

Hearing of the Foreign Affairs Committee on Dalits and Caste Discrimination

Wednesday 24 September 2008 at 9.00 – 12.00
Landstingsalen, Parliament of Denmark, Christiansborg Palace

Report by DSN-DK

Part one: Review of the Situation of Dalits

Mr. Karsten Lauritzen, Vice-Chairman of the Foreign Affairs Committee welcomed everyone attending the conference. The purpose of the hearing is to discuss the situation of Dalits (“untouchables”) with a particular focus on human rights violations.

The first part of the hearing, entitled **“Review of the complex of problems related to the situation of the Dalits”**, began with a screening of the film “I’m Dalit, how are you?”.

Mr. Henri Tiphagne, Director of People’s Watch, India then spoke on **“The situation of the Dalits in India viewed in a broad human rights perspective with a focus on legislation, exemption from prosecution and political will”**. Mr. Tiphagne began by recognising that the hearing itself was a sign of the commitment of Denmark to eliminate caste discrimination – a phenomenon that affects 260 million globally, with at least 167 million in India alone and the majority living in South Asia. Mr. Tiphagne showed how caste discrimination is not a thing of the past but still continues to segregate and exclude Dalits from accessing public and private spaces. He noted that India does not lack constitutional safeguards for Dalits, nor special legislation and commissions. What is lacking is implementation and political will to deal with the failing implementation, which seriously questions India’s status as a democracy and a country that upholds the rule of law. Mr. Tiphagne gave particular attention to the level of violence associated with caste discrimination. Every 18 minutes a crime is committed against Dalits. The criminal justice system does not live up to its responsibility to properly investigate and prosecute these crimes and the result is widespread impunity for crimes related to caste. Several international human rights bodies under the United Nations have scrutinized India’s human rights performance and in many instances concluded that India does not live up to its human rights obligations.

Ms. Durga Sob, President of the Feminist Dalit Organisation from Nepal, spoke of **“The situation of the Dalits in Nepal – prospects in a new political reality”**. Dalits in Nepal, who constitutes around 20 percent of the population, have been marginalised and discriminated against for generations. Ms. Sob gave a number of indicators of the marginalisation that has come as a result of the discrimination such as infant mortality rates, levels of education and life expectancy. Ms. Sob said that the changing circumstances in her country is a source of hope – Dalits have played an active part in the peoples’ movement for an inclusive democracy and now Dalits strive to participate actively in the constitution making and the decision making processes. Ms. Sob presented the demands of the Dalit movement and encouraged the Danish government in all its

contacts with the Nepalese government to push for an inclusive democracy with the meaningful participation of Dalits. She also encouraged development agencies and international non-governmental organisations to ensure that their programs effectively benefit Dalits and that Dalits are included in the staff at all levels.

The first debate section started off with a question from the Pakistani embassy whether caste discrimination in fact does take place in Pakistan, Bangladesh and other non-Hindu South Asian countries or whether it is an India specific problem. A representative from Pakistan Institute for Labour Research (PILER) replied that caste discrimination is a South Asian curse and that PILER has just published a study on the phenomenon in Pakistan. There are Dalits in Pakistan and they suffer from the same kind of indignity as in India and Nepal. He urged everyone to open their eyes with regards to caste discrimination.

Ms. Kirsten Brosbøl, a member of the Danish parliament, asked Mr. Tiphagne about the role of religion in caste discrimination. Many Dalits have converted to Christianity, but caste discrimination also takes place within the church. Are conversions helpful?

Mr. Tiphagne replied that it is a fact that Dalits are moving towards Christianity and that caste discrimination takes place within all religious communities, including the church. There are separate wings for Dalits in some churches, bishops use caste factors in church elections and clashes happen when Dalit Christians challenge their segregation in cemeteries, churches and church grounds. Conversions take place because Christian Dalits have better access to education, but they lose their reservation benefits – a question that the Supreme Court is dealing with at the moment.

Ms. Brosbøl also asked Ms. Sob whether Dalits in the rural areas of Nepal, who really experience caste discrimination, feel that they are involved in the political process. Are there any Dalits in the new government? Ms. Sob replied that while there are 49 Dalit members of the constitutional assembly, not one Dalit has been appointed a member of the new government. Dalits from the grassroots level have little experience with governance and little power in decision making processes. They don't hold any leadership positions within their parties, and are often just used as vote banks. In order to obtain policies that will benefit Dalits, Ms. Sob said a quota system to get Dalits involved at all levels of government is important – without Dalits represented it is impossible to speak of meaningful participation.

Member of the Danish parliament, Ms. Hanne Agersnap, asked what can be done with a problem that is clearly not only religion based but a question of social hierarchy. Quotas can't possibly cover all Dalit groups?

