alternative livelihoods, including education, vocational skills training, access to capital (microcredit), basic social services, and assistance with income-generating activities, always taking into account the specific needs of women and children.³⁷

³³ Progress report of the Special Rapporteurs on the topic of discrimination based on work and descent (A/HRC/Sub.1/58/CRP.2), para. 33 noting that there are a number of different castes within the affected communities, and discriminatory practices are enforced within themselves. Even though the degree and nature of discrimination is different from “untouchability”, they have hierarchical concepts, and marriages are made within the same castes in the affected communities. Discrimination within the affected communities shows how deeply discrimination-based on work and descent is imbedded in the lives of all castes.

³⁴ For example, despite a constitutional prohibition of untouchability, a 2014 survey by the National Council of Applied Economic Research in India revealed that one in four Indians admit to practising untouchability. In National Council of Applied Economic Research, “Biggest caste survey: One in four Indians admit to practising untouchability”, available from www.ncaer.org/news_details.php?nID=91.

³⁵ Chapter IV provides further information on multi-stakeholder involvement to combat discrimination based on descent.

³⁶ Navi Pillay, Opinion piece: tearing down the wall of caste (19 October 2009) available from <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9540&LangID=E>.

³⁷ In addition, a victim-centred approach is required for the rehabilitation of those rescued from traditional/caste-based slavery and slavery-like practices that are conjoined with caste-based occupations such as manual scavenging and forced prostitution (such as the Devadasi in India and the Badi in Nepal). In these cases, support needs to go beyond the legal process, and include psychological, educational and economic measures. It is common that those victims, when rescued, will not know how to live independently and usually will not have had any education or means of self-support. It is also likely that the marginalization caused by association or identity with stigmatised traditional occupations will continue. Without support, they will be unlikely to secure anything other than menial work. Cf. ILO, *Resource Handbook for Ending Manual Scavenging*.

2.1.7. *Descent-based discrimination is not gender-neutral*

Women and girls from descent-based communities experience discrimination and human rights abuse on multiple grounds based on their gender and descent.³⁸ The intergenerational nature of descent-based discrimination often condemns women to a lifetime of exclusion, marginalization and disadvantage in every sphere of life. Descent-based discrimination is also used as a social mechanism to maintain their subordinate position in society.³⁹ When gender and descent intersect, they compound the discrimination faced by this group.⁴⁰ These forms of violations include, inter alia, sexual violence, sexual exploitation, trafficking, other forms of gender-based violence, bonded and forced labour, discrimination in political, economic, cultural, and social life, and a lack of or limited access to food, water and sanitation, healthcare, education, and adequate housing. Women and girls from descent-based communities are also particularly vulnerable to reprisal attacks when they seek justice for crimes committed. Women and girls from descent-based communities who are refugees, asylum-seekers, stateless or internally displaced, and who live in urban, camp, or remote rural settings, may experience further barriers in being guaranteed their rights.

Available data indicates that women from some of these communities are vulnerable to a disproportionately higher rate of **sexual and gender-based violence** mainly committed by men of dominant caste groups.⁴¹ A similar, persistent pattern is found in relation to other forms of gender-based violence against other marginalized communities, which are also largely committed with impunity for the perpetrators. Women from affected communities are also often excluded from public and political processes when responses to human rights violations are being designed and implemented.

National laws, policies and institutions addressing gender need to explicitly recognize the **intersectionality** and the specificity of gender and descent-based discrimination.

³⁸ It is also important to note that women are not a homogenous group and that multiple forms of discrimination are faced by different groups within those communities.

³⁹ Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Mission to India (A/HRC/26/38/Add.1) para. 15 (noting that “[t]he intergenerational nature of caste-based discrimination condemns women to a life of exclusion, marginalization and disadvantage in every sphere of life. Many of those women are denied an education and economic opportunities, and perform dangerous and unprotected work, including bonded labour (debt bondage) and manual scavenging, which are both widely regarded as forms of forced labour and modern forms of slavery”).

⁴⁰ CEDAW has spelled out that discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as, inter alia, caste, and that States parties must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures. In CEDAW, General Recommendations Nos. 25 and 28.

⁴¹ See Statement by the High Commissioner for Human Rights on Violence against Women and Girls from caste-affected communities (17 June 2014), available from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14736&LangID=E>.

In addition, data collection and research and analysis must capture the complexities of this form of discrimination.

The situation of women and girls from descent-based communities requires special attention, intervention and protection in multiple areas including but not limited to the right to make informed choices in life, harmful cultural practices, gender-based violence, property rights, ensuring decent work and ensuring equal access to healthcare, education, and water and sanitation facilities. Effective United Nations action on this issue also necessitates continuous dialogue with women from affected communities, including with a view to ensuring their contribution and participation in the design and implementation of United Nations action.⁴²

Examples of descent-based discrimination against women and girls

The severe discrimination women and girls face makes them a key target of violence and systematically denies them choices and freedoms in all spheres of life.⁴³ The examples below illustrate some of the worst forms of descent-based discrimination. The link between caste-based discrimination and forced prostitution is found in the Devadasi and Jogini systems practiced in **India**. Originally a sacred religious practice, the Devadasi dedication of girls to temples has turned into a systematic abuse of young Dalit girls being forced to prostitute themselves for dominant caste community members. Girls who become *Devadasi* and *Jogini* are prohibited from marrying and are stigmatised by the community. Their children suffer from discrimination because they do not have a recognized father.⁴⁴

In **Nepal**, the *Badi* community, found mostly in the Mid and Far Western regions of Nepal, is particularly marginalized and stigmatised for being associated with “sex work”, while being denied other possibilities for livelihood.⁴⁵ Originally a caste of entertainers—dancers and

⁴² Cf. Guidance Note of the Secretary General on racial discrimination and protection of minorities, paras. 15 to 17. The principle of gender equality requires that the multiple and intersecting forms of discrimination that women and men, and girls and boys and in particular, experience are addressed through appropriate means identified in consultation with them, and that such measures advance their empowerment. A gender perspective that takes into account women’s and men’s issues and different life experiences and multiple and intersecting forms of discrimination is critical in addressing descent-based discrimination.

⁴³ A/HRC/26/38/Add.1 para. 15.

⁴⁴ The ILO Committee of Experts noted that the Devadasi system is a form of forced labour within the meaning of ILO Convention No. 29 as it involves young girls being dedicated to temples without their consent and being forced into offering sex to the community. A study by Anti-Slavery International on the practice of ritual sexual slavery or forced religious “marriage” found that 93 per cent of Devadasi were Dalits and 7 per cent from Scheduled Tribes (indigenous) in India. In Anti-Slavery International (2007), *Women in Ritual Slavery: Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, Southern India*.

⁴⁵ OHCHR, *Opening the Doors to Equality*, p. 15 noting that despite government commitments, the Badi community is yet to be provided with the means to secure their release from traditional caste barriers. The CRC has also noted with concern that “children of lower castes are disproportionately represented among sex workers, and about

musicians—the Badi saw their status decrease as society and the economy changed, eventually becoming sex workers.⁴⁶ Badi girls are frequently pressured by their families to start working as a sex workers at an early age to help with the household income.⁴⁷

In **Niger**, female slaves are exposed to additional hardship, including sexual violence by the masters, and girls of slave descent are the main victims of the *wahaya* practice.⁴⁸ The *wahaya* practice involves the purchase of one or more girls, usually of slave descent, under the guise of a fifth wife, to work as a servant and as a concubine.⁴⁹

In **Mauritania**, women are viewed by their masters firstly as labour and secondly as producers of a labour force. Women in descent-based slavery are frequently beaten and sometimes raped by their masters, who consider them to be their property. Their children are also considered the master's property and, along with other slaves, can be rented out, loaned, or given as gifts in marriage.⁵⁰

2.2. Regional and national efforts to combat descent-based discrimination

There are a number of recent positive developments towards combating descent-based discrimination at the national, regional and international levels. Several laws and policies have been introduced in some of the concerned countries. The past decade has also witnessed the increasingly active engagement of civil society on the issue of descent-based discrimination, both in-country and at the United Nations.

Examples of regional and national level efforts to combat descent-based discrimination are listed below:

- In December 2013, Dalit parliamentarians from South Asia formed the **Asian Parliamentarians' Forum on Dalit Concerns**. The Forum organizes regular meetings to discuss strategies for ending caste-based discrimination and including Dalit issues at all levels of governance in the region. The engagement of the Parliamen-

the persistence of the customary practice known as Badi, whereby young girls of the Badi caste are forced into prostitution." Committee on the Rights of the Child, "Concluding observations: Nepal" (CRC/C/15/Add.261), para. 87.

⁴⁶ United Nations Resident and Humanitarian Coordinator's Office, Field Bulletin: the Badi Community of Nepal, available from <http://un.org.np/sites/default/files/2013-01-02-Field-Bulletin-Issue-50.pdf>.

⁴⁷ Cf. UNAIDS, UNFPA and UNDP, *Sex Work and the Law in Asia and the Pacific*, pp. 41 and 42, available from www.undp.org/content/dam/undp/library/hiv/aids/English/HIV-2012-Sex-WorkAndLaw.pdf.

⁴⁸ A/HRC/30/35/Add.1, para. 82.

⁴⁹ *Ibid.*, paras. 48-53. See also Galy Kadir Abdelkader and Moussa Zangaou, "Wahaya: domestic and sexual slavery in Niger" (Anti-Slavery International and Timidria), p. 7, available from www.antislavery.org/wp-content/uploads/2017/01/wahaya_report_eng.pdf.

⁵⁰ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Mission to Mauritania (A/HRC/15/20/Add.2), para. 38.

tarians at a regional level in the struggle to end caste discrimination has been an important factor in leveraging regional cooperation in addressing the issue.

- In May 2011, **Nepal** adopted a law **criminalizing untouchability and caste-based discrimination**,⁵¹ constituting an important step towards the protection and promotion of the rights of caste-affected people. In 2014, a high-level consultation workshop on the implementation status of the **UPR recommendations** concerning caste-based discrimination in Nepal was held at the Office of the Prime Minister and Council of Ministers, bringing together government officials, representatives of the police and the army, the Attorney General's office, national human rights institutions, and various NGOs. The new Constitution of 2015 recognised Dalit rights under fundamental rights and gave the National Dalit Commission constitutional status.
- In September 2013, the Parliament of **India** adopted the **Prohibition of Employment as Manual Scavengers and their Rehabilitation Act**,⁵² which envisages penalties for any public authority or private individual who uses or promotes the practice of manual scavenging. The adoption of the law represents a key step forward in protecting and promoting the rights of Dalit women and represents a good practice for other caste-affected countries to follow. In March 2014, the Supreme Court of India ruled that manual scavenging violates international human rights law and called for effective remedy. In December 2015, India's Parliament passed the **Scheduled Castes (SCs)**⁵³ and the **Scheduled Tribes (STs) (Prevention of Atrocities) Amendment Act (2015)**,⁵⁴ prohibiting and punishing the commission of offences against members of SCs and STs, and providing for the establishment of special courts for the trial of such offences and the rehabilitation of victims.
- In October 2012, during its second **universal periodic review**, **Pakistan** accepted recommendations to continue its efforts related to the elimination of discrimination on the basis of caste.
- In **Bangladesh**, the **National Human Rights Commission** and the National Law Commission have been studying ways that caste discrimination could be addressed under a more comprehensive anti-discrimination law and work on proposed draft legislation is on-going. Furthermore, as an outcome of a growing national Dalit movement, the Government of Bangladesh has in recent years

⁵¹ Caste Based Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011), 1 June 2011.

⁵² Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 19 September 2013.

⁵³ Scheduled Castes are caste groups, also known as Dalits that are eligible for quotas in education and government jobs and protected under the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989. Muslim and Christian Dalits are not included as Scheduled Castes and are therefore not currently protected under the 1989 Act.

⁵⁴ The Act amended the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989.

taken steps to address the situation of Dalits through allocation of funds for housing and other social development for Dalits and other marginalized groups.

- In Europe, significant steps have been taken to recognize and address caste-based discrimination on par with other grounds of discrimination, such as ethnicity and race.
 - In April 2013, the **United Kingdom of Great Britain and Northern Ireland** introduced a legislative provision, contained in the Enterprise and Regulatory Reform Act, providing that the Government must **include caste-based discrimination in the scope of its Equality Act**.⁵⁵ The decision serves as a good practice for protecting caste-affected persons in diaspora communities.⁵⁶
 - In July 2014, the Equality and Human Rights Commission in the United Kingdom undertook an independent assessment of caste-based discrimination in the United Kingdom.⁵⁷ The purpose of the assessment was firstly to engage stakeholders and experts in a discussion on caste-based discrimination including how it affects the South Asian diaspora community in the United Kingdom. This informed the analysis of the legal aspects of caste discrimination, in particular the avenues available to incorporate caste into the domestic equality legislation of the United Kingdom.
 - In September 2015, in a landmark decision on caste-based discrimination under the Equality Act, a United Kingdom employment tribunal ruled in favour of a domestic worker from a so-called “low caste” in India kept in domestic servitude by her employer in the United Kingdom.⁵⁸
 - In October 2013, the **European Parliament** adopted a resolution on caste-based discrimination which called on European Union institutions to recognize and address caste-based discrimination on par with other grounds of discrimination; to include the issue of caste-based discrimination in European Union

⁵⁵ See United Kingdom, Enterprise and Regulatory Reform Act 2013, §97.

⁵⁶ E/CN.4/Sub.2/2004/31, para. 35.

⁵⁷ Equality and Human Rights Commission (UK), “Caste in Britain”, Research report 91: Socio-legal Review, available from www.equalityhumanrights.com/publication/research-report-91-caste-britain-socio-legal-review and Research report 92: Experts’ Seminar and Stakeholders’ Workshop, available from www.equalityhumanrights.com/publication/research-report-92-caste-britain-experts-seminar-and-stakeholders-workshop.

⁵⁸ The employment tribunal paid particular attention to the Claimant being from a “low caste” Adivasi background, which made her particularly vulnerable to discrimination. Members of the Adivasi caste were, the employment tribunal found, in an inherited position in Indian society where they were expected to be nothing more than domestic workers in the homes of wealthy, “higher-caste” Indian families. In *Chandhok & Anor v Tirkey* (Race Discrimination) [2014] UKEAT 0190 14 1912. Adivasi is the Sanskrit word for indigenous peoples used in South Asia (especially in India and Bangladesh). Adivasi are outside of the caste system but can still suffer from caste-based discrimination. In India they are called Scheduled Tribes.

legislation and human rights policies; and to raise the issue at the highest level with governments of caste-affected countries.⁵⁹

- In 2015, **Mauritania** revised the 2007 law that criminalized slavery, by including contemporary forms of slavery and making the practice of slavery punishable by 10-20 years in prison. The law now also allows civil society organizations, under narrow conditions, to launch or join the criminal proceedings (*constitution de partie civile*) as a civil party. The practice of slavery is strongly linked to descent-based discrimination and persists despite the abolishment of slavery in 1981.⁶⁰

Nepal: “I commit to end caste-based discrimination and untouchability!”

“I commit to end caste-based discrimination and untouchability!” said United Nations High Commissioner for Human Rights, Navi Pillay, in her video message, kicking off the bold 100-day campaign launched by OHCHR and the National Dalit Commission in Nepal in 2011.

The campaign encouraged everyone to pledge their commitment to end caste-based discrimination and untouchability and the campaign website collected pledges and turned them into colourful fingerprints symbolizing all those who are against discrimination.

Ram Baran Yadav, then President of Nepal, led the way by inaugurating the campaign, giving his commitment, and commenting that, “It is a matter of shame to know that people in the 21st century are still practicing caste-based discrimination and untouchability.”

In that same year, the government of Nepal introduced the Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011, a comprehensive legislation aimed at addressing some of the root causes of caste-based discrimination and its manifestations.⁶¹

The campaign also raised awareness of the key elements of the new law across the country, including in Nepal’s remote communities, and among state officials, such as the police. Various awareness-raising programmes like audio-visual activities, distribution of posters and pamphlets, and interactive programmes, among others, were organized across the country throughout the 100-day campaign until 24 December 2011.

⁵⁹ European Parliament Resolution on caste-based discrimination, 2013/2676(RSP), 2 October 2013.

⁶⁰ [A/HRC/15/20/Add.2](#).

⁶¹ The NDC and OHCHR partnered in 2008 to jointly advocate for the swift passage of the draft caste-based discrimination and untouchability bill and for its compliance with international standards.

Key messages

- People affected by descent-based discrimination face significant challenges with respect to their enjoyment of human rights. These challenges arise from a variety of legal, social, and structural barriers and constructs, both historic and contemporary in nature.
- Descent-based communities are distinct among marginalized groups in that they face particular barriers stemming from the stigma attached to their “low” and “polluted” status. This distinction requires different strategic responses to address their marginalization. The concepts of caste and caste-based discrimination are highly relevant in this context as they represent the most well-known and documented form of discrimination based on descent.
- Caste and analogous systems of inherited status should be acknowledged and addressed on par with other forms of discrimination (such as race, gender or ethnicity) in all aspects of the United Nations’s work.
- Descent-based discrimination is a global phenomenon. Apart from South Asia, descent-based discrimination is present in certain countries and communities in Africa, the Middle East and the Pacific region, as well as in diaspora communities.
- Descent-based discrimination is not gender-neutral and affects people in different ways. Women and girls from affected communities are often more marginalized than men and face multiple forms of discrimination that emanate from the intersection of gender and descent-based discrimination.
- Children from affected communities face discrimination in education and are particularly vulnerable to child labour.
- Efforts to end all forms of violence against women from descent-based communities must challenge specific inequalities, marginalization and systematic discrimination that women face. Efforts should also address **prevention**, as well as **impunity** of violence against women.
- Eliminating descent-based discrimination requires developing an understanding of the ways in which affected communities experience discrimination, so as to develop strategies to eliminate such discrimination.
- **United Nations efforts** to address descent-based discrimination must tackle the broader social norms, perceptions, attitudes and beliefs that perpetuate and reinforce prejudices and stereotypes of hierarchy, and accompanying forms of domination and exclusion that are endemic to caste and analogous systems of inherited status.

Key resources

- Report of the Special Rapporteur on minority issues: [A/HRC/31/56](#) (2016)
- Reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: [A/HRC/17/40](#) (2011) and [A/68/333](#) (2013)
- Reports of the Special Rapporteurs on the topic of discrimination based on work and descent: [E/CN.4/Sub.2/2003/24](#) (2003) and [E/CN.4/Sub.2/2004/31](#) (2004)
- International Dalit Solidarity Network (website): <http://idsn.org>
- Human Rights Watch (2001), *Caste Discrimination: a Global Concern*

III. INTERNATIONAL STANDARDS AND MECHANISMS

Descent-based discrimination, which results from the hierarchical division of a society placing inherent privileges and restrictions by birth, runs contrary to the belief that “all human beings are free and equal in dignity and rights” as stated in Article 1 of the *Universal Declaration of Human Rights*. Pursuant to their obligations under various human rights treaties, States must ensure that no aspect of their policy has the purpose or effect of discriminating on the basis of grounds such as race, colour, descent, sex, language, religion, political or other opinion, national origin, social origin, association with a national minority, property, birth, sexual orientation and gender identity, or other status.⁶²

All United Nations Member States have legally binding obligations under international law, including international customary law (which binds all Member States) and all Member States have ratified at least one, and usually several, of the core international human rights treaties. **The human rights responsibilities of the Resident Coordinator (RC) and United Nations Country Team (UNCT) should be seen in the context of supporting the Member State in meeting these obligations.**⁶³ That is, even where States may not recognize descent-based discrimination as a prohibited ground of discrimination in international human rights law, there is a normative expectation on the United Nations to promote all human rights set out in the international human rights instruments. Human rights standards also serve as a guide for a common approach of the United Nations system when the country team has to address practices or entrenched social positions in the country that may conflict with international norms, such as descent-based discrimination.

This chapter outlines the international human rights framework applicable to descent-based discrimination, focusing on relevant standards under international human rights law, as well as the human rights mechanisms that are available to address this form of discrimination.

3.1. International standards

Descent-based discrimination implicates all major human rights instruments, as is to be expected for a form of discrimination which intersects with, causes, or compounds so many other human rights violations.⁶⁴

⁶² E.g. International Convention on the Elimination of all forms of Racial Discrimination, art. 1; International Covenant on Economic Social and Cultural Rights, art. 2.2; and International Covenant on Civil and Political Rights, art. 26.

⁶³ *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*, p. 4.

⁶⁴ E.g. the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of all Forms of Racial Discrimination; Convention on Elimination of All Forms of Discrimination against Women; Convention on Rights of the Child; International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families; Convention against Torture and Other Cruel, Inhuman or Degrading

The **International Convention on the Elimination of all forms of Racial Discrimination (ICERD)** provides the primary legal source for the protection of descent-based communities. **Article 1(1)** of the convention defines racial discrimination as any distinction, exclusion, restriction or preference based on race, colour, **descent**, or national or ethnic origin. From 1996 and onwards, the Committee on the Elimination of Racial Discrimination (CERD), the body tasked with monitoring ICERD, has interpreted the third ground, 'descent', as including caste and analogous systems of inherited status. It cemented this interpretation in General Recommendation 29, issued in 2002.⁶⁵

CERD's General Recommendation No. 29 on Descent-Based Discrimination

In 2002, in its **General Recommendation No. 29**, CERD reaffirmed that the International Convention on the Elimination of All Forms of Racial Discrimination's prohibition of discrimination based on "descent" includes "discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status."⁶⁶

General Recommendation No. 29 sets out a number of measures that States are required to take to eliminate descent-based discrimination and remedy its consequences, including in relation to multiple forms of discrimination against women—members of descent-based communities; segregation; hate speech; administration of justice; civil, political, social, economic, and cultural rights and the right to education.

