

THE INTERNATIONAL MOVEMENT AGAINST ALL FORMS OF DISCRIMINATION AND RACISM

Written Response for the Consultation of the UN Committee on the Elimination of Racial Discrimination (CERD) with Civil Society – 23 November 2016

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

Discrimination based on descent – India, Nepal and Japan

While being concerned by different forms of racial discrimination, the International Movement Against All Forms of Discrimination and Racism (IMADR) is strongly committed to the eradication of descent-based discrimination. This specific form of racial discrimination is particularly present in South Asian countries, namely Bangladesh, India, Nepal, Pakistan and Sri Lanka, yet also in Japan and other regions. Despite a variety of policy and legal measures to address caste discrimination adopted by the Governments of India and Nepal, discriminatory practices remain widespread in society and Dalit people continue to be marginalised. At the national level, IMADR works with its partner organisations to combat discrimination through empowerment of affected communities.

In India, IMADR supported the Society for Rural Education and Development (SRED) in providing educational and training programmes for Dalit youth and women in Tamil Nadu. This included the Ambedkar study course for Dalit youth for empowerment through learning about discrimination based on caste as well as gender, and by organising public rallies and events. SRED also provided evening classes for Dalit children who dropped out from school. Many children attended the evening classes have returned to public schools. Dalit women received livelihood training by which they gained skills in craftwork, sewing, farming as well as knowledge on human rights. Through those activities, more Dalit youth and women have become self-sufficient and aware of their human rights, allowing them to fight against discrimination.

In Nepal, [Feminist Dalit Organization \(FEDO\)](#) facilitates a human rights-based community development project in Parsa of Teari region with the support from IMADR in order to combat violence against Dalit women. Although the Government of Nepal has adopted the policy to ban child marriage and dowry system, these continue to be practiced at the community level. The project's activities include organisation and mobilisation of women's groups, increasing awareness on law and administrative services, networking and campaigning for Dalit women's human rights. As a result, more Dalit women have learnt about public services available to them and knowledge on health, law and human rights to prevent and counter discrimination and violence. After the Earthquakes in May 2015, IMADR also run a fundraising campaign in Japan to provide financial assistance to the FEDO's relief and rehabilitation measures for vulnerable communities including Dalit, widows, single women, people with disabilities and children. [The Dalit civil society has documented the exclusion of those communities in the relief response.](#) In addition to providing emergency relief goods, FEDO has lobbied the authorities to address the issue of exclusion of Dalit women and other marginalised communities. It clearly demonstrates the urgency to address the issue of "minorities in the humanitarian crisis."

In Japan, Buraku discrimination remains prevalent, though the Law on Special Measures for Dowa Projects (1969–2002) improved the socioeconomic status of Buraku people. During the current session in 2016, the Diet is scheduled to deliberate a bill proposed by the ruling Liberal Democratic Party (LDP) concerning the dissolution of Buraku discrimination. The main focuses of the bill are the improvement of counselling services to victims, promotion of education and awareness-raising at the local level, and the grasping of situation of discrimination through attitude survey. These are to be implemented in cooperation between the central and local governments. IMADR's partner, [Buraku Liberation League \(BLL\)](#), has been very keen to see the bill passed during the current session. However, as the bill does not have any sanction clause, it is not clear how it can be used against those who perpetrate Buraku discrimination taking advantage of the information technology. The pressing issue these days rests with the disclosure of one's personal background and location of Buraku areas on the internet.

Sri Lanka

In Sri Lanka, structural racial discrimination imposed by the Sinhala Buddhist majority State triggered the 27 years-long armed conflict which lasted until May 2009. The [IMADR Asia Committee](#) has been working for truth, justice, accountability and reconciliation for grave human rights violations committed during and after the armed conflict in which ethno religious communities such as Tamils and Muslims have been disproportionately affected. Through campaigning and advocacy, the Asia Committee engages with victims and civil society groups from different ethnic and religious communities to collectively address a wide range of human rights violations such as enforced disappearances, arbitrary detention, land grabbing and internal displacement, torture, violence against women and religious extremism. In order to promote reconciliation among different ethno-religious communities, the Asia Committee has facilitated dialogues between religious leaders and communities across the country. Moreover, the Asia Committee implements a livelihood assistance project for war-affected Tamil women in Nadunkerni of Mulativu district. These initiatives at the country level are reflected in the advocacy efforts at the UN Human Rights Council and treaty bodies. While the ongoing transitional justice process contains a broad range of human rights elements, IMADR has been demanding the Government of Sri Lanka to address the issue of structural racial discrimination which underlay the armed conflict.

Japan – Racist hate speech and the lack of anti-discrimination law

[The law concerning the dissolution of hate speech](#) has been implemented in Japan since June 2016. This is a result of the efforts of civil society and concerned law makers to implement the 2014 CERD recommendations on racist hate speech. Yet similar to the draft bill on Buraku discrimination, it does not have any sanction clause, and focuses only on the promotion of education and awareness-raising and the provision of counselling service to victims or alike. At the local level, a few local governments have used the new law when racist groups applied to use public facilities for the obvious purpose of staging a racist rally or meeting. Civil society has been urging local governments to take actions according to the law, by, for example, enacting an ordinance to declare that hate speech is not permissible and set adequate regulations.

