



**Communities Discriminated
on Work and Descent in**

MODERN SLAVERY

A Global Phenomenon

Swadhikar
in collaboration with



**Communities Discriminated
on Work and Descent in**

**MODERN
SLAVERY**



A Global Phenomenon



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About Asia Dalit Rights Forum

Asia Dalit Rights Forum (ADRF), constituted in 2006, is a platform of Dalits, and those working with Dalits in Bangladesh, India, Nepal, Pakistan and Sri Lanka committed to the empowerment and emancipation of communities discriminated on work and descent (CDWD) including caste. ADRF aims at addressing violations of the rights and entitlements of these communities, in particular their women and children, in the respective countries as well as worldwide. It focusses on supporting all the communities, subjected to CDWD and systemic discrimination in any part of the world, in their noble aspirations and courageous struggles to establish an inclusive society that is marked by equity and equality, dignity and self-governance, justice and freedom. ADRF is committed to collaborating with all national, regional and international agencies - civil society organisations and human right agencies, UN bodies and state institutions espousing the cause of eliminating CDWD and building an inclusive, peaceful and egalitarian society in Asia and elsewhere in the world.

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Rosa-Luxemburg-Stiftung (RLS) is a German political foundation that is part of the grassroots movement of democratic socialism. Bearing the name of Rosa Luxemburg (1871-1919), RLS works within the tradition of workers' and women's movements. The foundation serves as a forum for debate and critical thinking about political alternatives, as well as a research centre for progressive social development. It is affiliated to the German left party DIE LINKE.

The RLS office in New Delhi is organising and coordinating the foundation's activities in South Asia. The main areas of our work are Social Transformation, Gender Equality, Labour Rights and Agriculture. RLS provides space for critical discourse. In addition, we publish educational material, offer advice and counseling to our partners and promote North-South as well as South-South dialogue.

For more information please visit our website www.rosalux.in



DEDICATION

To

All the Dalit Women, Men and Children in India

(All the Communities discriminated on the basis of Work and Descent in
South Asia)

(All the Communities discriminated on the basis of Work and Descent in
all the continents of the globe)

who, endowed with inborn dignity and inalienable rights,

are questioning the unjust system of centuries-old bondage;

who, in search of their humanity appropriated by dominant forces, are
fearless in fighting to regain it;

who, aware of the UN Policy of Sustainable Development Goals,

are committed to stake their claims towards accessing them;

who, envisioning a better future for themselves and their upcoming
generations, are hopeful of achieving it;

who, deeply imbued with a sense of solidarity of all human beings, are keen
to forge links with them all

to make this world

A HOME OF ALL,

A HOME FOR ALL.

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Foreword

This report is an important addition to the discussion around modern forms of slavery. Due to hierarchical and generational discrimination they have faced, communities discriminated on work and descent have been and continue to be subject to forced labour, bonded labour and other contemporary forms of slavery. However, the nexus between these communities and contemporary or modern slavery has rarely been explored. This report looks at the historical and global dimensions of modern slavery and discrimination based on work and descent and its varied forms. While looking at the genealogy of these categories through debates in international conventions and human rights law, the report also tries to give historical and geographical examples across continents and countries. Through a detailed discussion of many common features across the two categories, it argues in the process that modern slavery and discrimination based on work and descent need to create possibilities of a common platform based on common solidarities around

oppression and exploitation.

This is the most recent of a number of important research reports that the Paul Divakar and his team have produced since the inception of the Asia Dalit Rights Forum. I believe that readers of this will be offered a comprehensive insight into the various communities discriminated on work a descent that live in Africa, Asia, Europe, and Latin America. While learning about communities such as the Burakumin, Osus, Haratine, Quilombola and many more, readers will also gain understanding about the contemporary forms of slavery that prevail within these communities. In addition, this report offers a critique of the legislation and policy at the national, regional and international level that exists in combatting contemporary forms of slavery while accounting for the particular intersection that exists with communities discriminated on work and descent.

I am sure that this will be a stepping stone to

further in-depth studies and reports on the connections between contemporary forms of slavery and communities discriminated on work and descent. This report will inform advocacy and inter-governmental engagement action towards highlighting any clandestine forms of discrimination faced by DWD communities falling under the framework of modern slavery.



Tomoya Obokata
Special Rapporteur on
Contemporary Forms of Slavery,
including its causes and
consequences
United Nations

Foreword

Through my career I have been closely associated with the realization of human rights of Communities Discriminated on Work and Descent (CDWD). As Special Rapporteur on “Discrimination based on Work and Descent” at the UN Sub-Commission on the Promotion and Protection of Human Rights, Professor Yozo Yokota and I presented our report (per UN resolution 2005/109) before the UN Human Rights Council where we evolved the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent - a comprehensive legal framework to eliminate this form a discrimination that millions continue to face across the globe. Now, as Member of the Committee on the Elimination of Racial Discrimination, the issues faced by CDWD continues to inform my work. It is therefore my pleasure to introduce this report to its readers.

Societal ostracization and generational discrimination of communities discriminated on work and descent is seen in a number

of countries across the world. This report specifically looks at the incidence of modern slavery among these communities, which is a stark reality across the board. The intersectional causes of modern slavery, ‘caste’, ‘descent’ and ‘work’, have rarely been addressed when speaking about contemporary forms of slavery. It is therefore in this specific aspect that this study is unique and path defining.

I believe that readers of this report will be offered a comprehensive insight into the realities of communities discriminated by work and descent that exist. The report takes an in-depth look in to the laws and policies that exist and to what extent they address bondage and communities discriminated on work and descent. Furthermore, this report also offers an analysis of the observations by monitoring frameworks of international human rights mechanisms with regard to slavery like practices that continue to exist. Finally, policy recommendations have been made to offer a plan for the future and hope to break the shackles of slavery that continue to

plague communities discriminate on work and descent.

I am positive that this study will inform advocacy efforts at a national level, regional level, and

international level. Not only with respect to combatting modern forms of slavery but also casting out discrimination faced by DWD communities that find themselves fettered by such exploitative practices.



Professor Chin Sung Chung
Member, Committee on the
Elimination of Racial
Discrimination

Foreword

For many years the Asia Dalits Rights Forum and its associated organisations closely worked together with the United Nations and its sister organizations, like the ILO, to fight discrimination based on the simple fact of birth. Millions of persons in South Asia, but also in their diaspora in the US and the UK, are deliberately excluded from leading a life in freedom. They have no perspective to develop their capabilities or follow their dreams simply because they are born into a category of people considered 'impure' by the mainstream of their societies. Instead, they end up in what we call contemporary forms of slavery.

This report, *Communities Discriminated on Work and Descent in South Asia: Status of Bondage*, offers a harrowing overview how victims of Work and Descent-based discrimination, or caste-based discrimination, are forced to take up fringe tasks which are dirty, dangerous, and demeaning. These tasks have one common objective, to take away people's dignity by submitting them to a normative system

similar to the one which was once defined in South Africa as "apartheid". In South Asia, this apartheid however is invisible unless one's eyes are opened to see the harsh and unacceptable realities which evolve around caste.

Evidently, this report opens your eyes. It shows how victims of Work and Descent-based discrimination are excluded through endless practices of untouchability. The logic of untouchability ends however when it comes to Dalit women and sex. Caste sanctioned rape is still the fate of many women born in the wrong category. Patriarchy within their own groups make Dalit women face double discrimination, and violence and sexual violence perpetrated by outsiders make women bear the brunt of triple discrimination. Pain, humiliation and hopelessness characterize their daily lives.

This report is an important addition to the discussion around contemporary forms of slavery in South Asia. It shows there is no normative dearth to counter Work and Descent-based

discrimination, but application of laws is slow and often ineffective. This can partly be explained because law enforcers and perpetrators belong to the same flock of people. In administration and governance, law enforcement, courts, education and media Dalits are barely represented. The report narrates how societal ostracization and generational discrimination of communities discriminated on work and descent is seen in Bangladesh, Nepal, Pakistan and Sri Lanka, with India spanning the crown.

Numbers never tell a story. The report invokes the number of 12 million people involved in forms of contemporary slavery. We do not really know. It could easily be ten times higher, because the term contemporary slavery remains undefined, but more so because governments are reluctant when it comes to admitting their tolerance of subduing citizens to different forms of forced labour. The report beautifully categorizes intersectional causes of contemporary slavery, 'caste', 'descent' and 'work', which are rarely addressed when speaking about contemporary forms of slavery. Inequality is the very foundation of the caste system. In politics, amazingly, caste remains the most neglected prism when we talk discrimination. It is the undoing of this specific

aspect which makes this study unique and path breaking.

Readers of this report will be offered a comprehensive insight into the realities of Dalit communities in South Asia, as well as other similar communities facing discrimination on work and descent. The report also offers an analysis of the observations by monitoring frameworks of international human rights mechanisms with regard to slavery like practices that continue to exist in South Asia. Internationally too, caste has long been neglected as a most devious form of discrimination by the UN and its sister organizations, but since a decade or so international supervision against caste-based discrimination and exclusion gathered steam.

Finally, the report produces policy recommendations offering a plan for the future in the hope of breaking the shackles of slavery that continue to plague communities facing discrimination on work and descent. Let us make sure to put the recommendations in practice, to leave no one behind, and to live up to the promise that all human beings are born in freedom.



Coen Kompier

Senior Specialist International
Labour Standards
International Labour Office

Preface

Freedom is the birthright of every human person and every citizen of any country, irrespective of her/his status and belonging in society. The only limiting condition is the freedom of others which requires respect and acceptance precisely because we humans are social beings and live together in society. This implies that the use of any form of force, or much worse enslavement of humans, is antithesis to freedom and makes the logic of human dignity and rights absurd. But history is witness to gross violation of human freedom in different parts of the world. We cannot deny the fact that an alarming proportion of the world's population had been subjected to traditional forms of slavery in yesteryears and is today being subdued by modern forms of slavery. This slavery question is not simply about individuals but communities as a whole.

The irony is that although this kind of slavery is present all around us, it always remains hidden. This precisely throws a big challenge to human rights defenders, rights-based researchers and social reformers who find it difficult to bring out the facts about modern slavery in the forefront because it is mostly disguised under the pretext of the 'normal jobs'. In reality, however, those

subjected to slavery generally fall into the never-ending abyss of discrimination, poverty, debt traps, social and psychological insecurities; if and when they hold their heads high due to awareness of their dignity and rights, threats and violence follow. Needless to say, several bodies of the United Nations recognize human trafficking, forced labour, debt bondage, bonded labour, descent-based slavery, slavery of children, forced and early marriages as part of the phenomenon of modern slavery. Hence, the abject situation of people under servitude calls for serious research and documentation; their dignity must be upheld; their rights require protection and promotion.

This research project, comprising two studies and commissioned by the Asia Dalit Rights Forum to explore and examine of the manifestations of modern slavery in its varied forms prevalent among the communities discriminated on work and descent (CDWDs), has looked at the issue in its South Asian as well as global dimensions as evidenced in today's context.

Accordingly, one study has mapped the prevalence of modern slavery and discrimination

across the five South Asian countries – Bangladesh, India, Nepal, Pakistan and Sri Lanka. The second study has dealt with the phenomenon of modern slavery at the global level including Africa, Europe and Latin America.

A salient feature of this research project is that, besides giving the broad typology of work and descent, it has also examined the manifestations of discrimination across the five South Asian countries as well as the national constitutional and legal measures available or yet to be enacted to combat descent and work-based discrimination. Moreover, the international standards set in by several conventions and charter clauses at the UN level also find place as performance assessment indicators as well as pointers towards which the countries have to move forward in eradicating discrimination.

The relevance of this research project cannot be gainsaid. Today millions of children and adults are victims of modern slavery in the world. Majority of this exploitation is happening in the private sectors where millions of people are being trapped in the spheres of domestic work, construction labour, sanitation work and agricultural labour. The hideous nature of this ‘normal job’ should be discussed and debated openly in the national and international forum and it should be recognized that modern slavery is a horrendous reality requiring dedicated and genuine intervention from all national, regional and UN mechanisms across the world. It is high time that the affected communities come in solidarity to fight against slavery and uphold their dignity. This research project provides a powerful academic platform for initiating policy change and for engaging in further research to combat and eradicate discrimination based on work and descent.



N. Paul Divakar

Chair, Asia Dalit Rights Forum
Convenor, Global Forum of
Communities Discriminated on
Work and Descent.

Acknowledgements

I wish to express my gratitude to a range of people without whose support this paper would not have been possible. The foremost among them are Paul Divakar and Father Aloysius, who by introducing this subject to me opened a new world of oppression and solidarities before me. Their patient and persistent engagement through this journey has been vital for me to expose me to a range of diverse material and an intense and complex history of struggles of the oppressed communities across the world. I am also grateful to my colleagues Dnyaneshwar and Nayantara, without whose diligent work in the background (including creating a long bibliography of relevant resources), I would not have been able to piece together this complex material in such a limited time. I also wish to thank Reena Tete and Vinay for continuing to

create a wider echo chamber for me to be able to continue this journey.

I wish to express my gratitude to other colleagues from the Inclusivity Project sitting across the world including Johannes Butscher, Prof. Joel Lee, Dr Brahim Abeid for providing me timely resources which made my work much easier and smooth besides making it a richer experience. Last but certainly not least I must acknowledge the contribution of Professor Penda Mbow and Professor Sukhdeo Thorat who have contribute immensely to this area of study through their academic writings. Finally, this study and report would not be possible without the efforts of Tauqueer Sabri, Project Manager and the Rosa Luxemburg Stiftung South Asia team.