CERD also calls for States to take steps to, inter alia, identify descent-based communities; incorporate an explicit prohibition of descent-based discrimination in the national constitution; review and enact or amend legislation in order to outlaw all forms of discrimination based on descent; implement legislation and other measures already in force; formulate and put into action a comprehensive national strategy with the participation of members of affected communities in order to eliminate discrimination against members of descent-based groups; adopt special measures in favour of descent-based groups and communities; and encourage dialogue between members of descent-based communities and members of other social groups.⁶⁷

Treatment or Punishment; UNESCO Convention against Discrimination in Education; ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111); ILO Convention concerning Forced or Compulsory Labour, 1930 (No. 29); Protocol of 2014 to the ILO Forced Labour Convention; ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182); Convention relating to the Status of Refugees.

⁶⁵ On the origins of descent and caste in international human rights law, see further David Keane, *Caste-based Discrimination in International Human Rights Law* (Ashgate 2007).

⁶⁶ CERD, General Recommendation 29 on art. 1, para. 1 of the Convention (Descent).

⁶⁷ See Annex 1 for the full text of CERD's General Recommendation No. 29.

Since this period, the Committee has consistently highlighted the issue of descent-based discrimination in a range of countries across the world, underlining its global nature. Although the Committee has made it clear that descent-based discrimination includes discrimination based on caste, it has also made clear that descent encompasses more than just caste. Other groups are encompassed to the extent they have analogous characteristics relating specifically to inherited social stratification. **It is also important to note that although other groups are covered by the literal wording of the Convention, such as Afro-descendants, the practice of the Committee has been to invoke the term “descent” in reference to caste and a narrow range of groups in closely analogous situations.**

In some instances, **minority groups** who are characterized by their non-dominant position and whose members possess ethnic, religious or linguistic characteristics differing from those of the rest of the population also belong to descent-based groups and face multiple forms of discrimination, not only on the grounds of their minority status but also on their descent, as it is the case of Dalits in Pakistan and Bangladesh.⁶⁸ In other cases, descent-based groups may not fall strictly under the category of minority groups,⁶⁹ but share minority-like characteristics, particularly their non-dominant and often marginalized position and the historic use of the minority rights framework to claim their rights.⁷⁰ In this regard, international **minority rights** standards, including **Article 27 of the International Covenant on Civil and Political Rights (ICCPR)** and the **Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities** are also relevant to combat discrimination on the ground of descent which often affects members of minority groups.

In some situations, **the Convention allows temporary special measures to be taken to improve the situation of marginalized groups.**⁷¹ These are often referred to as “affirmative measures”, “affirmative action” or “positive action” and can include, for example, quotas to remedy the disproportionate under-representation of caste-affected groups

⁶⁸ IDSN, *Caste-based Discrimination in South Asia*, available from http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/EU/EU_StudyWithAnnexes_Caste_Discrimination_June2009.pdf.

⁶⁹ The recognition of minority status takes into consideration the will on the part of the members of the groups in question to preserve their own characteristics and the wish of the individuals concerned to be considered part of that group. The will to maintain that identity (i.e. of belonging to so-called “low” caste) might be missing in certain but not all descent-based groups. The Buraku of Japan, for example, have attempted in the past to list their culture under the UNESCO list of intangible cultural heritage.

⁷⁰ A/HRC/31/56, para. 21.

⁷¹ “Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.” ICERD, art. 1(4), ICEDAW, art. 4(1).

in school, designated scholarships for minorities, and investment of additional resources into education in regions where caste-affected communities reside.

Affirmative action may also include policies to increase public employment opportunities and representation in governance for representatives of descent-based communities⁷². Temporary special measures taken for the sole purpose of securing adequate advancement of certain marginalized groups or individuals requiring such protection may be necessary in order to ensure such groups or individuals' equal enjoyment or exercise of human rights and fundamental freedoms.⁷³ In most cases, without special measures, these communities face discrimination by default. The requirement of **"limited duration" of special measures** means that such measures should not lead to the maintenance of separate rights for different groups and that they shall not be continued after the objectives for which they were taken have been achieved.⁷⁴

Japan: Temporary special measures

In **Japan**, a law establishing temporary special measures for the elimination of discrimination against the Buraku (also known as Dowa) was enacted in 1969 and was effective for 33 years until it was terminated in 2002. Costs for the implementation of such measures were shouldered by the national and local governments. Projects were focused on: improvement of living conditions (i.e. infrastructure and housing); social welfare (i.e. settlement houses and medical facilities); development of industries and stable employment; education (i.e. Buraku education at school and scholarship programs); and human rights issues such as raising awareness of the problem among the general population. After the termination of the law, some of these projects have been integrated as general measures.

Information and indicators to assess the impact of concrete measures implemented by Japan upon the termination of the Dowa Special Measures are not available. However, in 2014, **CERD** expressed concern at the persistent socioeconomic gaps between the Buraku and the rest of the population and at reports of illegal access to the family registration system, which may be used for discriminatory purposes against the Buraku.⁷⁵

Other international human rights treaties of particular relevance to support the elimination of discrimination based on descent are listed below.

⁷² Committee on the Elimination of Racial Discrimination, General Recommendation No. 32: The meaning and scope of special measures in the International Convention on the Elimination of Racial Discrimination (2009), para. 12.

⁷³ Cf. ICERD art. 1(4) and ICEDAW, art. 4(1). See also CERD, General Recommendation No. 32: The meaning and scope of special measures in the International Convention on the Elimination of Racial Discrimination (2009), para. 18.

⁷⁴ Commission on Human Rights, Comprehensive examination of thematic issues relating to racial discrimination: the concept and practice of affirmative action (E/CN.4/Sub.2/2000/11), para. 24.

⁷⁵ CERD/C/JPN/CO/7-9, para. 22.

- The **International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**, as the gender-specific treaty, recognizes that discrimination of women based on sex and gender is inextricably linked with other factors that affect women, including caste and closely analogous systems, and that States Parties must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned.⁷⁶ Pursuant to CEDAW, women are entitled to equal rights in political and public life; the opportunity to participate in government; equality in education, employment, health care; economic and social benefits; equal protection under the law; and equality in marriage and family relations. Moreover, the Convention affirms that women's enjoyment of their fundamental rights cannot be restricted on the basis of culture and tradition, and it provides the overarching framework for non-discrimination and equality; in particular, substantive equality that not only emphasises equality in access and opportunity, but also in results, which can be brought about by **temporary special measures**.⁷⁷ General Recommendation No. 25 (1999) of the Committee on the Elimination of Discrimination against Women calls upon member states to transform the underlying causes of inequality in "opportunities, institutions and systems", and to transform dominant "paradigms of power".⁷⁸
- Pursuant to the **International Convention on the Rights of the Child**, States are required to guarantee the rights set forth in the Convention to all children, without discrimination.⁷⁹ This non-discrimination obligation requires States actively

⁷⁶ CEDAW, General recommendation No. 28 on the "core obligations of States Parties under Article 2", para. 18. See also CEDAW, General Recommendation No. 33 on women's access to justice, para. 8, CEDAW General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, para. 36, and CEDAW General Recommendation No. 25 on Temporary Special Measures, para. 12. In its country reviews, CEDAW highlighted that caste-based discrimination is not a gender-neutral phenomenon and often addressed the multiple levels of discrimination and exploitation suffered by women and girls from descent-based communities. In its review of India, the CEDAW noted with concern that Dalit women and women from scheduled tribes face multiple barriers in gaining access to justice, owing to legal illiteracy, lack of awareness of their rights and limited accessibility of legal aid. The Committee was also concerned with the financial, cultural and physical barriers faced by Dalit women and women from scheduled tribes in gaining access to gynaecological and maternal health services and the escalation of caste-based violence, including rape, against women and girls (CEDAW/C/IND/CO/4-5). In its review of Bangladesh, CEDAW also the multiple forms of discrimination suffered by Dalit women with regards to access to education, employment and health care, housing, protection from violence and access to justice (CEDAW/C/BGD/CO/7, para. 37).

⁷⁷ CEDAW, art. 7, 8, 10, 11, 12, 13, 15, 16, 5.

⁷⁸ CEDAW, General Recommendation No. 25, on art. 4, para. 1, of the Convention on the Elimination of All Forms of Discrimination against women, on temporary special measures, para. 10.

⁷⁹ ICRC, art. 2 (1). The Committee on the Rights of the Child (CRC) has taken particular note of the vulnerability of children from communities affected by descent-based discrimination. For example, with regard to Mauritania, the Committee expressed serious concern "over reports indicating the continued existence of caste-based slavery, which has a particular impact on girls in domestic service and boys forced to beg by marabouts." CRC/C/MRT/CO/2, para. 36.

to identify individual children and groups of children the recognition and realization of whose rights may demand special measures.⁸⁰ States must also “ensure to the maximum extent possible the survival and development of the child,” and must “recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” They must also “recognize the right of the child to the enjoyment of the highest attainable standard of health” and must guarantee education to all children on the basis of equal opportunity, including by taking measures to encourage attendance and reduce drop-out rates. Also relevant for children from descent-based communities is the “right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development”. States are further obligated to protect children from all forms of sexual exploitation and sexual abuse, prostitution and other unlawful sexual practices, and child labour.⁸¹

- Pursuant to the **International Covenant on Civil and Political Rights (ICCPR)**, States are required to guarantee civil and political rights to all individuals within its jurisdiction. With some exceptions, such as the right to vote, these rights extend not only to citizens but to all persons in the State’s territory, and must be respected without discrimination. If necessary, legislation should be enacted to properly guarantee these rights. Crucially, States parties are required to provide remedies to persons whose rights under the Covenant are breached. The Covenant has core provisions for the protection of life, liberty, physical security, access to justice, fundamental freedoms to be enjoyed free of unjustified external interference (right to privacy, freedom of thought and religion, freedom of opinion and expression, right to peaceful assembly and association), and political participation. ICCPR also addresses issues of marriage and the rights of the child. It also sets out the rights to equality before the law and to equal protection of the law, with a wide guarantee of non-discrimination.⁸²
- Pursuant to the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, States must progressively realize, inter alia, the right to work in a field freely chosen, fair and equal remuneration for work, pay that provides a decent living for workers and their families, safe and healthy working conditions, reasonable limitations on working hours and days, the right to organise with regard to labour and employment issues, social security and social insurance programs, the right of everyone to an adequate standard of living (including adequate food, clothing, and

⁸⁰ CRC, General Comment No. 5 on General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) (noting, in particular, the need for data collection to be disaggregated to enable discrimination or potential discrimination to be identified. Addressing discrimination may require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes).

⁸¹ ICRC, arts. 6 (2), 27 (1), 24 (1), 28 (1), 32, 16, 34.

⁸² ICCPR, arts. 6 to 11, 14 to 16, 17 to 22, 25, 23, 24, 26.

housing, and the continuous improvement of living conditions), the right of everyone to the highest attainable standard of physical and mental health, the right to an education,⁸³ and the right of everyone to take part in cultural life, enjoy the benefits of scientific progress, and benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which they are the author. The ICESCR also guarantees that the rights enunciated therein will be exercised without discrimination of any kind⁸⁴ and the Covenant requires States Parties to take steps, for instance, to prevent, prohibit and eliminate discriminatory practices directed against members of descent-based communities, and act against the dissemination of ideas of superiority and inferiority on the basis of descent.⁸⁵

- **The International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ICAT)** explicitly prohibits torture and other cruel, inhuman, or degrading acts that are carried out for “any reason based on discrimination of any kind.”⁸⁶ Under ICAT, States have the duty to protect all members of society, in particular citizens belonging to marginalized and disadvantaged groups, such as descent-based communities. States are also required to take specific steps to safeguard the physical integrity of affected communities, to ensure that accountability mechanisms are in place guaranteeing that caste is not used as a basis for abuses, unlawful detention and torture, and to ensure more diverse caste and ethnic representation in its police and security forces.⁸⁷

The **ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** requires States to adopt and implement national policies to promote and ensure equality of opportunity and treatment in employment and occupation, with a view to eliminating direct and indirect discrimination on the grounds of race, colour, sex, religion, political opinion, national extraction or **social origin**. These national policies must address discrimination and promote equality, in law and in practice, regarding access to education and training, employment services, recruitment, access to particular occupations, as well as terms and conditions of employment.⁸⁸ ILO Convention concerning Forced or Compulsory Labour, 1930 (No. 29), the Protocol of 2014 to the ILO Forced Labour Con-

⁸³ ICESCR, arts. 6, 7, 8, 9, 11, 12, 13.

⁸⁴ ICESCR, art. 2. According to CESC, the prohibited ground of birth also includes descent, especially on the basis of caste and analogous systems of inherited status, In CESC, General Comment No. 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) (*E/C.12/GC/20*), para. 26.

⁸⁵ *E/C.12/GC/20*, para. 26.

⁸⁶ International Convention against Torture, arts. 1 (1).

⁸⁷ CAT, *CAT/C/NPL/CO/2*, para. 26.

⁸⁸ ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), arts. 1 and 2, available from www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_174846.pdf. Cf. ILO, *Equality at Work: The Continuing Challenge, Global Report Under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (2011), para. 167, available from www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_166583.pdf.

vention, and the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) are also relevant.

3.2. Human rights mechanisms

The **universal periodic review** (UPR), the **special procedures** of the Human Rights Council (HRC) and the **treaty bodies** are designed to examine States' compliance with their human rights obligations and to raise related concerns with authorities. All different mechanisms are complementary and mutually reinforcing in that they can build on the work of one another.

Treaty bodies have frequently raised the issue of descent-based discrimination in their examination of periodic reports by different States parties. The **UPR** has also raised these issues in many countries, fostering opportunities for follow-up and further advocacy on the issue. In addition, more than a dozen **special procedures** of the HRC have examined their thematic concerns through the lens of descent-based discrimination, or have raised individual cases of violence and discrimination.⁸⁹

A country review by a human rights mechanism provides an opportunity to analyse and re-assess national human rights situations, issues, priorities and objectives, and integrate them into the development agenda, discourse and practice (i.e. through the development of Common Country Assessments and United Nations Development Assistance Frameworks (UNDAFs), as well as through targeted programmes) in a holistic and comprehensive manner.⁹⁰ For example, United Nations entities, UNCTs and RCs can identify needs for technical assistance to develop national capacities in the implementation of recommendations, as well as resource mobilisation. UNCTs may also establish their own coordination mechanism to support implementation of recommendations on descent-based discrimination by different state institutions, assess progress, and document good practices.

The engagement by UNCTs with international human rights mechanisms also helps to ensure that the recommendations issued by those bodies are accurate and respond to the most pressing human rights and development priorities in the country. In many

⁸⁹ A recent study indicates that 72 Concluding Observations by United Nations human rights treaty bodies addressed the descent-based discrimination in the period 1991-2015. The United Nations special procedures mandate holders have also been active, including by issuing a joint statement focusing on the need to strengthen protection mechanisms for Dalits and address wide-spread impunity in May 2013. IDSN, *Caste Discrimination and Human Rights: A Comprehensive Compilation of How Caste Discrimination and Similar Forms of Discrimination Based on Descent Have Been Addressed by the United Nations Treaty Bodies, Universal Periodic Review, and the Special Procedures*, 9th edition (October 2015), available from <http://idsn.org/wp-content/uploads/2015/10/UNCompilation-October-2015.pdf>. See also *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*.

⁹⁰ It is important to note that there is an established process for preparation and submission of UNCT reports to treaty bodies and to the UPR. There is also an established cooperation with UNCT in relation to the visits of special procedures mandate holders.

countries, the recommendations of international human rights mechanisms inform United Nations programming and planning processes, such as UNDAFs.⁹¹

The Secretariats of the human rights mechanisms in OHCHR routinely inform RCs and UNCTs about key dates in the reporting calendar and parameters for submitting information to the various review processes.⁹² Further ideas on how UNCTs can engage with international human rights mechanisms are included in **Annex 2**.

Mauritania: Roadmap and National Action Plan to eradicate slavery and its vestiges

In March and November 2014 respectively, Mauritania adopted a roadmap and a related national action plan to eradicate slavery and its vestiges. This effort reflects the comprehensive approach developed by the **Special Rapporteur on contemporary forms of slavery, its causes and consequences** following the mandate's country visits in 2009 and 2014.

The roadmap involves (i) ensuring justice for victims including reparations by strengthening the existing legal framework; (ii) raising awareness throughout the country on the prohibition of all forms of slavery and the need to foster behavioural changes in society and informing victims of their rights; and (iii) addressing the vestiges of slavery and slavery-like practices including the exclusion and marginalization of individuals due to their caste or descent through the adoption of specific measures to improve access to land, education, and employment for former slaves and their descendants. OHCHR provided technical support to the Government of Mauritania during the process for elaboration of this roadmap.

The roadmap was elaborated following a participatory process that included government, civil society and national institutions.

⁹¹ UNDG, Guidance Note on the Application of the Programming Principles to the UNDAF, available from <https://undg.org/wp-content/uploads/2016/09/Five-Programming-Principles.pdf>. Chapter 2 "Applying a human rights-based approach in United Nations programming targeting descent-based discrimination" provides additional information on how HRBA can shape the United Nations work on discrimination based on descent.

⁹² To strengthen and systematize the engagement between UNCTs and human rights mechanisms the UNDG Human Rights Working Group (UNDG-HRWG), under the lead of OHCHR, sends individualized letters to each RC outlining the key dates for the visits and reviews of the main United Nations human right mechanisms to their host country—the TPR, the special procedures of the Human Rights Council and the treaty bodies. More information available from <https://undg.org/home/undg-mechanisms/undg-hrm/international-human-rights-mechanisms>.

Key messages

- Engagement with human rights mechanisms is a key component of pursuing a HRBA to development and can inform the policy and programming of the United Nations. This engagement can also help build the capacity of United Nations actors as well as governments and civil society organizations to address discrimination based on descent.
- All Member States have ratified at least one, and usually several, of the core international human rights treaties. The human rights responsibilities of the Resident Coordinator and UNCT should be seen in the context of supporting the Member State in meeting these legally binding obligations under international law, including international customary law.
- Even where States may not recognize descent-based discrimination as a prohibited ground of discrimination in international human rights law, there is a normative expectation on the United Nations to promote all human rights set out in the international human rights instruments.
- Human rights standards also serve as a guide for a common approach of the United Nations system when the country team has to address practices or entrenched social positions in the country that may conflict with international norms, such as descent-based discrimination.
- The mechanisms of exclusion of affected communities, including structural and social barriers, should be addressed through **temporary special measures**. In most cases, without special measures, these communities face discrimination by default.

Key resources

Universal periodic review

- United Nations Support to the Implementation of UPR and other Human Rights Mechanisms' Recommendations Policy Decision (Secretary-General's Decision 2014/5)
- OHCHR (2014), *Information Note for United Nations Resident Coordinators, UN Country Teams (UNCTs) and other United Nations entities regarding the Universal Periodic Review*
- OHCHR (2014), *Universal Periodical Review: A Practical Guide for Civil Society*
- The UPR "compilation of United Nations information" report compiled for the UPR, contains summary human rights information, analysis and recommendations, including UPR-specific submissions from UNCTs and other United Nations entities (database)
- UPR-info (website): www.upr-info.org/en

Treaty bodies

- OHCHR (2012), The United Nations Treaty System (Fact Sheet No. 30, rev. 1)
- For further information on the work of the United Nations human rights committees: www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx (website)
- A list of concluding observations of treaty bodies is available from http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx (database)
- To find more about how many and which countries have ratified the international human rights treaties: <http://indicators.ohchr.org> (website)

Special procedures

- OHCHR, Special Procedures of the Human Rights Council (website): <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>
- OHCHR (2015), Directory of Special Procedures Mandate Holders

ILO supervisory bodies

- ILO, NORMLEX (website): www.ilo.org/normlex
- ILO (2013), *Handbook of procedures relating to international labour standards*
- ILO (2009), *Rules of the Game: a brief introduction to International Labour Standards*
- *CEB Toolkit on Mainstreaming Employment and Decent Work*
- ILO (2014), *Resource Handbook for Ending Manual Scavenging*

IV. ENSURING THE PARTICIPATION OF RIGHT-HOLDERS AND ENGAGING WITH DUTY-BEARERS AND OTHER RELEVANT STAKEHOLDERS

This chapter presents concrete suggestions as to how the United Nations can involve affected descent-based communities, relevant duty-bearers and other stakeholders in addressing descent-based discrimination including in relation to accountability and access to justice.

4.1. Ensuring the participation of affected descent-based communities

The consultation and the effective participation of affected communities is an essential component in the design and implementation of policies and programmes aimed at combating descent-based discrimination, as well as other decision making processes that affect the respective groups, as per the HRBA. **Any efforts to engage in dialogue with civil society should include participation of members of descent-based communities**, as well as organizations working on this issue. This is particularly relevant where such processes and issues may impact these communities directly. Such consultations are an important source of information for assessments, for **crisis prevention**, and for the **development of evidence-based policies and strategies**. Ensuring the participation of descent-based communities is also a way to build on local expertise and support the **empowerment** of affected communities. In this connection, it is of particular importance to reach out to and involve the most disadvantaged members of the community.

This engagement should address decision-making at all levels and can be strengthened by specific capacity building of civil society organizations (CSOs) and human rights defenders representing descent-based communities so that they are in a stronger position to contribute to policy-making, monitoring and advocacy. Such efforts may also include advocacy against specific segregation or discriminatory practices and the establishment of structures devoted to dialogue and outreach, including focal points and country-specific consultative structures for descent-based communities.⁹³

⁹³ UNDP, *Marginalized Minorities in Development Programming* (2010), pp. 103 and 104, available from www.ohchr.org/Documents/Issues/Minorities/UNDPMarginalisedMinorities.pdf.

UN-Women: Economic Empowerment of Dalit Women in India

Through its Fund for Gender Equality, UN-Women implemented the **Dalit Women's Livelihood Accountability Initiative (DWLAI)** in India. The DWLAI, which took place over two years (2009–2011) in the states of Uttar Pradesh and Andhra Pradesh,⁹⁴ was designed to improve Dalit women's economic conditions by improving their leadership and capacity to claim their rights to employment.

