

INDIA

CEDAW A/55/38 (2000)

30. The Committee considered the initial report of India (CEDAW/C/IND/1) at its 452nd, 453rd and 462nd meetings, on 24 and 31 January 2000 (see CEDAW/C/SR.452, 453 and 462).

Introduction by the State party

31. The representative informed the Committee that India had ratified the Convention in July 1993 with two declarations and one reservation. She indicated that the preparation of the report had been preceded by wide-ranging consultations with a number of women's organizations. She noted that India had ratified a number of international human rights instruments and that the Indian Constitution prohibited discrimination on the basis of sex, as well as providing for affirmative action for women. India had initiated a consultative process in preparation for the Fourth World Conference on Women and was among the first countries to unreservedly accept the Beijing Platform for Action.

32. The representative indicated that among recent achievements in the implementation of the Convention had been the establishment, in March 1997, of a parliamentary committee on the empowerment of women, and the passage of constitutional amendments to reserve for women 33.33 per cent of the seats in the *Panchayati Raj* institutions at the local self-government level in rural areas and in municipalities in urban areas. She also stated that a bill had been introduced in late 1999 which would reserve not less than one third of the total number of seats filled by direct elections in the *Lok Sabha* (House of the People) and State Legislative Assemblies for women.

33. The representative described the national machinery for women's advancement coordinated by the Department of Women and Child Development, which is headed by a cabinet minister assisted by a minister of State. The National Commission for Women, established in 1992, served as a statutory ombudsperson for women, while the Central Social Welfare Board networked with nearly 12,000 women's non-governmental organizations. Institutional mechanisms for women's advancement also existed at state level. The representative highlighted the ninth five-year plan (1997-2002), which had identified the empowerment of women as a strategy for development and mandated early finalization of a national policy on empowerment of women. She indicated that, pending the adoption of the national policy, many mechanisms identified therein had already been put in place. Recently, the Prime Minister's Office had directed that a review be made of the impact of gender mainstreaming in ministries and departments.

34. The representative indicated that progressive legislation to promote the interests of women existed at both state and central levels, and that the Government had tasked the National Council of Women to oversee the implementation of constitutional and legal safeguards for women. The review of 39 laws was under way; recommendations for amendments, including those with regard to the Immoral Traffic (Prevention) Act, had been submitted; and a draft bill on violence against women had been prepared. *Lok adalats* (people's courts) and *parivarik mahila lok adalats* (family women's courts) had been established to provide less formal systems of justice delivery. India had a tradition

of public interest litigation and the Supreme Court had issued landmark judgements, including on sexual harassment at the work place and child prostitution. Several training institutes had also introduced gender sensitization training for judicial officials.

35. The representative described steps that had been taken to revise curricula and textbooks from a gender perspective, and the efforts of the Ministry of Information and Broadcasting to ensure projection of positive images of women in the media. Measures to address prostitution and trafficking in women had included a proposal to amend the Immoral Traffic (Prevention) Act to widen its scope and increase penalties; the appointment of special police officers; and the establishment of protective homes and child development and child-care centres for the children of sex workers. A plan of action to combat trafficking and commercial sexual exploitation of women and children and to integrate victims into society had been developed, and India had actively participated in the drafting of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

36. The representative indicated that, at the Fourth World Conference on Women, India had committed itself to increasing investment in education to 6 per cent of gross domestic product (GDP), but that the target had not been achieved to date although the overall growth in literacy among women had been higher than that of men in recent years. Intensive efforts to address gender differentials in literacy and education were continuing and included the establishment of girls' learning centres to meet the needs of girls who were unable to gain access to formal education.

37. The representative informed the Committee that International Labour Organization (ILO) standards were reflected in Indian labour laws and the Government had been seeking to extend maternity benefits to all women and to provide child care for working women. Guidelines for employers with respect to sexual harassment had been established in a Supreme Court judgement and legislation reflecting those guidelines was being prepared. Efforts to recognize women's work in the informal sector and reflect it in the national census and to provide workers in the sector with labour protection had been initiated.