The enactment of an anti-discrimination law has been much waited since the Japan's ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). After the enactment of the law concerning the dissolution of hate speech, affected communities

and human rights groups have strengthened their voices calling for the enactment of a law for the elimination of racial discrimination to effectively implement the ICERD. Human rights groups including IMADR have been involved in lobbying with law-makers and the Government for the enactment of such law. As Tokyo is going to host the 2020 Olympic Games, the Government has been quite serious in demonstrating that Japan firmly stands for human rights, especially of foreigners. However, the Government is only interested in having legislations to separately address different forms of discrimination such as hate speech for non-Japanese, for people with disabilities and for Buraku. The current largest challenge is the consistent hesitancy of the Abe administration for a comprehensive law to combat racial discrimination with sanction clauses. Moreover, the Abe administration has clearly stated that it has no intention to establish a national human rights institution as long as he remains in office. In order to collectively address the issues of racial discrimination, IMADR has coordinated the NGO Network for the Elimination of Racial Discrimination (ERD Net) for awareness raising activities, lobbying the national and local governments, and advocacy at the UN level.

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

Consideration of Japan (2014)

Since its accession to the ICERD in 1995, Japan has had three reviews by CERD in 2000, 2009 and 2014. Through the past reviews, Japan has consistently been recommended to have a law to prohibit racial discrimination, to waive the reservation under Article 4 (a) (b) to prohibit dissemination of the idea of racist superiority or hatred and incitement to racial discrimination, and ban on groups promote racial discrimination, to set up a remedial institutions such as a national human rights institution, and to make declaration under Article 14 for individual communications. None of these recommendations have been seriously considered by the Government for implementation. Besides, CERD has continually recommended measures or actions to rectify different forms of racial discrimination against affected communities. While the Government has not changed much its attitude, civil society actors have developed their capacity to intervene in the review between CERD and the Government. See the success story at: <http://www.ohchr.org/EN/HRBodies/CERD/50/Pages/Japan.aspx>.

Particularly after the CERD review of Japan in 2014 and the concluding observations, NGOs including IMADR made their best efforts to use the recommendations in their advocacy work, especially for the enactment of a law to prohibit racial discrimination as well as racist hate speech. Meanwhile, the problem of hate speech increased its gravity and more attention was given by the media. With the strong campaign by NGOs, the CERD recommendation on hate speech gained much attention and given importance not only by the media, but also by the court, local governments, Diet as well as civil society. In the recent court cases involving racist hate speech, the judge referred to the ICERD in its ruling with, in some civil cases, stating that the act of defendants constituted a violation of the ICERD. As the Government is due to submit the next periodic report to CERD, we have already started our intervention in the process of the next review with more intensified and focused efforts, so that the Government will take actions to change their policies towards indigenous and minority communities who have long been placed under less advantageous position due to structural racial discrimination.

Consideration of Sri Lanka (2016)

At the 90th session, Sri Lanka was reviewed for the first time after the end of the armed conflict in 2009. On that occasion, IMADR submitted alternative information to the Committee and supported a representative of the [Human Development Organization \(HDO\)](#), which works to promote human rights of the plantation Tamils/ Tamils of Indian origin, to engage with the Committee in Geneva. While acknowledging the new initiatives by the Government such as the establishment of the Ministry of Hill Country New Villages, Infrastructure and Community Development and its 5 year National Plan of Action (NPA) 2016-2020 on Social Development of the Plantation Community, the Committee issued detailed recommendations to improve the conditions of plantation Tamils by tackling poverty, caste discrimination, poor accesses to employment, housing, health, education and citizenship. The Committee took a close consideration of our alternative report and oral inputs which was reflected in the dialogue with the State party and its concluding observations.

The review of Sri Lanka also coincided with the preparation for the official country visit by the Special Rapporteur on minority issues which took place in mid-October. The HDO representative established the contact with the Special Rapporteur's team while participating in the Committee's session, which led to the field visit to the plantation sector by the Special Rapporteur. IMADR also shared the Committee's concluding observations with the Special Rapporteur prior to her country visit in order to follow-up on the recommendations. In the end of her mission, the Special Rapporteur made [her recommendations to the Government](#) which covered many of the Committee's concerns. In addition to strengthen its advocacy work described above, IMADR shared the concluding observations with national, regional and international civil society organisations to encourage them to use the Committee's recommendations to support their work on Sri Lanka at the national and/ or international level.

Overall, the engagement with the Committee has empowered civil society representatives, and recommendations are often helpful to promote human rights advocacy against racial discrimination at the national level. However, challenges remain for civil society in countries including India and Nepal which have a long overdue in submitting their reports to the Committee. In many cases, countries which do not fulfilled their reporting obligation have not acknowledged the Committee's competence to receive individual communications. Therefore, it is critical for civil society to link different UN human rights mechanism such as the Human Rights Council, Universal Periodic Review (UPR) and special procedures to the Committee in order to fight racial discrimination.