DWLAI achieved substantial successes in economic empowerment by helping Dalit women take advantage of Indian government programs designed to address poverty and gender inequality. One such programme is the Mahatma Gandhi National Rural Employment Act (MGNREGA). DWLAI went beyond the mandate of the Employment Act by helping Dalit women gain access to supervisory positions at government work sites, thereby changing social attitudes toward this demographic. DWLAI helped build the voice of low-income Dalit women by encouraging them to play a role in the selection of work sites. The initiative also increased duty-bearers' understanding of the issues facing Dalit women. And finally, DWLAI had a policy impact, spurring changes to national policies such as the MGNREGA. One such innovation is a training module for Dalit women to enable them to serve as site supervisors.⁹⁵

The rights to freedom of information, expression, association and assembly are fundamental prerequisites to empowering people as agents of change. The United Nations should establish strong partnerships with the affected communities and civil society, use its convening role to create space for free, informed and empowered participation of the affected communities without fear of reprisal including a strengthening of focus on the protection of human rights defenders.

More specifically, the United Nations can:

- Provide platforms and **build the capacity of descent-based communities, including women and youth representatives**, to participate in consultation and decision-making processes, including in the formulation of laws, national development strategies and sectorial policies and programmes.
- Build the capacity of descent-based communities to **monitor, document and analyse human rights violations** and, where relevant, submit related complaints.
- Promote the **participation and engagement** of representative organizations of descent-based communities in wider civil society consultations and in key human

⁹⁴ Fund for Gender Equality Grantee Summaries (2009–2010 Grant Cycle).

⁹⁵ UN-Women, "Changing the landscape with all-women worksites in India", 14 October 2013, available from www.unwomen.org/en/news/stories/2013/10/changing-the-landscape-with-all-women-worksites-in-india, UN-Women, *Evaluation of Dalit Women's Livelihoods Accountability Initiative India* (2012), pp. 7 and 8, available from www.unwomen.org/~media/Headquarters/Media/Publications/en/FGEPprogrammeEvaluationGenderatWorkDSSIndia.pdf.

rights processes. For example, national CSOs platforms/networks could be encouraged to include organizations representing descent-based communities.

- Create specific channels for participation by the poorest and most marginalized groups, with sensitivity to social and cultural context.⁹⁶
- Support the work and advocacy efforts of these organizations, including through **funding** for grass-roots projects and organizations.
- **Disseminate information** through local media outlets.
- **Identify key actors**, at both State and civil-society level. For example, trade unions, thematic coalitions such as women, land, child rights' and other networks that may have systems and mechanisms focusing on the rights of descent-based groups. UNCTs should also identify existing structures of power (e.g. reserved seats in local and national governments in concerned countries).⁹⁷
- Support governments, CSOs and NHRIs in preparing **submissions on this topic to human rights mechanisms**. Translation of United Nations reports and other materials and tools into local languages might be required to facilitate the participation of affected communities.

United Nations capacity-building initiatives and resources

The United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

The Fund gives grants to organizations for projects that provide legal, financial and humanitarian assistance to victims of contemporary forms of slavery. It has awarded grants, for instance, for medical aid, food, shelter and vocational training to girl victims of trafficking for sexual and economic exploitation; support for a rehabilitation centre for street children; identification and release of bonded labourers in the carpet industry and stone quarries; education and provision of health care to children who had been working in brick kilns.⁹⁸

The Fund for Gender Equality

The Fund is a UN-Women grant-making mechanisms dedicated exclusively to the economic and political empowerment of women worldwide. Since its launch in 2009, the Fund has delivered grants of 56.5 million US dollars to 96 grantee programmes in 72 countries. Each programme supports women, especially those who are marginalized,

⁹⁶ See more from <http://hrbaportal.org/faq/what-does-the-principle-of-participation-mean-for-programming#sthash.aenXFqPr.dpuf>.

⁹⁷ More information is provided in section 4.3, "Building strategic partnerships with duty-bearers and other relevant stakeholders".

⁹⁸ For more information, see www.ohchr.org/EN/Issues/Slavery/UNVTF/CF/EN/Pages/WhattheFundis.aspx.

with what they need to regain control over their lives, whether they are trying to start a business or initiate a grass-roots movement. Guided by UN-Women's mandate, the Fund supports women-led civil society organizations' and governments' proposals based on strategic priorities to advance women's rights in their countries.⁹⁹

OHCHR Minorities Fellowship Programme

Started in 2005, the OHCHR organizes annual human rights training programmes specifically addressed to minorities. The Minorities Fellowship Programme is aimed at strengthening the knowledge of representatives of minorities of the United Nations system and mechanisms so they can better promote and protect the rights of their communities. Over the years, this programme has successfully trained several representatives from descent-based communities.¹⁰⁰

4.2. Promoting accountability and access to justice for descent-based communities

Although several concerned countries already have constitutional provisions in place that prohibit discrimination, many lack specific laws forbidding descent-based discrimination. Even when laws are in place, stigma and discrimination present major obstacles to their implementation, and laws that are in place are consistently under-enforced when victims are from such stigmatised groups.¹⁰¹ Barriers in accessing justice may also result in impunity for crimes committed against descent-based groups and individuals, and of the lack of or inadequate implementation of court decisions, which itself are often driven by stigma, social perceptions, unequal power relations, and lack of knowledge or training of police forces and other law enforcement officials. Furthermore, weak institutions and lack of political will also hamper the effective implementation of policy, budgetary, and programmatic measures otherwise designed to promote and protect the rights of descent-based communities.

States and other duty-bearers (including donors, development agencies and non-government actors) are answerable for the implementation of human rights. In this regard, they have to comply with human rights standards. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress

⁹⁹ For more information, see www.unwomen.org/en/trust-funds/fund-for-gender-equality.

¹⁰⁰ For more information, see www.ohchr.org/EN/Issues/Minorities/Pages/Fellowship.aspx.

¹⁰¹ Cf. OHCHR, *Opening the Door to Equality: Access to Justice for Dalits in Nepal*, available from http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2011_12_07_Opening_the_Door_to_Equality_E.pdf, and Anti-Slavery International, Minority Rights Group International, Society for Threatened Peoples and Unrepresented Nations and Peoples Organizations, *Enforcing Mauritania's Anti-Slavery Legislation: the Continued Failure of the Justice System to Prevent, Protect and Punish* (2015), available from http://minorityrights.org/wp-content/uploads/2015/10/MRG_Rep_Maur2_Nov15_ENG_2.pdf.

before a competent court or other adjudicator in accordance with the rules and procedures provided by law.¹⁰²

Some factors that can undermine access to justice to victims of descent-based discrimination

- Gaps in legislative provisions coupled with its weak implementation (disproportionate sentencing, impunity for crimes committed against descent-based groups and individuals, inadequate implementation of court decisions, etc.);
- Lack of adequate resources and legal aid;
- Lack of awareness of remedies available to victims;
- Lack of reparation or compensation;
- Mistrust of public authorities;
- Lack of accountability structures and disciplinary penalties for competent authorities who fail to comply with their obligation to take direct action on reported cases of discrimination;
- Under-representation of descent-affected communities in the justice and law enforcement system;
- Lack of awareness of issues relating to descent-based discrimination;
- Fear of social boycotts, reprisal and violence;
- High rates of illiteracy;
- Restrictions on civil society organizations;
- Economic dependency on dominant castes or groups serves as a further disincentive to seek justice for fear of jeopardising livelihood.

¹⁰² A HRBA requires all stakeholders to be accountable for specific results. To ensure accountability, a HRBA starts by identifying specific obstacles that duty bearers face in exercising their obligations. For accountability to be effective, it needs to be demanded. Therefore HRBA also requires an analysis of the capacities needed for rights-holders, especially the poorest and most disadvantaged, to claim their rights effectively. Accessible, transparent and effective mechanisms of accountability are called for at central and local levels. For more information, see the HRBA portal, “What does the principle of accountability mean for programming?”, available from <http://hrbaportal.org/archives/faq/what-does-the-principle-of-accountability-mean-for-programming>.

Ensuring accountability, particularly where national capacities are weak or duty-bearers are unwilling to act, can be particularly difficult. **Relevant measures to strengthen accountability and access to justice for descent-based communities include:**¹⁰³

- Providing technical support to governments to **review existing and proposed legislation for compliance with international standards** on non-discrimination in fields ranging from criminal law to legislation in the field of housing, labour and employment, education, health, or media. Laws should include duties spelled out as clearly as possible at national, district, and local levels;
- Raising awareness of rights and responsibilities, and **developing the capacities of duty-bearers** at central and local levels to fulfil their obligations;
- Promoting **transparent budgeting** and building capacities for budget analysis;
- Building capacities for **policy analysis and social impact assessment**, encouraging **media freedom**, and building the **capacities of right-holders** to demand their rights.
- **Strengthening central and local accountability mechanisms**—judicial, quasi-judicial and administrative. This could include supporting **reforms in the machinery of law enforcement** including, but not limited to: encouraging recruitment of enforcement officers, prosecutors, judges, lawyers, and other personnel from affected communities; providing training on the rights of affected communities to all such personnel; reviewing arrest and sentencing practices to address any discriminatory practices; and ensuring legal redress and appropriate compensation for victims;
- **Strengthening the capacities of NHRIs**, including their capacities to monitor the realization of economic and social rights;
- Supporting measures to guarantee an **independent oversight and accountability mechanism for the police** are also essential in order to ensure that crimes against descent-based community members are properly investigated and prosecuted, and that police officers responsible for committing such crimes (including through acts of custodial abuse and torture) are themselves held to account;
- Supporting efforts to ensure **protection from violence, especially for women and children** from affected communities, and prompt investigation and prosecution of these crimes;
- Supporting efforts to **increase legal awareness** (both among civil society members and in law enforcement machinery) and **improve access to appropriate forums** for descent-based communities. Relevant measures in this regard include:

¹⁰³ See also *Guidance Note of the Secretary-General on racial discrimination and protection of minorities*; OHCHR, *Opening the Door to Equality: Access to Justice for Dalits in Nepal*; and HRBA portal, “What does the principle of accountability mean for programming?”, available from <http://hrbaportal.org/faq/what-does-the-principle-of-accountability-mean-for-programming>.

- **Supporting the provision of legal aid, facilitation of group claims, and encouragement** of non-governmental organizations to defend community rights;
- **Organizing training programmes** for public officials, law-enforcement agencies, and members of the judiciary with a view to preventing injustices based on prejudice against descent-based communities;
- Ensuring that **outreach and public awareness raising initiatives** include focus on raising legal awareness for both affected communities and dominant communities alike, including awareness that caste-based untouchability and segregation practices are a crime.

UNDP: Access to Justice for Marginalized People in India

Between 2006 and 2008, UNDP partnered with the Department of Justice of Government of India to pilot a project aimed at strengthening access to justice for marginalized people. The project undertook a broad analysis of the justice sector including an identification of key challenges in the criminal justice system, informal justice systems, legal aid and legal empowerment. Based on the analysis and lessons learned, UNDP launched a project, in partnership with the Department of Justice, to strengthen legal aid and legal empowerment for marginalized people.

The project, which is expected to run until 2017, focuses on strengthening access to justice for the poor, particularly women, scheduled castes, tribal communities and minorities, through developing strategies and initiatives that address the barriers they face accessing justice in legal, social, economic and political domains. This is achieved through:

- Supporting national and local justice delivery institutions
- Developing legal and representational capacity of civil society organizations and networks providing justice services to disadvantaged groups
- Enhancing legal awareness among women and men belonging to marginalized groups
- Informing policies and institutional structures through action research and studies

Through this project, representatives of marginalized communities have been made aware of their legal rights and how to seek redress for their grievances; legal literacy has been included in continuing adult literacy programme under the national Government literacy scheme; and thousands of paralegals drawn from diverse backgrounds have been trained to better assist those communities, amongst other achievements.¹⁰⁴

¹⁰⁴ UNDP, Increasing Access to Justice for Marginalized Peoples, available from www.in.undp.org/content/india/en/home/operations/projects/democratic_governance/access_to_justice.

4.3. Building strategic partnerships with duty-bearers and other relevant stakeholders

In addition to engaging with the Government, effective human rights work will require building strategic partnerships with other relevant counterparts at the national level, including parliamentarians, national human rights institutions, civil society, trade unions, religious leaders and the private sector. Building new partnerships can serve to ensure that the UNCT has a fuller understanding of the human rights situation on the ground, as well as ensuring more effective entry points for its work.¹⁰⁵

4.3.1. *State actors and institutions*¹⁰⁶

Addressing entrenched patterns of discrimination requires a long-term process of change. Working with State actors and institutions, both at the national and local levels, is critical in this regard and should be a part of UNCT programming and advocacy work. In particular, there is a need for UNCTs to engage with institutions that play a key role in interacting with descent-based communities, including in combating institutional discrimination. **Institutional discrimination** can be a problem in a range of contexts, from educational and health institutions to institutions of criminal justice. Labour market processes, practices and institutions also generate and reinforce the cycle of descent-based discrimination. The United Nations must make consolidated and integrated efforts to support and empower reforms of the relevant institutions with a view to advancing the participation of affected communities and ensuring full equality before the law without any discrimination.¹⁰⁷

Especially in cases where there is limited support from the Government to address the situation of descent-based communities, the United Nations can **identify strategic entry points** to engage States in this work.¹⁰⁸ **States' priorities** may not be linked to eliminating caste or other forms of discrimination based on descent, but the needs of affected communities may be reflected in areas that the State has identified as priority

¹⁰⁵ See also OHCHR, Manual on Human Rights Monitoring, chapter 8, available from www.ohchr.org/Documents/Publications/Chapter08-44pp.pdf.

¹⁰⁶ See also OHCHR, Manual on Human Rights Monitoring, chapter 17, available from www.ohchr.org/Documents/Publications/Chapter17-28pp.pdf.

¹⁰⁷ *Guidance Note of the Secretary-General on racial discrimination and protection of minorities*, para. 22.

¹⁰⁸ In some contexts, the very language of rights or discrimination may deter governments from taking action. In such situations, and as a complement to human-rights-specific work, the language of “inclusive development”, or of “reaching the most marginalized” may prove palatable, alongside arguments demonstrating the benefits of inclusive processes for the country’s development overall. It may also prove fruitful to approach these issues in social and economic terms, as long as human-rights-based approaches are respected and implemented regardless of the language deployed. Government partners can also be encouraged to better understand how strategies for the inclusion of descent-based communities will improve human development, inclusive growth and promote stability.

areas of concern. Moreover, some government ministries may be more open to working on these issues than others. It may be more strategic to begin, for instance, with the Ministry of Justice to improve access to justice or the Ministry of Health to review access to health services (i.e. if reducing maternal mortality rates is a priority, then descent-based communities can be targeted if it can be shown that they suffer disproportionately in this area). Government partners should be encouraged to better understand how strategies for the inclusion of descent-based communities will improve human development, inclusive growth and promote stability.

In their engagement with Governments, UNCTs can influence national planning processes, including through the development of **National Human Rights Actions Plans**, which should tackle all forms of discrimination, including descent-based discrimination, with respective budgetary allocations. National Action Plans should be guided by CERD General Recommendation No. 29 on descent-based discrimination, and include references to human rights mechanisms' recommendations.

In addition to the national level, it is important to engage with **local-level government**. The content and nature of this engagement will largely depend on the form of the State—federal or otherwise—as well as the specific prerogatives of different levels of government in a given context. In some countries, caste-based communities have special representation in local level governance and can be partners or specially targeted for capacity-building development.

The **legislature** has a key role to play in the adoption of a legal framework to prohibit discrimination against and promote the rights of descent-based communities, in line with States' obligations under international human rights treaties. **Parliamentarians** can also influence the state's position and could be an effective entry point to start a dialogue with the government and society, particularly when there is government's resistance in addressing this form of discrimination. Various parliamentary committees could also have a role to play in promoting and protecting the rights of descent-based communities. In some countries, members of parliament may be direct representatives of descent-based communities in legislative forums who may be mandated to promote and protect their rights.

The **judiciary** also plays an important role in protecting the rights of descent-based communities, especially in cases of discrimination, thus improving accountability systems at central and local levels. **Prosecutors and police forces** should also be seen as key partners in combating discrimination, as they can ensure that accusations and complaints relating to acts of racial discrimination are properly documented and investigated.

The box on the next page provides examples of specific ways in which UNCTs can help support and enhance the capacity of States to address discrimination based on descent.

Supporting States to combat discrimination-based on descent

UNCTs can:

- Organize **training** for public officials, law-enforcement agencies and members of the judiciary on human rights standards and mechanisms, including trainings about measures to prevent and remedy discrimination, such as the use of special measures;
- Systematically **monitor** implementation and impact of policies and programmes designed to support descent-based communities;
- Support **research and data gathering** to inform policy, e.g. through national statistics offices;
- Create opportunities for **dialogue** between government actors and descent-based communities;
- Encourage consideration of descent-based communities in all **national development plans and policies**, as well as a **review of budget** allocations to ensure non-discrimination against descent-based communities;
- Assist the government in **establishing competencies** on discrimination based on descent in all public institutions (e.g. through designated staff or divisions);
- Provide technical support to **review existing and proposed legislation** with the aim of strengthening normative legal frameworks that include explicit prohibitions on descent-based discrimination, and support the establishment of mechanisms to implement non-discrimination legislation;
- Assist the government in integrating issues concerning descent-based communities into all treaty body reports, the universal periodic review mechanism and country visits of United Nations Special Rapporteurs.

4.3.2. National human rights institutions and equality bodies

National human rights institutions (NHRIs) and specialized bodies can be key partners whose mandate, function and capacities can be strengthened by United Nations actors. NHRIs take on a variety of activities including monitoring, investigation of complaints, training, research, advising on policy reforms and engaging with international human rights mechanism review processes.

NHRIs play a critical role in tackling descent-based discrimination. As independent institutions with a broad mandate to promote and protect human rights, these institutions address issues related to vulnerable persons that cut across civil, political rights, economic, social and cultural rights, and that may involve situations where the rights at stake are highly contested and socially controversial.

In some countries, the establishment of additional **specialized bodies** (also known as equality bodies) has been an important step in efforts to eliminate this form of discrimination and illustrates government recognition and commitment to ensuring access to justice, to monitoring atrocities, and to supporting the implementation of specific legislation. India, for example, has both a National Human Rights Commission and a

National Commission on Scheduled Castes; and Nepal has a National Human Rights Commission and a National Dalit Commission. **National Women Commissions**, where they exist, should also be considered as potential partners in this regard. In addition, where caste structures persist in minority religions, **National Minority Councils** could also play an important role in monitoring descent-based discrimination.

Depending on the national context and framework, specialized bodies may have differentiated statuses and mandates of the respective NHRIs. Understanding those mandates is particularly relevant in cases where the NHRI has a broader mandate to take complaints, investigate and monitor, whereas the specialized bodies have an advisory role to the government. It is also important that both NHRIs and specialized bodies are equipped with adequate resources, personnel and authority to fulfil their mandate.¹⁰⁹

Nepal: Bringing together NHRIs to combat caste-based discrimination

The mandates of different NHRIs in a given country could mistakenly be perceived as overlapping or duplication of work. Instead, the United Nations should work with all NHRIs to identify opportunities and constraints to support and ensure a coordinated approach to their work on combating descent-based discrimination.

With this in mind, in 2015, OHCHR together with the Office of the United Nations Resident Coordinator and Humanitarian Coordinator of Nepal conducted a technical workshop in Kathmandu bringing together representatives from three national human rights institutions (the National Human Rights Commission (NHRC), the National Dalit Commission (NDC), the National Women Commission (NWC)), and civil society organizations working on caste-based discrimination.

The workshop discussed key challenges and strategies concerning humanitarian response (in the context of earthquake recovery and relief efforts) and monitoring of caste-based discrimination cases, with a strong focus on the impact on the enjoyment of economic, social and cultural rights for affected communities. The concrete set of recommendations originating from the one-day event included the need to strengthen local capacity to address the specific violations and vulnerabilities connected with caste-based discrimination.

Specific recommendations have also been made to strengthen the capacity of the three NHRIs to standardize data collection through monitoring and disaggregated data. The identification of a common repository of the monitoring data was identified as key to facilitate analysis of the information collected.

¹⁰⁹ An accreditation system is in place for NHRIs to ensure they comply with the Principles relating to the Status of National Institutions, commonly referred to as the Paris Principles. These define the role, composition, status and minimum standards for the functioning of national human rights institutions to ensure, inter alia, their independence from government and effective working methods (institutions granted grade 'A' status means full compliance with these standards).

4.3.3. *Other relevant actors*

UNCTs can build strategic alliances with a range of other actors including civil society, trade unions, the private sector, development agencies and regional mechanisms in their efforts to address descent-based discrimination, as described below.¹¹⁰

Civil Society

CSOs and networks working to combat this form of discrimination are important agents and are often very willing to engage with the United Nations and the government in their work. Forging partnerships with CSOs provides a unique opportunity to increase impact. However, identifying partnerships with CSOs can be challenging, and community decision-making structures might exclude certain groups, or might exclude women from positions of authority. Partnerships should include organizations that will bring different community perspectives to the table, such as youth groups or women's organizations.

Human rights defenders advocating for the rights of descent-based communities may face its human rights mechanisms. These concerns have been consistently raised by the United Nations human rights mechanisms, including Special Rapporteurs, and the Human Rights Council has adopted a series of resolutions to reinforce the importance of a positive enabling environment for civil society.¹¹¹

International, regional and national non-governmental organizations with mandates focused, among other issues, on combating discrimination, may undertake capacity-building work with local partners and can be useful sources of knowledge and expertise. Most importantly, some of these NGOs have already established advocacy tools to reach out to a number of key stakeholders. In some cases, reports prepared by NGOs have brought substantial visibility to the issue of discrimination based on descent and have helped pressure governments to take action.

Discrimination based on descent is rooted in perceptions of purity and pollution, which are deeply embedded in centuries-old beliefs and practices. In addition, the **media, religious, educational and cultural institutions**, and other parts of civil society, together with United Nations entities, can contribute to correcting the spread of negative images and perceptions of descent-based communities, and can endeavour to build the capacity of descent-based communities while recognizing the contributions they have made to the development of society.¹¹² It is, therefore, critical to engage both affected communities and dominant communities in programmes and policies to combat discrimination based on descent, including through the media, educational systems, public outreach

¹¹⁰ OHCHR, Manual on Human Rights Monitoring, chapter 16, available from www.ohchr.org/Documents/Publications/Chapter16-MHRM.pdf.