Avinash Kumar
Lead Researcher and Author

Introduction

International Human Rights Law and the institutions which enforce them have been engaging with modern slavery, discrimination particularly, work and descent-based discrimination and its various forms for a long time. Scholars, activists and civil rights organisations have continued to contribute to the growing debate around this and a sizable corpus of literature has been generated. However, changing contexts also demand that the same laws be updated and re-interpreted continuously in the light of emerging new or hitherto neglected forms of socio-economic and civil-political discrimination and exploitation. This report attempts to bring together that knowledge in two ways: one, to collate the existing literature on certain features of modern slavery or contemporary forms of slavery and work and descent-based discrimination and two, to re-interpret the existing laws and concepts from that lens.

The report, therefore, is structured around a

schema which first looks at various conceptual categories like discrimination based on modern slavery and descent and work, race and racial discrimination, caste and caste discrimination and looks at the ways in which they have evolved in the context of international human rights law, their overlaps and departures and possible roads ahead. The second section of the report is a broad global mapping of several countries where these forms of discrimination have not only existed historically but continue to do so even today. At the same time the attempt is once again also to explore differences among these contexts and locations with specific forms of experiences around such discrimination. The third section is a brief account of how the UN institutions themselves have applied the different conceptual categories to map such case studies from all around the world. The fourth section and concluding section is an attempt to compare and provide broad typologies of work and descent-based discrimination based on the above experiences for future pathways.



One



Modern Slavery, Race, Discrimination based on Work and Descent and Caste: Debates around the conceptual overlaps and distinctions in the international human rights law



1.1 MODERN SLAVERY

Although modern slavery is not defined in law, it is used as an umbrella term covering practices such as forced labour, debt bondage, forced marriage, and human trafficking. Essentially, it refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power.¹

An estimated 40.3 million people are in modern slavery, including 24.9 in forced labour and 15.4 million in forced marriage. There are 5.4 victims of modern slavery for every 1,000 people in the world. 1 in 4 victims of modern slavery are children. Out of the 24.9 million people trapped

in forced labour, 16 million people are exploited in the private sector such as domestic work, construction or agriculture; 4.8 million people in forced sexual exploitation, and 4 million people in forced labour imposed by state authorities.

“The UN human rights bodies have documented the persistence of old forms of slavery that are embedded in traditional beliefs and customs. These forms of slavery are the result of long-standing discrimination against the most vulnerable groups in societies, such as those regarded as being of low caste, tribal minorities and indigenous peoples.”²

“A person of servile status” means a person in the condition or status resulting from any of the institutions or practices mentioned in article

1 <https://www.un.org/en/observances/slavery-abolition-day> (accessed on 19/08/2021)

2 Ibid.

“The mandate on contemporary forms of slavery includes but is not limited to issues such as: traditional slavery, forced labour, debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery, and servile forms of marriage.”



1 of this Convention; “Slave trade” means and includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a person acquired with a view to being sold or exchanged; and, in general, every act of trade or transport in slaves by whatever means of conveyance.³

According to OHCHR, ‘the mandate on contemporary forms of slavery includes but is not limited to issues such as: traditional slavery, forced labour, debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery, and servile forms of marriage. As a legally permitted labour system, traditional slavery has been abolished everywhere, but it has not been completely eradicated. It can persist as a state of mind—among victims and their descendants and among the inheritors of those who practised it—long after it has formally ended’.

Overview of the mandate of OHCHR states that, ‘Recommend action and measures applicable at the national, regional and international levels to eliminate slavery practices wherever they occur, including remedies that address the causes and consequences of contemporary forms of slavery, such as poverty, discrimination and conflict, and the existence of demand factors and relevant measures to strengthen international cooperation.’⁴

3 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery Adopted by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 608(XXI) of 30 April 1956 and done at Geneva on 7 September 1956, Entry into force: 30 April 1957, in accordance with article 13 https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.15_supplementary%20slaverytrade.pdf

4 <https://www.ohchr.org/EN/Issues/Slavery/SRSlavery/>

Anti-slavery.org describes it as “Modern slavery is the severe exploitation of other people for personal or commercial gain”. Anti-slavery.org describes it as “Modern slavery is the severe exploitation of other people for personal or commercial gain”. It further describes key forms of modern slavery as: *human trafficking, forced labour, debt bondage/bonded labour, descent-based slavery, slavery of children, forced and early marriage*.⁵ It further goes on to describe descent-based slavery as, “Descent-based slavery describes a situation where people are born into slavery because their ancestors were captured into slavery and their families have ‘belonged’ to the slave-owning families ever since. Slave status is passed down the maternal line. This form of slavery can still be found across the Sahel belt of Africa, including Mauritania, Niger, Mali, Chad and Sudan. Many other African societies also have a traditional hierarchy where people are known to be the descendants of slaves or slave-owners”.⁶

It is further interesting to note that among the recent policy movements on modern slavery, UK formally passed an act on the same. The Modern Slavery Act 2015 is an Act of the Parliament of the United Kingdom, which includes the key features as: *Slavery, servitude and forced or compulsory labour, Sexual exploitation, protection of children against sexual offences (including indecent photographs, Removal of organs etc), Securing services etc by force, threats or deception, Securing services etc from children and vulnerable persons*, among other.⁷ Since then, the government of Australia has passed a similar Act in 2018

modelled on its UK predecessor.⁸

There has been a long precedent in international law on slavery in the modern period. Some of them include The Slavery Convention, 1926, The ILO Forced Labour Convention, 1930 (No.29), The United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, The ILO Convention on the Worst Forms of Child Labour, 1999 (No.182) and The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000.⁹

In 2015, United Nations Member States committed to taking action against modern slavery by 2030. Target 8.7 of the SDGs specifically calls for States to: “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking (by 2030) and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.”¹⁰

According to a report by the U.K.-based Overseas Development Institute the S.D.G.s “represent the closest humanity has come to agreeing [on] a common agenda for a truly inclusive future where no one is left behind.” This is particularly relevant because, for the first time, the eradication of modern slavery

Pages/OverviewMandate.aspx

5 <https://www.antislavery.org/slavery-today/modern-slavery/> (Accessed 30/05/2021)

6 <https://www.antislavery.org/slavery-today/descent-based-slavery/> (Accessed 30/05/2021)

7 <https://www.legislation.gov.uk/ukpga/2015/30/section/3/enacted> (Accessed 30/05/2021)

8 Affairs, Home. “Modern Slavery Act 2018”. www.legislation.gov.au. Archived from the original on 2020-04-14 <https://www.legislation.gov.au/Details/C2018A00153> (Accessed 30/05/2021)

9 <https://www.antislavery.org/wp-content/uploads/2017/01/arresteddevelopment.pdf> (Accessed on 25/05/2021)

10 <https://www.ohchr.org/Documents/Issues/Slavery/UNVTCFS/PanelSlavery2019/ConceptPanelDiscussion-HCSlaverySDGs.pdf> (Accessed on 17/05/2021)

has been articulated as a problem facing all of humanity.¹¹ Laura Vidal makes this point that, “The S.D.G.s motivate governments and organisations to consider slavery prevention with new energy and direction. It draws us away from a highly concentrated investigation-and-prosecution model and calls for a greater responsibility on governments to invest in disrupting the economic conditions that create a fertile environment for slavery”.¹² In essence a shift from the hitherto restrictive focus on criminal justice to an economic justice model.

According to the Global Estimates of Modern Slavery for 2016 produced by the International Labour Organization (ILO), the Walk Free Foundation and the International Organization for Migration (IOM), over 40.3 million people were in a situation of modern slavery in 2016, including 25 million people in forced labour (62 per cent) and 15 million in forced marriage (38 per cent).¹³

One in four victims of contemporary forms of slavery in 2016 was thought to be a child. Women and girls were disproportionately affected, with over 71 per cent of victims being female.¹⁴ Informality, including casualization, and other forms of precariousness in employment are risk factors for vulnerability to slavery. Today, more than 60 per cent of the world’s employed population, including 56 per cent in G20 economies, are in informal employment.¹⁵

11 <https://blogs.lse.ac.uk/humanrights/2015/10/23/why-does-including-modern-slavery-in-the-s-d-g-s-matter/>

12 Ibid.

13 ILO, Walk Free Foundation and IOM, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva, 2017). (Cited in https://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/42/44). See also, “*Forced labour, modern slavery and human trafficking (Forced labour, modern slavery and human trafficking)*”. www.ilo.org. Accessed on 23/05/2021.

14 Ibid.

15 Ibid.

According to one estimate, almost four fifths of slavery victims are located in just 20 countries.¹⁶

While the progress from a criminal justice framework to an economic justice framework via SDG 8.7 is useful and a welcome development, there is an acute need to bring the social aspect of this framework under sharp focus. What is useful to recognise therefore, and which has somehow got little attention is the link between descent-based discrimination and modern slavery. Among the few reports that highlight this linkage is one by Anti Slavery dot org. In a report as old as 2008, it was highlighted that “Bonded labour affects millions of people in south Asia, particularly in India, Pakistan and Nepal. However, it does not affect the populations of these countries equally - the vast majority of people who are in debt bondage are dalits, of ‘low’ caste status, indigenous people or other minority groups.”¹⁷ The same report goes on to mention that, “In South America, it is indigenous peoples who are disproportionately affected by forced labour and debt bondage. This is seen in the private ranches in both Paraguay and Bolivia as well as in the logging industry of Peru”.¹⁸ Similarly, “In some west

16 Global Fund to End Modern Slavery submission, p. 1. Ibid.

17 *Arrested Development: Discrimination and slavery in the 21st century*, 2008. <https://www.antislavery.org/wp-content/uploads/2017/01/arresteddevelopment.pdf> (Accessed on 25/05/2021). The report further cited other reports highlighting the fact that, “In India, a survey conducted by the Gandhi Peace Foundation and the National Labour Institute (part of the Ministry of Labour) in 1978-79 remains the most detailed survey of bonded labour in the country to date. The survey was based on a random sample of 1,000 villages in 10 different states and from this data it was estimated that there were over two million bonded labourers working in agriculture in India at that time.”¹³ The survey found that 84 per cent of those in debt bondage were from scheduled castes (dalits and ‘low’ castes) or scheduled tribes (indigenous groups). Scheduled castes and tribes make up just 24 per cent of the Indian population (2001 census) and are therefore disproportionately subjected to bonded labour”.

18 Ibid, p.7.

One in four victims of contemporary forms of slavery in 2016 was thought to be a child. Women and girls were disproportionately affected, with over 71 percent of victims being female.



African countries, including Niger, Mauritania and Mali, slavery status is ascribed at birth and passed on from one generation to the next”.¹⁹ Further, “Discrimination against the Roma and Egyptian ethnic groups has been widely documented in terms of access to employment, education and other basic services, and this appears to be a pivotal factor in explaining why these families cannot meet their basic needs.”²⁰ The net of discrimination based bonded labour is as spread as with indigenous people in Paraguay in South America and Congo in Central Africa.²¹

¹⁹ Ibid, p.8

²⁰ Ibid, p.23

²¹ Ibid.

The challenge of course is that post SDG 8.7, while there is an increased focus on economic lens of modern slavery leading to a well-deserved emphasis on supply chains, financing, migrant labour etc, what needs to be clearly outlined equally strongly is the focus on socially excluded communities within the national boundaries which supply modern slaves, within and outside those boundaries.

1.2 RACIAL DISCRIMINATION

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is a United Nations convention. Called a third-generation human rights instrument, the Convention commits its members to the

elimination of racial discrimination and the promotion of understanding among all races. The Convention also requires its parties to outlaw hate speech and criminalize membership in racist organizations. The convention was adopted and opened for signature by the United Nations General Assembly on 21 December 1965,²² and entered into force on 4 January 1969. As of July 2020, it has 88 signatories and 182 parties. The ICERD was the first major piece of international legislation in the drafting of which the newly independent states participated and played a leading and decisive role. The Committee on the Elimination of Racial Discrimination (CERD), established by article 8 of the Convention, was the first international treaty-monitoring body of its kind.²³ The impetus for the Convention came from the desire of the United Nations, backed by strong political support from African, Asian and other developing states, to put an immediate end to discrimination against black and other non-white persons. In particular, the Convention was viewed as an international statement against apartheid and colonialism.²⁴

22 "International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)". *Office of The High Commissioner for Human Rights*. UN.

23 The ICERD is divided into a preamble and three parts. Part I sets out the definition of racial discrimination in article 1, including a clause on the compatibility of affirmative action measures with the definition set forth, and the non-applicability of the Convention to states' laws on citizenship. It also provides the substantive fundamental obligations of states parties to the Convention in articles 2 to 7. Part II details the monitoring mechanisms of the Convention. The Committee on the Elimination of Racial Discrimination is established under article 8, and the procedure of periodic state reports to the Committee under article 9. Inter-state complaints can be received under article 11.83 States may make a declaration under article 14 recognising the competence of the Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation by that state party of the rights set forth in the Convention. *Caste-based Discrimination in International Human Rights Law: DAVID KEANE, 2007*, Ashgate Publishing Limited, UK, p.173

24 Ibid, p.161

Article 1 of the Convention defines "racial discrimination" as:

... any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.²⁵

Further, the inclusion of descent specifically covers discrimination on the basis of caste and other forms of inherited status.²⁶ According to Keane, 'This is a 'composite concept' in which there are four acts that are considered discriminatory – any distinction, exclusion, restriction or preference. Two further conditions must be met if these four acts are to be considered discriminatory – they must be based on race, colour, descent, or national or ethnic origin, and they must have the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms.'²⁷

Now if we look at the timelines, while the categories of race, racial discrimination and descent-based discrimination originated around almost the same time in the UN parlance, that is between 1965 to 1969, it took another 30 years for the official interpretation to include 'caste' as a part of that definition. Disagreements persist esp. from certain key states like India, but more importantly, academics, international human rights law experts and activists themselves have continued to spar over the overlaps, distinctions

25 ICERD, Article 1.1

26 ICERD General Recommendation No. 29: Art.1, par.1 of the Convention (Descent)". UN OHCHR. 1 November 2002.

27 David Keane, op. cit. p.181

and incongruities visible within these categories. But why is this important in the first place to continue to dwell on something which for a lot of people may seem like wordsmithing? Because with each of these specific categories, state parties, experts and activists have sought to bring newer shades of discrimination which can be formally recognised and therefore, states could be held accountable around them.

