



International Dalit Solidarity Network

WORKING GLOBALLY AGAINST DISCRIMINATION BASED ON WORK AND DESCENT

Joint NGO Submission

by Bangladesh Dalit and Excluded Rights Movement, Nagorik Uddyog and the International Dalit Solidarity Network

Related to Bangladesh for the 4th UPR session, February 2009

The human rights situation of Dalits in Bangladesh

their socio-economic problems, legal and constitutional protections, and the issues of discrimination on the basis of caste and lower status

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Dalits, equality, discrimination, caste, work, descent, minorities, rule of law, segregation, exclusion, housing, education

Executive summary:

1. In this joint NGO submission, the Bangladesh Dalit and Excluded Rights Movement¹, Nagorik Uddyog² and the International Dalit Solidarity Network (IDSN)³ provide alternative information about the human rights situation of the Dalit community, one of the most politically, economically socially excluded groups in Bangladesh. The submission follows the structure stipulated in the general UPR guidelines adopted by the Human Rights Council.
2. The submission is based on first-hand information from a national research project on caste-based discrimination in Bangladesh, which was conducted as part of a broader regional study on caste-based discrimination in South Asia⁴. Published in early 2008, the national study represents the first systematic investigation and documentation of caste-based discrimination in Bangladesh; specifically the socio-economic problems faced by the Dalit people and their legal and constitutional protection.
3. The main recommendation in this submission is that the Government of Bangladesh (GoB) should enforce constitutional measures and enact specific legislation to address caste-based discrimination, estimated to affect between 3.5 to 5.5 million people in Bangladesh. Caste systems and prejudice against so-called “untouchables” are traditionally regarded as part of Hindu culture and certainly originate in Hindu scriptures; but in Bangladesh these traditions and practices have also been adopted by sections of the Muslim majority. In Bangladesh, members of the “low castes” increasingly refer to themselves as Dalits – the “downtrodden” people – to emphasise the fact that they have been exploited, oppressed and excluded through generations. Dalits are perceived as a broader category of people which include regional and local variations distinguishable by profession, e.g. robidas (cobblers) rishis (leather workers), shobdokars (drum beaters), etc.
4. The form of discrimination experienced by the Dalit community in Bangladesh and its active perpetuation and tolerance by the State is in violation of the State’s fundamental human rights obligations. This has been recognised in a comprehensive UN study on “discrimination based on work and descent”, which the former Commission on Human Rights mandated in April 2005 in resolution 2005/ 109. As part of this study, the former Sub-Commission on the Promotion and Protection of Human Rights mandated two Special Rapporteurs in resolution 2006/14 with the task of preparing draft Principles and Guidelines on the Effective Elimination of Discrimination based on Work and Descent (hereafter the “draft P&G”). Although not yet adopted by the Human Rights Council due to lack of adequate transitional arrangements of the pending Sub-Commission studies, the stakeholders of this submission recommend that the draft P&G serve as a general framework for the GoB to comprehensively address caste-based discrimination in Bangladesh.

1) National consultations in Bangladesh with civil society

5. The Ministry of Foreign Affairs invited civil society to a briefing on UPR report preparation held on 24 June 2008. However, no national consultation meeting regarding the Dalit situation has been undertaken by the GoB in recognition of this serious human rights situation in the country.
6. In October 2006, a Dhaka-based organization called “Bangladesh Dalit Human Rights” (BDHR), held a consultation on this issue in association with the IDSN. The meeting included Bangladeshi Dalit leaders, NGO activists, researchers, journalists and other stakeholders, with a focus on raising awareness about caste-based discrimination. Another consultation was held in April 2008 organized by Nagorik Uddyog and BDHR with the primary purpose of raising awareness about human rights issues considered most pressing to the Dalit community, e.g. housing rights, employment and access to education.
7. The first PRSP development process, resulting in what is known as the I-PRSP, mentioned the following excluded communities: “Bawalies” (woodcutters or those living off forests); Mawalies (honey collectors); Dalits (sweepers, sewerage cleaners and scavengers); Mymal (fishermen in water bodies); and Muchis (cobblers and shoe-makers). These names were mentioned during the I-PRSP process by civil society groups working with such communities. However, the final PRSP, entitled “Unlocking the Potential”, makes no explicit reference to Dalits of any kind. The current PRSP development process is more systematic and does involve a measure of genuine civil society input. Such inputs can extend the list of groups of excluded peoples in Bangladesh.