¹¹¹ See also Guidelines against intimidations or reprisals ("San Jose Guidelines") (HRI/MC/2015/6).

¹¹² Draft United Nations Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent (A/HRC/11/CRP.3) (2009), para. 52, available from <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/CRP/A-HRC-11-CRP3.pdf>.

campaigns, local self-governments and through faith-based and secular groups and other organizations. **Outreach campaigns and awareness-raising activities** may prove a particularly effective strategy for promoting the rights of communities affected by descent-based discrimination.¹¹³

The private sector

Depending on the operational context, the most severe human rights impact by business enterprises may be faced by persons belonging to groups that are at higher risk of vulnerability or marginalization, such as descent-based communities.¹¹⁴ Therefore, descent-based discrimination should be an issue of concern for the **private sector**, which may be implicated through exploitation of workers from affected communities (use of child/bonded labour/hazardous work with little or no pay), discrimination in hiring and promotion practices, discrimination in goods or services offered (such as housing, health care, food, and education), and forced displacement of affected communities from land for private projects.¹¹⁵ UNCTs should also have in mind that, due to the high prevalence of low-paid, unskilled and vulnerable jobs amongst such communities, they may be excluded from organized employment.

In addition to supporting the adoption and implementation of laws that address discrimination in the private sector, including through the adoption of special measures in hiring practices in the private sector, UNCTs may use their convening power to enter into dialogue with **national and transnational corporations** to advocate for corporate responsibility to respect human rights, including core labour rights, and carry out human rights due diligence in accordance with the *Guiding Principles on Business and Human Rights*.¹¹⁶

¹¹³ United Nations entities can conduct their own campaigns and also support existing and planned campaigns of other groups, such as governments, the media and civil society. See *Guidance Note of the Secretary-General on racial discrimination and protection of minorities*, para. 48.

¹¹⁴ Cf. Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/30/35).

¹¹⁵ Cf. United Nations Guiding Principles on Business and Human Rights, available from www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. A field study conducted by the Indian Institute of Dalit Studies found that “Statistically applications submitted by high caste Hindu names were more likely to result in a positive job outcome than those with Muslim or Dalit names, despite their identical qualifications. The odds of a Dalit being invited for an interview were about two-thirds of the odds of a high caste Hindu applicant. The odds of a Muslim applicant being invited for an interview were about one-third of the odds of a high caste Hindu applicant.” S. Thorat, P. Attewell and F. F. Rizvi: *Urban labour market discrimination*, Indian Institute of Dalit Studies, Working Paper Series Vol. III, No. 1 (2009), p. 1, available from www.dalitstudies.org.in/download/wp/0901.pdf, as cited in www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_166583.pdf, p. 44. See also ILO, “Diversity in the workforce: why it is good for business”, available from www.dalits.nl/pdf/DiversityInTheWorkforce.pdf.

¹¹⁶ *Guiding Principles on Business and Human Rights*, available from www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

Collaboration with the private sector can, for example, be undertaken through building the capacity of the private sector on existing patterns of exclusion and discrimination against descent-based communities, supporting human rights due diligence assessments, advising on policies to promote diversity in recruitment, supporting surveys on caste composition of the workforce, support focused interventions targeted at eliminating bonded and/or child labour, etc.

Descent-based discrimination in business operations: the Burakumin community in Japan

In 1975 it came to light that companies in Japan were using so-called “Buraku lists” to exclude Burakumin communities from hiring processes. These were sold to more than 200 private companies and were used to conduct discriminatory screenings of job applicants.

To combat the problem, the Government of Japan has been implementing programmes to target discriminatory employment practices. Currently, a programme known as “human rights training promoter for fair recruitment practices” to protect the “freedom of choice of employment” is specified in the Constitution and aims to guarantee equal job opportunities for all. For these purposes, private business entities are required to practice fair recruitment and screening based on competencies and abilities of each applicant, with proper understanding of human rights issues such as those faced by the Burakumin. Public employment security offices have provided necessary trainings for promoters to conduct fair recruitment and screening for his/her company.

In addition, since 1999, under the Employment Security Act and its guidelines issued by the Ministry of Health, Labour and Welfare, recruiting companies are prohibited from gathering one’s family origin, birthplace or other information that may be used for discriminatory purposes.

These measures have contributed to combating discrimination against the Burakumin, however, challenges still remain. For example, CERD has noted that the ratio of Burakumin working for larger companies is still lower than the national average, and that there are still allegations of the family registration system being accessed illegally by those who want to use someone’s family origin for discriminatory purposes.¹¹⁷

¹¹⁷ In CERD/C/JPN/CO/7-9, para 22.

¹¹⁸ For instance, from 2011 to 2013, ILO’s office in India implemented the project ‘promotion of equality at work: addressing manual scavenging practice’ in close collaboration with trade unions and civil society organizations representing manual scavenging communities. See also “The ILO and Manual Scavengers in India: Paving the long way towards the elimination of discrimination based on social origin”, available from www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_159813/lang--en/index.htm and ILO, Resource Handbook for ending manual scavenging, available from www.dalits.nl/pdf/ResourceHandbookForEndingManualScavenging.pdf.

Trade unions

Trade unions, as counterparts of employers and the State, could also be valuable partners in United Nations advocacy efforts to combat discrimination based on descent. In India, for instance, the Safai Karmachi Andolan (SKA) trade union has vigorously promoted the eradication of manual scavenging through networking, policy advice, destruction of dry latrines, rehabilitation of “liberated” scavengers, campaigns denouncing violence against Dalit women, and educational advocacy. Further, in 2003, the trade union filed a Public Interest Litigation specifically challenging employment of manual scavengers by public authorities such as Indian Railways and the Indian Army.

India: ILO’s efforts in addressing the practice of manual scavenging

ILO has long led the charge to recognize and address manual scavenging as a form of caste-based discrimination and has been involved in numerous efforts to strengthen India’s national capacities to apply international labour standards on non-discrimination in employment and support government’s, workers’ and employers’ organizations efforts to eradicate manual scavenging.¹¹⁸ Being the Specialized Agency of the United Nations on labour, this involvement also catalysed action by other United Nations organization in India, each one of them addressing manual scavenging from their respective mandates.

ILO’s project on manual scavenging in India evolved thanks to the intervention of trade unions (Hind Majdoor Sabha, 2007 and Akhil Bhartiya Safai Mazdur Congress, 2009), who submitted their comments to ILO’s supervisory mechanism on the widespread continuation of the practice of manual scavenging in the country. After considering the Government’s report on the application of ILO Convention 111 and the comments from trade unions, the Governing Body of the ILO requested the ILO to support the government’s efforts to eliminate manual scavenging.¹¹⁹

Development agencies and other donors

Development agencies and other donors also have an interest in combating discrimination, poverty and social exclusion and should be sensitized on the impact of descent-based discrimination in the overall development and human rights record of concerned countries. For example, European Union development cooperation programmes as well the European Instrument for Democracy and Human Rights (EIDHR) specifically target caste-based discrimination and support to vulnerable groups. In addition, multi-agency multi-donor coordination forums, such as the Social Inclusion Action Group (SIAG) in Nepal,¹²⁰ can address the issue of descent-based discrimination in concerned countries.

¹¹⁹ Observations of the Committee of Experts on the Application of Conventions and Recommendations: 2013, 2012, 2009, 2007, 2005 and 2004 available from www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0.

¹²⁰ The Social Inclusion Action Group is a multi-agency forum of donor agencies and civil society organizations with the purpose of promoting inclusion in policy and practice through

Furthermore, United Nations agencies should also ensure that the needs of descent-based communities have been considered in the preparation of the appeals for those countries where their human rights and humanitarian situations are particularly challenging (e.g. for Donor and Agency funding for Consolidated Appeals Processes and Common Humanitarian Action Plans¹²¹).

Regional mechanisms

Regional and sub-regional human rights mechanisms have an important role to play in the promotion and protection of human rights. Support and enhanced cooperation between the United Nations system and the regional human rights systems on this issue should also be strengthened. This is particularly relevant in Africa, where both the African Commission on Human and Peoples' Rights and the Court of Justice of the Economic Community of West African States (ECOWAS) have found that Mauritania and Niger, respectively, violated their international and regional obligations *vis-a-vis* descent-based communities.¹²²

Key messages

- The consultation and the effective participation of affected communities is an essential component in the design and implementation of policies and programmes aimed at combating descent-based discrimination.
- The United Nations should establish strong partnerships with the affected communities and civil society, and use its convening role to create space for their free, informed and empowered participation without fear of reprisal, including a strengthening of focus on the protection of human rights defenders.
- In addition to engaging with the Government, effective human rights work will require building strategic partnerships with other relevant counterparts at the national level, including parliamentarians, national human rights institutions, civil society and trade unions, religious leaders and the private sector.

advocacy work, learning events, and information sharing. This group helps to bring about changes within participating organizations, and positively influences government and civil society on social inclusion issues. SIAG is focusing on issues such as workforce diversity and monitoring systems. Additional information on the SIAG is available from <http://un.org.np/text/introduction-5>.

¹²¹ The Consolidated Appeal Process brings together aid organizations to jointly plan, coordinate, implement and monitor their response to natural disasters and complex emergencies. A consolidated appeal consists of a Common Humanitarian Action Plan and a number of projects that are necessary to implement the plan. For more information see https://docs.unocha.org/sites/dms/Documents/120308_OOM-CAP_eng.pdf.

¹²² *Malawi African Association and Others vs. Mauritania*, African Commission on Human and Peoples' Rights, communications Nos. 54/91, 61/91, 98/93, 164/97 to 196/97 and 210/98 (2000), and *ECOWAS, Koraou v. The Republic of Niger*, Judgment No. ECW/CCJ/JUD/06/08 of 27 October 2008.

Key resources

Civil society

- OHCHR (2014), *A Practical Guide for Civil Society: civil society space and the United Nations human rights system*
- OHCHR (2008), *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*
- United Nations High Commissioner for Refugees (UNHCR), *Working with National or Ethnic, Religious and Linguistic Minorities and Indigenous Peoples in Forced Displacement*, 2011, available from www.refworld.org/docid/4ee72a2a.html

National Human Rights Institutions

- UNDP-OHCHR, *Toolkit for collaboration with National Human Rights Institutions*
- OHCHR (2010), *National Human Rights Institutions: History, Principles, Roles and Responsibilities*

Stakeholder mapping

- Additional information on stakeholder mapping can be found in chapter 8 of OHCHR's Manual on Human Rights Monitoring

V. COORDINATING UNITED NATIONS EFFORTS TO COMBAT DESCENT-BASED DISCRIMINATION

Combating descent-based discrimination, including caste-based and analogous forms of discrimination, and protecting the rights of affected communities need to be consistently integrated into the work of the United Nations at global, regional and country level. For this Guidance Tool to be effectively implemented at the country level, it is important that the Resident Coordinators are empowered and supported from the highest political levels at Headquarters. Only by ensuring the adequate political traction both at the global and country level, will the dialogues and programmes between descent-based communities, States and the United Nations be fruitful in advancing the rights of affected communities.

This chapter focuses on how the United Nations can address descent-based discrimination through interagency coordination and by including the issue in Common Country Assessments and the United Nations Development Assistance Framework. It also highlights other entry points to address discrimination such as the Sustainable Development Goals, Human Rights Up Front and in humanitarian emergency assistance.

5.1. Inter-agency coordination

There is a strong link between issues affecting descent-based communities and the mandates of United Nations agencies operating in affected countries. **Inter-agency coordination** can be particularly fruitful in advancing work on descent-based discrimination.

At the global level, the United Nations **Network on Racial Discrimination and Protection of Minorities** aims to enhance dialogue and cooperation between relevant United Nations Departments, Agencies, Programmes and Funds on how to address racial discrimination and protection of minorities in line with the Universal Declaration of Human Rights and other key standards, drawing from effective practices.¹²³

At the national level, **Resident Coordinators** are the first line of United Nations action in-country. As such, they are in a unique position to recognize the changing context on the ground, to use their effective working relationships and alliances to understand and address the political context and the concerns of national counterparts, and to recognize the signs of human rights violations that might serve as early indicators of a deteriorating situation.¹²⁴ Resident Coordinators must themselves enjoy the cooperation of UNCT members who in turn must be supported, mandated, and resourced by Headquarters to take on and implement initiatives related to discrimination based on descent at the country level.

¹²³ For more information on the Network on Racial Discrimination and Protection of Minorities, see www.ohchr.org/EN/Issues/Minorities/Pages/UNNetworkRacialDiscriminationProtectionMinorities.aspx.

¹²⁴ *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams.*

India: Coordinating United Nations efforts to address caste discrimination

Convened by the **United Nations Development Program**, several United Nations agencies in India, including IFAD, ILO, UNFPA, UNICEF and UN-Women are working in concert to help accelerate inclusion of Scheduled Caste and Scheduled Tribe issues in national and state policy and planning processes. These agencies have taken on a variety of projects, including research, support for rehabilitation of victims, and empowerment of Dalit women at a grass-roots level.

The issue of manual scavenging has been singled out as of particular importance within the United Nations's India objectives, and various United Nations agencies are completing their efforts to tackle manual scavenging in India:¹²⁵ UNICEF has approached manual scavenging as a water and sanitation issue; WHO has taken up manual scavenging as a health issue; UN-Women addresses manual scavenging based upon that fact that 98 per cent of manual scavengers who clean dry toilets and open defecation are women;¹²⁶ and the ILO focuses on ending manual scavenging by supporting implementation of relevant government policies in Uttar Pradesh, Bihar, Madhya Pradesh, Rajasthan, and Gujarat. UNDP has pursued livelihood focused interventions to ensure that rehabilitated communities have access to decent employment.

Projects focusing on financial inclusion and skills development of liberated manual scavengers, and on the effective implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation, Act, 2013 have been implemented in cooperation with the government, the private sector and CSOs. These complementary efforts are now also becoming more coordinated thanks to increased inter-agency cooperation on the issue of caste-based discrimination in India.¹²⁷

¹²⁵ Resident Coordinator Office in India, "Breaking Free: rehabilitating former manual scavengers", available from http://4dj7dt2ychlw3310xlowzop2.wpengine.netdna-cdn.com/wp-content/uploads/2016/09/Brochure-manual-scavengers_08-08-14.pdf. See also ILO, *Resource Handbook for Ending Manual Scavenging* (2014).

¹²⁶ UN-Women has approached the issue from the perspective of identity-based organizing to support community-driven and women-led strategies to ensure their dignity and claim their rights. UN-Women's three-year (2013-2015) project entitled "Dignity Campaign—Action for Liberation of Dalit Manual Scavenger Women in India", is being implemented by Jan Sahas with support from UN-Women's Fund for Gender Equality (FGE). The project is informed by a baseline study of the socio-economic status of women manual scavengers—who constitute 98 per cent of the community—and aims to liberate, rehabilitate and empower 10,000 women manual scavengers through strengthening their economic and political rights.

¹²⁷ For more information, please see *United Nations in India, Task team on Schedule Castes and Scheduled Tribes*, available from <http://in.one.un.org/task-teams/scheduled-castes-and-scheduled-tribes>.

5.1.1. *Examples of possible means and activities to help coordinate the work of UNCTs on descent-based discrimination:*

- **Consistently raising the issue of descent-based discrimination in their engagement with States**, including especially when this issue is not recognized/addressed.
- **Highlighting the issue on the occasion of relevant dates** (e.g. International Day for the Elimination of Racial Discrimination, Human Rights Day and International Women's Day).
- Conducting **awareness-raising campaigns** to promote the rights of marginalized groups and strengthen advocacy against discrimination.
- A specific **task force on discrimination based on descent** could support focus on the rights of descent-based communities during all stages of Common Country Assessment and United Nations Development Assistance Frameworks, and national planning processes, when applicable.¹²⁸ If such a task force is established, it should work closely with civil society and relevant government coordinating institutions working on this issue.
- **Designating a lead or co-lead agency to support inter-agency strategic planning, policy and programmatic work on discrimination based on descent**, and the development of a joint action plan/strategy.
- Including information on the situation of descent-based communities, including women and children, in all **UNCT reporting**.
- Providing specialized **training** to help United Nations staff and others build knowledge and increase their awareness of the situation and rights of communities affected by discrimination based on descent. Training could, for example, be based on the HRBA and include references to the lived experiences of affected communities. It is also important to ensure that relevant United Nations training materials address these issues.¹²⁹
- Developing a system that retains **institutional knowledge** on work that has been done on the issue of descent-based discrimination, including strategies and good practices that proved most effective.

¹²⁸ Within existing coordination/United Nations working groups (e.g. on rule of law, gender equality, sustainable development, inclusive growth, employment and anti-discrimination).

¹²⁹ *Guidance note of the Secretary-General on racial discrimination and protection of minorities*, paras. 52 to 55.

5.1.2. Improving staff diversity

United Nations entities can develop strategies to **diversify the workforce of the United Nations** and improve representation and participation of members of marginalized communities, including through internship opportunities for members of descent-based communities.¹³⁰ United Nations entities can, for example:

- Ensure a staff policy for recruitment, training, support and nurturing of emerging professionals from descent-based communities, women and men, at UNCTs and at United Nations supported programmes with government institutions and civil society.
- Offer special training programmes for interns and employees from marginalized groups, including in English language skills, and equal access to advancement in position. Where there are few qualified candidates, consideration could be given to career support initiatives, and the creation of internship programmes to nurture emerging professionals.¹³¹

Nepal: improving workforce diversity within the United Nations

In January 2010, 18 members of the UNCT for Nepal signed a Declaration of Joint Principles of Workplace Diversity. Through this initiative, the UNCT sought to address discrimination based on caste, gender, ethnicity, language or religion by, first and foremost, improving workplace diversity in the staffing of the United Nations in Nepal. The Declaration is anchored in the human rights principles of non-discrimination and equality.

Since the signing of the Declaration, the United Nations Resident and Humanitarian Coordinator's Office, along with individual organizations of the UNCT in Nepal, have undertaken various initiatives including: 1) the wide dissemination of information and vacancies, 2) the maintenance of an internal United Nations staff database to analyse workforce diversity statistics, and 3) a United Nations Joint Traineeship Programme, which, since April 2011, has provided professional learning opportunities for a period of 11 months for candidates from socially excluded communities.

The diversity initiative has increased staff capacity and understanding of issues pertaining to marginalization. Since the signing of the Declaration in 2010, there has also been an increase in representation within the UNCT of individuals from disadvantaged groups and religious minorities.¹³²

¹³⁰ Guidance note of the Secretary-General on racial discrimination and protection of minorities, para. 25.

¹³¹ Marginalized Minorities in Development Programming: A UNDP Resource Guide and Toolkit"; section on staff diversity (p. 93).

¹³² For more information, please see *Improving Workforce Diversity Within the UNCT: A Good Practice from Nepal*, available from http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Nepal/UNCT_Diversity_Initiative_-_Nepal_good_practice.pdf and UNDP Nepal Workforce Diversity Policy, available from http://w02.unssc.org/free_resources/MarginalizedMinorities/chapter6/6-2-1.html#box18.

5.2. Addressing descent-based discrimination in the United Nations Development Assistance Framework and Common Country Assessment process

A non-discrimination approach, including on descent-based discrimination, should consistently be integrated into the work of the United Nations at all levels. At the **global level**, in particular, work on this issue should be reflected in United Nations agencies' global strategic plans and linked to their mandates. This in turn can help ensure that the work is taken up in operational programming at the country level, coupled with the necessary resources to implement various initiatives.

The **United Nations Development Assistance Framework (UNDAF)** and the **Common Country Assessments (CCA)** are the main country-level mechanisms for providing cohesion and coordination to the work of the UNCT. The formulation of UNDAF is done through consultation with relevant national stakeholders and coordination within the UNCT. The UNDAF is based on five interrelated programming principles including a human rights-based approach.¹³³ At the **country level**, with some notable exceptions, attention to descent-based communities is not always evident in Common Country Assessments, United Nations Development Assistance Frameworks, **Poverty Reduction Strategy Papers (PRSPs)**, and **Resident Coordinator reports**. Many CCA/UNDAs do not make direct reference to descent-based communities although many UNDAF priorities have “vulnerable groups” as part of their focus. In such cases United Nations agencies may be addressing the situation of descent-based communities along with other vulnerable groups. When addressing the situation of descent-based communities, it is paramount that the United Nations system takes account of each **country context**, including the demographics, history, economy, governmental structure, social infrastructure and dynamics, culture, and customs, and gains a good understanding of the situation of marginalized communities. In doing so, the United Nations system will understand more thoroughly the root causes of violations and be able to design appropriate advocacy actions and programme activities to prevent and combat violations against members of descent-based communities.¹³⁴ In **chapter V**, a list of questions is presented that can be used in planning processes related to United Nations programming, including in the development of Common Country Assessments and United Nations Development Assistance Frameworks.

¹³³ OHCHR, *Manual on Human Rights Monitoring*, chapter 2, available from www.ohchr.org/Documents/Publications/Chapter02-MHRM.pdf.

¹³⁴ OHCHR, *Addressing Discrimination and Human Rights in the CCA/UNDAF: A good practice from Nepal*.

Nepal: Addressing Discrimination and Human Rights in the CCA/UNDAF Process¹³⁵

UNDAF 2013-2017

Nepal's UNDAF 2013 through 2017 focuses on the root causes of vulnerability and is structured around five Outcome areas. Outputs under these five outcomes aim to contribute to addressing the root causes of vulnerability identified by "a country analysis with a human face" that "depart(s) from a traditional Common Country Assessment, which is organized around sectors or themes," in favour of "an analysis with people at its core."¹³⁶

The Process: incorporating a human rights analysis into the design of the Nepal UNDAF

The Nepal Country analysis underscored the fact that discrimination based on caste, ethnicity, gender and other markers of identity is at the core of the challenges faced by many of Nepal's most vulnerable groups. Disaggregated data was examined before analysing macro level data. Indicators to assess the situation of vulnerable groups were also developed as part of the process.

