

**Sub-Commission on the Promotion and Protection
of Human Rights**

Fifty-seventh session, 25 July – 12 August 2005
Item 5 of the Agenda

Discrimination on the basis of work and descent

Joint statement by the Lutheran World Federation, Anti-Slavery International, Minority Rights Group, Pax Romana, Robert F. Kennedy Memorial Center for Human Rights, Human Rights Watch, FORUM-ASIA, FIDH, International Movement against all forms of Discrimination and Racism in conjunction with Franciscans International.

Mr. Chairman,

The co-sponsors of this statement warmly welcome the decision by the 61st session of the Commission on Human Rights to authorize the study proposed by the Sub-Commission on the question of discrimination based on work and descent. We also welcome the preliminary report submitted by Mr Yokota and Ms Chung [E/CN.4/Sub.2/2005/30], which gives a very encouraging insight into the program of work they envisage. We are certain that this process has a great potential for promoting and assisting the elimination of a form of discrimination that continues to affect millions of people in many different parts of the world, but which until recent years had received scant attention in UN human rights forums.

Mr. Chairman,

We think that the proposed questionnaires to States Members of the United Nations, relevant UN bodies, specialized agencies, national human rights institutions, and non-governmental organizations will be important instruments for gathering information, experience and best practices from a range of relevant actors. One threshold issue to which further thought should be given, however, is how the addressees are to recognize 'discrimination based on work and descent'. This concept is still relatively new, and will not be familiar to most recipients of the questionnaires. Indeed, one of the most fundamental problems in this area has been the failure to recognize this type of discrimination as a distinct and persisting problem in many different parts of the world, and which requires very specific interventions.

It would be helpful - even necessary - for the experts to provide preambular guidance in the questionnaires on how to recognize discrimination based on work and descent. The very helpful analysis of the main features of this type of discrimination set out in the second working paper on this topic submitted by Mr. Eide and Mr. Yokota [E/CN.4/Sub.2/2003/24] would be an important resource for formulating any such guidance. Some of the key features of discrimination based on work and descent that should be highlighted in this context are notions of purity and pollution (leading in the

most extreme cases to ‘untouchability’ practices), inherited traditional occupational roles, physical and social segregation, and proscriptions against inter-marriage. However, it must also be borne in mind that even with such interpretive assistance, some - perhaps many - governments will still find it difficult to acknowledge the existence of this form of discrimination in their countries.

Mr. Chairman,

A second matter to which further thought should be given in the framing of these questionnaires is the issue of implementation. This matter is not explicitly addressed in the present questionnaire forms. But even in a State such as India in which exemplary legislative and administrative regimes have been established to address discrimination of this kind, implementation has generally been stymied by the very attitudes and practices on which such discrimination is founded. The questionnaires should therefore specifically explore the issue of implementation of relevant constitutional, legislative and administrative measures. It is also important to look into the institutional aspect, in particular the extent to which communities concerned are consulted in the planning of those measures in the first place, and involved in their implementation. Having those measures in place on paper is not the same as having dealt with the problem in practice. The questionnaires could usefully solicit information (especially from Governments) on numbers of cases prosecuted (and the penalties imposed), the average length of prosecution processes, details of compensation provided to victims, results of affirmative action measures (including relevant education and employment statistics), etc. Questions should also be asked in the questionnaires on what barriers members of affected communities face, inter alia, in access to justice, social and political integration, educational and employment opportunities, negative media coverage, and with regard to obtaining citizenship. Likewise, existence of regular monitoring and survey should be examined as it is essential for effective implementation.

With some minor – but significant – changes (and assuming an adequate and genuine response from recipients), these questionnaires will provide an excellent foundation for the drafting of principles and guidelines for the elimination of discrimination based on work and descent. The proposed consultative meeting and regional workshops will offer an important complement to the information-gathering function of the questionnaires. The regional workshops in particular will enable representatives of affected communities to engage directly with the experts in order to describe their practical experiences and offer their insights into how the discrimination they suffer can be eliminated. It will be important to ensure that, in addition to the other sectors specifically referred to in the preliminary report, the private sector is also engaged in these consultations.

Mr. Chairman,

In taking up this study, the Sub-Commission has once again pioneered an important new topic in the field of human rights. We as non-governmental organizations will do all in our power to support this process and to try to ensure that its outcome is of maximum practical utility to the victims of discrimination based on work and descent.