38. Significant improvements in women's health had been achieved in the last decade, although the high maternal mortality ratio remained a concern. The recently launched reproductive and child health programme sought to address women's health in a holistic manner. Measures to address human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) had been introduced and legislative and other strategies to confront female infanticide and sex-selective abortion had also been adopted.

39. The representative indicated that rural women constituted almost 80 per cent of the female population and reported that the Government had introduced quotas and women-specific schemes to ensure that they received an equal share in rural development and agricultural programmes.

40. The personal laws of the major religious communities had traditionally governed marital and family relations, with the Government maintaining a policy of non-interference in such laws in the absence of a demand for change from individual religious communities. However, the Family Courts Act, providing that family matters, such as marriage and maintenance, came within the jurisdiction of the family courts, which incorporated informal procedures and counselling services, had been

adopted. The representative drew attention to legislation concerning dowry-related violence and the provision of the Penal Code and Evidence Act regarding cruelty to a wife by her husband or his relatives.

41. In conclusion, the representative emphasized India's determined, concrete and sustained efforts to eliminate poverty and social disability and empower the poor and vulnerable.

Concluding comments of the Committee

Introduction

42. The Committee welcomes the submission of the initial report of India. While noting that the report conforms to the Committee's guidelines, it does not provide adequate information relating to implementation of some articles and the general issue of violence against women. The Committee further notes that the report was submitted with some delay. The report also does not contain information on measures taken to implement the Beijing Platform for Action. The Committee appreciates the detailed written and oral responses of the delegation during the consideration of the report, which provided important additional information.

43. The Committee notes that the report and the oral and written responses do not provide adequate statistical data, disaggregated by sex and the States of the Union and information on the implementation of affirmative action measures for scheduled castes.

44. The Committee notes with concern that the Government does not intend to review the declarations entered to article 16, paragraphs 1 and 2, of the Convention.

Positive aspects

45. The Committee recognizes that India has guaranteed in its Constitution fundamental human rights that can be enforced by an application to the Supreme Court. The Committee commends in particular the recognition of a fundamental right to gender equality and non-discrimination and a specific enabling provision on affirmative action in the Constitution.

46. The Committee appreciates the contribution made by the Supreme Court of India in developing the concept of social action litigation and a jurisprudence integrating the Convention into domestic law by interpreting Constitutional provisions on gender equality and non-discrimination.

47. The Committee commends the introduction of a range of policies and programmes by the Governments of India over the years to improve the situation of women. It notes with appreciation that those programmes have contributed to some extent to improving the quality of social indicators for women in various States of the Union. The Committee welcomes the proposal to formulate a new gender empowerment policy and the directives sent from the Prime Minister's Office to mainstream gender issues and a rights approach to development at the national level.

48. The Committee commends the Government of India for establishing the National Commission for Women and state commissions for women with responsibility for developing action

plans on gender and proposals for law reform.

49. The Committee commends the Government for introducing affirmative action measures that have enabled 33 per cent of seats in local government bodies to be reserved for women. It welcomes the proposed bill to reserve 33 per cent seats in state and national assemblies for women, and the assurance in the oral presentations that 30 to 40 per cent coverage will be provided for women in programmes that give access to credit.

50. The Committee commends the Government for introducing legislation that has banned sex-selective abortions. It welcomes the amendments to the law on nationality, which confer equal rights on men and women.

Factors and difficulties affecting the implementation of the Convention

51. The Committee notes that India has a very large and mainly rural population living in absolute poverty and that the feminization of poverty and growing income disparities prevent the benefits of economic development being transferred to women.

52. The Committee considers that widespread poverty, such social practices as the caste system and son preference, as reflected in a high incidence of violence against women, significant gender disparities and an adverse sex ratio, present major obstacles to the implementation of the Convention.

53. The Committee notes that the existence of regional disparities is an impediment to the effective implementation of the Convention.

Principal areas of concern and recommendations

54. The Committee notes that the Convention and the Beijing Platform for Action have not been integrated into policy planning and programmes. While there have been several national plans in the pre- and post-Beijing period, the Committee notes that these adopt a welfare approach towards women.