Based on this analysis, the UNCTs developed interventions which include but go beyond constitutional guarantees and legal frameworks. Such interventions incorporate efforts aimed at eliminating discriminatory practices from everyday life in order to ensure that all Nepalis enjoy their human rights.

Five Outcome Areas guided by the United Nations's Comparative Advantage in Nepal

- **Outcome Area 1** provides access to basic elements that give the most vulnerable people a fair chance to lead a healthy life and actively participate in society.
- **Outcome Area 2** will concentrate on sustainable and inclusive economic growth by increasing access of vulnerable groups to economic and productive employment opportunities and by promoting a social protection floor for them.
- **Outcome Area 3** is formulated to explicitly "influence societal attitude to lessen discrimination and empower vulnerable groups".
- **Outcome Area 4** is aimed at "establishing and strengthening a legal and institutional framework to facilitate and support rights based social change".
- **Outcome Area 5** seeks to strengthen the quality of democracy, the social contract between the State and the citizen, and the effectiveness and accountability of governance.

Outcome Area 3 is specifically aimed at influencing societal attitudes to address discrimination and empower vulnerable groups. This outcome area emerges from the analysis that in order to end discrimination and stigma there is a need for targeted interventions, which in turn are based upon the United Nations's mandate, its comparative advantage and a Human Rights Based Approach to development.

The four outputs of Outcome 3 are: (a) vulnerable groups and those who discriminate and stigmatise against them are progressively engaged and challenged on their own assumptions, understanding, and practices that result in stigma and discrimination;

¹³⁵ OHCHR, *Addressing Discrimination and Human Rights in the CCA/UNDAF: A Good Practice from Nepal*.

¹³⁶ Ibid. (citing Robert Piper, United Nations Resident and Humanitarian Coordinator in Nepal).

(b) Non-discriminatory policies and procedures are progressively implemented in institutional contexts such as schools, health facilities, and work places; (c) political participation in institutions and society of vulnerable groups and their capacity to organize and mobilise themselves are progressively strengthened; and (d) media, religious institutions, labour unions and civil society organizations are progressively engaged in the development by challenging assumptions, understanding and practices resulting in stigma and discrimination.

5.3. Other entry points to combating descent-based discrimination

While this tool focuses on integrating an anti-discrimination focus into Common Country Assessments, United Nations Development Assistance Frameworks, and specific country programmes and projects, other United Nations common planning processes, including United Nations Partnership Assistance Framework (UNPAF) and the United Nations Strategic Assistance Framework are worth mentioning. All those processes should be informed by a human rights focused country assessment and principles of a human rights based approach. Other frameworks might equally provide strong entry points to target efforts to combat descent-based discrimination. Some of these opportunities are listed below:

5.3.1. *The 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs)*

Descent-based discrimination, including caste-based and analogous forms of discrimination is a major structural factor underlying poverty, and a root cause of inequalities and social exclusion of particularly marginalized groups. Available data often reveals existing disparities in economic, social and human rights indicators for affected communities in comparison with general population.¹³⁷

¹³⁷ It is estimated that less than 10 per cent of Dalit (or so-called “untouchable”) households can afford safe drinking water, electricity and toilets. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, A/68/333, para. 64. In Nepal, the Terai Dalits have the lowest life expectancy (61.3 years) and adult literacy (27.3 per cent) rates in all social groups. This contrasts sharply with the position of the higher castes (such as Brahmin and Chetri) of the Terai, who are ranked first with a life expectancy of 63.9 years, an adult literacy rate of 83.8 per cent and an average of 6.4 years of schooling. The average per capita income of Dalits was 10,000 Nepali rupees, compared to the national average of 15,000 Nepali rupees and that of Brahmin/Chetri of 18,400 Nepali rupees. See UNDP Nepal, Nepal Human Development Report 2009: State Transformation and Human Development. Illiteracy rate among the Muhamasheen community is around 90 per cent. Women and children are forced to beg in rural areas, and to work as entertainers at weddings or community ceremonies. See Report of the United Nations High Commissioner for Human Rights, Situation of human rights in Yemen (A/HRC/30/31), para. 77.

The implementation of the *2030 Agenda for Sustainable Development*¹³⁸ should address the discrimination and exclusion suffered by descent-based communities and their experiences of inter-generational poverty. To achieve this aim, the United Nations must place addressing inequalities and non-discrimination at the heart of its efforts to support the implementation of the SDGs and targets.

As a universal agenda, all 17 goals are applicable to all Member States. While targets to achieve the goals are adapted and tailored to the national level to take into consideration different national circumstances, the United Nations system, in its support to Member States, should ensure that:

- The implementation of the 2030 Agenda and all efforts to reach the SDGs are fully aligned and consistent with international human rights norms and standards as core values of the United Nations;
- Recommendations from international human rights mechanisms should guide the implementation of the SDGs, in order to better align the accountability framework with human rights standards;
- Steps are taken to clearly identify inequalities and disparities and monitor whether gaps are truly being addressed. Identifying inequalities and non-discrimination must be the starting point for analysis, which requires the generation of evidence and data collection and disaggregation that includes all grounds of discrimination prohibited under international law, to ensure that all forms of discrimination and other root causes of inequalities are identified and addressed;
- Most marginalized and hard-to-reach groups, including descent-based communities, can fully participate in all phases of the design, implementation and accountability of the new Agenda, including in the allocation of resources for their implementation.

5.3.2. *Human Rights up Front (HRuF)*

The Human Rights up Front initiative¹³⁹ and Action Plan¹⁴⁰ call for collective responsibility across the whole United Nations system to prevent serious human rights violations, identifying risks of human rights violations at an earlier stage, leverage the wide range

¹³⁸ The new development framework calls upon the United Nations system to place a critical focus on eliminating discrimination in laws, policies and practices and on reducing inequalities within and between States. In its preparations for the 2030 Agenda for Sustainable Development, the United Nations has underscored its commitment to human rights as both the means and the end of development; central to implementing the new agenda and ensuring a “people-centred” model of more sustainable and equitable development that leaves no one behind. Guidance Note on Human Rights for Resident Coordinators and UNCT, para. 11.

¹³⁹ Report of the Secretary-General’s Internal Review Panel on United Nations Actions in Sri Lanka (2012), available from www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf.

¹⁴⁰ “Rights Up Front” Detailed Action Plan, available from https://undg.org/main/undg_document/rights-up-front-detailed-action-plan-interim-release-version, For more information see Fact Sheet: HRuF at the Country Level [forthcoming].

of United Nations mandates and capacities to respond, and ensure senior officials at the country level are supported and backed by United Nations Headquarters. It aims to ensure that all United Nations staff are aware of their duty under the United Nations Charter, and view human rights and protection of civilians as central to the entire purpose of their work, in all countries and in both development and humanitarian contexts.¹⁴¹

In countries where discrimination based on descent is prevalent, the United Nations presence should ensure that risk assessment of serious violations against affected communities and an assessment of its underlying causes are included in the development and implementation of a strategy that addresses the overall human rights concerns. The analysis should include information collected through representatives of affected communities as well as from the human rights mechanisms that often forewarn in their reports and recommendations of the potential for serious violations or emerging crisis.¹⁴²

Early warning signs for predicting violence against descent-based communities

Human rights analysis requires analysing not only patterns related to the realization or non-realization of people's enjoyment of human rights, but also patterns of incidents and cases of potential human rights violations. Shifting trends in human rights violations can serve as early warning signs of crises. The **Human Rights Up Front Detailed Action Plan** requires that all RCs and UNCTs to be constantly attuned to the human rights situation in every country, so that the United Nations can act early to prevent a situation escalating into serious violations, mass atrocities or armed conflict.¹⁴³

Awareness of the situation of descent-based communities is a useful tool for early warning to prevent conflict. There is mounting evidence that one of the earliest indicators of

¹⁴¹ Guidance Note on Human Rights for Resident Coordinators and UN Country Teams, para. 13. HRuF specifically calls on all United Nations entities to contribute under their individual mandates to prevent or respond to serious violations, which are often too complex for a single United Nations entity to address on its own. A range of mechanisms and tools has been put in place to support the RCs and UNCTs. This includes support for analysis, planning and advocacy at the country level. If the situation escalates beyond the capacity of RCs and UNCTs to address it, and the complexity of the situation requires the involvement of United Nations actors at the regional or global level, the United Nations presence can elevate the situation to the Regional Quarterly Review (RQR)—an inter-agency exercise carried out at senior level at United Nations Headquarters, during which all countries are scanned for early warning signs of risk of serious violations of international human rights and human law. For more information, see Guidance Note on Human Rights for Resident Coordinators and UN Country Teams, Annex B: Human Rights up Front: Support Mechanisms.

¹⁴² Guidance Note on Human Rights for Resident Coordinators and UN Country Teams, p. 22, For more information see Fact Sheet: HRuF at the Country Level [forthcoming].

¹⁴³ Guidance Note on Human Rights for Resident Coordinators and UN Country Teams, p. 22.

potential violence is the chronic disregard of minority rights, which includes the rights of descent-based communities.¹⁴⁴ Deteriorating human rights and economic conditions, inter-communal tensions, hate speech between groups, and rising discrimination could serve as early warning indicators for predicting violence against those communities.¹⁴⁵ Violations of economic and social rights equally serve as predictors or early warning of violence and conflict.

For the United Nations to achieve the goal of prevention, early warning signs of violence against descent-based communities should be systematically identified, communicated and acted upon, using the full range of United Nations entities' combined mandates, resources and capacities. Additionally, the UNCT can:

- Carry out regular “scans” of the human rights situation in the country, including the situation of descent-based communities;
- Institutionalize regular meetings with the UNCT to draw on the information on emerging trends that is available to different United Nations entities;
- Incorporate a human rights and gender analysis into early warning systems by looking at early warning indicators (discriminatory propaganda, hate crimes, discriminatory displacement, sudden declines in access to food, health or education, etc.).¹⁴⁶

5.3.3. Poverty reduction strategies

Descent-based communities are often among the poorest people in their countries.¹⁴⁷ Poverty reduction strategies must include a thorough consideration of the root causes of poverty for these communities, especially the role that discrimination and exclusion plays. There is, in particular, an urgent need to understand **why descent-based communities do not benefit equally from poverty reduction efforts**, and to respond with appropriate measures.

¹⁴⁴ Independent Expert on Minority Issues (A/HRC/16/45), paras. 40 et seq. and 80 (noting that minority rights violations are often among the root causes of conflicts that have long gestation periods, root causes grounded in grievances that may bubble under the surface for years, or even decades, before violent conflict breaks out). See also Report of the Special Rapporteur on Minority Issues (A/69/266).

¹⁴⁵ See also CERD, Guidelines for the early warning and urgent action procedures (Annual report A/62/18, annexes, chapter III), and UNDP, Marginalized Minorities in Development Programming, pp. 57 et seq., available from www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/marginalised-minorities-in-development-programming-a-resource-guide-and-toolkit/Marginalised%20Minorities%20in%20Development.pdf?download.

¹⁴⁶ *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*, p. 22.

¹⁴⁷ For instance, the UNDP's Human Development Index (HDI) scores, which measure a broad range of education, poverty, and health indicators, shows that Dalits in Nepal continue to rank at the bottom of all major socio-economic indicators, along with Nepalese Muslims. Landlessness also forces Dalits to migrate to look for work, and to accept employment in low-paid, hazardous conditions [UNDP, Nepal Human Development Report 2014, available from <http://un.org.np/sites/default/files/Nepal-HDR-2014.pdf>].

Care should be taken that poverty reduction strategies reinforce the notion that descent-based communities are rights holders, and not entrench the perception of these communities as impoverished beneficiaries of social support. **Applying a human rights-based approach to development programmes targeting poverty reduction** ensures that measures addressing the socioeconomic vulnerability of affected communities are addressed not only through programmes tackling poverty and marginalization, but are part of a wider approach that tackles discrimination.¹⁴⁸

Collection of disaggregated data on descent-based communities can provide important baseline information as well as evidence to justify targeted programs.¹⁴⁹ Descent-based communities should also be included in stakeholder dialogues on poverty, and can offer important insights for strengthening poverty reduction strategies in a way that will more effectively address their needs.

5.3.4. *Humanitarian emergency assistance*¹⁵⁰

Violations of international human rights and humanitarian law, and pre-existing threats and vulnerabilities, may be amongst the principal causes and consequences of humanitarian crises.¹⁵¹ Due to the precarious conditions in which they often live, communities affected by descent-based discrimination may be particularly susceptible to loss of life and property in times of conflict and natural disaster, and as a result of their “low” status, may be twice victimized—first by the disaster itself, and second, by discrimination in relief and rehabilitation efforts.¹⁵² Communities discriminated against on the basis of their caste or analogous forms of inherited status may also be less able to recover without support. The lack of legal protections in the form of identity papers, property rights, or documentation to claim entitlements have also been raised as issues of concern.

The vulnerabilities of descent-based communities in the face of natural disasters may also become more pronounced as climate change leads to increased frequency

¹⁴⁸ Cf. Report of the Special Rapporteur on minority issues (A/HRC/29/24), paras. 72 and 97.

¹⁴⁹ See, for example, the Socio Economic Caste Census (2011), carried out by the Ministry of Rural Development of India, through which information on the percentage of the population affected by caste-based discrimination, including their socio-economic status and educational needs became available. The Socio Economic and Caste Census (2011) is available from www.secc.gov.in/aboutusReport.

¹⁵⁰ Humanitarian emergency assistance must be carried out in compliance with the principles of humanity, impartiality and neutrality embodied in General Assembly resolutions 46/182 and 59/141 and the Statutes of the International Red Cross and Red Crescent Movement.

¹⁵¹ See Statement by the Inter-Agency Standing Committee (IASC) Principles, The Centrality of Protection in Humanitarian Action, 17 December 2013.

¹⁵² Examples of discrimination following natural disasters in South Asia include denial of entry for Dalits to relief camps, exclusion of Dalits from lists of those eligible for relief, and discrimination in access to health services, shelter and housing, clean water and education. In IDSN, “Equality in Aid: Addressing Caste Discrimination in Humanitarian Response”, available from http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Key_Issues/Disaster_response/EqualityInAid_web_version.pdf.

of severe weather events. Already, these communities may be at increased risk due to locational vulnerabilities (such as living in flood- or drought- prone areas), a lack of resources and options to mitigate the effects of climate change, as well as their dependence on natural resources to support rural livelihoods. Related challenges and aggravating factors such as ecosystem decline and continued population growth may serve to magnify these vulnerabilities further.

Humanitarian assistance must be carried out in a non-discriminatory manner and targeted at the protection of all persons affected and at risk.¹⁵³ In practical terms, this means identifying who is at risk, how and why at the very outset of a crisis and thereafter, taking into account the specific vulnerabilities that underlie these risks, including those experienced by descent-based communities.¹⁵⁴ This may involve mapping out discrimination in emergencies and understanding the local context and any existing prejudices which might lead to actions that inadvertently reinforce discrimination and exclusion.¹⁵⁵

Having in mind the mechanisms of exclusion of affected communities, including structural and social barriers, it is crucial that humanitarian assistance is provided through interventions that specifically engage with these communities. Communities should be meaningfully engaged in all decisions and actions that have a direct impact on their well-being, including in processes such as the **Strategic Response Plan (SRP)** and in the **Initial Rapid Assessment (IRA)**.¹⁵⁶

Human rights violations against such groups in humanitarian responses should also be duly documented by the **Protection Cluster**.¹⁵⁷ Measures should also be in place to adopt a specific approach to complaints mechanisms and complaints-handling that takes into consideration the context of descent-based discrimination and how it can occur in the delivery of a programme and in the handling of complaints about that programme.

Experience has shown that moments of crisis can also present opportunities to challenge caste-based divisions and untouchability practices. Examples of innovative measures in the South-Asian context include:

¹⁵³ *Guidance Note of the Secretary-General on racial discrimination and protection of minorities*, para. 46. See also: *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*, para. 19 (noting that the protection of human rights is the ultimate aim of humanitarian action and this purpose should be central to any humanitarian strategy).

¹⁵⁴ Cf. Statement by the Inter-Agency Standing Committee (IASC) Principles, The Centrality of Protection in Humanitarian Action, 17 December 2013.

¹⁵⁵ IFRC, Addressing discrimination in disasters, available from www.ifrc.org/en/news-and-media/opinions-and-positions/opinion-pieces/2007/addressing-discrimination-in-disasters.

¹⁵⁶ Cf. Statement by the Inter-Agency Standing Committee (IASC) Principles, The Centrality of Protection in Humanitarian Action, 17 December 2013.

¹⁵⁷ The Protection Cluster plays a crucial role in supporting humanitarian actors to develop protection strategies, including to mainstream protection throughout all sectors and to coordinate specialized protection services for affected populations.

- Having Dalits among kitchen staff in relief camps;
- Training relief workers on how to recognize and address discrimination;
- Ensuring that Dalit-led organizations are responsible for the distribution of aid; and
- Ensuring that new housing is not segregated along caste lines.¹⁵⁸

Sri Lanka: ensuring non-discrimination in the provision of humanitarian assistance

In the wake of the 2004 Indian Ocean tsunami, some Dalits were forbidden by other castes from drinking water from the same water tanks because sharing with Dalits would, in their view, pollute it. Other Dalits who survived the tsunami recount how they were employed by the local authority to clean drains and toilets. They were also told to pick up the dead bodies on the shore, but were not provided with protective gloves or masks.¹⁵⁹

In their assessment, the disaster recovery unit of UNDP Sri Lanka considered how “cross-cutting concerns” such as caste, ethnicity, gender, human rights, environmental protection and conflict sensitivity were being incorporated into the organization’s work. By setting up an in-house team dedicated to evaluating disaster relief efforts against cross-cutting criteria, UNDP Sri Lanka was able to develop strategies and mechanisms for improving the organization’s performance and build capacity among its staff and partners. Together, these principles formed the foundation of a “toolkit”¹⁶⁰ for an integrated approach to disaster recovery.

Notably, the UNDP toolkit acknowledges that caste-based discrimination and other forms of marginalization increase the vulnerability of certain populations to disasters. The toolkit calls for disaggregation of data by caste and other categories wherever possible, with an eye toward identifying those individuals most in need of targeted interventions. Additional measures include inclusion of individuals with knowledge of caste issues on disaster-relief-steering committees and in community consultations.

¹⁵⁸ For additional information, see also IDSN, *Equality in Aid: Addressing Caste Discrimination in Humanitarian Response*, available from http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Key_Issues/Disaster_response/EqualityInAid_web_version.pdf and NCDHR, *Inclusive Vulnerability Mapping & Monitoring of Post Disaster Response: Toward Developing a Methodology and Template for Field Practice (A Process to ensure Dalit and Gender Inclusion)*, available from http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/2014/Manual_NDW_released_with_Equality_in_Aid_report.pdf.

¹⁵⁹ IFRC, “Addressing discrimination in disasters”, available from www.ifrc.org/en/news-and-media/opinions-and-positions/opinion-pieces/2007/addressing-discrimination-in-disasters.

¹⁶⁰ UNDP Sri Lanka: *An Integrated Approach to Disaster Recovery: A Toolkit on Cross-Cutting Issues*, available from www.undp.org/content/dam/undp/library/gender/Gender%20and%20CPR/Integrated%20Approach%20to%20Disaster%20Recovery-%20A%20toolkit%20on%20Cross-cutting%20Issues%20-%20Lessons%20from%20the%20Tsunami%20Recovery%20Unit.pdf.

UNDP: livelihoods recovery for peace in Nepal

In 2009, UNDP launched the Livelihood Recovery for Peace (LRP) project in Sarlahi, Mahotari and Rautahat districts of the Terai region of Nepal, a region where poverty, conflict and natural disasters have most hindered development.¹⁶¹ The project targets conflict-affected, poor, and other socially excluded and disadvantaged communities and households, particularly women and youth. Sixty-two per cent of beneficiaries are Dalits.¹⁶²

The LRP project is an integrated community-based development initiative that aims to strengthen the capacities of local institutions and poor households to respond to livelihood recovery needs and contribute to peace building in the Central Terai region. Because of the negative impacts of disasters and conflicts in Nepal, this project pursues its goal through a disaster risk and conflict-prevention lens, whereby conflict and hazard mapping are at the core of the livelihood assessments, strategy development and implementation processes.

By 2015, the LRP generated over 3,000 person-days of employment, predominantly through the construction of 61 community infrastructures (51 hand pumps and 10 road drainage improvements), improving access to sanitation to more than 1,800 households in ultra-poor communities. UNDP also provided micro-capital grants to over 6,400 individuals from 200 community groups to carry out income-generating activities.¹⁶³ Over the project period, the percentage of targeted households having access to a private toilet facility has increased from 3 per cent to 18 per cent. Similarly, households with a private drinking water source have increased from 37 per cent to 51 per cent within the LRP covered poverty pockets.¹⁶⁴ The project also provided support for Dalit community members in receiving citizenship papers, de facto enabling them to claim their rights.¹⁶⁵

The project, which is implemented in collaboration with District Development Committees, Women and Children's Office, NGOs and Youth Networks, ran until 2015.

¹⁶¹ For more information about this project see UNDP, Livelihoods Recovery for Peace Project (LRP), Project document, available from www.np.undp.org/content/dam/nepal/docs/projects/UNDP_NP_LRP%20%20projcet%20document.pdf.

¹⁶² UNDP, Livelihoods Recovery for Peace Project (LRP), Factsheet, available from www.np.undp.org/content/dam/nepal/docs/projects/UNDP_NP_LRP-factsheet.pdf.

¹⁶³ UNDP, "Renewed hopes through improved livelihood", available from www.np.undp.org/content/nepal/en/home/ourwork/povertyreduction/successstories/renewed-hopes-through-improved-livelihood.

¹⁶⁴ UNDP, Livelihoods Recovery for Peace Project (LRP), Factsheet, available from www.np.undp.org/content/dam/nepal/docs/projects/UNDP_NP_LRP-factsheet.pdf.

