

Bhutan

CEDAW, A/59/38 part I (2004)

85. The Committee considered the combined initial, second, third, fourth, fifth and sixth periodic report of Bhutan (CEDAW/C/BTN/1-3 and CEDAW/C/BTN/1-6/Corr.1) at its 636th and 642nd meetings, on 16 and 22 January 2004 (see CEDAW/C/SR.636 and 642).

Introduction by the State party

86. In introducing the report, the representative of Bhutan described the country's significant progress since the inception of planned economic development in 1961, characterized by equitable socio-economic progress, the establishment of a democratic framework of governance and preservation of the country's rich cultural heritage and environment. In 1998, the legislative, executive and judicial branches of government had been separated and executive powers had been devolved from the King to an elected Council of Ministers. A constitution was currently being drafted to provide a long-term institutional framework for political, legal, social and economic governance.

87. The representative noted that since the ratification of the Convention in 1981, without reservations, the Government had taken consistent steps to progressively comply with the Convention and its reporting obligations. It had strengthened its institutional capacity for preparation of reports, including establishment of the Office of Legal Affairs, the International Conventions Division of the Ministry of Foreign Affairs and the National Commission for Women and Children. A committee and a forum of gender focal points in various ministries under the leadership of the Planning Commission Secretariat had also been created to monitor the implementation of the Convention.

88. In the preparation of the report before the Committee, the first-ever baseline gender pilot study had been completed in 2001, and three studies, on health, education, and water and sanitation, had also been undertaken. Workshops and consultations had been held involving government focal points, representatives from United Nations agencies and stakeholders from civil society. The Convention and the updated summary of the report had been translated into the local languages and disseminated to the population to raise awareness of gender issues.

89. A number of laws had been adopted prior to and following the ratification of the Convention in 1981. The General Law of 1957 had guaranteed women equality before the law and the Inheritance Act of 1980 had guaranteed women rights to land and property. Other laws included the Marriage Act of 1980 and its amendment of

1996 on equality in marriage and family life, and the Police Act of 1980 and Prison Act of 1982 protecting the rights of women serving prison sentences. The Rape Act of 1996 was being incorporated into the draft Penal Code; it protected women against sexual abuse and provided for severe financial penalties and prison sentences for offenders. Trafficking in women was prohibited, and Bhutan had ratified, in 2003, the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

90. Since 1961, there had been significant improvements in women's health, education and employment. Given the significant growth in the number of hospitals, health units and indigenous treatment centres providing free access to health services, maternal mortality had been significantly reduced. Girls accounted for 47 per cent of the total enrolment as a result of the Government's focus on promoting girls' education. Women had also overwhelmingly benefited from non-formal education programmes.

91. No formalized gender bias existed in employment, women increasingly owned and ran businesses, and labour policies ensured equal wage rates. Women enjoyed equal opportunities and pay in the civil service and made up 40 per cent of participants in vocational training institutes. There was no distinct division of labour between women and men in most rural areas, and women and men shared domestic and agricultural work equally.

92. Turning to women in decision-making positions, the representative noted that women now made up 26 per cent of the civil service. In 2003, two women had been appointed as Foreign Secretary and Finance Secretary. Their Majesties the Queens had become very actively engaged in international and regional forums. While women were well represented in public village meetings, their participation in elections for public office remained low. A total of 12 of the 100 elected people's representatives to the National Assembly and 1 of the 6 Royal Councillors were women.

93. In concluding, the representative highlighted challenges to the full achievement of the goals of the Convention. They included the need to eradicate indirect forms of gender bias existing within the society or emerging as a consequence of change. Despite equal opportunities and entitlements, and the equal legal status of women and men, differences remained in women's access to education, enterprise development and governance, also influenced by societal perceptions that women were weaker and more vulnerable. The process of modernization, the subsequent shifts in traditional roles and responsibilities, changes in value systems and

transformation of family patterns also necessitated continuing change in regard to women's rights and legal remedies. The representative assured the Committee of Bhutan's commitment to the full implementation of the Convention.

Concluding comments of the Committee

Introduction

94. The Committee commends the State party for ratifying the Convention without reservations, and expresses its appreciation to the State party for its combined initial, second, third, fourth, fifth and sixth periodic report, while regretting the fact that the report was long overdue and does not fully comply with the Committee's guidelines for the preparation of initial reports.

95. The Committee congratulates the State party for its high-level delegation headed by the Minister for Labour and Human Resources. The Committee appreciates the frank and constructive dialogue that took place between the delegation and the members of the Committee.

Positive aspects

96. The Committee welcomes the significant progress achieved by the State party from 1984 to 2000 in improving the welfare of its people, including its women, such as a decrease in maternal mortality from 7.7 to 2.5 per 1,000 live births.

97. The Committee welcomes the political commitment expressed by the State party during the constructive dialogue to fully implement the provisions of the Convention and to further improve the progress achieved so far in some areas.