It is therefore crucial that we don't simply go into the definitions of these categories as arrived at through these conventions, but also go into the genealogy of the processes which brought forth these formal understandings. It will also be important then to understand why even after so many years of relentless struggle by a large section of populations, we continue to look for these definitions towards a larger collectivisation of discriminated communities.

1.3 RACE

Discussions around race as a distinct category have been part of public discourse for over two centuries if not more. Initially, used as a category to denote a common identity around a common language or territory, it was only later that the term began to refer to physical traits. Modern science regards race as a social construct, an identity which is assigned based on rules made by society. While partially based on physical similarities within groups, race does not have an inherent physical or biological meaning. To quote David Keane, "The fundamental characteristic of race that emerges is that it does not correspond to any verifiable reality...What is termed discrimination on the basis of race is discrimination on the basis of skin colour. No other criteria determine the race to which a person is assigned. Skin colour corresponds to

an objective reality; race does not'.²⁸

In the UN parlance when the debates around racial discrimination began to take shape, the confusion seemed to persist. This is evident through two developments, UNESCO's Four Statements on the Race Question, which appeared between 1950 and 1967, and the 1965 ICERD. The UNESCO documents reproduce the debate on whether or not race corresponds to an objective reality; the first denied the existence of race, while the second retracted that denial. The third and fourth statements were drafted by biologists, as opposed to anthropologists, and drew differing conclusions. Similarly, the Declaration on the Elimination of All Forms of Racial Discrimination 1963 denies the idea of racial difference while the debates on the Convention show an express retraction of that denial.²⁹

1.4 DISCRIMINATION BASED ON WORK AND DESCENT (DWD)

In its August 2000 resolution, the U.N. Sub-Commission on the Promotion and Protection of Human Rights urged governments to ensure that "appropriate legal penalties and sanctions, including criminal sanctions, are prescribed for and applied to all persons or entities within the jurisdiction of the Governments concerned who may be found to have engaged in practices of discrimination on the basis of work and descent."³⁰

28 David Keane, op. cit. p.15

29 Y.U.N. 1964, p. 346. General Assembly Resolution 1904 (XVIII). Ibid, p.16

30 UN Doc. E/CN.4/SUB.2/RES/2000/4, 11 August 2000. Cited from Keane op.cit. p.12. See also, CASTE DISCRIMINATION: A GLOBAL CONCERN, A Report by Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimina-

The economic organisation of the caste system is based on the division of the population into a hierarchical order of social groups that determine the economic rights of members, which are determined by birth and are hereditary in the strictest sense of the term



Descent, as outlined above, is one of the five grounds in the article 1(1) definition of racial discrimination in the ICERD. What is remarkable is that it was India that introduced the word ‘descent’ as part of a broader amendment, but interestingly enough, failed to offer any explanation as to its meaning. It was only in 1996, that CERD established the link between caste and descent.³¹

For CERD, the term ‘descent’ implied one generation inheriting from another specific characteristics that were positively or negatively

evaluated by society. The resulting stratification of some societies had led to the emergence of groups of people who are excluded from the rest of society and regarded as ‘untouchable’. The Committee maintained this position in March 2001, when in its Concluding Observations on Japan’s Periodic Report, it noted that contrary to the state party’s contentions, discrimination based on descent contained in article 1 of the Convention ‘has its own meaning and is not to be confused with race or national origin.’ The Committee recommended that the state party ensure that all groups including the Burakumin community (of Japan) are protected against discrimination and afforded full enjoyment of the civil, political, economic, social and cultural

tion, Xenophobia and Related Intolerance. Durban, South Africa, September 2001.

31 Keane, op. cit. p.17

rights contained in article 5 of the Convention. Japan stated in response that it did not share the Committee's interpretation of descent.³²

While the historicity of descent or work based discrimination in the UN parlance may be of the recent origin, what needs to be understood here is that the actual experience of marginalisation based on these two categories have appeared in diverse ways in very diverse contexts. Hence, whereas slavery may have emerged as a form of category through internecine warfares across continents, and helped institutionalise forms of menial work with additional layers of purity and pollution, in other societies, this emerged through a ritualised institutionalisation of hierarchy based occupation based on religious sanction, even as the larger outcomes through this process turned out to be very similar. This will be dealt with more in the subsequent sections, where specific geography and community based case studies will be discussed in some detail. Caste, of course, is one critical vehicle that needs further exploration in the next subsection.

CASTE AND CASTE-BASED DISCRIMINATION

Scholar S K Thorat has argued that, "Caste has long been used to regulate economic life in India... The economic organisation of the caste system is based on the division of the population into a hierarchical order of social groups that determine the economic rights of members, which are determined by birth and are hereditary in the strictest sense of the term". Further, "Unable to interact freely with others in the market, dalits find themselves simultaneously restricted in the economic sense and repressed as citizens, as they are - in practice, even if not in theory - denied civil rights (freedom of

expression, equality before the law), political rights (the ability to exercise political power) and socio-economic rights (claims to property, employment and education). Not surprisingly, we find at the bottom of the caste system individuals and social groups in disproportionate numbers, mired in poverty".³³ While caste, therefore, has been seen as an integral part of Indian social system and to a large extent South Asia, the debates around its implications for the rest of the world have had interesting trajectories. The first set of scholarship that arose around caste and its features in other societies was in 1950s and '60s, which observed 'caste-like' features in societies ranging from Burakumin of Japan to Osus of Nigeria. The scholarly debate later seems to have gradually veered down to India and to a much lesser extent South Asia. However, part of the reason why it did not attract larger currency was due to its inability to be accepted as a term of wider application in the international human rights laws. This began to change towards the end of the 20th century.

Caste has had a very interesting, though a late trajectory in the UN lexicon. And the context was very clearly built through the efforts of civil society groups primarily Dalit groups from India and South Asia. According to M. Bhimraj, "The absence of the term 'caste' in human rights treaties and the difficulty of categorising caste-based discrimination in standard categories of human rights has forced the Dalit activists to utilise the existing mechanisms to internationalise the issue. They adopted the strategy of comparing 'caste' with 'race' and caste-based discrimination with racial discrimination, a highly condemned practice in

32 Ibid. p.216

33 Thorat, Sukhadeo and Newman, Katherine S., 'Caste and Economic Discrimination: Causes, Consequences and Remedies'. Source: *Economic and Political Weekly*, Vol. 42, No. 41 (Oct. 13 - 19, 2007), pp. 4121-4124. <http://www.jstor.org/stable/40276545> (Accessed 13/10/2021)

international law'.³⁴ David Keane also argues that, 'there was a need to find a precise source of international legal obligations for the eradication of caste-based discrimination in these countries. That source is article 1(1) of the International Convention on the Elimination of All Forms of Racial Discrimination 1965 (ICERD),⁴² and in particular the word 'descent', one of the five grounds listed in the definition of racial discrimination. Caste-based discrimination, the Committee on the Elimination of Racial Discrimination (CERD) confirmed in a series of Concluding Observations beginning with India's State Report in 1996, is a form of descent-based discrimination and a form of racial discrimination and falls within the purview of the Convention'.³⁵ This was in response to the Indian government's stance that caste was a form of racial discrimination. In March 2001, while reviewing Bangladesh's report, the committee reaffirmed that "the term 'descent' does not solely refer to race or ethnic or national origin and [that it] is of the view that the situation of castes falls within the scope of the Convention."³⁶

In August 2000, the U.N. Sub-Commission on the Promotion and Protection of Human Rights passed resolution 2000/4 on Discrimination Based on Work and Descent. The resolution, aimed at addressing the issue of caste, reaffirmed that discrimination based on work and descent is prohibited under international human rights law. The Sub-Commission also decided to further identify affected communities, examine existing

constitutional, legislative, and administrative measures for the abolition of such discrimination, and make concrete recommendations for the effective elimination of such practices. In August 2001, Sub-Commission expert R.K.W. Goonesekere presented his working paper on work and descent-based discrimination to the Sub-Commission's fifty-third session. The paper was submitted pursuant to Sub-Commission resolution 2000/4. Because of time and other constraints, Mr. Goonesekere limited the paper's focus to the Asian countries of India, Nepal, Pakistan, Sri Lanka, and Japan but stated that further study of African countries, in particular, was warranted. The presentation of the paper, and the ensuing debate amongst Sub-Commission experts that followed, marked the first time that caste discrimination was discussed as a major source of human rights violations worldwide by a U.N. human rights body. The Sub-Commission also determined by consensus to extend the study to other regions of the world where work and descent-based discrimination continues to be experienced.³⁷ Goonesekere identified communities suffering from DWD in South Asia based on the nature of discrimination, namely, "prohibitions on intermarriage between socially or occupationally de-fined groups; physical segregation of communities; restrictions upon access to resources including land, water and other means of production; social prohibitions regarding physical contact such as sharing food or utensils; restrictions on access to education or segregation in educational facilities; restrictions on access to religious buildings and restrictions on participation in religious ceremonies."³⁸

It is, therefore, true that while South Asia in general and India and Nepal in particular, are seen as the hotbeds of caste based societies and

34 Bhimraj M, The 'Caste' as 'Discrimination Based on Work and Descent' in *International Law: Convincing or Compromising?* International Journal on Minority and Group Rights, 2020, p.802. <https://brill.com/view/journals/ijgr/aop/article-10.1163-15718115-02704005/article-10.1163-15718115-02704005.xml>. Accessed on 21/05/2021

35 Keane, op.cit. p.8

36 Ibid.

37 Ibid.

38 Bhimraj M, op. cit. p.813

The term 'descent' does not solely refer to race or ethnic or national origin and [that it] is of the view that the situation of castes falls within the scope of the Convention.



practising untouchability, there has been an entire set of studies from a long time (esp. in 1950s and 1960s) that have found evidence of caste like hierarchised structures and presence of untouchability in other societies. However, it has to be noted that, officially, not even India but the then Foreign Minister of Nepal who actually ment of India, the then foreign minister of Nepal, Jeet Bahadur Darjee Gautam, during a meeting of the United Nations in September 2009, welcomed the inclusion of caste-based discrimination against dalits as a case of human rights violation, to be treated at par with the racial discrimination.³⁹ As per the 2001 Census,

39 JODHKA, SURINDER S and SHAH, GHAN-

Nepal had 12.8% dalits in its total population of 22.3 million. In Pakistan, according to the 1998 Census, the scs constituted 13.6% of its 2.44 million Hindu minority population besides its minority Christian Dalit population the numbers of which are not officially counted. In Sri Lanka, according to some estimates, as many as 20% to 30% are victims of caste-based discrimination because of their being considered “low” or untouchable.⁴⁰ According to scholars Surinder Jodhka and Ghanshyam Shah, “It will perhaps be safe to assume that the

SHYAM, ‘Comparative Contexts of Discrimination: Caste and Untouchability in South Asia’. Economic & Political weekly november 27, 2010 vol xlv no 4, p.99.

40 Ibid., p.101

While due to paucity of official census numbers in the region, there have been varying estimates, the broad number of Dalits alone range around 240 million.



four countries of south Asia have a population ranging from 15% to 25% which experience caste-based prejudice and discrimination, which in turn also produces poverty and social exclusion of some communities.”⁴¹ Unlike India, which persistently argues that “the policies of the Indian Government relating to Scheduled Castes and Scheduled Tribes do not come under the purview of Article 1 of the Convention [on the Elimination of All Forms of Racial Discrimination,” Nepal has provided detailed accounts of the country’s problems with caste discrimination in several of its reports to CERD.⁴² While due to paucity of official census numbers in the region, there have been varying estimates, the broad number of Dalits alone range around 240 million.⁴³

To come back to the discussion triggered by these developments, a series of working papers were submitted to the UN Sub-Commission from 2001 to 2009.⁴⁴ These working papers found evidence of descent-based discrimination in a large number of countries, including Yemen, Somalia, Ethiopia, Pakistan, Burkina Faso and Micronesia, as well as those countries and regions already identified by CERD.⁴⁵

In August 2002, CERD issued General Recommendation XXIX on descent-based discrimination, the result of a thematic discussion on the issue conducted by the Committee in the same month. The thematic discussion took place on 9 August 2002 and highlights the

41 Ibid., p.101

42 CASTE DISCRIMINATION: A GLOBAL CONCERN A Report by Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, op. cit.

43 Human Rights Watch, ‘Caste: Asia’s Hidden Apartheid’, 1999, <https://www.hrw.org/legacy/campaigns/caste/presskit.htm>

44 Bhimraj, op.cit..

45 David Keane, op. cit. p. 15

extraordinary contribution of Dalit NGOs in bringing caste-based discrimination within the international human rights framework. There are however no summary records for the session, which involved two governments, India and Nepal, 23 separate interventions from members of the UN Sub-Commission on the Protection and Promotion of Human Rights and a joint statement from 32 NGOs. In the Recommendation that emerged, caste is cited as a specific example of descent-based discrimination that is to be strongly condemned. A number of measures of a general nature to be undertaken by States Parties are included, notably the identification of: 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 recognised on the basis of various factors, including: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces and places of worship, and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading and hazardous work; subjection to dehumanising discourses of pollution or untouchability; and generalised lack of respect for their human dignity and equality.⁴⁶ General Recommendation XXIX in its paragraph 21 recommends that states parties ‘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’.⁴⁷

46 David Keane, *op. cit.* p.9

47 General Recommendation XXIX (2002), ‘Article 1 paragraph 1 of the Convention (Descent)’, UN Doc. A/57/18. Cited in David Keane, p.205

Further, the Sub-Commission also appointed two Special Rapporteurs on Discrimination based on Work and Descent in April 2005. The Sub-Commission has also analysed descent-based discrimination amongst diaspora communities.⁴⁸

Further, the UN Secretary-General’s Guidance Note on Racial Discrimination and Protection of Minorities, which recommended the UN system focus on “caste-based discrimination and related practices”, is a significant step towards the inter-nationalisation of the issue.⁴⁹

Consequently, in 2016 the UN Special Rapporteur on Minority Issues (‘2016 Report’) released the “first comprehensive UN report on caste-based discrimination”. It further reinterpreted ‘caste’ as a global phenomenon by employing the phrase ‘descent-based discrimination’ and not as something confined to Hinduism/India, challenging the popular understanding of the subject.⁵⁰ As caste can be “determinative of one’s occupation”, caste-based discrimination is also referred to as or addressed under DWD.⁵¹ Bhimraj, calls The 2016 Report, ‘without a doubt a milestone for two reasons: it is the first UN comprehensive report on caste-based discrimination, and it has paved the way for addressing caste-based discrimination within the minority rights framework’.⁵²

But both Bhimraj and Keane, seek to distinguish caste from the rest of similar caste-like structures of other countries, on the grounds of religion.