¹⁶⁵ Without citizenship, one cannot own land or a house, open a bank account or apply for a driving license. A citizenship card determines one's legal presence, and those without one cannot participate in social welfare programmes run by the State. Because poor and marginalized groups are deprived of opportunities, they are usually illiterate and have little awareness about the country's laws. In "The power of citizenship cards in Nepal", available from www.np.undp.org/content/nepal/en/home/ourwork/povertyreduction/successstories/i-am-a-citizen.

Key messages

- Combating descent-based discrimination, including caste-based and analogous forms of discrimination, and protecting the rights of affected communities need to be consistently integrated into the work of the United Nations at global, regional and country level.
- Joint programmes of work and increased interagency coordination may be particularly useful to translate into action, in a holistic and comprehensive manner, the rights and concerns of descent-based communities.

Key resources

Coordinating within the United Nations system

- UNDG (2015), *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*
- UNDG (2014), *Standard Operating Procedures for Countries Adopting the “Delivering as One” Approach*
- UNDG (2014), *Guidance Note for Joint Programmes*

Common Country Assessment and United Nations Development Action Framework

- UNDG (2010), *Guideline for UN Country Teams on Preparing a CCA and a UNDAF*
- UNDG (2010), *Guidance Note on Application of the Programming Principles to the UNDAF*
- The United Nations HRBA Practitioners’ Portal on Human Rights-Based Approaches to Programming, managed by UNDG, includes country examples on integrating human rights into CCA and UNDAFs

Sustainable Development Goals

- UNDG (2014), *Implementing Human Rights Post-2015*
- United Nations Sustainable Development Knowledge Platform

Poverty Reduction Strategies

- WHO and OHCHR (2008), *Human Rights, Health and Poverty Reduction Strategies*
- OHCHR (2006), *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*
- UNDP (2003), *Poverty Reduction and Human Rights: A Practice Note*

Human Rights Up Front

- Fact Sheet: HRuF at the Country Level [forthcoming]
- UNDG (2014), “Rights Up Front” Detailed Action Plan

Humanitarian emergency assistance

- IFRC (2007), *Addressing Discrimination in Disasters*
- General Assembly resolutions: Strengthening of the coordination of humanitarian emergency assistance of the United Nations (A/RES/46/182) and (A/RES/59/141)
- UNHCR (2009), *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach*
- International Dalit Solidarity Network (2013), *Equality in Aid: Addressing Caste Discrimination in Humanitarian Response*
- National Campaign on Dalit Human Rights/India (2013), *Inclusive Vulnerability Mapping & Monitoring of Post Disaster Response: Toward Developing a Methodology and Template for Field Practice (A Process to ensure Dalit and Gender Inclusion)*

VI. LEAVING NO ONE BEHIND: PURSUING EVIDENCE-BASED ACTIONS, POLICIES AND PROGRAMMING

This chapter presents a number of methods that UNCTs can use to integrate a non-discrimination focus in their work. It highlights the importance of having a human rights-based approach to data collection and statistics and presents a list of questions that can be used in planning processes related to United Nations programming including in the development of Common Country Assessments and United Nations Development Assistance Frameworks. A list of possible concrete actions that can be taken by the United Nations system to address descent-based discrimination is presented in the end of the chapter.

6.1. Collecting disaggregated data

Disaggregation and collection of data to allow for comparison of different population groups and to reveal possible inequality and discrimination form part of States' human rights obligations.¹⁶⁶ This requires the collection, analysis and dissemination of data going beyond economic measures such as gross domestic product to look at issues of educational achievement, access to justice, food security, freedom of expression, quality of health care, and many others.¹⁶⁷ It also requires data to go beyond national averages and seek disaggregated information related to the human rights situation of marginalized groups vis-à-vis the rest of the population.¹⁶⁸

¹⁶⁶ While this is implicit in earlier treaties, and was thus elaborated by international human rights treaty bodies in General Comments and consideration of State reports, more recently adopted treaties make specific reference to the need for data collection and disaggregated statistics. See, for example, Article 31 of the Convention on the Rights of Persons with disabilities. See also Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/70/335), para. 11.

¹⁶⁷ OHCHR, "Human rights-based approaches to data and statistics: Good practices and lessons learned (Background Note)". See also OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation*, available from www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf. The guide contains illustrative lists of indicators to measure the rights to liberty and security of the person, to adequate food, to the highest attainable standard of physical and mental health, to not be subjected to torture, to participate in public affairs, to education, to adequate housing, to work, to social security, to freedom of opinion and expression, to a fair trial and to life, as well as on violence against women and the cross-cutting issue of non-discrimination and equality. This guide also includes some useful statistical tools to assess discrimination, including socioeconomic statistics disaggregated by prohibited grounds of discrimination to capture disparities and differential outcomes that are often the result of multiple and accumulative discrimination; population surveys measuring experiences, perceptions and attitudes regarding discrimination; and discrimination or situation—testing surveys to measure directly discrimination in specific areas, such as access to work, housing, health care or other public services.

¹⁶⁸ OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation*, p. 74. In addition, measurement must be "specific to the change expected, and to the subject of change,

The essential first step towards promoting the realization of human rights is diagnosis and knowledge of the existing situation, which requires an understanding of the ways in which affected communities experience discrimination.¹⁶⁹ The absence of credible and factual statistics on the nature and the magnitude of descent-based discrimination in certain countries further contributes to existing social tensions and limits the impact of national public policies and development strategies on those marginalized groups as well as any targeted measure adopted to tackle descent-based discrimination, including caste and closely analogous forms of discrimination.¹⁷⁰

A **human rights-based approach to data and statistics** is a prerequisite to collecting data for assessing and addressing discrimination. Data collected can otherwise be used to stigmatize, reinforce conflictual identities or increase the vulnerability of certain groups. Without appropriate safeguards, descent-based communities may opt not to identify themselves as such, out of fear of discriminatory practices. Governments may also fear the consequences of data collection. A human rights-based approach to data and statistics is based on the fundamental principles of **participation, transparency, equality and non-discrimination, and accountability**. In concrete terms, this means that surveys and administrative data must respect the principle of **self-identification**, rather than assigning group membership without consent.¹⁷¹ To detect de facto discrimination, data must be collected and disaggregated for marginalized groups. Given that data have to be used sensibly to avoid stigmatization and potential misuse, particular care should be exercised when collecting and analysing data in order to respect and enforce **data protection and privacy**.¹⁷² The resulting data must be transparent

either the rights holder or the duty-bearer.” This means disaggregation—as much as necessary—by relevant categories. In *Common Country Assessment and United Nations Development Assistance Framework: Guidelines for UN Country Teams on Preparing a CCA and UNDAF* (2009), para. 113.

¹⁶⁹ Cf. CESCR, General Comment No. 1 (1989).

¹⁷⁰ See also [A/70/335](#), paras. 41 and 42 (noting that in highly polarized societies, figures showing evidence of inequalities may revive violence between groups competing for resources. The results of censuses in some countries are barely publicized, as they could represent a dangerous trigger for violent reactions in highly heterogeneous societies where individuals are mobilized on ethnic grounds. However, the Special Rapporteur stressed that collecting data is not a cause but rather a diagnosis of situations that are conducive to such violent confrontations between groups, who may have accumulated grievances caused by systemic inequalities and discrimination. Those fears should therefore be linked to the failure or unwillingness of States to address inequalities and discrimination rather than being imputed to the data itself. The resistance of States to collecting data may in some cases equate to obstructing the right to information, as there is an underlying resistance to documenting the situation of vulnerable or marginalized groups, including ethnic minorities).

¹⁷¹ This requires that responses to survey or census questions should be voluntary (meaning that a person may choose not to respond), open (meaning that a respondent may choose to enter an identity other than those listed), and based only on the response of the individual rather than the perception of the questioner. See also [A/70/335](#), para. 57.

¹⁷² Data should be collected in ways that ensure confidentiality, informed consent, and voluntary self-identification (European Union directive on the protection of individuals with

and publicly available to ensure accountability of policy-makers to the beneficiaries of public policy.

The entire process of design, collection, storage and dissemination of data should include the **participation** of descent-based groups, from strategic planning through identification of data needs, selecting and testing an appropriate collection methodology, data collection (for instance, hiring interviewers from particular communities to improve response rates), storage, dissemination, analysis and interpretation.¹⁷³ It is important that data and tools for collection are available in local languages. Capacity strengthening should be undertaken to increase the statistical literacy of concerned communities, who should also be **empowered** in the data collection process and use of the resulting data.¹⁷⁴

Furthermore, the development of a **monitoring system** that is sustainable, country-owned and includes different stakeholders can contribute to the detection of related human rights problems, such as direct or indirect discrimination.¹⁷⁵ For this purpose, interpreting statistical information from a human rights perspective is useful. Particular attention should be paid to identifying who are the vulnerable groups, building capacity for data collection and disaggregation as well as to any research that reflects the situation and views of people who suffer from discrimination.¹⁷⁶

When descent-based communities are not included in standardized national surveys in the current data collection, **United Nations agencies** may also conduct qualitative

regard to the processing of personal data and on the free movement of such data, 95/46/EC, 24 October). This includes, inter alia, that data should not be published or publicly accessible in a manner that permits identification of individual data subjects. Clear harm mitigation strategies with assigned responsibilities, reporting obligations, access to remedy and compensation for data subjects, should be in place in case of data leaks or other security breaches. In OHCHR, *A Human-Rights Based Approach to Data: Leaving No One Behind in the 2030 Development Agenda* (Guidance note to Data Collection and Disaggregation), p. 10, available from www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf.

¹⁷³ The human rights principle of participation encourages all sections of the population, including vulnerable and marginalized groups and human-rights and other relevant institutions, to actively contribute to the decision-making process surrounding the collection of data. Consulting all stakeholders in all stages of data collection would help to build confidence between the authorities and the groups concerned and would also lead to better survey design, including the choice of relevant indicators. Moreover, involvement should also be understood as providing the right to members of vulnerable groups to be informed about the results of data collection and about the effectiveness of the anti-discrimination legislation, policies and programmes in place. A/70/335, paras. 59 and 60.

¹⁷⁴ OHCHR, *A Human-Rights Based Approach to Data: Leaving No One Behind in the 2030 Development Agenda* (Guidance note to Data Collection and Disaggregation), p. 5, available from www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf.

¹⁷⁵ Indirect discrimination refers to laws, policies or practices which appear neutral at face value, but *de facto* treat certain population groups less favourably with no reasonable justification.

¹⁷⁶ OHCHR, *Human Rights Indicators: A Guide for Measurement and Implementation*, p. 133.

assessments or special studies using unbiased samples that can be used to compare with the national data. United Nations agencies may also develop standard procedure manuals in conducting such studies and assessments that other interested stakeholders may use. United Nations agencies may lead or support creation of online databases where findings will be made available.

6.1.1. *How can the collection of disaggregated data, including along gender lines, target descent-based discrimination?*

The analysis of collected data can help to identify patterns of discrimination and inequality, and describe the situation of groups excluded and made vulnerable due to the denial of their rights.¹⁷⁷ **Clear indicators and targets** for addressing descent-based discrimination can help assess the impact of anti-discriminatory policies and programming, reinforce confidence in national development processes and provide descent-based communities with additional leverage to hold governments to account for upholding their human rights obligations.¹⁷⁸

Concerning descent-affected communities, data disaggregation can be useful to:

- Monitor any increase and/or decrease in inequality for affected communities, including any increase and/or decrease in segregation practices;
- Map the different dimensions of exclusion and multiple levels of discrimination.
- Reveal the extent to which descent-based communities are engaged in caste-based occupations or are denied occupational mobility;
- Support the design of policies and interventions based on data and evidence;
- Support representation of descent-based communities in government institutions, including state administration, local self-government, the judiciary, and the police;
- Target positive measures and tailor policies and programs necessary to overcome discrimination based on descent.

¹⁷⁷ Inequalities may be detected, for example, through disaggregation of data, by calculating the share of public expenditure spent on public services for each group, or through targeted surveys.

¹⁷⁸ As underscored in the concluding observations adopted by CERD, disaggregated demographic data is needed to better assess the social and economic situations of communities affected by discrimination based on descent, and of women and girls belonging to those communities. Disaggregated data is also needed to assess the impact of anti-discriminatory policies and programming. E.g. [CERD/C/65/CO/4](#) and [CERD/C/65/CO/5](#). See also CERD, General Recommendation No. 29, paras. 10 and 13. CEDAW reviews have similarly requested disaggregated data on women from communities discriminated against on the basis of descent.

6.1.2. Which sources should inform the development of monitoring frameworks and indicators?

- Government reports and official statistics;
- Treaty bodies and special procedures; regional and national human rights mechanisms, including NHRIs;
- United Nations reports, including from peace missions;
- National and international NGO reports;
- Academic research; national and international media;
- United Nations Economic Commissions and financial institutions (such as the World Bank and the International Monetary Fund);
- Direct information from victims of human rights abuses;
- Other reliable sources.

Why disaggregation of data? The case of primary education

Primary education, which is universal, free and compulsory, is one of the core elements of the right to education. To measure progress, there are many relevant indicators, one of which is the enrolment rate of children at the primary level. After having this indicator selected, the national data, for instance, shows that the enrolment rate of children at the primary level is 94 per cent .

If one only relies on the figure of 94 per cent, and does not seek further disaggregation of available data, one may not get the full picture of whether the realization of this right is distributed to all members of society on an equal basis. Thus, the first disaggregation could be by sex: boy students (60 per cent), and girl students (40 per cent).

The second disaggregation could be by ethnicity, region and other relevant grounds:

- percentage of students from dominant ethnic groups
- percentage of students from caste-based community
- percentage of students from indigenous groups
- percentage of rural students
- percentage of urban students
- percentage of students with disabilities

This highlights the significance of disaggregation as a means of capturing de facto discrimination. When disaggregated, the indicator confirms that “girl students” compared to “boy students” are disadvantaged and require particular attention. Similarly, the actual enrolment rate of other groups based on caste, ethnicity, region, disability and any other grounds will help identify the status of enjoyment of the right in question by the members of these groups.¹⁷⁹

¹⁷⁹ The example is taken from OHCHR and National Human Rights Commission of Nepal, *Indicators for Monitoring Economic, Social and Cultural Rights in Nepal*, p. 13 (2011).

6.1.3. *How can the United Nations support better data collection?*

- United Nations agencies have a role in **supporting national planning processes** such as development and human rights plans, government policies, development of legal frameworks and institutions, all of which should be informed by relevant data.
- Cooperation with **National Statistics Offices** (NSOs) can build capacity for data collection, including on human rights standards on self-identification, prohibited grounds of discrimination, right to privacy/access to information and accountability.
- United Nations agencies can also have **specific roles in statistical processes** (e.g. UNFPA in supporting census, ILO on labour surveys, and UNDP's support to the development of the national planning and development indicators). United Nations agencies that are directly involved in data collection processes should ensure, where relevant, the participation of descent-based communities and disaggregation that can capture their human rights situation.
- United Nations agencies can play a role in the **promotion of the HRBA to data and statistics**, especially in the implementation of the 2030 Sustainable Development Goals.
- In countries with political difficulties and data limitations, United Nations agencies could **advise on possible mitigating factors** that should be put in place for a more effective data collection.
- Descent-based communities face on-going and historical discrimination by authorities and/or members of society, which may lead to members of such communities not being willing to identify as such. Collection of data through civil society organizations or service providers that enjoy the trust of the most marginalized groups may produce more reliable results.
- The United Nations can **encourage and support new partnerships** between NSOs and CSOs, and capacity strengthening within both CSOs and NSOs.
- United Nations agencies can also **provide technical assistance to identify indicators** for measuring the implementation of recommendations of international human rights mechanisms.
- Where information and stakeholder capacity is lacking, the United Nations can **support data collection through alternative approaches** such as promoting open multi-stakeholder consultations, online consultations, designing target population surveys (in consultation with concerned communities) and carrying mapping exercises to inform their programmatic and advocacy priorities in the country.

UNICEF: mapping of Muhamasheen communities in Yemen

Over the course of April and May 2014, UNICEF completed a project designed to map Yemen's historically marginalized Muhamasheen communities in the country's Taiz Governorate. This survey, which reached roughly 9,200 households, aimed to provide key characteristics of Muhamasheen communities so as to facilitate future social protection programs that address their needs.

The mapping was a prerequisite step to start an integrated package of social inclusion interventions, mainly in the form of child-sensitive financial inclusion programmes for Muhamasheen communities. These interventions will include education interventions, financial education and savings accounts for mothers and for children aged 10 to 17, and distribution of school kits and uniforms. In the interim, priority districts that are home to high numbers of marginalized communities have been selected for health interventions. In Sa'ada, the first district selected, many children have received crucial vaccines for the first time, and new water filters have been fixed in health units serving over 600 Muhamasheen. 153 Muhamasheen children in Al-Mokha district have now finished preparatory classes and are ready to join mainstream school in the coming year.¹⁸⁰

6.2. Framing questions for analysis and action

The following section gives examples of questions to be considered in planning processes related to United Nations programming, with a view to promoting and protecting the rights of descent-based communities. These questions should be considered as a work-in-progress that could be expanded or adapted to take into consideration country-specific experiences.¹⁸¹

These checklists can also help to identify which descent-based communities and their members are the most vulnerable, the extent of inequalities faced, and the legal and regulatory framework and institutions available to address inequalities.

The information collected with these checklists can be integrated into programme documents, publications, monitoring and evaluation, as well as for determining baseline data for UNDAF and CCA preparation. It is recommended that, when answering the questions below, one should explain how such conclusions were reached and assessed (i.e. perception based, based on the normative framework, etc.). If possible, references and sources for those answers should be provided.

¹⁸⁰ UNICEF Yemen Situation Report, June 2014, available from www.unicef.org/mena/UNICEF_Yemen_SitRep_June_2014.pdf.

¹⁸¹ The questions have been adapted from the UNDP toolkit *Marginalized Minorities in Development Programming* (2010). It contains additional tools that can be helpful to identify and understand how descent-based discrimination impacts the enjoyment of human rights.

6.2.1. Questions for situational analysis

The list of questions below can be used to assess contextual information on the situation of descent-based communities in the national context as well as the structures and mechanisms in place to consult with and monitor the situation of people from descent-based communities.

Understanding and assessing the situation of descent-based communities in the national context

- Are descent-based communities' concerns included in any **constitutional provisions and/or specific legislation**¹⁸² or policy framework?
- Have **special measures** been adopted in favour of descent-based communities in order to ensure their enjoyment of human rights, in particular their rights concerning access to public functions, employment and education? If so, how can implementation of these measures be assessed?
- What are the most **pressing concerns** for descent-based communities in the country? What are the **root causes and barriers** these communities face in securing their rights? How do these concerns affect children, **women**, and men in a differentiated manner within descent-based communities and in society at large?
- Does any **disaggregated data** exist demonstrating the situation of descent-based communities in relation to the general population, and of women from descent-based communities in relation to men from these communities and in relation to the general population? Have you identified any trends in data on descent-based communities which may have been overlooked?
- What recommendations have emerged from human rights treaty bodies, special procedures or the UPR process with regard to the situation of communities affected by descent-based discrimination?

¹⁸² A number of national constitutions explicitly refer to "caste" in their non-discrimination provisions: (1) the Constitution of India prohibits discrimination on the grounds of "religion, race, caste, sex, place of birth or any of them" (art. 15) and provides for the abolition of the practice of "untouchability" (art. 17); (2) Nepal's Constitution prohibits discrimination based on "religion, race, sex, caste, tribe, or ideological conviction or any of these" (art. 11); (3) Pakistan's Constitution lists 'race, religion, caste, sex, residence or place of birth' as prohibited grounds of discrimination in various contexts (arts. 22, 26 and 27); (4) Bangladesh's Constitution prohibits public or private discrimination "on the grounds only of religion, race, caste, sex or place of birth" (art. 28); (5) Sri Lanka includes the markers of "race, religion, language, caste, sex, political opinion, place of birth" in its constitutional non-discrimination provisions (arts. 11 and 27); and (6) Burkina Faso also includes caste in the list of prohibited grounds of discrimination in the first article of its 1997 Constitution. See also IDSN's website <http://idsn.org/key-issues/access-to-justice>.

Structures and mechanisms in place to consult with and monitor the situation of descent-based communities

Are descent-based communities organized in the country? **Are Civil Society Organizations of descent-based communities able to operate and to form networks freely?**

Is there any setting or space for **dialogue** between representatives of descent-based communities and government officials? Is there any room for the UNCT to promote the establishment and/or strengthening of CSOs of descent-based communities?

Has the UNCT established a mechanism (including any thematic group) or policy through which it can **consult** with descent-based communities, address their concerns and monitor their human rights situation?

What are the **main structures** currently in place in the country to promote and protect the rights of descent-based communities?

Is there a specific mechanism for collecting **disaggregated data**—including on access to education, housing, health care and health conditions, employment opportunities and income, among other categories—which could independently reflect the realities faced by descent-based communities in the country? Do disaggregated data, including by gender, disability and age, exist?

What mechanisms are in place to ensure implementation of **budgetary measures and programmes** that are designed to benefit descent-based communities?

Has the **Common Country Assessment** included a particular reference to the situation of descent-based communities? If so, have their situation and concerns been included in the **United Nations Development Assistance Framework** for support? Does the country programme take into consideration the situation and concerns of descent-based communities?

6.2.2. *Identifying key areas of intervention to address the situation of descent-based communities*

Human rights are universal, indivisible, interdependent and interrelated. A human rights assessment should encompass the situation with respect to the full range of rights—economic, social and cultural rights, as well as civil and political rights—and include analysis of patterns of discrimination in society. The categories in this section are aligned with human rights standards and the questions themselves highlight the most commonly cited issues of concern for descent-based communities.