55. The Committee recommends that the proposed gender empowerment policy integrate the Convention and the Beijing Platform for Action and a rights-based approach.

56. The Committee considers that inadequate allocation of resources for women's development in the social sector and inadequate implementation of laws are serious impediments to the realization of women's human rights in India.

57. The Committee urges the allocation of sufficient and targeted resources for women's development in the social sector, as well as full implementation of relevant laws.

58. The Committee notes that there are many gaps in the legislative framework. The Committee considers that there is an urgent need to introduce comprehensive legislative reform to promote equality and the human rights of women.

59. The Committee recommends that proposals of the National Commission of Women on law reform be used in preparing new legislation and that the Commission be entrusted with the task of developing working papers on legal reform in critical areas, within a time-frame.

60. The Committee notes that steps have not been taken to reform the personal laws of different religious and ethnic groups, in consultation with them, so as to conform with the Convention. The Committee is concerned that the Government's policy of non-intervention perpetuates sexual stereotypes, son preference and discrimination against women.

61. The Committee urges the Government to withdraw its declaration to article 16, paragraph 1, of the Convention and to work with and support women's groups as members of the community in reviewing and reforming these personal laws. The Committee also calls upon the Government to follow the directive principles in the Constitution and Supreme Court decisions and enact a uniform civil code that different ethnic and religious groups may adopt.

62. The Committee is concerned that India has not yet established a comprehensive and compulsory system of registration of births and marriages. The Committee notes that inability to prove those important events by documentation prevents effective implementation of laws that protect girls from sexual exploitation and trafficking, child labour and forced or early marriage. The Committee is also concerned that failure to register marriages may also prejudice the inheritance rights of women.

63. The Committee calls upon the Government to provide adequate resources and establish a system of compulsory registration of births and monitor implementation in cooperation with women's groups and local bodies. It urges the Government to withdraw the declaration to article 16, paragraph 2 of the Convention.

64. The Committee is concerned that the fundamental right to education under the Constitution recognized by the Supreme Court has not been realized by providing girls with access to primary and secondary education. It notes that budgetary allocation for education is still far below India's commitment with regard to the Beijing Platform for Action.

65. The Committee urges the Government to take affirmative action, set a time-frame and provide adequate resources for primary and secondary education so as to give girls equal access to education and eradicate adult illiteracy among women. It calls upon the Government to make primary and secondary education compulsory by introducing and enforcing relevant regulations.

66. The Committee is concerned that the fundamental rights recognized in the Constitution can be enforced only against State actors and in the event of inaction on the part of the State. It also notes that the private sector, where a great number of women are employed, and which is expanding in a period of transition to market economic policies, is not covered by constitutional standards.

67. The Committee recommends that a sex discrimination act be introduced to make the standards of the Convention and the Constitution applicable to non-State action and inaction.

68. The Committee is concerned that there is a high incidence of gender-based violence against

women, which takes even more extreme forms because of customary practices, such as dowry, sati and the devadasi system. Discrimination against women who belong to particular castes or ethnic or religious groups is also manifest in extreme forms of physical and sexual violence and harassment.

69. The Committee urges the Government to implement existing legislation prohibiting such practices as dowry, devadasi and caste-based discrimination. It calls upon the Government to strengthen law enforcement and introduce reforms proposed by the National Commission on Women and women activists in regard to the law on rape, sexual harassment and domestic violence.

70. The Committee recommends that a national plan of action be developed to address the issue of gender-based violence in a holistic manner, in line with the Committee's general recommendations 19 and 24. It calls upon the Government to provide statistics and information on violence against women in its next report.

71. The Committee is concerned that women are exposed to the risk of high levels of violence, rape, sexual harassment, humiliation and torture in areas where there are armed insurrections.

72. The Committee recommends a review of prevention of terrorism legislation and the Armed Forces Special Provisions Act, in consultation with the Human Rights Commission of India, the National Commission of Women and civil society, so that special powers given to the security forces do not prevent the investigation and prosecution of acts of violence against women in conflict areas and during detention and arrest. The Committee recommends that women be given an opportunity to make their contribution to peaceful conflict resolution.