48 *Ibid*, p.17

49 Bhimraj, M., *op. cit.*, p.802

50 *Ibid*, p.803

51 UNHRC, *supra* note 5, Cited in *Ibid*, p. 807; UN Network on Racial Discrimination and Protection of Minorities, Guidance Tool on Descent-Based Discrimination: Key Challenges and Strategic Approaches to Combat Caste-Based and Analogous Forms of Discrimination (2017), p. 813

52 Bhimraj M, *op.cit.* p.817



According to Bhimraj, 'DWD dilutes the religious aspect of the caste system'.⁵³ According to Keane, 'while other countries may be experiencing discrimination due to, for example, myths of purity and pollution, as appears to be the case in West Africa, this is not of the same scale as the Hindu caste system and does not have religious support. To equate caste in India with descent-based discrimination in Mali or Yemen is to ignore the structural differences that account for the perpetuation of caste-based discrimination and its disastrous effects on 160 million people in India alone'.⁵⁴

Using recourse to B R Ambedkar's famous essay, *The Annihilation of Caste*, he further says that, 'the religious justification of caste is immensely powerful, and must be so acknowledged. Ambedkar appreciated this when he ceremonially burned a copy of the *Manusmriti* in 1927'.⁵⁵

53 Ibid, p.801

54 Keane, op.cit., pp.17-8

55 Ibid., p.18

But, barring the religious sanction and caste innate links with Hinduism, what comes across is the strong similarities within these communities on a range of markers mentioned above. It is no wonder that in her recent much talked about book *Caste: the origins of our discontents*, Isabel Wilkerson outlines the common operating principles or *the eight pillars of caste as: divine will, heritability, endogamy, purity and pollution, occupational hierarchy, dehumanisation and stigma, terror and cruelty (as means of enforcing the caste system) and inherent superiority and inferiority of castes*.⁵⁶ (italics mine)

SUMMARY

The above section has attempted to look at some of the established categories on modern slavery, race and racial discrimination, caste and discrimination based on work and descent. The focus has remained limited mainly on the

56 *Caste: the origins of our discontents*, Isabel Wilkerson, Random House, 2020, pp.99-164

Two



The DWD and caste-based communities across the world: case stories



At the time of the Durban Conference in 2001, Human Rights Watch published a report which argued that, “In much of Asia and parts of Africa, caste is the basis for the definition and exclusion of distinct population groups by reason of their descent. Over 250 million people worldwide continue to suffer under what is often a hidden apartheid of segregation, modern-day slavery, and other extreme forms of discrimination, exploitation, and violence. Caste imposes enormous obstacles to their full attainment of civil, political, economic, social, and cultural rights”.⁵⁷ This

section looks at examples across continents, countries and societies, which demand a fresh look at the ways in which we have tended to explore the forms of descent and work based discrimination and contemporary forms of slavery while also keeping very often artificial binaries between the two. There will be a further attempt to look at the historical genealogies of some of these caste or caste-like societies, which even today present a challenge before us in terms of the problems of neat categorisations. For the purpose of clarity, the discussion has followed the continental boundaries and then looked at country specific communities, which may or may not overlap across borders.

⁵⁷ CASTE DISCRIMINATION: A GLOBAL CONCERN A Report by Human Rights Watch for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Durban, South Africa, September 2001. The report extensively cites from these works: Dike, “The Caste System in Nigeria.” Jerome Njikwulimchukwu Okafor, The Challenge of Osu Caste System to the Igbo Christians (Onitsha: Veritas

Printing and Publishing, 1993

The International Dalit Solidarity Network “Working globally against discrimination by work and descent” Discrimination based on descent in Africa.

Caste-based divisions of labor are central to several ethnic groups in many West African countries, including the Fulani, Mandinka, and Wolof communities.



Though caste systems exist within several ethnic groups in Senegal, the Wolof community is the country's largest ethnic group.



2.1 AFRICA

Caste-based divisions of labor are central to several ethnic groups in many West African countries, including the Fulani, Mandinka, and Wolof communities. Various U.N. human rights treaty monitoring bodies have made at least passing reference to caste-based distinctions in Burkina Faso, Mali, Cameroon, and Mauritania. Outside of West Africa, caste in Burundi and Mauritius has also been noted.

WEST AFRICAN CASTE SYSTEMS

Countries in West Africa that have societies with hierarchical caste structures within their boundaries include Mali; Mauritania; Senegal; Gambia; Guinea; Guinea Bissau; Ivory Coast; Niger; Burkina Faso; Cameroon; Ghana; Liberia; Sierra Leone; Algeria; Nigeria and Chad. Affected populations within these areas are the Wolof, Tukolor, Senufo, Minianka, Dogon, Songhay, Fulani, Moorish, Tuareg, Bobo, Bwa, Dan, Serer and most of the Mande-speaking populations (including the Bambara, Malinke and Khassonke). The existence of occupationally specialized endogamous groups who suffer from restrictions on commensality based on concepts of pollution, who are ascribed this position from birth and are therefore denied equal rights with the rest of the population, are common to all these peoples. The caste peoples of West Africa tend to form a small part of the population and unlike South Asia they are the only people of caste in the society. The existence of a section of people who suffer discrimination on the basis of their descent, and can be considered as a caste with a socially inferior position to the majority in society, brings them under the terms of the ICERD. The main occupational and descent groupings of the caste peoples can be classified

The main occupational and descent groupings of the caste peoples can be classified as simply bards, blacksmiths and tanners or often as separate groups of blacksmiths, potters, bards/jesters, tanners and leatherworkers, woodworkers, weavers, brass casters and other craft-caste specialisations.



as simply bards, blacksmiths and tanners or often as separate groups of blacksmiths, potters, bards/jesters, tanners and leatherworkers, woodworkers, weavers, brass casters and other craft-caste specialisations.⁵⁸

Though caste systems exist within several ethnic groups in Senegal, the *Wolof* community is the country's largest ethnic group. Abdoulaye Bara Diop, who has written extensively on caste systems among the Wolof of Senegal has remarked: "When we speak of castes we think of India where the caste system rigidly

structures all of society. Sub-Saharan African also knows castes, among which the griots are the most well-known." He went on to add that castes can be defined as hereditary, endogamous groups that are assigned specific occupations and governed by strict hierarchical relationships. All such characteristics can be found among the Wolof who are principally divided between the Geer and the Neeno.⁵⁹ Wolof society is divided into the Geer (freeborn/nobles), jaam (slaves and slave descendants) and the ñeeño (people of caste). The ñeeño are divided into various castes

58 The International Dalit Solidarity Network "Working globally against discrimination by work and descent" Discrimination based on descent in Africa.

59 Ibid, p.9. Cited from Conférence mondiale sur le racisme: Les castes, autre forme d'injustice," Le Soleil, July 16, 2001, available at http://www.lesoleil.sn/recherche/article.CFM?article__id=5605&article__edition=9337. Translated from French).

such as blacksmiths and leatherworkers, all of whom are traditionally seen to be of a low-rank in Wolof society and maintain this position from birth until death. The ñeeño are said to form roughly 10–20% of Wolof society.⁶⁰ Historian Penda Mbow in her essay on Senegalese society and caste system has remarked that, “Today the social condition of caste people has changed but the caste system has survived. Its survivors have a real impact on the collective conscience imposed by the Wolof, Balpula and Bambara systems and they are a hindrance to the arrival of real democracy, especially in regard to – particularly in the beginning – the individual’s own self-awareness”.⁶¹

Within the Igbo communities of southeastern Nigeria, the marginalization of those that have been categorized as Osu reportedly remains largely unchecked. The “Osu” system in Nigeria occupies an almost unique space in descent-based discrimination in Africa. It is different to the dominant forms, which are hierarchical systems based on occupational specialisation of groups within society, but is still often referred to as a “caste” system. Osu people are those who were historically “owned” by deities amongst communities in Igboland, South-East Nigeria. They were dedicated and “sacrificed” to these gods as well as being forced to live on the outskirts of villages to be the target of any bad luck that might occur. Being an Osu is a position

that is ascribed at birth, based on descent. There is also a widely held *belief that touching an Osu automatically turns you into an Osu*.⁶²

Like caste distinctions in other societies, the distinction of Osu is automatically passed on by inheritance and descent and cannot generally be overcome. Osus cannot be distinguished from others on the basis of their physical appearance or their speech.⁶³

Though Osus share the same legal status as other Nigerians—the Osu system was outlawed with the passage of the Osu System Law and the Laws of Eastern Nigeria in 1956 and 1963—members of the Osu community are still shunned, like the Dalits of South Asia, and denied social equality. Mostly landless, Osu can traditionally only marry within their caste, and are buried in separate cemeteries. Prohibitions on the denial of fundamental freedoms to Nigeria’s Osu community are part and parcel of the country’s constitution and domestic laws. Legislation abolishing the Osu system has been in force since the 1950s, and constitutional provisions prohibit discriminatory practices and promote equal implementation of legal protections. Nigeria has also incorporated the African Charter on Human and People’s Rights into its national legislation, strengthening its

60 The International Dalit Solidarity Network “Working globally against discrimination by work and descent” Discrimination based on descent in Africa.

61 Mbow, Penda, ‘Democracy, human rights, and castes in Senegal’, Translated from the French article by Penda MBOW, first published in 2000, <http://www.dalits.nl/pdf/CastesInSenegal.pdf> She goes on to argue that, “The human rights organizations are not very motivated as far as this important question is concerned as, most of the time, their own concerns are defined according to those of Northern NGOs, who themselves don’t always have good knowledge of African social realities”.

62 Ibid.

63 CASTE DISCRIMINATION: A GLOBAL CONCERN A Report by Human Rights Watch, p.9. (Victor Dike, “The Caste System in Nigeria, Democratization and Culture: Socio-political and Civil Rights Implications,” African Economic Analysis, available at www.afbis.com/analysis/caste.htm (accessed March 22, 2001); Constitutional Rights Project, “Osu Caste Practice in South Eastern Nigeria,” working paper; Igwebuikwe Romeo Okeke, The ‘Osu’ Concept in Igboland: A Study of the Types of Slavery in Igbo-Speaking Areas of Nigeria (Nigeria: Access Publishers, 1986). (Dike, “The Caste System in Nigeria.” 33 Jerome Njkwulimchukwu Okafor, The Challenge of Osu Caste System to the Igbo Christians (Onitsha: Veritas Printing and Publishing, 1993).

commitment on paper to end discriminatory practices such as the Osu caste system. However, these laws remain largely unenforced.⁶⁴

CASTE AND MARRIAGE

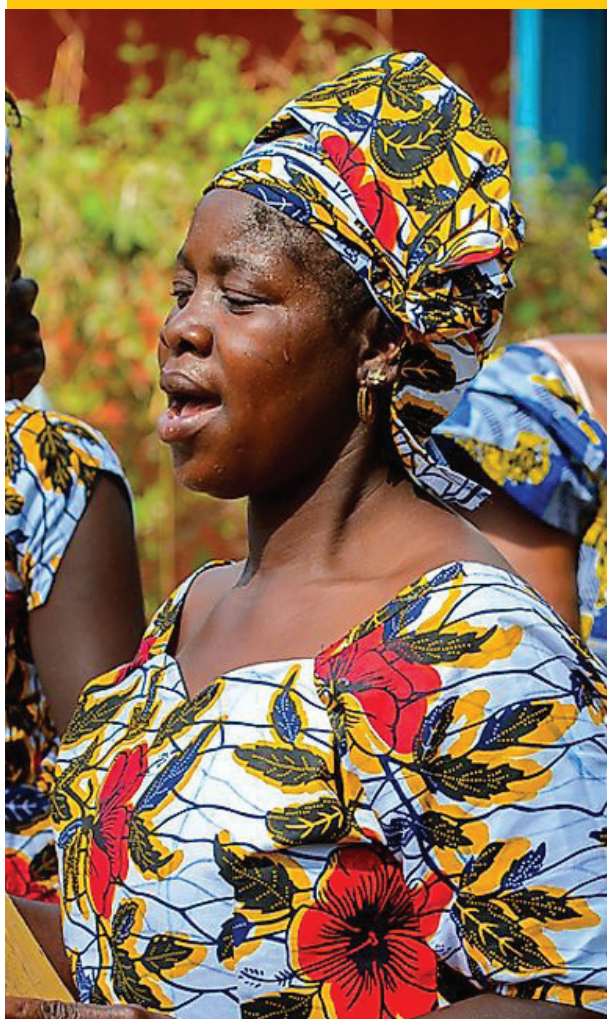
Endogamy and restrictions on commensality remain the most visible signs of the segregation of the ñeeño from the rest of society... This segregation is based on the concept of pollution, the members of the ñeeño being seen as polluting, because of their work and also inherently due to their descent.⁶⁵

Marriages are still expected to fall along caste lines for the Wolof societies of Senegal; a geer who marries someone from the lower castes may be ostracized. Even amongst the neeno, marriage within one's own caste is preferred, particularly amongst the griot community. In parts of southeastern Nigeria, marriage to an Osu by a non-Osu is highly discouraged and even condemned by society, while children of such a union are likely to be ostracized and mistreated.

