

IMADR Side Event: Discrimination based on Work and Descent

IMADR organized a side-event during the 16th Human Rights Council on March 16, 2011, focusing on discrimination based on work and descent, in association with the International Dalit Solidarity Network (IDSN). The panel came together to discuss the situation in six affected countries and provide insight into the successes, gaps and challenges in each country, as well as share their ideas on existing frameworks and guidelines, particularly the draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent (A/HRC/11/CRP.3, hereafter P&G). The discussion was moderated by UN Independent Expert on minority issues Gay MacDougall, and the panelists consisted of: Johan Olhagen, UN Office of the High Commissioner for Human Rights (OHCHR); Paul Divakar, National Campaign for Dalit Human Rights (NCDHR, India); Durga Sob, Feminist Dalit Organisation (FEDO, Nepal); Meena Varma, Dalit Solidarity Network UK; Zakir Hossain, Nagorik Uddyog (Bangladesh); Daisuke Shirane (IMADR Geneva Office) on behalf of Megumi Komori, IMADR (Japan); and Nimalka Fernando, IMADR (Sri Lanka). Panelists shed light on the situation in Nepal, India, Bangladesh, Japan, the United Kingdom and Sri Lanka. Of these six countries, only India and Nepal have specific legislation addressing this issue. Following is a summary of the panelists' presentation.

Divakar started his presentation stating that India has over 200 million of scheduled castes or Dalits, in which those having Islam or Christian faith are not included. He further reported that India has very good domestic law that outlaws untouchability and makes it punishable by law, and also provides legal and political remedies, political in the form of affirmative action, for people who experience caste-based discrimination. However, at the same time, he expressed his concern that there is still violence against Dalits, lack of concrete action addressing the issue, and that there is a mass of people who want to keep this system. Pointing out that UN is very silent in this matter, he stated that he wants to see a stronger community with equity and justice for all.

Sob stated that Nepal is party to the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), there are provisions of non-discrimination in the civil code, provisions to end caste-based discrimination in the latest constitution, and the issue of representation is recognized in the interim constitution, and, for the first time, they are trying to endorse a quota for Dalit and other marginalized groups. However, she also stressed that some laws are still incompatible with international human rights laws, the legal aid system is lacking capacity to respond to the Dalit issue, and except one judge from a Dalit community, there is neither lawyers nor university professors who are Dalit. There are also many Dalit workers who are forced to work without wages, and she highlighted the needs for strong political will, commitment in amending laws and implementing agreed provisions as well as recommendations made by UPR.

Varma made her presentation on the battle for legislation in the UK where it is estimated that at least 250,000 Dalits live. Caste-based discrimination is not recognized as a form of discrimination in the country, while age, race, sex and transgender have been introduced as such. A report was launched in 2009 that includes the voices of over 6,000 Dalits in

the UK, 58 % of whom said that they have been discriminated against on the basis of their caste. However, the government still refutes this, while a new minister in the coalition government has said that they would take due action in time.

Hossain presented that in Bangladesh, there is still strong discrimination based on caste. In rural areas, Dalits are more or less engaged in sweeper work, as if there is no other work for them available. On the occasion of the 2008 election, Dalit leaders started lobbying and the elected government stated that they would address Dalit issues. Civil society is gradually becoming active. However, there is no domestic law in Bangladesh that addresses this issue, and when violence happens, no one protests, although violence is occurring every month. At the same time, the media is highlighting the issue, CEDAW has also referred to Dalit issues, and a campaign has begun for their housing rights. In conclusion, he stated that they need legal framework, and the adoption of the UN P&G would help them push issues forward.

Shirane, on behalf of Komori, gave the floor a picture of the gap between the international commitment that Japan has made by ratifying ICERD and the reality reflecting the implementation of the Convention at the national level. Actually, ratification of the Convention was the result of an intensive campaign initiated by civil society organizations. Yet, the government has kept its reservation of Art.4-a) and b), the core part of the Convention, which prescribes the penalization of propaganda or incitement of racial discrimination. Furthermore, the government has not accepted the definition and interpretation of the term “descent” made by the CERD in its General Comments No. 29 in general, and in recommendations to the government in particular. While civil society organizations were successful in pushing the government to ratify the Convention, it is still a big challenge to achieve genuine implementation of the instrument.

Fernando highlighted their struggle in Sri Lanka. She stated that they first had to address it at the national level using legal strategies and solidarity mechanisms. Together with regional society activists, they had to create a unified voice showing that this discrimination has a face and people, and that this is no longer hidden. She said that she belongs to the middle class, speaks English, and is a lawyer, but dreads when she has to face political contest and campaign for her votes, for then they will dig out her caste-based background and she will have different harassment, not only as a western feminist but also because of the caste. There are people going up the social ladder, but if you speak to them, they will tell of anxieties; they have changed surnames, and places they are living just to erase the caste that they belong to. She stressed the universality of human rights and the importance of its promotion requesting for global solidarity.