Civil and political rights

- Do descent-based communities enjoy the **right to vote and stand for election** on the basis of equal and universal suffrage? Do they enjoy the right to due representation in government and legislative bodies, in law and in practice? What can be done to promote their integration in decision making bodies?
- Do descent-based communities enjoy non-discrimination in **access to citizenship**?¹⁸³
- Do descent-based communities enjoy the rights to **freedom of thought, conscience and religion** on equal footing with other communities, in law and in practice?
- Are members of descent-based communities **free to marry** outside their community?¹⁸⁴
- Do descent-based communities have **access to information** relating to public policies and decisions taken on their behalf, especially when they are not involved in the decision-making processes?
- Do possibilities or mechanisms exist to ensure that the contributions of descent-based communities are taken into account and/or included in **public policies**?
- In what ways can the United Nations to build the capacity of descent-based communities to participate in decision-making and monitor the implementation of human rights obligations?

¹⁸³ Refugees, asylum-seekers, stateless persons and IDP returnees who belong to so-called “lower castes” are at further risk of marginalization, and are at heightened risk of experiencing barriers in accessing, inter alia, birth registration, marriage registration, nationality, health care, education, the right to work, amongst other rights.

¹⁸⁴ Rigid social norms of purity and pollution are socially enforced through strict prohibitions on inter-marriage. In many affected countries, strong social barriers remain in place against marriage between “lower” and “higher” castes. Where inter-marriages take place, the condemnation, particularly from dominant castes, can be quite severe, ranging from social ostracism to acts of punitive violence. [A/HRC/14/10](#), para. 39, and [E/EC.4/Sub.2/2004/31](#), para. 37.

Accountability and access to justice¹⁸⁵

- Which steps have been taken to secure **equal access to justice** for all members of descent-based communities, including, for example, by providing **legal aid** and facilitating **group claims**?
- Are **non-discrimination laws** fully and equally implemented for members of descent-based communities?
- Are descent-based communities **able to access mechanisms of complaint** regarding government practices that affect them?
- Are there any **monitoring and evaluation systems to assess the impact of government policies and programmes** on descent-based communities?
- Have there been cases of **violence and atrocities**, including sexual violence, against members of affected communities? What are the main causes of violence against these communities?¹⁸⁶
- Have there been cases of **gender-based violence** against members of descent-based communities (women, children and men)? In these cases, has there been remedial action (investigation, trial and reparations)?
- Do **NHRIs** receive **complaints** from descent-based communities alleging breach of their rights? How do affected communities use these **mechanisms**?
- Are cases of **violence** and other crimes against descent-based communities systematically **investigated and prosecuted**, and if not, why not? Do descent-based communities have **access to remedies** in a differentiated manner from other communities?
- Do descent-based community members **participate in all civil society initiatives** established by government? Are **law enforcement actors** implicated in incidents of violence and other abuses against descent-based communities? Does the government have in place a system to recruit members of descent-based communities into the police and other law enforcement agencies?
- Are members of descent-based communities and human rights defenders therein, subject to **arbitrary arrests and detentions**, and are they otherwise **discriminated against in the criminal justice system**?
- What measures can be taken to **build accountability and capacity for public officials and law enforcement agencies** with a view of preventing injustice against descent-based communities?

¹⁸⁵ See chapter IV, section 4.2, on promoting accountability and access to justice for descent-based communities.

¹⁸⁶ Violence, especially against women, is often a tool used by both state and non-state actors to maintain the “low” status of descent-based communities, and may be deployed in response to their assertion of rights.

Economic, social and cultural rights¹⁸⁷

- Do the main social **indicators**, such as hunger, child mortality rates, health conditions, and school enrolment, reflect any particular difference between the conditions of descent-based communities and other groups? What are the differences between women and men from descent-based communities, and between women from descent-based communities and members of the general population?
- Are descent-based communities **segregated** from other members of the population, including in housing, education, employment, and cultural or religious practices? Are descent-based communities subject to other forms of **untouchability practices**? If so, what kinds of practices? What measures are in place to prevent, prohibit and eliminate **practices of segregation** in these and other areas?
- How can the United Nations help the Government improve **social policies** that support the provision of basic social services for descent-based communities?
- Do descent-based communities have **equal access to markets**,¹⁸⁸ **employment and income-generating opportunities**?¹⁸⁹ Is there a tendency for women or men belonging to descent-based communities to be concentrated in certain occupations or sectors?¹⁹⁰

¹⁸⁷ Information on monitoring economic, social and cultural rights can be found at OHCHR, *Manual on Human Rights Monitoring* (chapter 20), available from www.ohchr.org/Documents/Publications/Chapter20-48pp.pdf. See also OHCHR Fact Sheet 33: Frequently Asked Questions about Economic, Social and Cultural Rights, for an explanation of “progressive realization” of these rights, available from www.ohchr.org/Documents/Publications/FactSheet33en.pdf.

¹⁸⁸ On the issue of equal access to markets, UNCTs could survey how the private sector has responded to descent-based discrimination—e.g. voluntary provisions, openness to further legislation and monitoring of hiring.

¹⁸⁹ The denial of free choice of employment and the allocation of labour on the basis of one’s membership in a particular social group are hallmark features of descent-based discrimination. Affected communities are often forced to work in “polluting” and degrading occupations, such as manual scavenging, and are subject to exploitative labour arrangements such as bonded, forced or migratory labour. Children from affected communities are also vulnerable to child labour in these and other areas.

¹⁹⁰ Communities affected by discrimination based on descent are more likely to be forced into occupations that are deemed too filthy or unclean for others to perform. Sanitation jobs—including street cleaning and the handling of human waste and animal carcasses—are functions almost exclusively performed by Dalits in Bangladesh, Sri Lanka, India and Nepal. The Al-Akhdam of Yemen is similarly engaged in the disposal of human waste. See also ILO, “Diversity in the workforce: why it is good for business”, available from www.dalits.nl/pdf/DiversityInTheWorkforce.pdf.

- Do persons belonging to descent-based communities experience or present special **health** concerns? Are they, for example, exposed to particular health risks as a result of their occupations, or do incidences of poverty-related diseases or malnutrition affect them differently from the rest of the population? If so, what are the causes? Do women from descent-based communities suffer from a higher incidence of maternal mortality and other reproductive health concerns?¹⁹¹
- To what extent do persons from descent-based communities enjoy the **right to adequate housing** and how is this enjoyment related to their situation with regard to **access to land and property**?¹⁹²
- Do public and private **education** systems include children of all communities on equal footing, including children from descent-based communities? Do children from descent-based communities experience harassment, discrimination and other forms of abuse in public or private educational institutions? Are there systems to monitor the implementation of national laws or policies on right to education and a system to track children who drop out or are at risk of dropping out?¹⁹³
- Do school curricula and teachers' narratives reinforce discriminatory attitudes? Is human rights education included in **textbooks**? What kinds of training do teachers receive to overcome any inherent biases and to ensure integration of children from all communities?
- Can descent-based communities freely express their cultural/religious identities? Are their contributions to cultural life promoted by the State in line with minority rights provisions?

¹⁹¹ High levels of poverty and a lack of access to adequate food, water and sanitation all have a cumulative and detrimental impact on health leading to greater incidence of childhood malnutrition and higher maternal mortality rates. Affected communities may face disproportionate occupational health hazards as a consequence of being relegated into professions that involve handling human excrement and animal flesh. Communities affected by descent-based discrimination may also endure a higher burden of disease. As noted by WHO and UNICEF, children of lower socioeconomic class or caste, among other categories, "suffer from cumulative inequities" and "are subject to higher prevalence rates of pneumonia and diarrhea, and more difficult access to health services despite being in greater need of those services". Health-related concerns are compounded by the fact that affected communities may be denied equal access to health care facilities leaving many of their conditions untreated. WHO and UNICEF, *Ending Preventable Child Deaths from Pneumonia and Diarrhea by 2025: The Integrated Global Action Plan for Pneumonia and Diarrhea (GAPPD)* (2013), p. 17, available from http://apps.who.int/iris/bitstream/10665/79200/1/9789241505239_eng.pdf?ua=1.

¹⁹² A lack of access to land, an inability to own land, and forced displacement from land can constitute crucial elements in the subordination of caste-affected communities (E/CN.4/2005/48, para. 62).

¹⁹³ Poverty, combined with the experience of discrimination, drives the deprivation of education for many children from descent-based communities. In many countries, marginalization in education is intrinsically linked to one's "low" status. In Yemen, for example, a staggering 90 per cent of Muhamasheen community members are illiterate. To some extent, these differences in educational attainment stem from wider socio-economic

OHCHR: Opening the Door to Equality: Access to Justice for Dalits in Nepal

Between 2005 and 2011 the Office of the High Commissioner for Human Rights in Nepal led a number of initiatives to address caste-based discrimination in the country, with a focus on access to justice for Dalits. During this time, OHCHR prioritized and focused on the development of effective national mechanisms of accountability for tackling discrimination against Dalits including through:

- Targeted advocacy for the adoption of the Prevention of Untouchability Act and, following its adoption, the launch of a nationwide awareness raising campaign called “100 Day Campaign against Caste based discrimination and Untouchability”.
- Close cooperation with the National Dalit Commission and civil society organizations on the promotion of equal access to justice for Dalits.
- Monitoring and investigation of emblematic cases of caste-based discrimination and untouchability through OHCHR Field Offices.
- Establishment of a dedicated project office in the Far Western Region in 2009—a remote area where caste discrimination is rampant.
- Support for the establishment of local networks in remote areas that can assist victims of caste-based discrimination.
- The publication of the report *Opening the Door to Equality: Access to Justice for Dalits in Nepal* (released by OHCHR Nepal in 2011), which contained a systematic analysis of the challenges faced by Dalits in seeking justice under the law against caste-based discrimination.

factors, including poverty and lower parental education. But it is also increasingly well-understood that discrimination in schools plays an equally pernicious role, compromising both the quality and availability of education of children from descent-based communities, resulting in high dropout rates and a low representation of these communities in institutions of higher education. In UNESCO, *Reaching the Marginalized* (2010), available from <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf>. See also UNESCO and UNICEF, *All Children in School by 2015: Global Initiative on Out-of-School Children: South Asia Regional Study covering Bangladesh, India, Pakistan and Sri Lanka* (2014), pp. 15, 40, 42, 50, 60, 61 and 87, available from www.unicef.org/education/files/SouthAsia_OOSCI_Study__Executive_Summary_26Jan_14Final.pdf.

6.3. Translating findings into action and programmes

Agencies can undertake a variety of approaches in their country programming to target discrimination based on descent. For example, a programme on education could aim to support all vulnerable groups to access education, and descent-based communities would be among the intended rights holders to benefit from such a programme. However, a further targeted measure may be necessary within the programme to ensure that the particular barriers to education faced by descent-based communities are taken into account in the general education programme. This means, for instance, considering whether children from descent-based communities have higher poverty rates, or whether discriminatory practices in schools (such as segregation in classrooms or assigning children menial chores) are dissuading these children from participating in education, resulting in high drop-out rates.¹⁹⁴

The Table on the next page¹⁹⁵ raises some key questions to ask when translating findings into concrete action. It also maps out some considerations and programme responses corresponding to the questions raised. The list of possible considerations and programme responses can be expanded based on the list of questions in section 6.2 “Framing questions for analysis and action”.

¹⁹⁴ See A/HRC/23/56, para. 46.

¹⁹⁵ Adapted from UNDP, “Targeted or Inclusive Approaches,” Table 5, Marginalized Minorities in Development Programming, p. 81 (2010), available from www.ohchr.org/Documents/Issues/Minorities/UNDPMarginalisedMinorities.pdf.

HOW TO TRANSLATE FINDINGS INTO ACTION/PROGRAMMES		Programme response
Key Question	Considerations	
Is there evidence that descent-based communities are particularly marginalized?	If yes, targeted approaches might be needed to concentrate resources and to adapt programmes to address the particular obstacles faced by this group.	Meet with descent-based community members, academics and experts to discuss what factors they believe are causing their marginalization. In consultation with affected communities, consider appropriate programme responses to address these factors.
Can data be produced to justify the need for targeted programmes?	Having disaggregated data can reassure other stakeholders that targeted programmes for descent-based communities are justified because of the high levels of inequality they experience.	Gather or commission the collection of disaggregated indicators for groups affected by proposed development interventions. Collaborate with the national statistical mechanism/institution in the collection of disaggregated data.
Are existing interventions having an impact on descent-based communities?	If inclusive approaches are not improving the human development of descent-based communities and inequalities are growing, targeted approaches may be needed to supplement mainstream programmes.	Monitor and evaluate existing programmes to determine the impact on descent-based communities.
Are there existing tensions between descent-based communities and other vulnerable groups?	Using targeted approaches might exacerbate existing tensions. This is particularly true where other vulnerable groups are also experiencing exclusion.	Convene dialogues on development needs at the community level with all groups present. If necessary, create an additional space where descent-based communities can express their concerns freely and safely.
Are State actors (government, district government, parliament, and the judiciary) open to discussion on the status of affected communities?	If State actors are open, they may be more considerate of targeted approaches. Where the government is not open, inclusive approaches that are integrative of the concerns of descent-based communities may be preferable.	Open a discussion with key ministries to determine if issues concerning descent-based communities are a government concern. If not, identify entry points, such as attention to the poorest, where more effort can be made to include the needs and concerns of these groups.

Key messages

- A human rights-based approach to data and statistics is a prerequisite to collecting data for assessing and addressing discrimination. Data collected can otherwise be used to stigmatize, reinforce conflictual identities or increase the vulnerability of certain groups.
- Participation of descent-based communities in all stages of data collection should always be encouraged.
- In situations where information on descent-based communities is either non-existent or limited, United Nations entities should advocate for and initiate or support the gathering of relevant information, including in cooperation with governments and other partners using the HRBA to data and statistics.
- The lack of disaggregated data has led to a serious information gap that limits the effective identification of population groups that are suffering discrimination. It also hinders adequate policymaking at the national, regional and international levels and promotes impunity.

Key resources

Disaggregated data and indicators

- OHCHR (Updated 2016), *A Human-Rights Based Approach to Data: Leaving No One Behind in the 2030 Development Agenda*
- OHCHR (2012), *Human Rights Indicators: A Guide for Measurement and Implementation*
- OHCHR, *Manual on Human Rights Monitoring*¹⁹⁶ (chapters 7 and 8)
- UNDP (2010), *Marginalised Communities in Development Programming*, chapter 9: Data Collection Tools
- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/70/335)
- United Nations Secretary General's Independent Expert Advisory Group on the Data Revolution for Sustainable Development (2014), *A World that Counts: Mobilising the Data Revolution for Sustainable Development*

Framing questions for analysis and action

- UNFPA (2010), *A Human Rights-Based Approach to Programming: HRBA—Checklist of Questions*
- UNDP (2010), *Marginalised Minorities in Development Programming*
- UNDG (2006), UNDG Position Statement: enhancing the United Nations's contribution to national capacity development
- UNDAF (2010), Checklists to assess the quality and strategic positioning of the UNDAF

¹⁹⁶ OHCHR is in the process of revising the 2001 edition of the *Training Manual on Human Rights Monitoring* (No. 7). The following chapters of the new Manual are currently available: Table of contents, Introduction, 2, 3, 5, 7, 8, 11, 12, 14, 15, 16, 17, 20, 23, 30, 31, available from www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx.

ANNEX I

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, GENERAL RECOMMENDATION No. 29, ON ARTICLE 1, PARAGRAPH 1 OF THE CONVENTION (DESCENT)

The Committee on the Elimination of Racial Discrimination,

Recalling the terms of the Universal Declaration of Human Rights according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms therein without distinction of any kind, including race, colour, sex, language, religion, social origin, birth or other status,

Recalling also the terms of the Vienna Declaration and Programme of Action of the World Conference on Human Rights according to which it is the duty of States, regardless of political, economic and cultural system, to promote and protect all human rights and fundamental freedoms,

Reaffirming its general recommendation XXVIII in which the Committee expresses wholehearted support for the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming also the condemnation of discrimination against persons of Asian and African descent and indigenous and other forms of descent in the Durban Declaration and Programme of Action,

Basing its action on the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination which seeks to eliminate discrimination based on race, colour, descent, or national or ethnic origin,

Confirming the consistent view of the Committee that the term “descent” in article 1, paragraph 1, the Convention does not solely refer to “race” and has a meaning and application which complement the other prohibited grounds of discrimination,

Strongly reaffirming that discrimination based on “descent” includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights,

Noting that the existence of such discrimination has become evident from the Committee’s examination of reports of a number of States parties to the Convention,

Having organized a thematic discussion on descent-based discrimination and received the contributions of members of the Committee, as well as contributions from some Governments and members of other United Nations bodies, notably experts of the Sub-Commission for the Promotion and Protection of Human Rights,

Having received contributions from a great number of concerned non-governmental organizations and individuals, orally and through written information, providing the

Committee with further evidence of the extent and persistence of descent-based discrimination in different regions of the world,

Concluding that fresh efforts need to be made as well as existing efforts intensified at the level of domestic law and practice to eliminate the scourge of descent-based discrimination and empower communities affected by it,

Commending the efforts of those States that have taken measures to eliminate descent-based discrimination and remedy its consequences,

Strongly encouraging those affected States that have yet to recognize and address this phenomenon to take steps to do so,

Recalling the positive spirit in which the dialogues between the Committee and Governments have been conducted on the question of descent-based discrimination and anticipating further such constructive dialogues,

Attaching the highest importance to its ongoing work in combating all forms of descent-based discrimination,

Strongly condemning descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention,

Recommends that the States parties, as appropriate for their particular circumstances, adopt some or all of the following measures:

1. Measures of a general nature

- (a) 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, and whose existence may be recognized on the basis of various factors including some or all of the following: 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;
- (b) Consider the incorporation of an explicit prohibition of descent-based discrimination in the national constitution;
- (c) Review and enact or amend legislation in order to outlaw all forms of discrimination based on descent in accordance with the Convention;
- (d) Resolutely implement legislation and other measures already in force;
- (e) Formulate and put into action a comprehensive national strategy with the participation of members of affected communities, including special measures in

accordance with articles 1 and 2 of the Convention, in order to eliminate discrimination against members of descent-based groups;

- (f) Adopt special measures in favour of descent-based groups and communities in order to ensure their enjoyment of human rights and fundamental freedoms, in particular concerning access to public functions, employment and education;
- (g) Establish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities;
- (h) Educate the general public on the importance of affirmative action programmes to address the situation of victims of descent-based discrimination;
- (i) Encourage dialogue between members of descent-based communities and members of other social groups;
- (j) Conduct periodic surveys on the reality of descent-based discrimination and provide disaggregated information in their reports to the Committee on the geographical distribution and economic and social conditions of descent-based communities, including a gender perspective;

2. Multiple discrimination against women members of descent-based communities

- (k) Take into account, in all programmes and projects planned and implemented and in measures adopted, the situation of women members of the communities, as victims of multiple discrimination, sexual exploitation and forced prostitution;
- (l) Take all measures necessary in order to eliminate multiple discrimination, including descent-based discrimination against women, particularly in the areas of personal security, employment and education;
- (m) Provide disaggregated data for the situation of women affected by descent-based discrimination;

3. Segregation

- (n) Monitor and report on trends which give rise to the segregation of descent-based communities and work for the eradication of the negative consequences resulting from such segregation;
- (o) Undertake to prevent, prohibit and eliminate practices of segregation directed against members of descent-based communities including in housing, education and employment;
- (p) Secure for everyone the right of access on an equal and non-discriminatory basis to any place or service intended for use by the general public;

- (q) Take steps to promote mixed communities in which members of affected communities are integrated with other elements of society and ensure that services to such settlements are accessible on an equal basis for all;

4. Dissemination of hate speech including through the mass media and the Internet

- (r) Take measures against any dissemination of ideas of caste superiority and inferiority or which attempt to justify violence, hatred or discrimination against descent-based communities;
- (s) Take strict measures against any incitement to discrimination or violence against the communities, including through the Internet;
- (t) Take measures to raise awareness among media professionals of the nature and incidence of descent-based discrimination;

5. Administration of justice

- (u) Take the necessary steps to secure equal access to the justice system for all members of descent-based communities, including by providing legal aid, facilitating of group claims and encouraging non-governmental organizations to defend community rights;
- (v) Ensure, where relevant, that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account;
- (w) Ensure the prosecution of persons who commit crimes against members of descent-based communities and the provision of adequate compensation for the victims of such crimes;
- (x) Encourage the recruitment of members of descent-based communities into the police and other law enforcement agencies;
- (y) Organize training programmes for public officials and law enforcement agencies with a view to preventing injustices based on prejudice against descent-based communities;
- (z) Encourage and facilitate constructive dialogue between the police and other law enforcement agencies and members of the communities;

6. Civil and political rights

- (aa) Ensure that authorities at all levels in the country concerned involve members of descent-based communities in decisions which affect them;
- (bb) Take special and concrete measures to guarantee to members of descent-based communities the right to participate in elections, to vote and stand for election

on the basis of equal and universal suffrage, and to have due representation in Government and legislative bodies;

- (cc) Promote awareness among members of the communities of the importance of their active participation in public and political life, and eliminate obstacles to such participation;
- (dd) Organize training programmes to improve the political policy-making and public administration skills of public officials and political representatives who belong to descent-based communities;
- (ee) Take steps to identify areas prone to descent-based violence in order to prevent the recurrence of such violence;
- (ff) Take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community;

7. Economic and social rights

- (gg) Elaborate, adopt and implement plans and programmes of economic and social development on an equal and non-discriminatory basis;
- (hh) Take substantial and effective measures to eradicate poverty among descent-based communities and combat their social exclusion or marginalization;
- (ii) Work with intergovernmental organizations, including international financial institutions, to ensure that development or assistance projects which they support take into account the economic and social situation of members of descent-based communities;
- (jj) Take special measures to promote the employment of members of affected communities in the public and private sectors;
- (kk) Develop or refine legislation and practice specifically prohibiting all discriminatory practices based on descent in employment and the labour market;
- (ll) Take measures against public bodies, private companies and other associations that investigate the descent background of applicants for employment;
- (mm) Take measures against discriminatory practices of local authorities or private owners with regard to residence and access to adequate housing for members of affected communities;
- (nn) Ensure equal access to health care and social security services for members of descent-based communities;
- (oo) Involve affected communities in designing and implementing health programmes and projects;
- (pp) Take measures to address the special vulnerability of children of descent-based communities to exploitative child labour;
- (qq) Take resolute measures to eliminate debt bondage and degrading conditions of labour associated with descent-based discrimination;

8. Right to education

- (rr) Ensure that public and private education systems include children of all communities and do not exclude any children on the basis of descent;
- (ss) Reduce school drop-out rates for children of all communities, in particular for children of affected communities, with special attention to the situation of girls;
- (tt) Combat discrimination by public or private bodies and any harassment of students who are members of descent-based communities;
- (uu) Take necessary measures in cooperation with civil society to educate the population as a whole in a spirit of non-discrimination and respect for the communities subject to descent-based discrimination;
- (vv) Review all language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning descent-based communities and replace it by images, references, names and opinions which convey the message of the inherent dignity of all human beings and their equality of human rights.