Mr. Kamal Qureshi, also a member of parliament, asked which handles can be used to tackle caste discrimination that is clearly a problem all over South Asia. In the Sindh province, many Dalits simply live as slaves.

Mr. Qureshi also asked whether the laws of India were only laws on paper? He had heard a representative from the Indian embassy state that the reservations policies of India clearly showed that governmental discrimination is not the problem. From Denmark and the EU's side "we might try to intervene, but it is difficult as India regards caste discrimination as an internal issue".

Mr. Tiphagne addressed both Ms. Agersnap and Mr. Qureshi when replying that the solution lies in finding political will to tackle the problem. He said that “our struggle has to be in India – while your struggle has to be within your realm – that is the expression of the universality of human rights”. The laws are in place, but the reservation system is restricted to the public sector, while it is within the private sector that real growth and prosperity is happening. Caste penetrates the judiciary and the prosecutors and it cripples the criminal justice system. Cases are pending, there is a lack of conviction, and the fact that there is one Dalit Chief Justice does not make wonders. Each year, thousands of rupees are returned to the government – money that should have been spent on Dalits. “We have to ask ourselves why? There is a design and power of the caste system and we have to approach with education”, Mr. Tiphagne said.

The Ambassador of Nepal announced that he was happy to be present at the hearing and proud to see Ms. Durga Sob as a representative of the Dalits of Nepal. He said that the feudal “Haliya” system had been abolished very recently and that land reform was being discussed. He also mentioned that millions of citizenship certificates to Dalits and others who had been lacking citizenship has been distributed in the past year. He also conveyed a direct message from the new Prime Minister of Nepal who promised that there will soon be a Dalit representative in the government.

Ms. Sob reiterated that affirmative action is needed. “The ambassador rightly said that there have already been many changes, but the problem is Dalits don’t feel the change yet”.

Part two: The role of the international community

In the second part of the hearing regarding “**The role of the international community**” Prof. Ashwini Deshpande, Delhi School of Economics, University of Delhi spoke on “**Corporate sector responsibility - The fight against Caste Discrimination in the labour market**”. Prof. Deshpande shows that caste discrimination is clearly not a phenomenon limited to the rural areas where 76 percent of India’s population still lives. Caste discrimination is something that the current economic system fosters and sustains and it has to be fought for cost-benefit as well as moral reasons. Discrimination on the basis of caste happens in the labour market which many foreign companies come in to contact with. Prof. Deshpande’s research shows that considerable “pre-market discrimination” takes place. Dalits come to the urban labour market with considerable less education and skills, although the gap between Non-scheduled castes and scheduled castes (Dalits) has decreased over the years. Her study also shows that Dalits who have the same level of education and skills as non-Dalits does not get the same well paid jobs as non-Dalits. And even when Dalits carry out the same type of work as Non-Dalits they are paid less. Prof. Deshpande’s research reveals several practices of discrimination that leads to this disparity. Due to the discrimination and marginalisation Dalits are less likely to get the same kind of education and skills development as non-Dalits. When they apply for jobs, family businesses and other types of companies hire informally through their upper caste networks. Her studies also show that the pre-selection procedures in local as well as multinational companies that often have local human resource staff, almost consistently avoid CVs coming from easily identifiable Dalits (because of surnames). If called to an interview, Dalits are identified through subtle questions about “family background”. Hence, Dalits have a very low rate of return on education and a labour market hiring on the basis of merit and not caste is a myth. The Ambedkar Principles and the Dalit Discrimination Check are tools that can help multinational corporations avoid contributing to caste discrimination. Prof. Deshpande’s research taps in to ideological debates on whether globalisation that

opens up economies to external markets will reduce inter caste disparities and other forms of discrimination. The results suggest that caste and other types of discrimination can and do exist alongside a modern and globalized Indian economy.