73. The Committee recommends the introduction of gender sensitization and human rights programmes for the police, the security forces and medical professionals, in addition to programmes already undertaken.

74. The Committee is concerned with the continuing discrimination, including violence, suffered by women of the Dalit community, despite the passage of the Scheduled Castes and Scheduled Tribes (prevention of atrocities) Act of 1989.

75. The Committee urges the Government to enforce laws preventing discrimination against Dalit women and prohibiting the devadasi system. It urges the Government to introduce affirmative action programmes in such areas as education, employment and health so as to provide life chances to Dalit women and girls and create an environment conducive to their progress. The Committee calls upon the Government to set a time-frame for those interventions and provide information on the progress made in the next report.

76. The Committee is concerned that women and girls are exploited in prostitution and inter-State and cross-border trafficking. It is also concerned that those women are exposed to HIV/AIDS and health risks and that existing legislation encourages mandatory testing and isolation.

77. The Committee calls upon the Government to review existing legislation on trafficking and forced prostitution and to strengthen law enforcement. It recommends the development of bilateral

and inter-State controls and reintegration and advocacy programmes to prevent the exploitation of women and girls in forced prostitution and trafficking.

78. The Committee notes with concern that maternal mortality rates and infant mortality rates are among the highest in the world. It also notes the adverse sex ratio and the incidence of sex-selective abortions despite the law banning that practice. It notes that family planning is only targeted at women.

79. The Committee recommends the adoption of a holistic approach to women's health throughout the life cycle in the country's health programme. It urges the Government to allocate resources from a "women's right to health" perspective, following the guidelines of the Committee's general recommendation 24. The Committee calls upon the Government to elicit the support of medical associations in enforcing professional ethics and preventing sex-selective abortions. The Committee also recommends that the Government obtain the support of the medical profession in creating awareness of the urgent need to eliminate practices associated with son preference.

80. The Committee is concerned about the low participation of qualified women in the administration and the judiciary, including family courts and *lok adalats* or conciliation tribunals.

81. The Committee urges the Government to take affirmative action to increase women's participation in the judiciary and *lok adalats*, and provide sex-disaggregated data in its next report.

82. The Committee is concerned with significant disparities in economic activity rates for men and women. It is concerned that the practice of debt bondage and the denial of inheritance rights in land result in gross exploitation of women's labour and their impoverishment.

83. The Committee requests the Government to enforce laws on bonded labour and provide women with self-employment opportunities and minimum wages in home-based production and the non-formal sector. It calls upon the Government to review laws on inheritance urgently and to ensure that rural women obtain access to land and credit.

84. The Committee is concerned that the National Commission on Women has no power to enforce its proposals for law reform or intervene to prevent discrimination in the private or public sector. It notes that the National Commission and state commissions are not supported by adequate financial and other resources. It also notes that the National Commission on Women is not as well resourced or as empowered as the Human Rights Commission of India, and that it has no formal link with the state women's commissions.

85. The Committee recommends that non-governmental organizations be represented on the National Commission of Women. The Commission's powers should be as wide as those of the Human Rights Commission and include a complaints procedure. The Committee recommends that state commissions be similarly strengthened and linked with the National Commission.

86. The Committee is concerned that, despite the willingness of the Government to work with non-governmental organizations and women's groups, women activists and human rights defenders are exposed to violence and harassment in the communities in which they work.

87. The Committee urges the Government to strictly enforce the law and protect women activists and human rights defenders from acts of violence and harassment.

88. The Committee encourages India to deposit its acceptance to the amendment to article 20, paragraph 1, of the Convention, and to sign and ratify the Optional Protocol to the Convention as soon as possible.

89. The Committee requests that the Government respond in its next periodic report to the specific issues raised in its concluding comments.

90. The Committee encourages the wide dissemination in India of the present concluding comments in order to make the people, civil society and Government sectors aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as further steps that are required in that regard. It also requests the Government to disseminate widely, in all local languages, the Convention, its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action.