

**Speech of Hon'ble Chairperson Justice Shri K. G. Balakrishnan on release of the
"Anti-Discrimination Project Report of Reachout Foundation" on 6 December
2014 at the IIC, New Delhi**

In spite of unprecedented progress at the international level in enhancing the legal protection of individuals and groups of individuals against discrimination, reports from all parts of the world confirm the fact that discriminatory acts and practices are anything but a memory from the past. Discrimination is multifaceted and present not only in State or public structures but also in civil society in general. To a greater or lesser extent, discrimination may thus affect the way people are treated in all spheres of society such as politics, education, employment, social and medical services, housing, the penitentiary system, law enforcement and the administration of justice in general.

2. Discrimination may have many different causes and may affect people of different racial, ethnic, national or social origin such as communities of Asian or African origin, and people belonging to different castes. It can also be aimed at people of different cultural, linguistic or religious origin, persons with disabilities or the elderly and, for instance, persons living with the HIV virus or with AIDS. Further, persons may be discriminated against because of their sexual orientation or preferences.

3. Discrimination based on gender is also commonplace in spite of the progress made in many countries. Laws still exist which, inter alia, deny women the right to represent matrimonial property, the right to inherit on an equal footing with men, and the right to work and travel without the permission of their husbands. Women are also particularly prone to violent and abusive practices, which continue unabated in many countries, and they thus often suffer double discrimination, both because of their race or origin and because they are women.

4. A major problem in today's world is also the discrimination to which numerous people, especially women and children, are subjected because they live in poverty or extreme poverty. These circumstances may force them to migrate

and have contributed to an increase in trafficking in persons, particularly women and children, who are also frequently subjected to physical restraint, violence and intimidation.

5. The right to equality and freedom from discrimination is protected by various provisions of the International Covenant on Civil and Political Rights. First, in Article 2(1) each State party:

“undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

6. Article 26 of the Covenant is the cornerstone of protection against discrimination under the Covenant. It reads:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

7. For the purposes of the International Convention on the Elimination of All Forms of Racial Discrimination, “the term ‘racial discrimination’ shall mean”, according to Article 1(1):

“any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (emphasis added).

8. Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women describes “discrimination against women” as meaning

“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (emphasis added).

9. The Indian Constitution contains a cluster of provisions pertaining to the right to equality. The flagship provision, Article 14, has a provision that the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 15 provides that the State shall not discriminate against any citizen and that no citizen should, on the specified grounds ‘be subject to any disability, liability, restriction or condition.’ This also allows for special provision to be made for women, children, specially and educationally backward classes of citizens as well as the Scheduled Castes and Tribes.

10. In recent years there have been many reports of discrimination against Northeastern Indians. In 2007 the North-East Support Center & Helpline (NESC&H) was started as a separate wing of All India Christian Council, with the goal of increasing awareness of prejudice and attacks against people from North-East India. Many people from North-East face difficulty and discrimination for accommodation. In 2014, Nido Taniam Death Incident case attracted a lot of media attention. In October 2014 two separate incidents when a student was beaten by three men in Bangalore for not speaking Kannada and seven men beat a student in Gurgaon.

11. In North-East India, there have been many attacks on those from outside the region. In 2007, thousands of Hindi-speaking labourers fled from Assam after a series of massacres and bomb attacks.

12. The most infamous attacks and also the largest number of attacks has been towards the Bihari people. Bihari migrant workers in Assam and other North-Eastern States have been subject to a growing degree of discrimination, prejudice and violence. The most recent incident was on 18 January 2014 when four youths from Bihar were shot dead after being pulled out from a bus by NDFB militants in Assam's Kokrajhar district. Three others, also from Bihar were injured in the incident.

13. In this regard, I would like to mention here that the Judges, prosecutors and lawyers have a professional duty to turn existing domestic legal provisions on the right to equality and non-discrimination into truly effective legal concepts and, whenever they are competent to do so, they must also apply, or at least be guided by, international legal rules on these matters. If this is done consistently and effectively, there would be a genuine possibility of slowly turning the world into a friendlier place for all.

14. Further, educational measures will have to be taken among all sections of the national community, particularly among those that are in most direct contact with the people concerned, with the object of eliminating prejudices that they may harbour in respect of these people. To this end, efforts will have to be made to ensure that all school textbooks and other educational materials provide a fair, accurate and informative portrayal of the different cultures of these people so that there is unity in diversity.

15. I am sure that the Anti-discrimination Project Report of Reachout Foundation will be helpful for understanding the problems of discrimination in our society and its recommendations would be useful for policy, programming and implementation.

16. It is my privilege to release this report and wish the Reachout Foundation all the very best in the ensuing deliberations that would take place during the course of the day.

Thank you.