Prof. Chinsung Chung, Vice-Chairperson in the Human Rights Council Advisory Committee, made a presentation on ***“Current status and perspectives for the United Nation’s involvement in the issue of Caste Discrimination”***. Prof. Chung explained that the UN first began to deal intensively with caste-based discrimination, when the Committee on the Elimination of Racial Discrimination (CERD) reviewed India’s report in 1996. CERD also adopted General Recommendation XXIX on descent-based discrimination in 2002. It was, however, the former Sub-Commission on the Promotion and Protection of Human Rights which would more systematically and comprehensively discuss caste-based discrimination from 2000 and onwards. With the broader general term “discrimination based on work and descent”, the Sub-Commission began to examine the nature of caste-based discrimination in many countries besides India, such as Sri Lanka, Nepal, Pakistan, and diaspora communities in European countries, and similar forms of discrimination such as those of the Buraku people in Japan, the Al-Akhdam in Yemen, the Osu people in Nigeria, etc. Similar to these groups is that they are all affected by the same form of discrimination, which among other things are characterized by the “untouchability practice” and the categorization of them as “lower castes”. One of the specific tasks of the Special Rapporteurs was to “finalize draft principles and guidelines for the effective elimination of this discrimination and to submit their final report in 2007 to the Sub-Commission or its successor body, or in the absence of either, to the Human Rights Council” according to Sub-Commission resolution 2006/14. The final report with draft principles and guidelines was submitted to the OHCHR at the beginning of June 2007, which was the deadline for the submission of reports or working papers to the Sub-Commission (according to HRC decision 1/102). The draft Principles and Guidelines are unique in the sense that they create a comprehensive framework, which guide state as well as non-state actors in how they should address this specific form of discrimination under the UN human rights structures. The Principles contain the rights to be secured in order to eliminate and prevent discrimination based on work and descent, based on international human rights standards. The Guidelines establish the general and specific measures to be taken by national and local governments, national human rights institutions, and private institutes to prevent and address this form of discrimination. However, due to lack of transitional arrangements in the UN reform process, which has been ongoing since 2005, the final report has not yet been published as an official UN document and the study has not been addressed by the Human Rights Council or the Sub-Commission’s successor body. Although this was subject to debate at the first session of the successor body, the Human Rights Council Advisory Committee, action has to be taken by the Human Rights Council to ensure that the study is published and followed up on. Prof. Chung therefore appealed to the Danish Parliamentarians, as well as Government representatives, to recognize the importance of this study and to actively support the consideration of the study, along with a draft set of principles and guidelines for effective elimination of discrimination based on work and descent. More specifically, she urged members of the Human Rights Council to follow-up on the recommendations from the Advisory Committee by taking the initiative at the 10th HRC session to propose that the studies, which have been completed and submitted to the OHCHR, be issued as United Nations documents and be presented to the Council at its 11th session.

In the hearing's second debate section Ms. Mandana Zarrehparvar from the Danish Institute for Human Rights noted that caste discrimination is not only a regional South Asian issue, but in fact an entrenched global issue that also involved diaspora communities.

Mr. Karsten Lauritzen, Vice-Chairman of the Foreign Affairs Committee, asked whether the economic growth has created a larger economic space for Dalits.

Prof. Deshpande responded to Mr. Lauritzen's question by referring to the old debate about what the effect of liberalisation is. What happens when India integrates with the world economy? Some research suggests that so far in the past 20 years there is no clear reduction in poverty. Prof. Deshpande's own research shows that those Indian states that have had the highest growth rates have not managed to reduce disparity between castes. So when multinational companies are present in the Indian labour market, that presence is very likely to compromise with patterns of discrimination rather than change them. Among other reasons because foreign companies have local Indian human resource staff. On the diaspora question, Prof. Deshpande said that some diaspora communities does manage to overcome caste discrimination and disparities, but the picture is mixed. Prof. Chung added that the UN study in fact does encompass diaspora communities and that caste discrimination does take place in such communities.

Ms. Rikke Nöhrind, Coordinator if the International Dalit Solidarity Network, confirmed that caste discrimination is both a regional South Asian as well as global phenomenon with affected communities in the United Kingdom, Yemen and Africa. A recent regional research project supported by Danida examines caste discrimination in countries not yet looked in to such as Pakistan, Sri Lanka and Bangladesh. Denmark has been engaged in the issue for a number of years and it is the wish of the Dalit Solidarity Network in Denmark (DSN-DK) that this engagement is enhanced in the future and that focus and funds are committed, so that caste discrimination falls in line with other Danish priority areas. DSN-DK also suggests that the government helps promote the Dalit Discrimination Check and makes it part of its corporate social responsibility (CSR) policies for companies. Ms. Nöhrind appealed to the members of parliament to further study DSN-DK's position paper.

Ms. Hanne Agersnap, member of the Danish parliament, asked Prof. Chung what the obstacles are for the Human Rights Council to approve the UN study on discrimination based on work and descent.

Prof. Chung replied that the UN reform process as well as strong opposition from some member states has been the problem. On the reform process she said that the debate had been whether a new start was needed for the advisory committee or whether continuity should be sought. These factors have created a bad coincidence for the UN study.

Mr. Karsten Lauritzen, Vice-Chairman of the Foreign Affairs Committee, ended the hearing by concluding that caste-based discrimination is truly a human rights problem of enormous size and it deserves much more attention. Mr. Lauritzen also made it clear that the Foreign Affairs committee does not accept excuses of some issues being "internal issues". He thanked everyone for coming.

DSN-DK, Copenhagen, 1 October 2008