CASTE AND LABOUR

Among the Wolof of Senegal, the concept of caste is founded on occupational groups, and accordingly divides Wolof Senegalese into one of four categories, each of which are either hereditary or assumed upon marriage. The "superior" category of the Geer was traditionally composed of farmers, fisherman, warriors and animal breeders—they are still deemed society's noblest. They traditionally can only marry within the group, and are not allowed to

Among the Wolof of Senegal, the concept of caste is founded on occupational groups, and accordingly divides Wolof Senegalese into one of four categories, each of which are either hereditary or assumed upon marriage.



⁶⁴ Ibid.

⁶⁵ The International Dalit Solidarity Network "Working globally against discrimination by work and descent" Discrimination based on descent in Africa.

practice the traditional professions of the lower castes. Although the lower-caste professions are divided among three distinct castes, they are collectively termed Neeno and are thus distinguished from the Geer. The Neeno are further divided into subcastes: the jeff-lekk are artisans while Griots and jesters constitute the sab-lekk. A third category of the Noole, who are relatively few in number, make up the servants and courtesans. The artisans are further divided into four sub-castes, namely, “blacksmiths or jewellers, shoemakers, woodcutters, and weavers. *Beneath the Neeno is the category of jaam or slaves—they are deemed to be outside the caste system*”.⁶⁶ Over time, the migration of Wolofs to cities and larger towns has led to greater access to educational and professional opportunities for Neeno castes, though serious problems remain.⁶⁷ Griots occupied a special place within the caste system because of their traditional roles as oral storytellers, singers, and conflict mediators. Griots were at once celebrated for their storytelling skills and deemed polluting because of the tasks that they performed—including circumcision, funeral preparation, and midwifery. Contact with griots—particularly through their sweat—was seen as socially polluting.⁶⁸

Prohibitions on the denial of fundamental freedoms to Nigeria’s Osu community are part and parcel of the country’s constitution and domestic laws. Legislation abolishing the Osu system has been in force since the 1950s, and constitutional provisions prohibit discriminatory

practices and promote equal implementation of legal protections.

MANDE-SPEAKING AREAS

Like the Wolof society, Mande-speaking areas of West Africa have social hierarchies based on caste. Mande speakers can be found in a variety of countries such as Senegal, Mali, Gambia, Guinea, Sierra Leone, Liberia, Ivory Coast and with geographical isolates in Benin, Ghana, Burkina Faso and Nigeria. Traditional Mande society is split in a similar manner to the Wolof, between the Horonw (nobles/freeborn) and the Nyamakalaw (caste people) with a third category of jonow (slaves and their descendants). Caste categories amongst the Mande are generally broken down into three categories of the blacksmiths (often paired with female potters), bards and leatherworkers. Nyamakalaw make up roughly 5% of the population in Mande speaking areas. Generally, they are considered by non-caste (Horonw) Mande as dirty or impure and there are enforced restrictions on inter-group sexual intercourse and marriage, sharing of food and entering of compounds. These restrictions are reinforced with the cultural weight of mythical stories of the Nyamakalaw’s “fall from grace”, often illustrated with an ancestor of the caste group breaking a taboo (mainly eating “impure” food) and his descendants becoming impure and casted forever.

WEST CENTRAL AFRICA (NIGERIA/CAMEROON/CHAD)

The existence of work and descent-based discrimination in central Africa has been described in research based in the Mandara hills (Nigeria and Cameroon) and the Chad basin. It is said that about 13 of the 30 ethnic groups

66 Almost a reminder of the status of *Shudras* and *Ati-shudras* in India who were deemed outside of the Varna system in India.

67 Ibid, p.11-2

68 Ibid, Cited from, Benhill, J., Ph.D. Thesis in Anthropology, Yale University, <http://www.geocities.com/jbenhill/thesisChap2.html>

in the Mandara hills area are casted, and form only two separate groups: the farmers with a 90-95% majority and the blacksmiths and potters, numbering about 5-10%. The blacksmiths and potters may also fulfil many of the other traditional caste roles such as leatherworking, weaving and undertaking, and other roles such as midwifery, castration and drumming. *Endogamy is practised, occupation and social status is ascribed from birth and concepts of pollution and impurity regulate contact between the caste and non-caste people, restricting commensality and creating conditions of discrimination.* Myths that reinforce the concepts of pollution range from tales that the caste people's ancestors ate impure meat, to stories that tell of blacksmiths being descended from unions between humans and animals. Contact with the caste peoples is seen as polluting and marriage is forbidden.⁶⁹

EAST AFRICA

SOMALIA

In traditional Somali society there are a number of occupational and descent based "low caste" groups and sub-groups who have suffered discrimination and denial of equal rights by the members of other Somali clans. Often referred to as Sab, meaning "low caste", the three main groupings are the Midigan, Tumul and Yibir. These castes have no territorial, genealogical or ethnic foundation and make up about 1% of the population of Somalia. *Concepts of purity play a large part in discrimination against Sab Somalis. They are considered by other Somalis to have become impure ('haraam'). The origins of the impurity are unclear but may be related to both the nature of their occupations, seen as polluting, and myths concerning their hunting and*

⁶⁹ Ibid.

eating traditions seen as against Sharia precepts. Specialised occupational roles are ascribed, the Tumul traditionally being blacksmiths and the Yibir and Midigan being hunters and leatherworkers. Traditional discrimination against Sab Somalis has taken many forms such as a *restriction and denial of rights to own land, cattle and horses; no right to claim compensation for murder (diya), a right of all other Somalia clans; social segregation and enforced endogamy; denial of education; and restriction of employment to traditional or menial tasks.*⁷⁰

ETHIOPIA

These groups in Ethiopia have been described as "occupational castes. Characterized by *endogamy and also by specialization in one or more occupations considered unclean or degrading*, they have been excluded from ordinary interaction with members of the host community". The occupational specialisations share much in common with similar caste groups in West and Central Africa, with the main jobs being tanning, potting, blacksmithing and weaving.⁷¹ The occupational engagement of low-caste communities in Ethiopia, concentrating on the production of items that were essential for both agro-pastoral rural societies and urban dwellers,⁷² was considered as a vital and indispensable service. The Fuga experienced a very low status in society and suffered from harsh treatment at the hands of the majority groups they were serving.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² The Low-Caste Fuga Occupational Group under the Italian Administration in the Horn of Africa Teclhaimanot Gebreselassie Addis Ababa University, Ethiopia, 2003 https://www.researchgate.net/publication/236751550_The_Low-Caste_Fuga_Occupational_Group_under_the_Italian_Administration_in_the_Horn_of_Africa (Accessed on 23/04/2021)

In southern Ethiopia, several ethnic or linguistic populations have minority low-caste occupational groups living among them. The majority populations have despised the occupational groups, looked on them with contempt, and brutally exploited them.

It may be worth mentioning some of the low-caste occupational minorities. Among the Walayta, these include the Chinasha, among the Konso, the Hawda, and among the Shekacho, the Kejo (smiths), the Mano (tanners-potters), and the Manjo (hunters). In Kafa there are the Ke'mo (blacksmiths), the Shamano (weavers), and the K'ejeche (potters). Urban-dwelling members of occupational groups continued to live on the outskirts of towns, in segregated settlements.⁷³

73 The Italian occupation of Ethiopia in general, and the setting up of the Italian administration in southern Ethiopia in particular, had a number of consequences for the people "properly called" Fuga. First, it led to the development of a unique genre of Fuga history, which argued for Fuga political equality with the majority population in the region. Second, the Fuga were accorded a new, common sociopolitical self-identity, although they were still living in scattered and segregated fashion under the domination of the various dominant groups. Third, Fuga community members were given the right to self-administration for the first time in their history and were governed by their own newly recruited and appointed Fuga dagnas (Qudge) or chiefs and by village-based Fuga chiefs, who were at a lower level than the dagnas. In their daily contacts, when a Fuga and a member of the dominant group accidentally met each other, the Fuga would be expected to greet the other by saying, "How are you my lord?" The response the Fuga would expect would be, "Get your daily food". After the liberation of Ethiopia from the Italians, under the Ethiopian government's administration the Fuga lost the political advantage they had obtained during the Italian occupation period.

It was only after the Ethiopian Revolution of 1974 that all the Fuga families were able to own land of their own, with the proclamation of "land to the tiller." After this, some Fuga were able to establish their own separate villages, as arranged by farmers' associations.

Techlehaimanot Gebreselassie. 2000. "A Historical Survey of the Fuga Low-Caste Occupational Communities of South-Central Ethiopia." PhD diss., Department of History, Addis Ababa University.

SLAVE DESCENT

In Africa there exist today many people who are kept in conditions that have been described as slavery. Many more are in "virtual" slavery, unable to leave their "owner's" employ for fear of reprisals and starvation.

MAURITANIA

The legacy of slavery as a form of caste and descent-based discrimination in Mauritania is a critical issue. Both the Arab and Afro-Mauritanian groups have long distinguished community members on the basis of caste, and both included a caste-like designation of "slave" within these systems. At best, members of higher and lower castes are discouraged from intermarrying. In Soninke communities, members of the slave caste are also buried in separate cemeteries. At worst, however, there is a widespread system of unpaid servitude required of communities whose members still self-identify as slaves. Though the government has long outlawed slave-like distinctions and practices, it has taken few steps to enforce these laws. A weak economy also leaves former slaves with few options other than remaining with the families of masters who owned their ancestors. Caste systems similar to those found among the Wolof of Senegal can also be found among Soninke, Halpular, and Wolof Afro-Mauritians.⁷⁴ In Mauritania, women are particularly burdened by the designation of "slave." While men are sometimes able to escape, and by law cannot be forced to return to their "masters," women are often forced to remain as their masters' threaten to keep their children. The tenuous legal status of slave children also

74 IDS, op. cit., p.16

keeps women tied to their masters.⁷⁵

Mauritanian society has been described as a “closed” society, largely made up of three social groups. Firstly the majority ruling Arab-Berber population is known as “white moors”(Bidan). A second group are the “black” Africans living nearer the border with Senegal, coming from diverse groups such as the Wolof and Soninkes. Many have ethnic ties to Mali and Senegal and are farmers. The third group are the Haratin, known as the “black moors”. The Haratin are made up of slaves and ex-slaves belonging to the Bidan. Although slavery has been outlawed in Mauritania, it has, from one source, been estimated that around 90,000 Haratin exist as

75 Ibid, pp.21-2

slaves and other estimates would add another 300,000 part-time and ex-slaves.

According to the 1984 report of an expert to the then-U.N. Subcommission on Prevention of Discrimination and Protection of Minorities, slavery “as an institution protected by law has been genuinely abolished in Mauritania...”. “Nevertheless... it cannot be denied that in certain remote corners of the country over which the administration has little control certain situations of de facto slavery may still persist.”⁷⁶

76 Ibid, p.25



THE TUAREG PEOPLES (MALI, NIGER, ALGERIA, LIBYA, BURKINA FASO)

The Tuareg are to be found largely in Burkina Faso, Mali and Niger and are traditionally a nomadic people of pastoralist and trading occupations. A rigid caste system operates in Tuareg society that is largely between the nobles, freemen and slaves (Bellah). Slaves were traditionally raided from neighbouring peoples, but now are generally descendants of these people. Slavery has been outlawed in the countries where Tuareg live. However, in the more remote areas slavery of the Bellah still persists. The Bellah are traditionally occupied by their “owners” as unpaid manual labourers, producing goods such as salt, which the “owners” then trade.⁷⁷

DISCRIMINATION AGAINST HUNTER-GATHERER GROUPS AND THEIR DESCENDANTS

THE WATTA OF KENYA

The Watta community of Kenya live among the Boran, number around 2000- 3000 and have traditionally been hunter-gatherers. The dominant Boran are generally herders and have traditionally treated the Watta as “unwanted, low caste, worthless and downtrodden”. This form of stigma has led to their segregation and enforced endogamy, as well as socio-economic and political discrimination.⁷⁸

THE TWA IN RWANDA (ALSO BURUNDI, DEMOCRATIC REPUBLIC OF CONGO AND UGANDA)

The three main groups in Burundi and Rwanda

⁷⁷ Ibid.

⁷⁸ Ibid.

are the Hutu, Tutsi and Twa. In the past, Rwandan society has been depicted as a “caste” society, with the three endogamous groups forming a social hierarchy with specialized occupational roles. While the Hutus form the majority population, Tutsis, a minority in terms of number, remained the elite in many ways till recently. The Twa, due to their numerical “insignificance” (only 1-2% of the population), find their position at the very bottom of any social hierarchy and the general discrimination they continue to suffer due to their descent from hunter-gatherer societies, may fall into the descent limb of the ICERD.⁷⁹ The concept of pollution is widely recognised as regulating the social distance between the Twa and the other members of societies where they live, with access to public wells and ownership of land and valuables being forbidden. Reports have even been made that Twa have been wounded and killed due to their breaking these taboos.