2) The normative and institutional framework for the promotion and protection of human rights in Bangladesh

8. The 1972 Constitution of Bangladesh had secularism as one of the pillars of the State, but Islam was declared the State religion in an 8th amendment to the Constitution in 1988. The Constitution nevertheless stipulates that all other communities shall practice their religion freely and likewise guarantees that all Bangladeshi citizens have the right to freedom of religion. The Constitution further prohibits discrimination by the State on the grounds of religion, race, caste, sex or place of birth in article 28 (1). Other articles concerning non-discrimination are articles 10 (participation of women); 27 (equality before law); 28(4) (mandating affirmative action or ‘special measures’ by the state for the ‘advancement of any backward section of citizens’); and 29 (equality of opportunity of all citizens in respect of employment or office in the service of the Republic).
9. Political, economic and social exclusion of the Dalit community is nevertheless practised over the entire country. Overtly visible segregation and denial of access to public spaces utilized or occupied by non-Dalits illustrate the depth to which casteism is engrained within the socio-economic and political fabric of Bangladeshi society. Social exclusion is manifested in the physical structure of both rural and urban areas throughout the country. In terms of political participation, the minority representatives in the Parliament in 1973 were 3.8%, 2.4% in 1979, 1.2% in 1988 and 3.3% in 1991. In terms of population, the minority representatives ought to have been 18% or 60 members out of 330, but it was only around 10% in the last two decades. Dalits are often hindered from taking part in both national and local-level government policy decision making processes.
10. Most Dalits in Bangladesh today are the descendants of those brought to the region from India as menial servants to the British Colonial regime. Since they are considered ‘unclean’ in society, they live separately from other so called ‘clean’ groups in their own neighbourhoods; a circumstance exacerbated by the GoB’s rule of housing in a particular locality. Dalits are not allowed to rent or build houses outside these designated localities. They are regularly denied entry to the temples and religious activities of non-Dalits, to tea shops and restaurants, to houses of non-Dalits,

playgrounds, movie theatres, burial grounds, social gatherings, music concerts, and cultural events. Dalit sometimes also face severe forms of human rights violations, including abduction, rape, torture, destruction of houses, land grabbing, eviction from land, threats and intimidation.

Recommendation no. 1

- Discrimination against the Dalit community in Bangladesh should be recognized by the GoB as a serious impediment to the enjoyment and fulfillment of human rights in Bangladesh;
- Constitutional measures and specific legislation protecting Dalits from attacks, harassment and unlawful behaviour should be enforced effectively and offenders should be prosecuted;
- The GoB should include disaggregated data on caste and the GoB should mainstream a Dalit perspective into all of its development and humanitarian programmes.

3) Implementation of Bangladesh’s national and international human rights obligations and commitments

11. As a signatory to the core international human rights treaties, the GoB has the obligation to promote and protect human rights for all, including those discriminated on the grounds of caste, work and descent. In effect, legislation protecting Dalits in Bangladesh from attacks and harassment must be enforced effectively and such cases should be investigated promptly and adequately with the perpetrators being swiftly brought to justice and held accountable for their crimes. In particular, the Government should observe its general obligations under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and seek guidance on how to eliminate this form of discrimination from CERD General Recommendation XXIX on descent-based discrimination from 2002. To effectively implement the Government’s international human rights obligations, the newly established National Human Rights Commission should address the Dalit issue – e.g., by appointing a

Rapporteur on Dalit rights as an early measure, or by requesting a national study on discrimination on grounds of caste, work and descent.

