

Answers to Parliamentary follow-up questions about sexual violence against (Dalit) women in India and constraints for human rights organizations

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Answers to Written questions of the member VoordeWind (ChristianUnion) by Minister of Foreign Affairs, Frans Timmermans, on behalf of the Minister for Foreign Trade and Development Cooperation (received June 10, 2013) about sexual violence against women in India and constraints for human rights organizations (submitted May 6, 2013)

Question 1

Are you informed about the opinion of the Special Rapporteur on Violence against Women after her visit to India and of Amnesty International that the new Indian law on violence against women has, besides positive, also a number of 'regressive provisions', like the use of the death penalty, the lack of addressing the root causes and the fact that security forces are de facto immune to rape complaints? Is this opinion brought forward in the EU-India human rights dialogue or otherwise brought to the attention of the Indian government? Are you also raising in the context that the law - according to human rights organizations - will not be implemented (properly) without reforms of the police force and the legal system?¹²³

Answer 1

Yes, the government is aware of the views of the Special Rapporteur on Violence against Women on May 1, 2013. The Netherlands makes efforts to ensure that the topic "freedom for human rights organizations" will receive attention on the agenda of the EU and the UN and will do so at the EU Human Rights Dialogue. With regard to your question about the effective implementation of the law, we take the position that it is up to India to determine the related conditions which must be met.

Question 2

Are you - also in view of the parliamentary motion about Dalits⁴ and your promise that the Dutch government wants to commit itself for strengthening the position of Dalits - willing to make discrimination and exclusion of Dalits a priority in your new human rights policy?

Answer 2

The universality of human rights is a basic principle of Dutch policy. Combating discrimination on any ground - origin, gender or sexual orientation - will be advocated in various fora, including the UN, ILO and EU. In this context, attention is also devoted to the position of Dalits.

¹ Follow-up questions of the members VoordeWind, Sjoerdsma, Van Ojik, Bonis, Van der Staaij, Van Bommel and Agnes Mulder about sexual violence of against women in India and constraints for human rights organizations, 2013D03204 (answered 14 March 2013): <http://www.dalits.nl/pdf/kv130312e.pdf>

² See: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13282&LangID=E>

³ See: <http://www.amnesty.org/en/for-media/press-releases/india-new-sexual-violence-law-has-both-positive-and-regressive-provisions-2>

⁴ 32 735, nr. 8, motion VoordeWind (29 June 2011). See in English: <http://www.dalits.nl/pdf/pb110701e.pdf>

Question 3

Are you willing to raise with the Indian government the problems that the winner of the Dutch Human Rights Tulip 2012 experiences while doing his work, also in view of the priority you give to supporting human rights defenders?

Answer 3

As far as we know the Indian winner of Human Rights Tulip, Mr. Bharathan, can be engaged in activities without significant restrictions. He has recently submitted a proposal for spending the amount of € 100,000 which comes with the award

Question 4

What is your opinion about the criticism of the jury of the Human Rights Tulip voiced during a radio programme of VPRO Argos about the manner by which the award – against his wishes – has been handed over by the Dutch Embassy in India to the award winner Marimuthu Bharathan, namely without any ceremony?⁵ Will this in the future be the approach to the handing over of the Human Rights Tulip to those winners who do not get permission from their government to travel to The Netherlands?

Answer 4

The ceremony of awarding the Human Rights Tulip traditionally takes place in the Netherlands. About the future of the Human Rights Award you will be informed soon in the human rights policy brief that will be send to Parliament soon.

Question 5

Has the meeting with the India authorities requested by the EU Delegation about (the publication of) a ‘watchlist’ of Indian and international organizations taken place? If so, what is the outcome of the meeting and which conclusion do you draw on this basis about the implementation of the new legislation on foreign funding of Indian civil society organizations? If not, why hasn’t this meeting not yet taken place?

Answer 5

On 16 April this year, a meeting was held with the Indian Ministry of Internal Affairs, where the EU delegation insisted on speeding up the FCRA (Foreign Contribution Regulation Act) applications. The Ministry confirmed that FCRA applications sometimes proceed slow for administrative reasons, but the Indian government is making efforts to accelerate this process. It was also indicated that refusal of registration is sometimes due to the lack of the required administration at the NGOs. If an NGO participates in political activities an FCRA will not be granted. The Ministry has emphasized that the Indian government is not against NGOs taking up political activities, but that they do not want them to be funded by foreign donors. Only in certain sectors, like the areas of health and education, partnerships can be supported.

Question 6

Can you inform the Parliament if you are, apart from your answer to question 7 regarding a *specific approach* aiming at women’s organizations, aware of constraints or barriers in supporting women’s organizations and other human rights organizations?

⁵ See: <http://weblogs.vpro.nl/argos/2013/02/07/2-februari-2013-mensenrechtentulp/>

Answer 6

The Foreign Contributions Regulations Act (FCRA) provides the framework for foreign assistance to Indian civil society organizations. This law prescribes various conditions to the foreign financial flows and the organizations receiving this money. Thus, an Indian organization needs a permission to receive money from abroad. Within the FCRA no specific restrictions exist on women's and human rights organizations. Bureaucracy, slow decision-making and ambiguous clauses sometimes make it difficult to get the license.

Question 7

Can you give a broader picture of the visa problems Dutch citizens have in obtaining a visa for India? Can you confirm reports - from among others the India Committee of the Netherlands⁶ - that many Dutch organizations encounter considerable problems in trying to obtain visa for India and that visa are frequently being denied to officials of development organizations and journalists? What are the Dutch efforts to raise this issue and to possibly solve it?

Answer 7

Large numbers of tourists, business people and other visitors are traveling regularly to India without encountering problems when applying for a visa. Some Dutch visa applicants, including representatives of aid agencies and journalists, however, mention that they spend a lot of time going through the visa procedure. They report long waits, slow decision-making and the obligation to produce various types of documents resulting in extra costs in connection with the rebooking of flights. In addition, they report that when a visa application is rejected the reason for this is not always clear. These issues are part of the regular dialogue with the Indian authorities, but one has to take into account that countries have the sovereign right to decide whether or not to provide strangers access to their territory.

Question 8

Has the Dutch government indeed raised the constraints in freedom of movement for Indian human rights organizations at the EU level and other possibly effective channels? If so, what have been the results? If not, why not?

Answer 8

The Netherlands has discussed the issues concerning civil society in various EU working groups in India. The situation of civil society organizations differs from case to case and therefore requires a tailored approach. In some cases, there was further discussion with the Indian authorities, UN agencies or other social organizations. As yet, there are no organizations funded by the Netherlands that are not able to do their work anymore as result of restrictive measures by the Indian authorities.

⁶ See: <http://www.indianet.nl/in-TKactievrouwen.html>