2.2 CASTE IN MIDDLE-EASTERN SOCIETIES

YEMEN

Caste-like structures have been studied and found to be in existence in the Arabian Peninsula as well within Yemeni society. In an interesting study of how gender hierarchy in Zabid, a small town on the coast of the Republic of Yemen, is entwined with wider forms of hierarchical relationships, scholar Anne Meneley explored these hierarchies manifesting the classic traits of discrimination based on work and descent.⁸⁰

⁷⁹ Ibid.

⁸⁰ Living Hierarchy in Yemen, Anne Meneley, *Anthropologica*, Vol. 42, No. 1 (2000), pp. 61-73 Published by: Canadian Anthropology Society Stable URL: <http://www.jstor.org/stable/25605958> (Accessed on 17/04/2021)

Historically, Yemen has been a highly stratified society. At the top were the descendants of the Prophet Muhammad (sadah), who had formed the ruling dynasty in the highlands in earlier centuries, the tribesmen (qa ba'il), the butchers, barbers and circumcisors (maza yanah), the former slaves ('abid) and at the very bottom, below even the slaves, the servant class, the akhdam (masc, sing., khadim, fern., sing., khadima). *These categories were marked by occupation, and solidified by intra-category endogamy.* These ancient status categories and their associated sartorial markers were officially banned after the Republican Revolution (al-thawra) in 1962, as the government tried to implement a "nation" (watan) based on equality between citizens. Yet inequalities between these status categories, although technically illegal under the laws of the Yemeni nation state, continue to pervade everyday life in Yemen. Anne Meneley further argued, "I am suggesting that hierarchical relationships are lived through everyday practices. Dominant conceptions about what constitutes moral and mature persons serve also to create "legitimate hierarchies."⁸¹

West Asia has witnessed a number of "outcastes" e.g. *Huteimi, Sulaib, Jabarti, Hijris, Jabart or Gabart, Akhdam* amongst others; a social status granted to them by birth. They have been shunned and ostracized by their local communities. These castes are considered ritually unclean. Serjeant reports them as amongst the untouchable castes of South Arabia. Mainstream Arab society can be conceived of as divided into three classes, Bedouin (nomads), farmers – fellahin (villagers) and hadar (townspeople).⁸²

81 Ibid, p.69

82 OP Sudrania, Caste in a Global Perspective: Is Caste only a Hindu Problem?, <http://www.chakranews.com/castes-in-a-global-perspective-is-caste-only-a-hindu-problem-part-6/3243/> (Accessed 23/05/2021)

It may be interesting and useful to conclude this subsection with some reflections, based on the above empirical data. The data clearly shows features present in these societies that consist of (i) the basis (purity-impurity based work & descent) of discrimination and (ii) the common features of discrimination (v.g. structured hierarchy, endogamy, intergenerational social status, social & physical distance in space and relationships, etc. This potentially also creates a possibility to establish the common ground for solidarity among these communities which are so numerous, varied and geographically spread out. Creating a bonding, conceptually as well as in practice, may be useful for global outlook on DWD understanding.

2.3 ASIA

JAPAN

According to scholars, "*Burakumin* ("hamlet/village people", "those who live in hamlets/villages") is a former untouchable group in Japan at the bottom of the traditional social hierarchy. *Burakumin* were originally ethnic Japanese people with occupations seen as *kegare* ("defilement") during Japan's feudal era, such as executioners, undertakers, slaughterhouse workers, butchers, or tanners. *Burakumin* became a hereditary status of untouchability and an unofficial caste in the Tokugawa class system during the Edo period. *Burakumin* were victim of severe discrimination and ostracism in Japanese society, and lived as outcasts in their own separate villages or ghettos".⁸³

Discrimination against Buraku, sometimes

83 McLaughlan, Alastair, *Japan's Burakumin: An Introduction*, <http://japanfocus.org/article.asp?id=485> (Accessed on 27/05/2021)

Burakumin were originally ethnic Japanese people with occupations seen as kegare (“defilement”) during Japan’s feudal era, such as executioners, undertakers, slaughterhouse workers, butchers, or tanners. Burakumin became a hereditary status of untouchability and an unofficial caste in the Tokugawa class system during the Edo period.



known as eta (variously defined as “pollution abundant” or “unclean”) persists in Japan even today. Scholarly consensus today holds that the estimated three million Buraku who live in Japan today can trace their ancestry to those who became involved in occupations thought to be unclean during Japan’s feudal Tokugawa era in the seventeenth century. These occupations included leather-making, a task shunned by Shintoists and Buddhists who felt that anything which involved the taking of life was unclean. The then-government codified such discrimination against Buraku when it explicitly

deemed certain groups distinguished by their occupations to be eta and *hinin* (“nonperson”). These newly formed lower castes were then further forced into specific occupations. The etas were forced to dispose of dead cattle or take work as hide tanners and other leather-related crafts, while the *hinin* became security guards and executioners. This seems to be a very striking concept – socially, psychologically and philosophically.⁸⁴ One can even go so far as to say that this refers to non-life. It seems almost

⁸⁴ I am grateful to Fr Aloy for pointing this out while reading this part of the draft.

not surprising that the DWD communities are mandated to do the occupations connected with death – leather, human corpses, animal carcasses, sewer cleaning, etc. In fact, this factor of non-person & non-life is the grounding for denial of personal dignity and rights and therefore cause of discrimination and violence. It'd be interesting to reflect on this concept which implicitly seems to be applicable also to other communities discriminated on DWD basis in other parts of the world, especially in Asia, as Dalits are considered so.

Beginning in the early 1700s, the Japanese government established specific rules limiting the types of clothes and hairstyles that Buraku could wear, rendering them easily identifiable. Buraku were often prohibited from entering towns at night or frequenting certain religious sites. Their gravestones were also marked with names connecting them to slavery or cattle. The Buraku system was officially abolished by the Emancipation Edict of 1871, though discrimination against Buraku persists to this day. Today, the Buraku people are the targets of verbal abuse and incitement to violence, often in the form of graffiti or messages posted on the Internet with slogans like “Kill Buraku People” or “Exterminate Buraku People.” Offensive emails are frequently sent to NGOs active on Buraku issues, such as the Buraku Liberation Movement.⁸⁵

85 CASTE DISCRIMINATION: A GLOBAL CONCERN A Report by Human Rights Watch, p.10 (Ian Neary, “Burakumin in Contemporary Japan” in Michael Weiner (ed.) *Japan's Minorities: The Illusion of Homogeneity* (London: Routledge, 1997), p. 55. 35 International Movement Against All Forms of Discrimination and Racism and Buraku Liberation League and Buraku Liberation and Human Rights Research Institute, “Reality of Buraku Discrimination in Japan: History, Situation, Challenge,” February 2001, pp. 7-8.)

Cited from the following sources: (Leslie D. Alldritt, “The Burakumin: The Complicity of Japanese Buddhism in Oppression and an Opportunity for Liberation,” *Journal of*

In Japan *marriage* remains a primary source of discrimination for Buraku people today. Suspicions that a person is of Buraku descent often lead to private investigations into his or her family background. These background checks are easy to conduct because family registries are easily obtainable, and Buraku names are distinct and recognizable. Upon discovering that the intended bride or groom is of Buraku descent, the marriage plans are often reportedly cancelled or condemned.

Similarly, discrimination against Buraku persists in Japan's economy. In a high profile case in 1998, according to Buraku civil rights groups, over seven hundred companies were discovered to have hired private investigators to unearth job applicants' Buraku origins, ethnic background, nationality, ideology, religion, and political affiliation. After factoring in each characteristic, an applicant was ranked from “excellent” to “advisable not to hire.” However, a person discovered to be of Buraku origin was not rated and consequently not hired.⁸⁶

The Buraku of Japan also suffer from lower levels of higher education than the national average, and higher dropout rates than the broader society. Buraku women report lower levels of literacy, high school and university enrolment, and employment.⁸⁷

Buddhist Ethics, vol. 7 (2000), available at <http://jbe.la.psu.edu/7/alldritt001.html> (accessed March 28, 2001). 39 Yuka Ishikawa, “Rights Activists and Rights Violations: The Burakumin Case in Japan,” paper prepared by the Buraku Liberation League for the Global Conference Against Racism and Caste Based Discrimination, New Delhi, India, March 1-4, 2001, available at <http://www.imadr.org/tokyo/ishikawareport.html> (accessed May 21, 2001). 40 Buraku Liberation and Human Rights Research Institute and Buraku Liberation League, *Buraku People (Japan: Discrimination Against Buraku People)*.

86 Ibid, p.13

87 Ibid, p.17

To counter various forms of discrimination against the Buraku population, the Japanese government instituted the “Law on Special Measures for Dowa Projects.” This series of reform efforts had considerable success in improving housing areas for Buraku communities and increasing education and literacy rates among Buraku children.⁸⁸

KOREA

The Baekjeong were an untouchable class in Korea, originating from some minority, nomadic groups of disputed ethnicity. In the early part of the Goryeo period (918–1392), these minorities were largely settled in fixed communities. However, the Mongol invasion left Korea in disarray and anomie, and these groups became nomadic. Other subgroups of the baekjeong were the ‘*chaein*’ and the ‘*hwachae*’. The baekjeong occupied specific professions like butchery, tanning, basket weaving and performing executions. During the Goryeo period, “baekjeong” was used as a neutral term to refer to the common people. From the time of the Joseon dynasty (1392–1897), it became an insulting title used to refer to the lowest class of society. In addition, since the Joseon dynasty, the “baekjeong” has been also used to denigrate a person. In contemporary South Korea, the term is mainly associated with the meaning of a butcher and even used in the restaurants’ names.⁸⁹

The group had long suffered severe social discrimination in Korean society. The baekjeong

were seen as contemptible and polluted people that others feared and avoided meeting. Baekjeong could not live in a roof-tiled house, was not allowed to wear silk clothes or leather shoes, and did not wear a gat(hat). When baekjeong went outside their houses, they had to untie their heads and wear *paeraengi*. Baekjeong had to lower himself in front of a yangin (common people). Baekjeong could not smoke or drink in front of a yangin. Baekjeong could not ride a litter or horse when they married, and a married woman could not wear a hair stick. Baekjeong could not put a last name on their name. The extent to which they were seen as impure people is well-illustrated in the fact that their bodies were kept in separate graveyards so as not to mingle with those of the Sangmin.⁹⁰

2.4 LATIN AMERICA

In the 1980s and 1990s many Latin American states implemented new multicultural citizenship regimes, including: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, and Venezuela. The features of these multicultural citizenship regimes vary from country to country, but generally include some combination of the following collective rights: formal recognition of the existence of ethnic=racial subgroups, recognition of indigenous customary law as official public law, collective property rights (especially to land), guarantees of bilingual education, territorial autonomy or self-government, and rights to redress racial discrimination (such as affirmative action in education and employment). In addition, in a few countries in the region, notably Brazil

⁸⁸ Ibid, p.25

⁸⁹ Kim, Han Jong (Jun 6, 2004), The history of discrimination and resistance “Baekjeong”, <http://legacy.www.hani.co.kr/section-005006002/2004/06/005006002200406062131178.html> (Accessed 23/05/2021)

⁹⁰ Ibid.

and Colombia, Afro-descendants have also won certain anti-racial discrimination rights.⁹¹ The central challenge is, as Juliet Hooker aptly observes, ‘One of the most significant hurdles they confront involves finding a compelling legitimating narrative about the need for and basis of Afro-descendant collective rights that will prove persuasive to often-skeptical national publics and states’.⁹²

The Economic Commission for Latin America and the Caribbean estimates that there are approximately 150 million people of African descent in Latin America, composing about 30% of the region’s total population and residing mostly in Brazil, Central America, and the northern coast of South America.⁴ It is difficult to compile definitive statistics on the size of the Afro-descendant population in Latin America because many countries in the region still do not include questions about race and ethnicity in their national censuses. Re-inserting questions about race and ethnicity in national censuses (many of which were removed in the late 19th or early 20th centuries) is in fact a major demand of Afro-descendant and indigenous movements today.⁹³

They are also “far more likely than citizens of European origin to live in poverty, be illiterate, die at a younger age, reside in substandard housing, and suffer from police abuse.”¹⁰ In Brazil, for example, the illiteracy rate was 20.8% among Blacks in 1998 as opposed to 8.4% among whites. This disparity is reflected in the

fact that 67% of the illiterate population in Brazil was of African descent”.

Not only do wage differentials between whites and non-whites persist even after controlling for education and experience, the income gap between whites and non-whites tends to widen as educational achievement increases, which points to active racial discrimination in the labor market as the cause of income disparities, not simply differences in educational achievement or work experience.⁹⁴ An interesting aspect of this discrimination is that ‘Rural Afro-descendants, for example, often conceive of their collective identities in ethnic terms and emphasize the need for collective rights to land and culture, while urban Afro-descendants have generally organized in terms of a racial group identity, and have focused more on anti-racial discrimination rights. As a result, in many countries in the region the struggles of urban and rural Afro-descendants have taken place fairly disconnected from each other.’⁹⁵

There are, broadly, four principal types or groups of Afro-descendants. The first group are what we might call Afro-mestizo people, who are the descendants of slaves brought during the colonial period who over time integrated into the lower socio-economic levels of colonial society and later the dominant mestizo cultures and national identities of most Latin American countries. While their phenotypical differences from the national population suggest that they are subject to racial discrimination (given the close association between social class and skin color in Latin America), in most cases they have not developed a separate racial-cultural group identity nor made demands for collective

91 Hooker, Juliet, *Afro-descendant Struggles for Collective Rights in Latin America: Between Race and Culture*, New Social Movements in the African Diaspora, I, Pages 279-291 | Published online: 17 Sep 2008, <https://doi.org/10.1080/10999940802347764>

92 Ibid.

93 Ibid.

94 Ibid.

95 Ibid., p.285

rights. Afro-mestizos, who can be either urban or rural, probably represent the largest proportion of Afro-descendants in the region. A second group of Afro-Latin Americans are also the descendants of slaves brought during the colonial period, who—in contrast to Afro-mestizos—have developed a strong racial group identity and have struggled for collective rights against racial discrimination. They tend to be overwhelmingly urban. The *movimento negro* in Brazil is an example of this kind of Afro-descendant group. A third group of Afro-descendants in Latin America are the descendants of “maroon” communities whose ancestors managed to escape from (or otherwise avoid) slavery to establish communities outside colonial society. These Afro-descendant groups developed separate racial-cultural collective identities distinct from those of the dominant mestizo majority and forged a relationship to land or territory in the colonial period before the establishment of state sovereignty over the areas they occupied. They have historically struggled for collective rights, in particular, in defence of communal lands or territory. Quilombos in Brazil, Creoles in Nicaragua, and Garifuna in Honduras, Nicaragua, and Guatemala, are examples of this type of Afro-descendant group. Finally, throughout Central America, we find a fourth group of Afro-Latin Americans who are the descendants of West Indian immigrants who arrived as laborers in the enclave economies that existed in the late 19th and 20th centuries along the Caribbean coasts of the isthmus.