ANNEX 2

ENGAGING WITH THE UNIVERSAL PERIODIC REVIEW, THE TREATY BODIES AND THE SPECIAL PROCEDURES

1. The universal periodic review

Every four and a half years, each United Nations Member State undergoes an inter-governmental review of its human rights record known as a universal periodic review (UPR). UPR is a unique process that offers a forum for an inter-governmental review of a State's human rights record with a view to improving human rights conditions in-country, enhancing cooperation, encouraging capacity-building and state-to-state technical assistance. The review is based on three reports: one by the State itself and two by OHCHR, namely a compilation of United Nations information (from reports of treaty bodies, special procedures and other relevant official United Nations documents) and a summary of stakeholders' input (from NGOs, NHRIs, academic institutions and regional organizations).

Common concerns that have been highlighted in the UPR process include the need for strengthened legal and institutional frameworks to address descent-based discrimination.¹ UPR reports have also included recommendations for eliminating discrimination in education, including through teacher trainings, and for human rights training for law enforcement officials. Calls for additional and disaggregated data also appear, as do calls for awareness-raising campaigns for the general public. Also highlighted are areas where descent-based discrimination and other forms of human rights violations intersect, such as with freedom of religion or gender-based discrimination.²

The United Nations Support to the Implementation of UPR and other Human Rights Mechanisms' Recommendations Policy Decision (SG Decision 2014/5) lists the following actions for the United Nations system, including UNCTs, to undertake to engage with the UPR and other human rights mechanisms.

Prior to the review

- Support States and other actors in **building their capacity** to more actively engage with the UPR through awareness-raising and advocacy;
- Provide **technical assistance** to States in fulfilling their reporting obligations;

¹ At this writing, the issue related to discrimination based on descent had already featured in the following States' UPR process: Bangladesh; India; Japan; Madagascar; Mauritania; Mauritius; Nepal; Pakistan; Senegal; Sri Lanka, and United Kingdom of Great Britain. See also UPR-info, *Minority Issues in the First Cycle of the Universal Periodic Review (UPR): an analysis by the United Nations Special Rapporteur on minority issues*, available from www.upr-info.org/sites/default/files/general-document/pdf/rita_izsak_minority_issues_1st_cycle_upr.pdf.

² See, e.g., Report of the Working Group on the Universal Periodic Review—Pakistan (A/HRC/22/12), paras. 122.92, 122.103 (recommending measures to end forced religious conversions of scheduled caste girls).

- **Provide a platform** for governments, NHRIs, CSOs and other actors to discuss critical human rights challenges;
- Encourage the establishment of standing **national mechanisms** for reporting and follow-up as a means of coordinating the process of reporting to the UPR and other mechanisms and bodies, as well as following up on recommendations;
- Contribute information, inter alia, on the **implementation of the recommendations** accepted by States in the previous cycle of the review and on the developments in the human rights situation since (to be incorporated in the UPR “compilation of United Nations information” report).

During the review

- Support States and other actors to more actively **engage in and interact with the UPR**, for instance by supporting and facilitating local access to the review meetings (which are webcast by the United Nations) by convening a targeted or public screening;
- **Participate actively in the review** of the State concerned, including by attending and making an intervention at the HRC plenary session during the consideration and adoption of the relevant UPR outcome(s).

After the review

- Provide support to States in **developing institutional mechanisms** (such as national mechanisms for reporting and follow-up) with the task of coordinating States’ efforts in implementing recommendations of the UPR and other United Nations human rights bodies and mechanisms;
- Assist States in **thematically clustering recommendations** flowing from the UPR and other United Nations human rights bodies and mechanisms in a comprehensive national implementation plan;
- **Integrate recommendations** of the UPR and other United Nations human rights bodies and mechanisms into **country analysis** with a view to guiding the formulation of joint UNCT or individual United Nations entities’ planning and programming instruments, including CCAs and UNDAFs;
- Further mainstream support in the **implementation of the recommendations** emanating from the UPR and other United Nations human rights bodies and mechanisms into the peace, reconstruction, humanitarian and development agenda;
- Support and facilitate the **translation and broad dissemination** of the UPR outcome report(s) and use UPR recommendations as advocacy tools;
- Systematically **compile and analyse recommendations** made by the UPR and other United Nations human rights bodies and mechanisms, as well as regional systems, track the government’s response, identify serious human rights issues/violations and establish prevention and response mechanisms;

- Document **lessons learned and good practices** in terms of positive impact of the UPR and the work of other United Nations human rights bodies and mechanisms on the national and local human rights situation.

2. Treaty bodies

The human rights treaty framework establishes international legal obligations for States. The **process of treaty implementation** by States parties, including the preparation of reports and follow-up measures to recommendations of treaty bodies, provides a critical mechanism to bring about **legislative, policy and programmatic reform, and accountability** at the national level.

The treaty bodies are committees of independent experts that monitor the implementation by States parties of their obligations under nine core international human rights treaties. All treaty bodies (with the exception of the Subcommittee on Prevention of Torture) receive **periodic reports** from States that are party to the treaties, detailing how they are applying the treaty provisions at the national level. Most treaty bodies may also consider **complaints or communications** from individuals alleging that their rights have been violated by a State party, provided that State has opted into this procedure. Some may also **conduct inquiries** and consider **inter-State complaints**.

All treaty bodies have developed the practice of inviting States parties to send a delegation to attend the session at which the committee (or subcommittee) will consider its report, in order to allow it to respond to members' questions and provide additional information on their efforts to implement the provisions of the relevant treaty. The examination of a report culminates in the adoption of "concluding observations" intended to give the reporting State practical advice and encouragement on further steps towards implementing the rights contained in the treaty.

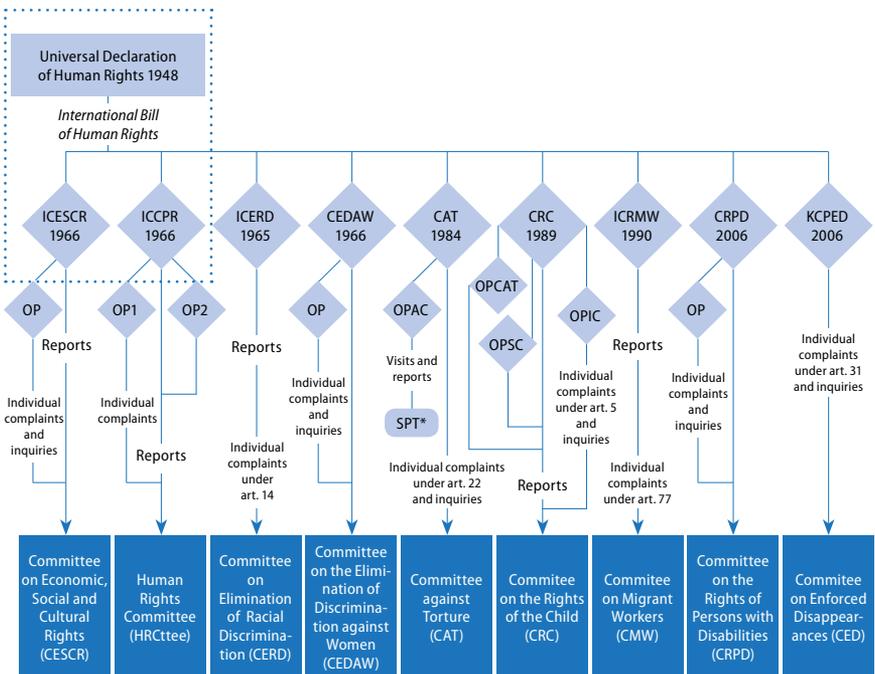
The reporting system is an important tool by which a State can assess what it has achieved and what more it needs to do to promote and protect human rights in the country. The reporting process should encourage and facilitate, at the national level, public participation, public scrutiny of State policies, laws and programmes, and constructive engagement with civil society in a spirit of cooperation and mutual respect, with the aim of advancing the enjoyment by all the rights protected by the relevant treaty.

The human rights treaty bodies provide a number of useful entry points and opportunities for participation by UNCTs. Specific activities may include:

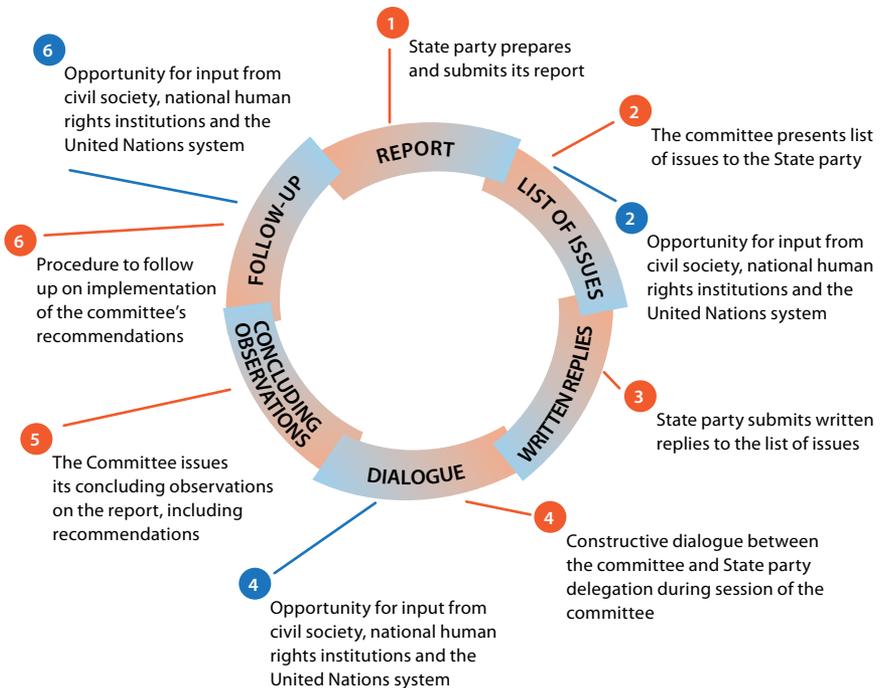
- **Participating in the reporting process** by providing country-specific information on descent-based discrimination to treaty bodies on particular areas of concern with regard to the implementation of the respective convention under consideration, as well as concrete suggestions to the list of issues to be prepared by the treaty body prior to the consideration of reports. UNCTs can also support **consultative and participatory processes** during the drafting of the State party report, disseminate recommendations and support plans for implementation. UNCTs can also facilitate the participation of representatives of descent-based com-

munities, including through assisting them in the submission of parallel/shadow reports and supporting their participation to the sessions where review is conducted. These initiatives may assist in mainstreaming attention to descent-based discrimination into the work of all treaty bodies.

- **Following up with States parties on implementation** of concluding observations and recommendations of treaty bodies, as well as drawing these recommendations to the attention of other actors, including NHRIs and CSOs, for instance by organizing briefings or town hall meetings, and assisting in follow-up as appropriate. These recommendations can be used by UNCTs as a tool to encourage necessary legislative, policy, budget or programmatic review or change, as well as effective implementation of existing legislation or policies. They should also inspire United Nations action at the country level and contribute to CCAs/UNDAFs;
- **Encouraging compliance with reporting obligations** in a timely manner and in accordance with the reporting guidelines of the respective committees, including through reporting workshops and other capacity-building activities for both Government and civil society;
- **Encouraging accession or ratification** of treaties or their optional protocols in their contacts with the Government;
- **Raising awareness** about the treaties and the outputs of their monitoring bodies amongst national stakeholders, including by translating the recommendations into local languages, thus strengthening national-level capacity.



The diagram below illustrates the reporting cycle under the human rights treaty bodies.³



Special procedures

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of special procedures covers all human rights: civil, cultural, economic, political and social.

With the support of OHCHR, special procedures undertake **country visits**; act on **individual cases** and concerns of a broader, structural nature by sending communications to States and others in which they bring alleged violations or abuses to their attention; conduct **thematic studies** and convene expert consultations; contribute to the development of international human rights standards; engage in **advocacy**, raise public awareness and provide advice for technical cooperation. Special procedures report annually to the Human Rights Council; the majority of the mandates also reports to the

³ OHCHR, Treaty bodies booklet, available from www.ohchr.org/Documents/HRBodies/TB/TB_booklet_en.pdf.

General Assembly. Their tasks are defined in the resolutions creating or extending their mandates.

Through the conduct of fact-finding missions, special procedures mandate-holders identify the root causes and various facets of phenomena of human rights violations at a given time, and can analyse good practices, and on that basis provide **recommendations to help refine the possible range of preventive or remedial measures**. Reports on fact-finding missions provide a detailed analysis of the political, institutional, legal, judicial and administrative frameworks from a human rights perspective, as well as with regard to the promotion and protection of a given right or set of rights.

Through communications to Governments, special procedures not only have the ability to address with the concerned authorities individual cases of violations, but identify patterns of human rights violations country by country. Such trends constitute essential information on areas that need reform and strengthened support, and are useful elements for the **design, implementation and evaluation of technical cooperation programmes**.

Through the development of thematic studies, special procedures contribute to the further definition of human rights norms and standards, refining their content and their field of implementation. They also increasingly study the relationship between certain themes and human rights norms and standards, which provide a **normative basis for rights-based programming**.

Through press releases, special procedures **raise awareness** of human rights violations among the wider public, thereby promoting discussion and participation at the local level. Special Rapporteurs can support advocacy by publicly speaking and reporting on sensitive situations and concerns that RCs and UNCTs might, at a given moment, determine they cannot publicly address without compromising operations and/or humanitarian access.

Given the broad and cross-cutting nature of descent-based discrimination, all thematic mandates are potentially implicated. The list of mandate-holders below represents those that have paid specific attention to the issue of discrimination based on descent.

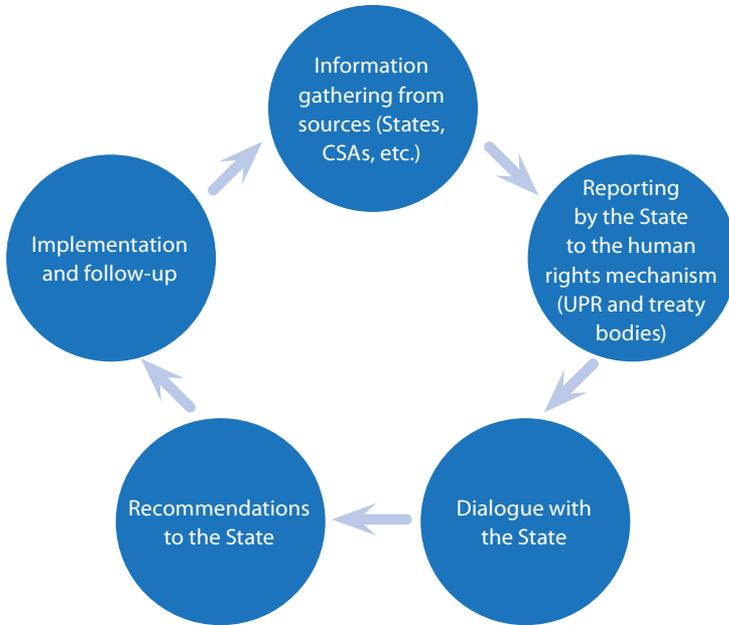
- Special Rapporteur on **racism**, racial discrimination, xenophobia and related intolerance
- Special Rapporteur on contemporary forms of **slavery**, including its causes and consequences
- Special Rapporteur on **minority issues**
- Special Rapporteur on adequate **housing** as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
- Special Rapporteur on the right to **food**
- Special Rapporteur on the human right to **safe drinking water and sanitation**
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of **health**

- Special Rapporteur on the right to **education**
- Special Rapporteur on extreme **poverty** and human rights
- Special Rapporteur on **violence against women**, its causes and consequences
- Working Group on **discrimination against women in law and practice**
- Special Rapporteur on the situation of **human rights defenders**
- Special Rapporteur on **torture** and other cruel, inhuman or degrading treatment or punishment
- Special Rapporteur on **freedom of religion or belief**
- Special Rapporteur on the promotion and protection of the **freedom of opinion and expression**
- Special Rapporteur on the rights to **freedom of peaceful assembly and of association**

The activities of special procedure mechanisms provide opportunities for useful cooperation with UNCTs:

- **Mission preparation/conduct:** Substantive participation by UNCTs in mission preparation and conduct affords the opportunity to update and contextualize the information already received by the mandate holder and helps her/him to get the most out of the visit in terms of identifying persons, sites and material to be most usefully consulted. It can also provide opportunities for the UNCT to engage in a dialogue on human rights issues with a range of partners, in particular the special procedures mandate-holders themselves, the authorities, human rights NGOs and representatives from affected communities;
- **Follow-up to missions:** UNCTs can make use of the interest generated following a visit, as well as keep in contact with the mandate holder, in order to maintain momentum on addressing human rights issues. UNCTs can also facilitate the implementation of recommendations by: ensuring wide circulation of the final report after its release and supporting translations in local languages; engaging in discussions on the report with authorities; using the recommendations as analytical and/or advocacy tools during the elaboration and/or review of United Nations planning and programming frameworks including the CCA and UNDAF, and supporting the formulation of follow-up projects/programmes in consultation with national partners, including channelling requests for technical assistance to OHCHR;
- **Advocacy:** UNCTs can encourage the government to cooperate with, invite and implement the recommendations of Special Procedure mandate holders. The recommendations made can also serve as a platform for UNCTs to mobilize the government and other actors to address human rights concerns. UNCTs can also **sensitize specific mandate holders** to the issue of descent-based discrimination and can encourage mandate holders to address the issue in their work.

Cycle of human rights mechanisms



OHCHR, *How to Follow Up on United Nations Human Rights Recommendations*, p.6.

3. The ILO Supervisory Mechanism

The ILO has stated that “discrimination and lack of equal opportunities based on **social origin** refers to situations in which an individual’s membership of a class, socio-occupational category or caste determines his or her occupational future, either because he or she is denied access to certain jobs or activities, or is assigned only certain jobs.”⁴

The application of ILO conventions is subject to supervision by the **Committee of Experts on the Application of Conventions and Recommendations** and the **Conference Committee on the Application of Standards**. In their periodic reports on the application of the **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**, States are required to specify the action they have taken to eliminate discrimination and the results achieved. Trade unions and employers’ organizations have the right to submit observations on the Convention’s application to the supervisory bodies.⁵

⁴ ILO International Labour Conference, 101st session (2012): General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalizations (2008), Report III (Part 1B), Doc. ILC.101/III/1B, para. 802.

⁵ All ILO instruments, observations and direct requests, and reports of the supervisory bodies are available through NORMLEX, the ILO’s information system on international labour

The Committee of Experts has addressed social-origin discrimination in a number of countries, which persists despite legislation and affirmative action measures, and some of which relates to long-standing deeply-entrenched discrimination faced by certain castes in respect to employment and occupation. The Committee of Experts has drawn frequent attention to caste-based discrimination as an oppressive form of employment and occupation discrimination based on social origin, and has called on States to take steps to ensure effective implementation of laws designed to address these forms of abuse.⁶

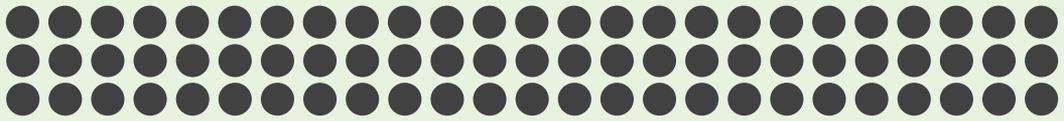
The work of various international human rights mechanisms, including the ILO supervisory mechanisms is mutually reinforcing. Their observations, conclusions and recommendations provide a wealth of information and guidance to assist UNCTs in understanding and analysing a country's human rights situation, as well as the elements that contribute to the violation or promotion of a particular human right. Decent Work Country Programmes (DWCP), developed by the national ILO tripartite constituents, also provide key elements for the UNDAF process.⁷

ILO offices and projects in different countries and regions play an important role in coordinating with Ministries responsible for labour and employment. As workers' and employers' organizations are part of the ILO governance structure, ILO often has privileged access to national trade unions and business representatives. ILO constituents at the national level can be very important in providing practical and up to date information on the human rights situation, and can be key partners in developing and implementing related strategies and programmes.

standards. The database is easily searchable by country, subject, convention, key words, etc. Country profiles are also available on NORMLEX, providing a quick overview of ratifications, reporting obligations, and the most recent comments or reports of the supervisory bodies, and has quick links to national legislation.

⁶ For instance, the Committee noted with interest Nepal's adoption of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011), and called on the government to provide information on the "practical application" of the Act, including the number, nature and outcome of any complaints lodged, as well as steps taken to raise awareness of the Act. International Labor Conference 103rd Session, Report of the Committee of Experts on the Application of Conventions and Recommendations (2014) at p. 33. Available from www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_235054.pdf.

⁷ Knowledge of ILO standards and supervisory bodies is also important in assisting countries in following up on UPR recommendations, as well as on the recommendations of the treaty bodies. The ILO supervisory bodies regularly refer to information provided to and the reports of the treaty bodies, and these bodies, as well as in the context of the UPR, refer to ILO Conventions and procedures. Ratification of ILO Conventions is, for example, regularly recommended in the context of the UPR.



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Office of the High Commissioner for Human Rights



Minority Rights