12. The recently repealed Vested Property Act, which gave the Government the right to administer land formerly deemed “enemy property”, has had a severely discriminatory effect on Dalits from a Hindu background. The arbitrary application of this Act and earlier similar laws reportedly forced an estimated 5.3 million people to emigrate from 1964-1991 with much of their land now being in the hands of powerful politicians. Though the law was repealed by parliament in 2001, there were flaws in the amending Act itself and in its implementation, with property thus continuing to be unjustly expropriated. The remaining Hindu Dalits in Bangladesh have very few capital assets, a fate that they share with Muslim Dalits. Dalits should be leased government land on a long-term basis and supported by loans to build housing, and strong social mobilisation should be generated to uphold the status of Dalit professionals who are not only essential for the economy, but indisputable assets to society. To ensure better access to employment, there should be quotas established for Dalit representation in the private and public spheres as enacted in other caste-affected countries.

Recommendation no. 2

- The GoB should observe its human rights obligations and seek guidance from CERD General Recommendation no. XXIX on descent-based discrimination to effectively implement provisions to promote and protect Dalits’ human rights in Bangladesh;
- The newly proposed National Human Rights Commission should incorporate the Dalit issue as an aspect of its work as a national human rights monitoring mechanism;
- The implementation of provisions to promote and protect the human rights of marginalized communities should aim at giving such groups equal rights to own land and to secure proper employment opportunities for Dalits in all sectors.

4) International and national cooperation with human rights mechanisms

13. Bangladesh's Dalit communities have connected with other human rights movements internationally, including the IDSN, and the Asian Dalit Rights Movement. The primary objective of these alliances is to bring caste-based discrimination into the consciousness of the world's governing bodies and agencies and reestablish the Dalit people's lost humanity. Human rights and development agencies working in Bangladesh are becoming increasingly more interested in Dalit issues and in turn a Dalit perspective is now increasingly recognized in the development agenda of international donor agencies.
14. As a candidate to the Human Rights Council, the GoB made a pledge to "further integrate the promotion and protection of human rights into her national development policy with special attention to the rights of women, children, minorities and persons with disabilities". The Government is urged to continue to follow up on this pledge as a Council member until 2009 and beyond, and to continue to work constructively with the UN. One way is to support the adoption of the UN draft P&G in the Human Rights Council, and to use the framework developed by two Special Rapporteurs from the former Sub-Commission to address this form of discrimination (see point 6).
15. The GoB has received a number of requests for country visits by Special Rapporteurs (SR), which have either been postponed or have not yet been accepted by the GoB, e.g. visits requested by the SR on the Right to Freedom of Religion; SR on Adequate Housing; Independent Expert on Minority Issues; SR on Summary Executions; and the SR on Independence of Judges and Lawyers.⁵ Such visits offer opportunities for the Government to engage in a constructive dialogue with human rights experts about the ways to overcome challenges and constraints experienced in the country. In particular, the Independent Expert on Minorities Issues would be able to initiate a dialogue about the prevention of discrimination against marginalized communities and minorities, including Dalits, in Bangladesh. The GoB is therefore encouraged by the stakeholders of this submission to accept such invitations.

Recommendation no. 3

- A strategy should be developed by the GoB and NGOs in collaboration with Dalit organisations and other stakeholders to establish a human rights monitoring mechanism that gives Dalit communities access to the same rights and services enjoyed by other citizens;
- The Government of Bangladesh should cooperate constructively with international human rights mechanisms, including Special Rapporteurs and UN Treaty Bodies.