In some countries where Afro-descendant maroon communities are present, for example, such as Guatemala, Honduras, and Nicaragua, they have gained collective rights to land and culture. In countries where Afro-descendants are not recognized as either ethnic or racial groups

they have obtained neither collective rights to land and culture nor anti-racial discrimination rights. This is the case in Venezuela and Mexico. Finally, in a third set of cases, where they have mobilized and been recognized as both ethnic and racial groups, Afro-descendants have simultaneously gained some collective rights to land and culture as well as rights designed to overcome racial discrimination. This has been the pattern in Brazil, Colombia, and Ecuador. The basic idea behind policies designed to redress past wrongs is that: “A just society, so far as possible and permissible, right the wrongs of its own past injustices, particularly when their continuing ill effects upon the descendants of those wronged are plain for all to see.” The aim of such policies is thus to repair past injustices and improve the current conditions of the victims of those injustices. In the case of Latin American Afro-descendants, such arguments can serve as the normative basis of collective rights, Hooker argues.⁹⁶

BRAZIL

In Brazil, the remnants of Quilombo are defined as ethnic-racial groups that also have their own historical trajectory, endowed with specific territorial relations, with presumed black ancestry related to resistance to historical oppression suffered, and their characterization should be given according to criteria of self-attribution attested by the communities themselves, as also adopted by the ILO Convention on Indigenous and Tribal Peoples and Decree No. 4887/03.

Quilombo is a relatively recent social category that represents a relevant social force in the Brazilian rural environment, giving new translation to what were known as rural black

⁹⁶ Ibid., p. 287

communities (more in the centre, south and southeast of the country) and black lands (more in the north and northeast), which is also beginning to penetrate the urban environment, giving new translation to a varied range of situations that go from former rural black communities affected by the expansion of urban perimeters to neighbourhoods around *candomblé terreiros* (cult grounds).

From Decree No. 4887/03, from the President in office at the time Luiz Inácio Lula da Silva, these populations were granted the right to

self-determination as the sole criterion for identification of quilombola communities, based on Convention 169 of the International Labour Organisation (ILO), which provides for the right to self-determination for indigenous and tribal peoples.

However, even with all the legal guarantees achieved in national legislation, quilombola communities still lack recognition by the State. To date there is no consensus on the precise number of quilombola communities in the country, but official data comes from

Roma are fully absent from the work forces of many major sectors, especially white-collar areas, and research from the European Roma Rights Centre indicates that 64 percent of working-age Roma have experienced discrimination in employment. Most commonly, Roma are rejected from employment opportunities because they can be visibly identified as belonging to this group.



the Special Secretariat for Policies to Promote Racial Equality (Seppir) and the National Institute for Colonisation and Agrarian Reform (Incra), the autarchy responsible for the administrative process of identification, recognition, delimitation, demarcation and titling of the lands occupied by the remnants of Quilombos Communities. Currently there are 2847 certified communities in Brazil, 1533 open processes in INCRA and 154 of the quilombola lands titled throughout Brazil, 80% of them regularized by state governments.⁹⁷

2.5 EUROPE

ROMA

In 2008, violence in Italy against the Romani community escalated to the point that the center-right government declared a national 'state of emergency'. Beginning in 2010, former French president Nicholas Sarkozy returned most Eastern European Roma to their countries of origin. His Romani policies created high tensions between the EU Commission and Paris and alienated Romani political activists, who denounced them as 'deportations'. Successful attempts to wall off Romani areas from the rest of the community have occurred in Romania and Slovakia.

One of the key challenges outlined by a scholar is that there is little data on the socio-economic and political conditions of Roma across Europe. This, in fact, allows the decision makers to escape any responsibility towards making an effective policy or programmes targeting the community.

97 Souza, Bárbara Oliveira, *Quilombola Movement: Reflections on its political-organizational and identity aspects*. Available at: <http://conaq.org.br/coletivo/terra-e-territorio/>. (Accessed on: 07/05/2021)

⁹⁸ However, even the existing data is telling. A 2011 Soros Foundation study shows that only 10% of the Roma in Romania worked non-stop in the last two years (permanent) and 51.5% did not work at all in the last two years (Preoteasa, 2011, p.25). A survey of the European Union Agency for Fundamental Rights (FRA, 2012) published in May 2012 shows that fewer than one in three Roma are reported to be in paid employment and only 15% of young Romani adults surveyed completed upper-secondary general or vocational education. In line with these findings, an opinion research center in the Czech Republic, Centrum pro výzkum veřejného mínění (CVVM), released a poll showing that 'as far as employment is concerned, 61% of respondents said members of the Roma minority are worse off' (CVVM 2010). In 2012, the Soros Foundation Romania reported that for the Roma 'the lowest unemployment rate is in Spain with 36.4%, followed by Italy with 37.3%, Romania with 48.6% and Bulgaria with 58.7%'.⁹⁹

Roma are fully absent from the work forces of many major sectors, especially white-collar areas, and research from the European Roma Rights Centre indicates that 64 percent of working-age Roma have experienced discrimination in employment. Most commonly, Roma are rejected from employment opportunities because they can be visibly identified as belonging to this group. When asked if they could name an

98 Rosenfield, Erica, (2010), *Combating Discrimination against the Roma in Europe: Why Current Strategies Aren't Working and What Can Be Done*, Topical Research Digest: Minority Rights, p.123, <https://www.du.edu/korbel/hrhw/researchdigest/minority/Roma.pdf>

99 Marin Thornton, Gabriela, (2014) *The Outsiders: Power Differentials between Roma and Non-Roma in Europe, Perspectives on European Politics and Society*, 15:1, 106-119, DOI: 10.1080/15705854.2013.873260, <http://dx.doi.org/10.1080/15705854.2013.873260>



organization that would help them if they had been discriminated against, 86 percent of Roma surveyed by the EU Agency for Fundamental Rights could not name any (European Union Minorities and Discrimination Survey 2009). In addition, 69 percent of Roma respondents considered discrimination on the basis of ethnicity to be widespread in their country, and a further 25 percent of Roma respondents were victims of personal crime (including assaults, threats, and serious harassment) at least once in the previous twelve months.¹⁰⁰

A research conducted by the Open Society Institute in Central Europe revealed that “non-Roma respondents consistently expressed negative views of the Roma overall, describing the Roma as dishonest, aggressive, unhygienic, lacking work ethic, unemployed, poorly educated, and prone to criminality.” In a survey

conducted in 2008, of all the minorities that were surveyed for the EU Minorities and Discrimination Survey (EU-MIDIS) project (including North Africans, Turkish, former Yugoslavians, Sub-Saharan Africans and others), the Roma reported the highest overall levels of discrimination. On average, every second Roma respondent reported being discriminated against at least once in the previous year on the basis of their ethnicity.¹⁰¹

Gabriela M. Thornton argues that, “Since their arrival in Europe, the Roma have lacked political, social and, in most cases, economic power. Through their increasing interaction with the Roma, the host European populations felt threatened by these newcomers’ way of life. Historically, the Roma were unwilling to play by the rules of the Established, i.e. the host European populations. Marginalization and

100 Rosenfield, Erica, op.cit., p.123

101 Ibid., p.124

“Since their arrival in Europe, the Roma have lacked political, social and, in most cases, economic power. Through their increasing interaction with the Roma, the host European populations felt threatened by these newcomers’ way of life. Historically, the Roma were unwilling to play by the rules of the Established, i.e. the host European populations.”

-Gabriela M.Thornton



discrimination of the Roma quickly followed their arrival”.¹⁰²

Romani history in Europe began in the Middle Ages. Most scholars agree that the Roma migrated from India to Europe in several waves. The date when their migration started is contested. However, because host European populations always had the power on their side, they constructed the ‘truth’ about the Roma. As ‘the Established,’ the host European populations developed an ideology of superiority over the Roma. The Europeans came to categorize the Roma as criminals and mentally deranged. Quoting historian Norbert Elias, Thornton goes on to outline the process through which the othering of Roma took place. According to her, “Anti-Gypsism is an ideology whose core beliefs are that Roma are filthy and sub-human. It also holds that Roma are incapable of integrating themselves into the mainstream of a society. Anti-Gypsism constitutes a mechanism of discrimination and exclusion”.¹⁰³ In 1991, the then special rapporteur of the UN commission on Human Rights, Joseph Voyame, referring at the situation of the Roma, said: “... the authorities [in Eastern Europe], like the majority of the population, tend to regard the Gypsy community as a whole as deviant and criminally inclined...”¹⁰⁴

One of the other key problems with the Roma is that besides being labelled as outsiders, there is a huge diversity within the Roma community itself in terms of either ethnicity or even a common culture, which has remained a barrier towards their political organisation. However, as Thornton notes, “discrimination is a function

102 M Thornton, Gabriela, op.cit., p. 108

103 Ibid., p.114

104 Ibid., p.115

of power differentials. Therefore, in order to be less discriminated against, the Roma need to amass more power by acceding to key political and social positions. Only when the Roma play a more influential role in the European political, economic, and social structures, will the discrimination against them cease”.

A key factor of discrimination regardless of the fact that these communities are seen as outsiders (travelling from outside, either independently or as slave labour or as wage labour in semi-serf like situations), is the ‘othering’ of these communities by those who are in power. And this othering doesn’t merely happen in the past, but through an ‘invented past’ even in the present, a constant reification of identities. This remains a central concern vis-a-vis the treatment of all the communities facing discrimination on the basis of work and descent.

SUMMARY

The above discussion in some detail tells us the striking similarities in terms of sheer discrimination and oppression against these communities, which have occurred historically and persist till today despite laws and regulations to ban them. But we have also seen how with certain trajectories, in some of the societies at least they have been contained to a great extent. And we also see how in the most developed parts of the world, they not only exist but work to fuel the ideological extremities based on the ‘outsider’, ‘insider’ categories. However, we still need to go back to the international human rights frameworks and conventions which have not only taken cognizance of the same but tried to recognise many of these communities for the sheer scale of their oppression.

Three



UN institutions and their role in highlighting DWD and Caste Based discrimination in different parts of the world



In the previous sections, the role of ICERD and CERD and the UN sub-Commission has been recognised not just for institutionalising various categories like DWDs, Caste and Racial discrimination and modern slavery but also going deeper through specific case studies from around the world to underline the living examples of these categories. It has also been mentioned how three working papers formed the basis of the same: first focussed on the Dalits and castes in South Asia, second in the rest of the world and the third in the diaspora communities having migrated from India.

Much of what has been discussed and shared in the second section towards illustrating the examples around the world is also strongly backed by the above papers and other relevant documents. For instance, the expanded second

working paper by Eide and Yokoto therefore examined the situation in West Africa, North-East Africa, Somalia, and Yemen. It concluded: “the prevalence of discrimination based on work and descent is more widespread than might have been envisaged at the outset of this process ... This form of discrimination is distinct, in its combination of causal factors and expressions, from other forms of discrimination examined in the history of the Sub-Commission.”¹⁰⁵

The second or the first expanded working paper describes, inter alia, the metalworkers (or ‘blacksmiths’), potters, musicians/bards (or ‘griots’), leatherworkers, weavers, barbers and others in West Africa; the SubCommission experts write that often they are considered by

¹⁰⁵ David Keane, op.c.it., (UN Doc. E/CN.4/Sub.2/2003/24, para. 5), p.222

The question of whether ethnic minorities such as the Roma/Sinti/Travellers are discriminated against not simply on the ground of their national or ethnic origin but also because of the work they engage in was addressed in the paper.



the non-specialist majority as being ‘dirty’ or ‘impure’, though the functions they perform are often highly valued or even regarded as indispensable.¹⁰⁶

In North-East Africa, the Sub-Commission examined the case of the Dime people of south-west Ethiopia, who had been highlighted for their division into ranked castes, with the chief and priests castes being considered pure, commoners non-pure and ritual servants, hunters, smiths and tanners impure. Membership of these groups

or castes is by birth, and they are ideologically endogamous. Endogamy is most strictly observed against impure groups. The two pure groups are considered to have privileged access to the gods and spirits. The polluting propensity of the impure groups is quite marked, with the passage of a blacksmith through a field being sufficient to pollute the crop.