98. The Committee commends the commitment made by the State party to make it mandatory for the recently restructured and strengthened National Statistical Bureau as an autonomous body to collect data disaggregated by sex.

Principal areas of concern and recommendations

99. The Committee is concerned that existing legislation does not contain a specific definition of discrimination against women in accordance with article 1 of the Convention, which prohibits both direct and indirect discrimination.

100. The Committee urges the State party to take full advantage of the ongoing process of elaborating a constitution to include the principle of equality between women and men, as well as a definition of discrimination against women, in the draft

Constitution. The Committee recommends that, in drafting its Constitution, the State party also be guided by other International human rights instruments. The Committee calls on the State party to adopt its draft Constitution in an expeditious manner.

101. The Committee is concerned that, in the event of conflict between the international conventions to which Bhutan is a party and domestic legislation, domestic law may prevail.

102. The Committee recommends that the State party incorporate in the Constitution the primacy of international conventions to which Bhutan is a party over domestic law in case of conflict. The Committee also recommends that the State party under all circumstances undertake awareness-raising and sensitization of the judiciary and other law enforcement authorities about the Convention.

103. The Committee notes with concern the lack of specific information concerning the mandate and the human and financial resources of the existing national machinery for the advancement of women.

104. The Committee recommends that the State party strengthen the existing national machinery, clarify its mandate and provide it with adequate decision-making power and human and financial resources to work effectively for the promotion of women's human rights at all levels, and enhance coordination among the existing mechanisms for the advancement of women and the promotion of gender equality, including the Planning Commission and the National Statistical Bureau. It also urges the State party to ensure that the National Commission for Women and Children becomes fully functional and is guided in its work by the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child to ensure full promotion and protection of the rights of women and girls.

105. The Committee expresses concern that policies and programmes are mostly gender neutral and that they were formulated without attention to gender perspectives and to discrimination and inequality faced by women and girls.

106. The Committee urges the State party to mainstream gender perspectives when formulating and implementing policies and programmes, as well as in monitoring and assessing progress achieved. It also urges the State party to implement policies and programmes specifically addressed to women and girls, including the next five-year plan for women, 2006-2010, in order to accelerate the achievement of substantive equality. It urges the State party to apply temporary

special measures according to article 4, paragraph 1, of the Convention and general recommendation 25, inter alia, in the education, employment and professional fields, in order to accelerate the progress in achieving gender equality.

107. The Committee, while welcoming the progress in promoting women's political participation and noting that several women hold high ministerial posts, expresses concern at the low representation of women in decision-making bodies in the various areas and levels of political and public life.

108. The Committee recommends that the State party adopt temporary special measures in accordance with article 4, paragraph 1, of the Convention and in the light of general recommendations 23 and 25, to increase the number of women at national and local decision-making levels in government, governmental bodies and public administration, provide targeted training programmes for women, and conduct, on a regular basis, awareness-raising campaigns to encourage women to participate in public life in decision-making positions.

109. The Committee is concerned about the lack of special policies and programmes to promote equal employment opportunities for women in the country. It is also concerned that the national labour legislation currently in preparation recognizes "equal pay for equal work" but not "equal pay for work of equal value".

110. The Committee recommends that the State party implement targeted policies and programmes, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25, in order to increase the number of women in the formal work force. It also urges the State party to ensure that the draft Labour Act also takes into account the right to "equal pay for work of equal value" and contains provisions to facilitate women's access to justice in instances of discrimination.

111. The Committee, while welcoming the preparation of the 2001 baseline gender pilot study to collect gender-disaggregated data, and the commitment to make the collection of such data mandatory, expresses concern about the insufficient sex-disaggregated statistical data in the report in the areas covered by the Convention.

112. The Committee recommends the systematic and comprehensive compilation and a thorough analysis of sex-disaggregated data on the situation of women in all areas covered by the Convention, and specifically various aspects of the situation of rural women.

113. While welcoming the significant progress achieved in the increase in the enrolment rate in primary education, where girls now constitute 45 per cent of the enrolled students, the Committee is concerned about the low participation of girls and women in secondary and tertiary education, including in technology- and science-related courses.

114. The Committee encourages the State party to continue its efforts to close the gender gap in primary education and to take all necessary measures to increase the number of women in secondary and tertiary education in the country, including in technology- and science-related courses, in order to ensure that girls and women are accorded an equal opportunity to study, develop and benefit from science and technology. It also urges the State party to ensure that women have equal access with men to governmental loans and scholarships for pursuing higher education abroad.

115. While acknowledging that several traditional perceptions and practices in Bhutan favour women, including with regard to inheritance, the Committee remains concerned that some traditions and stereotyped views in the country may be discriminatory of women and girls, and perpetuate sex-specific roles and responsibilities in some spheres of life. The Committee expresses concern at the continuing existence of polygamy in Bhutan.