5) Challenges and constraints in eliminating discrimination against Dalit communities in Bangladesh

16. With respect to achievements and best practices, in Bangladesh there has to date been no effective initiative by the Government to eliminate discrimination against Dalits and protect their constitutionally guaranteed human rights.
17. There are a number of challenges and constraints which affect Dalit communities' rights and equal opportunities to enjoy fundamental human rights. Most notably, this concerns the lack of access to education; poverty issues; health, education and housing problems; unequal access to work; discrimination against women; bonded labour and child labour.
18. In terms of status of education, most Dalits have no formal education. According to the study, 64% of Hindu Dalits and 61% of Muslim Dalits have no education at all. More than 80% of Dalits experience discrimination in admission to school: some Dalit parents are actively discouraged by teachers from enrolling their children. They are often unmotivated to seek higher education given the biases that prevent them from accessing employment, even at the lowest levels, in the public and private sector even after graduating from high schools or colleges. Their low literacy rate has been a major hindrance for the Dalits to develop their communities and has also inhibited them in looking for alternatives or changes to their traditional occupations. Scholarships should be properly allocated for Dalit children in order to

encourage higher education. Initiatives to build more awareness about the Dalit situation should be undertaken by the GoB, NGOs and the media.

19. In terms of equal access to employment, a large number of Dalits are employed in the public/private sector as sweepers and cleaners with very low pay. Dalits are discriminated within their community if they look for jobs other than those regarded as customary for them, pursue an inter-caste marriage, or take any actions perceived as contravening the prevailing norms and values in the community. They generally do not get equal treatment under or protection from the law if they suffer any wrong, as most cases are settled or negotiated through informal authorities often arbitrarily or on a discriminatory basis.
20. Bonded labour and child labour also represent a human rights problem in Bangladesh. According to the study, 26% of Hindu Dalits and 35% of Muslim Dalits are, to a larger or smaller degree, bound by loans from employers. The Constitution prohibits forced or compulsory labour; however, the government does not enforce this prohibition effectively. There is no law that uniformly prohibits child labour and as a result, the phenomenon is widespread in practice. A labour force survey conducted by the GoB in 1996 revealed the existence of 6.3 million child labourers between the ages of 5 - 14 years. Prostitution, trafficking of bonded labour to the Middle East and Pakistan, as well as homelessness of children are also increasing problems. According to a national survey in 2001, there are 445,226 street children in six cities in Bangladesh. These street children are basically homeless orphans or abandoned, and in most cases they are financially and socially exploited as forced or bonded labour.
21. Discrimination against women, particularly Dalit women, is not an exception to the condition of women in general in a society bound by traditional norms and customs and where there is a high degree of illiteracy. However, Dalit women suffer from double discrimination and they are yet to be empowered to take an active part in the socio-cultural, economic and political arena in the community and the country. The status of women, their rights and duties as regards to their control over property, over their own bodies, the degree of seclusion and veiling, their participation in politics and community development, social contacts, employment, etc., are all encoded in both Islamic and

Hindu norms and practice. Such practices should be prevented or eradicated and measures taken to empower women through national initiatives – e.g., income generation schemes.

Recommendation no. 4

- Quota systems for Dalits should be implemented in all public and private educational institutes, and proper employment opportunities should be reserved for Dalits in all sectors;
- The GoB should empower Dalits, and Dalit women and children in particular, in order to secure the establishment and protection of their human rights – e.g., through income generation schemes;
- The Government should implement existing constitutional provisions against bonded labour and enact specific provisions to combat child labour

6) Key national priorities to improve the human rights situation of Dalits in Bangladesh

22. The key national priorities to improve the situation of Dalits in Bangladesh should be set by drawing from the international framework established in the draft UN principles and guidelines on discrimination based on work and descent (“draft P&G”) as referred to above. The draft P&G serve as a guiding framework prescribing general and specific measures for the effective elimination of such form of discrimination by caste-affected governments and other relevant actors such as UN agencies, national human rights institutions, the private sector and civil society.
23. The draft P&G underline that discrimination based on work and descent is a form of discrimination prohibited by international human rights law.⁶ In UN terminology, discrimination based on work and descent is defined as “any distinction, exclusion, restriction, or preference based on inherited status such as caste [...] that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life. This type of discrimination is typically associated with the notion of purity and pollution and practices of

“untouchability”, and is deeply rooted in societies and cultures where this discrimination is practiced”.