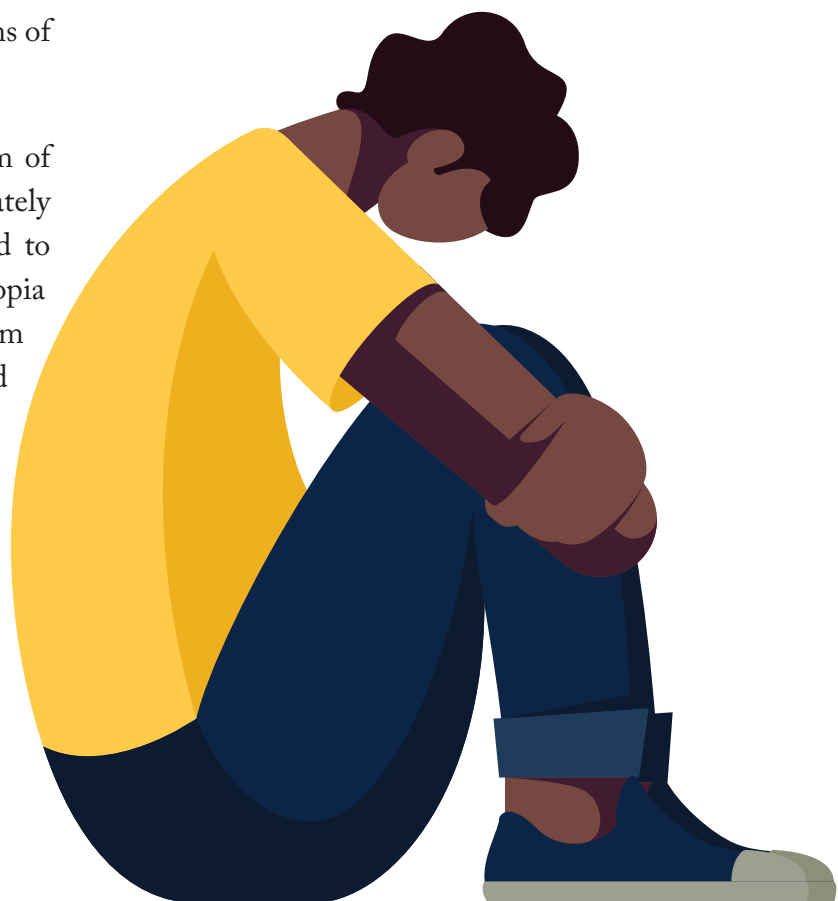
The Committee raised the issue of caste and descent in several State Reports outside of Asia. In 2001, it noted with concern the continuing legacy in Senegal of aspects of a caste-based system, despite its having been banned by law.

106 Ibid, p.223

In its Concluding Observations to the State Report from Mali, the Committee bore in mind the explanations provided by the delegation concerning the practice of *sinangouya* and the relative nature of the caste system, which does not hinder social mobility in Mali. It nonetheless requested information on the approach the state party intended to take regarding the persistence of the consequences of a traditional caste system that could give rise to descent-based discrimination. In its consideration of the Report submitted by Ghana, the Committee asked whether descent-based discrimination exists in Ghana, and drew the attention of the state party to its General Recommendation XXIX on the matter.¹⁰⁷ In the cases of the marginalised African groups described in the expanded working paper, the sanction or justification is based on myths involving, for example, food transgressions or other ancestral wrongdoing or misfortune, and related to the present or former ritual or religious functions of the groups concerned.¹⁰⁸

The same paper mentions that the *akhdam* of Yemen are believed to number approximately 200,000. Their origins are popularly traced to Abyssinian soldiers who invaded Ethiopia in the sixth century. The typical *akhdam* occupational roles are the most menial and dirtiest tasks, including garbage collection, street sweeping, and cleaning toilets and drains. They are often referred to generally as ‘sweepers’.¹⁰⁹

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107 Ibid, pp.218 (Concluding Observations – Concluding Observations – Senegal (2002), UN Doc. A/57/18, para. 445. Concluding Observations – Mali (2002), UN Doc. A/57/18, para. 391. Concluding Observations – Ghana (2003), CERD/C/62/CO/4, para. 22.)

108 Ibid, pp.222-3

109 Ibid, p.224

It has to be underlined the Committee for Elimination of Racial Discrimination (CERD) in its Concluding Observations on *Japan's Periodic Report* in March 2001, noted that contrary to the state party's contentions, discrimination based on descent contained in article 1 of the Convention 'has its own meaning and is not to be confused with race or national origin.' The Committee recommended that the state party ensure that all groups including the *Burakumin community* are protected against discrimination and afforded full enjoyment of the civil, political, economic, social and cultural rights contained in article 5 of the Convention. Japan stated in response that it did not share the Committee's interpretation of descent. In the case of discrimination against the Burakumin of Japan, associations have been made with Shinto beliefs concerning purity and impurity, and with Buddhist precepts and practices.¹¹⁰

Similarly, in *Koptova*, the Committee found that the state party had failed to guarantee an article 5(d)(i) right to freedom of movement for an ethnic group, the Roma. As more cases come to the Committee's attention through increased awareness of the availability of the article 14 procedure in a large number of states, the Committee may find that ethnic groups are being denied the social and economic rights of articles 5(e) and (f), and urge the respondent state to move towards a situation of de facto equality between ethnic groups in the granting of these rights. The particular instance of article 5(f), which guarantees freedom from racial discrimination in the enjoyment of a right of access to public places such as restaurants, cafes and parks, can be cited in evidence of the broad reach of article 5, and its importance in the

110 Ibid, p.222

context of caste-based discrimination.¹¹¹

The question, raised in the first expanded working paper, of whether ethnic minorities such as the Roma/Sinti/Travellers are discriminated against not simply on the ground of their national or ethnic origin but also because of the work they engage in was addressed in the paper. While these communities share in general terms some of the common consequences of discrimination based on work and descent, the authors found that they do not seem to have the same causal factors, such as the notion of pollution/purity, hierarchical ranking and religious sanction and myths. They are essentially discriminated against because of racism.¹¹²

General Recommendation XXVII addressed the issue of discrimination against the Roma, and several of its proposed measures were for the protection of the Roma communally, rather than individually. For example, paragraph 46 proposes that states parties take the necessary steps, including special measures, to secure equal opportunities for the participation of Roma minorities or groups in all central and local governmental bodies".¹¹³

111 Ibid, p.208

112 Ibid, (UN Doc. E/CN.4/Sub.2/2004/31, paras 37 and 38, p.226

113 Ibid, General Recommendation XXVII (2000), 'Discrimination against Roma', UN Doc. A/55/18 annex V, para. 41. p. 259

Four



Towards a common typology by way of conclusion and way forward



What are some of the key common factors in the categories discussed so far even when they have been acknowledged as distinct terminologies inhabiting distinct forms of conceptual categories? Presented below are some of the common features occurring in these different typologies.

DWD: 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 and places of worship, and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading and hazardous work; subjection to dehumanising discourses of pollution or untouchability; and generalised lack of respect for their human dignity and equality (Source: General Recommendation XXIX, supra n.28, para. 1).¹¹⁴

Below table tries to present some common features across the various categories based on the various case studies discussed above:

114 David Keane, *op.cit.*, p.219

| Racial Discrimination | Discrimination based on Work And Descent | Caste Discrimination | Modern Slavery |
|---|--|---|-----------------------------------|
| Discrimination based on race, colour, descent, or national or ethnic origin | Heritability and occupational hierarchy | divine will | forced labour |
| dehumanisation and stigma | Endogamy | Heritability and occupational hierarchy | debt bondage/bonded labour |
| dehumanisation and stigma | Endogamy | Heritability and occupational hierarchy | debt bondage/bonded labour |
| Exclusion | dehumanisation and stigma | endogamy | descent-based slavery |
| forced labour and occupational hierarchy | forced labour | purity and pollution | Trafficking of women and children |
| Stigma | purity and pollution | dehumanisation and stigma | dehumanisation and stigma |

Table 1: A Typology of Discrimination across key categories in International Human Rights Law

Looking at various distinct and overlapping traits, it would be worthwhile to attempt to present this typology also in terms of basic conceptual categories and from a comparative perspective¹¹⁵:

1. The founding basis (work and descent),
2. The causal factor (purity/pollution, endogamy etc)
3. The specific features of discrimination and oppression (exclusion, distancing, ostracism, forced labour, sexual exploitation and trafficking, forced migration etc.),
4. Systemic structure or order of society (institutionalised hierarchy based placement, etc.),
5. The legitimizing factor for this structure (religion, culture, tradition, etc.),
6. The consequences of discrimination (denial of dignity, rights, entitlements, and extreme loss of human dignity, etc.),

What seems to be emerging from the detailed description of these conceptual but living categories and their historical genealogies, is the fact that while there are distinct features to these specific categories, there are also a range

of common features across. And they demand a wholesome look at the commonalities not just in terms of features, but the fact that in real life, they mean common forms of extreme exploitation and violence, which persist till date. This also creates a timely opportunity for a strong solidarity among these communities across nations and continents, based on empathy and oneness, on a common language of resistance and a cry for human dignity.

What is also critical in this respect is that there is an urgent need for the international and national communities to come together and develop a common language. This coming together need not be just in terms of a pragmatic utilization of a unique opportunity which has been consistently sought by the oppressed communities but through a formal recognition of SDG 8.7 from the lens of other goals around gender and identity-based other inequalities. In this sense it is imperative that modern or contemporary forms of slavery is recognised from the lens of communities discriminated on the basis of caste and descent. This will be a true tribute to the heroic struggles of these communities across geographies and histories.

115 I am grateful to Fr Aloy for the suggestion towards this neat categorisation by way of a conceptual typology.

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PART III - CASTES OR SIMILAR FORMS OF DISCRIMINATION IN EUROPE

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Notes:



The literature from Latin America revolves around communities like Afro-Descendent and other indigenous communities who face discrimination based on their descent. In Europe, on the other hand, the literature covers Roma and Gypsy communities where along with the holistic papers on Europe. Attached are a few countries specific papers such as that of Finland, Italy, Czech Republic etc.

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TIMELINE AND BIBLIOGRAPHY ON THE CIVIL SOCIETY ACTIONS AGAINST DWD AT GLOBAL LEVEL

- IDSN has compiled the updates on advocacy and highlights regarding issues of DWD at Global level. It can be found in the link attached. It covers the news stories, meetings, and submissions of reports to various committees at global forums.
- The Committee on the Elimination of Racial Discrimination General Recommendation on Descent, United Nations
- A comprehensive compilation of how caste discrimination and similar forms of discrimination based on work and descent have been addressed by the UN treaty bodies, Universal Periodic Review, and the Special Procedures. <https://idsn.org/wp-content/uploads/2021/01/UNcompilation-Jan-2021.pdf>
- The following is the country-wise reporting from IDS. IDSN systematically monitors country reviews and facilitates civil society inputs, where most relevant. IDSN furthermore promotes follow-up action at the international and national level together with its members and associates. On the links below, you can find more information about treaty body reviews of specific countries, including links to shadow reports submitted by IDSN in association with members and partners:

- INDIA
- NEPAL
- PAKISTAN
- BANGLADESH
- JAPAN
- YEMEN
- UNITED KINGDOM
- SRI LANKA
- MAURITANIA
- NIGERIA
- SENEGAL
- MADAGASCAR
- MAURITIUS
- CHAD
- ETHIOPIA
- GHANA
- BURKINO FASO
- MICRONESIA
- MALI

TIMELINE: The next is the link for the timeline on advocacy. <https://idsn.org/un-2/special-procedures/>. The short bullet points about it as following:

- 2020: Recommendations for the 44th Regular Session of the Human Rights Council (30 June – 17 July 2020)
- 2020: UN: Act NOW & hold member states accountable for elimination of caste-

based discrimination

- 2020: Caste-hate speech highlighted at the 2020 UN Minority Forum
- 2020: UN human rights experts urge Mali to end slavery once and for all
- 2016: Historic report by the UN Special Rapporteur on minority issues See: full report by the Special Rapporteur on minority issues
- 2014: IDSN appeal to UN Special Procedures Read the full version of the appeal to UN SPs (2014)
- 2013: Statement By UN Special Procedures mandate holders (2013) ‘Continued plight of the untouchables’ (UN media statement)
- 2012: IDSN appeal to UN Special Procedures. Read the full version of the UN Appeal (2012)
- 2009: Interim Report (A/64/271) to the UN General Assembly in 2009
- More of such updates can be found : <https://idsn.org/links/?tag%5B0%5D=specialprocedures>
- 2017: Report on Ending Poverty and Ensuring Prosperity for Caste and Decent based communities in the World
- 2016: Leave No One Behind Report: Do We Ensure Inclusion of 260 Million People Discriminated Based on Caste and Work and Descent?
- 2015: Report of Initial Findings from Immediate Needs Assessment and Monitoring Responses towards Affected Dalit Communities in Nepal Earthquake 2015
- 2015: Response to Zero Draft of the Sustainable Development Goals
- 2015: Report Annihilate Caste and Other Structural Inequalities
- 2015: Inception Workshop for the UN Women Project
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- 2015: Dhaka Statement In Solidarity with Dalit Communities of Asia demanding Equality, Justice and Development
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- 2009: Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent

A FEW REPORTS, PUBLICATIONS AND STATEMENTS FROM ADRF:

- 2018: Sustainable and Resilient Communities: A Profile of Dalits in Disaster Risk Reduction in South Asia
- 2017: Stakeholder Statement: Data Disaggregation

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**Communities Discriminated
on Work and Descent in**

MODERN SLAVERY

A Global Phenomenon

This report attempts to look at the historical and global dimensions of modern slavery and discrimination based on work and descent and its varied forms. While looking at the genealogy of these categories through debates in international conventions and human rights law, also tries to give historical and geographical examples across continents and countries. Through a detailed discussion of many common features across the two categories, it argues in the process that the two categories need to not just talk together in terms of conceptual overlaps but create possibilities of a common platform based on common solidarities around oppression and exploitation.



Asia Dalit Rights Forum



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ON WORK AND DESCENT