116. The Committee urges the State party to analyse existing traditions and stereotyped views in order to assess their impact on gender equality. It recommends that policies be developed and programmes be directed at men and women to support the elimination of stereotypes associated with traditional roles in the family, the workplace, and society at large, and to prevent the emergence of new stereotypes that are discriminatory against women. It also recommends that the media be encouraged to project a positive image of women and of the equal status and responsibilities of women and men both in the public and private spheres. The Committee recommends action by the State party to end the practice of polygamy, in accordance with the Committee's general recommendation 21, on equality in marriage and family relations.

117. Noting that the overwhelming majority of women live in rural areas, the Committee is concerned about their situation, in particular with regard to their access to education and vocational training. It is particularly concerned about the continuing high rates of illiteracy among rural women, and about their limited representation in rural leadership positions and limited participation in agricultural and animal husbandry training programmes.

118. The Committee urges the State party to ensure that the rights, needs and concerns of rural women are given greater attention and visibility, and that rural women participate fully in the formulation and implementation of all sectoral policies and programmes. It also recommends that the State party ensure that rural women and girls have full access to education and vocational training in the areas where they live.

119. While recognizing progress made in the area of women's health, the Committee expresses concern about the lack of a holistic and life-cycle approach to women's health.

120. The Committee calls upon the State party to increase the access of women and adolescent girls to affordable health-care services, including reproductive health care, and to increase access to affordable means of family planning for women and men. It also calls upon the State party to step up its efforts to implement awareness-raising campaigns targeting women and men on the importance of family planning and related aspects of women's health and reproductive rights.

121. The Committee is concerned that no specific legislation has been enacted to combat domestic violence and sexual harassment in the workplace, and that there is a lack of systematic data collection on violence against women, in particular domestic violence.

122. The Committee urges the State party to ensure the full implementation of all legal and other measures relating to the elimination of violence against women, to systematically monitor the impact of those measures and to provide women victims of violence with accessible and effective means of protection, redress and recovery. In the light of its general recommendation 19, the Committee requests the State party to enact legislation on domestic violence and sexual harassment as soon as possible. The Committee also urges the State party to accelerate the adoption of the draft Bhutan Penal Code, which recognizes marital rape as a crime; to devise a structure for systematic data collection on violence against women, including domestic violence, disaggregated by sex; and to step up its efforts to provide comprehensive training to the judiciary, police, medical personnel and other relevant groups on all forms of violence against women.

123. The Committee, while appreciating the State party's ratification in 2003 of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, is concerned that no information has been provided in the report on the extent of trafficking

in women and girls, or on measures taken to prevent and combat that phenomenon in the country.

124. The Committee recommends that the State party increase efforts at cross-border and international cooperation to prevent and combat trafficking in women and girls. It urges the State party to collect data and to provide information in its next report on the extent of trafficking in women and girls, as well as measures to prevent and combat trafficking.

125. The Committee is concerned about the practice of common-law marriages, which allows girls to be married at 15 years of age, while the statutory age of marriage is 18. It is also concerned about the fact that restrictive citizenship laws might prevent women from freely choosing a spouse.

126. The Committee urges the State party to eliminate the practice of common-law marriages and ensure that marriages are contracted under the 1980 Marriage Act, amended in 1996, which raised the legal age for marriage to 18 years for both sexes so as to comply with article 16 (b) of the Convention, requiring free and full consent to enter into marriage. The Committee also urges the State party to take all appropriate measures to end the practice of forced marriages. The Committee recommends that the State party amend its citizenship and nationality laws to bring them into conformity with article 9 of the Convention.

127. The Committee is concerned about the situation of ethnic Nepalese women who lost their Bhutanese citizenship following the enactment of the 1985 Citizenship Act and now live in refugee camps in Nepal. It is also concerned about the situation of girls born of Bhutanese parents in refugee camps who can obtain naturalization only after the age of 15 years.

128. The Committee urges the State party to step up its efforts to conduct negotiations with the Government of Nepal, and to collaborate with the Office of the United Nations High Commissioner for Refugees, in order to find a prompt, just and durable solution to the situation of Bhutanese women and girls living in refugee camps in Nepal, including the possibility of return to Bhutan for those Bhutanese women who wish to do so.

129. The Committee urges the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee.

130. The Committee requests the State party to respond to the concerns expressed in the present concluding

comments in its next periodic report due in 2006, under article 18 of the Convention.

131. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions, such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on children (the twenty-seventh special session), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the Second World Assembly on Ageing, the Committee requests the State party to include in its next periodic report information on the implementation of aspects of those documents relating to relevant articles of the Convention.

132. The Committee requests the wide dissemination in Bhutan of the present concluding comments in order to make the people of Bhutan, in particular government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the Government to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace in the twenty-first century".