24. As an overarching principle the draft P&G establish that all states, including Bangladesh, have a duty to make sincere efforts to dispel the prejudicial beliefs that constitute, support and reinforce discrimination based on work and descent, including notions of “untouchability”, pollution and caste superiority or inferiority, as well as to prevent actions taken on the basis of such beliefs. The principles and guidelines suggest the specific measures to be implemented for the effective elimination of this form of discrimination, including all necessary constitutional, legislative, administrative, budgetary and judicial measures and appropriate forms of affirmative action and public education programmes to prevent, prohibit and provide redress for discrimination based on work and descent in both public and private spheres; and ensure that such measures are respected and implemented by all state authorities at all levels.⁷

- c) Technical and institutional support to establishing transparent and accountable monitoring mechanisms on the implementation of anti-discrimination and affirmative action legislation;
- d) Technical support for development of guidelines for planning and implementation of development planning and budgeting with a view to enabling those affected by caste-based discrimination to implement their social, political and cultural rights reflected in planning and reporting for Millennium Development Goals;
- e) Support to respond to the need for further research on caste-based discrimination and its impact on poverty and social conflict, caste and human rights violations and the impact of economic liberalization on patterns of caste inequalities.

Recommendation no. 5

- The draft P&G should serve as a guiding framework for the implementation of effective measures to be taken by the Government of Bangladesh in the fulfillment of its international human rights obligations for the protection of Dalits’ human rights in Bangladesh.

7) Capacity-building and technical assistance through bilateral, regional and international cooperation in Bangladesh

25. The following initiatives are recommended to effectively eliminate discrimination against Dalit communities in Bangladesh:
- a) Technical support to implement constitutional protection measures and enact specific legislative measures to promote and protect the human rights of Dalits according to international standards;
 - b) Technical support and assistance, involving UN experts and international institutions of expertise, to identify suitable policies and programmes to tackle discrimination based on work and descent in Bangladesh;

Notes

- ¹ The Bangladesh Dalit and Excluded Rights Movement is a national advocacy platform consisting of both Dalit and other excluded communities across Bangladesh.
- ² Nagorik Uddyog (“The Citizen’s Initiative”) is a human rights organization, which is working among Dalits and socially excluded people to support their struggle for livelihood, promoting their livelihood and projecting cultural diversity in Bangladesh. See www.nuhr.org
- ³ IDSN is an international lobby and advocacy network working for the elimination of caste-based discrimination globally. IDSN members are a) National Advocacy Platforms in South Asia (India, Nepal, Bangladesh, Sri Lanka and Pakistan); b) Dalit Solidarity Networks in Europe (UK, France, Germany, Netherlands, Sweden, and Denmark) and the US and c) International Associates (IMADR, FORUM-ASIA, LWF, Anti-Slavery International, MRG, HRW, etc). See: www.idsn.org
- ⁴ The regional study on caste-based discrimination in South Asia was undertaken by the Indian Institute of Dalit Studies (IIDS) in association with IDSN. The responsible country researcher in Bangladesh was Prof. Iftekhar Uddin Chowdhury. The studies can be downloaded from IDSN’s website: www.idsn.org and the report can be found on this link: http://www.idsn.org/Documents/asia/pdf/RR_Bangladesh.pdf
- ⁵ According to an overview prepared by the OHCHR: <http://www2.ohchr.org/english/bodies/chr/special/countryvisitsa-e.htm>
- ⁶ As proclaimed by the Universal Declaration of Human Rights and, inter alia, by the ICCPR, ICESCR, ICERD, ICEDAW, CRC and the International Labour Organization Convention No. 111 and CERD General Recommendation no. XXIX.
- ⁷ Final report including draft P&G prepared by Special Rapporteurs Prof. Yokota and Prof. Chung pursuant to Sub-Commission resolution 2006/14.