



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Forty-seventh session

Summary record of the 958th meeting

Held at the Palais des Nations, Geneva, on Friday, 15 October 2010, at 10 a.m.

Chairperson: Ms. Pimentel (Vice-Chairperson)

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In the absence of Ms. Gabr, Ms. Pimentel (Vice-Chairperson) took the Chair.

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Exceptional report of India (CEDAW/C/IND/SP.1)

1. *At the invitation of the Chairperson, the delegation of India took places at the Committee table.*

2. **Mr. Gopinathan** (India), introducing the exceptional report of India (CEDAW/C/IND/SP.1) and the supplementary material provided by his Government (document without a symbol, in English only) said that India was an inherently tolerant and pluralistic country that was committed to the ideals of liberal democracy, notwithstanding the complexities of its multilayered society and its federal structure, which often hampered its socio-economic development efforts. The violence that had occurred in Gujarat in 2002 was to be deplored in the strongest terms, and the Government was firmly resolved to ensure that justice would be served and that such an incident would never be repeated. India's independent judiciary, active media, vibrant civil society and robust autonomous institutions, such as the National Human Rights Commission, the National Commission for Women and the National Commission for Minorities, were playing a laudable role in helping the Government carry forward that resolve.

3. **Mr. Bruun** said that, given the seriousness and scale of the violence, he could not agree with the Indian Government's description of the events in Gujarat in 2002 as "sporadic incidents". The exceptional report had been requested on account of the dire conditions in which people in the colonies were living four years later, and the State party's responses revealed an alarming lack of action by the Government and a failure to fulfil its obligations under the Convention. His first concern was that the slow pace of proceedings meant that women victims had still not received fair justice. His second concern was the lack of proactive efforts on the part of the State to monitor the situation in the camps and help the women in them. NGOs, the Norwegian Agency for Development Cooperation (NORAD) and the United Nations Children's Fund (UNICEF) had been the driving force of relief efforts and support. He asked whether the Government had a timetable for closing down the relief camps and for rehabilitating and reintegrating their occupants. He also asked for more statistics by sex and age on the people living in the camps.

4. **Ms. Patten** said that she failed to understand why, in the face of the recommendations set out in the reports published by the National Human Rights Commission shortly after the carnage in Gujarat, and the constant efforts of civil rights groups to keep the spotlight on justice, the Government had not acted diligently to ensure the independence of the investigations and the courts, judges and prosecutors handling the ensuing cases. She wanted to know why the Government had waited until March 2008 to establish a special investigation team and why all the pending cases were not being tried outside Gujarat. The wrongful closure of over 2,000 cases and their subsequent reopening, together with the destruction of evidence and the intimidation of witnesses, signalled a gross criminal conspiracy, and she wished to know what action had been taken against the officials involved. Why had the request to visit India from the Special Rapporteur on violence against women, its causes and consequences, been turned down? Did the State party agree that the action eventually taken by the Government had to be viewed in light of the unrelenting pressure mounted by civil society and statutory bodies?

5. India was obliged under the Convention to offer effective protection to women through the justice system, but the judicial and investigative processes had proved to be

flawed. There were disturbing reports of powerful men accused of multiple rapes and murders being granted bail, of women victims and witnesses being threatened and mistreated, and of women plaintiffs being intimidated even by the public prosecutors who were supposed to be acting on their behalf. She wished to know what measures were being taken to address the problems and whether there were plans to train members of the judiciary and law enforcement personnel to be more sensitive to women victims of violence and more aware of their rights.

6. In order to assess the State's response to the violence in Gujarat, the Committee needed precise data on the number of cases of gender-based violence that had been reported, including the cases, reported by independent fact-finding teams, of forced nudity, mutilation and vaginal penetration with objects. What offences had defendants been charged with in the 19 sexual assault cases referred to in the report, given that the term "sexual assault" did not exist in the Indian Penal Code?

7. The Committee was also concerned that the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill was still under review and she wished to know whether it would be revised to cover sexual and gender-based violence against women and compensation for victims, as well as the abuse of power or failure to act on the part of State officials and the need for gender-sensitive rules and procedures.

8. **Mr. Gopinathan** (India) said that the Supreme Court was seized of the questions of criminal justice on the one hand, trying cases that had been reopened and reinvestigated, and the questions of resettlement, rehabilitation and compensation on the other. It was not for him to pronounce on whether the highest court in the land had administered fair justice to victims. India was committed to its human rights obligations under the Convention, including upholding the rights of women in post-conflict situations. A time frame for the rehabilitation of victims had been indicated in the report and the supplementary material, and the accountability of those responsible for rehabilitation was subject to oversight by the Supreme Court. The important role played by civil society and agencies such as the United Nations Children's Fund (UNICEF) in the aftermath of the events in Gujarat was to be seen in the light of India's long-standing tradition of working with civil society and NGOs in the delivery of social services, as demonstrated, for example, following the 2001 earthquake in Gujarat. He would try to ensure that further gender-specific statistics were provided in the next State party's periodic report.

9. The Government had acted on recommendations issued by the National Human Rights Commission and the Supreme Court. Trials were held outside Gujarat as and when considered appropriate by the courts. It was difficult to judge whether the Government could have responded more quickly to the events. A reply would be sent in writing to the request to visit India made by the Special Rapporteur on violence against women, its causes and consequences. Information had been provided in the report and the supplementary material on action taken against officials found to have been complicit in criminal acts. Appeals could be filed against the acquittals handed down.

10. He provided details of the outcome of the 2,017 cases that had been reopened, as contained in paragraphs 7 to 11 of the supplementary material. The authorities were awaiting directions from the Supreme Court with regard to the 1,851 "A" summary cases – cases closed for lack of sufficient evidence but which could be reopened as and when evidence became available. The bill on communal violence had been under consideration for five years in order to allow for wide-ranging consultations, so that the instrument would be as comprehensive and effective as possible. The finer points of the bill were being reviewed, following which it would be resubmitted to the Government and thence to Parliament.

11. **Ms. Murillo de la Vega** said that it was important for the Government to note that the events in Gujarat did not constitute a natural disaster, but a massacre. In that regard, the “colonies” housing the riot-affected families were a source of double victimization, in that the victims were obliged to live there for reasons of security, not by choice; that should be taken into account in the measures taken. She expressed concern at how few officials had been found to have been complicit in the crimes committed, and asked what punishment had been handed down in the few convictions there had been.

12. She asked for details of any financial support provided to compensate witnesses and victims for expenses during the extremely long trials. Did victims have access to their case files?

13. She wished to know when comprehensive basic facilities such as water, electricity, and sanitation would be provided to those living in the colonies, and whether the Government had considered making it possible for the displaced families to acquire land and property. How many of the colonies had actually been built by the Government rather than by NGOs?

14. She asked what psychological support was being provided to women and girls who had been subjected to violence, whether those providing the support had been suitably trained and whether the usual requirement of confidentiality applied. Similarly, how many medical doctors, lawyers and judges had been trained by the Government in issues of gender-related violence?

15. She asked how many of the women victims to whom livelihood training had been given were currently employed or had business projects. She also wished to know to what extent the Special Cell Committee was independent from the Government and whether any NGOs were involved in its work.

16. She had noted that the Criminal Code currently defined rape as forced penetration by a man’s penis. Other objects could be used for penetration, however — and, indeed, had been during the Gujarat massacres — and that should be reflected in the new bill on communal violence.

17. **Ms. Ara Begum** said that the events in Gujarat had been, not a riot but genocide committed against a religious minority, and the state government’s failure to protect citizens had tarnished India’s secular image. She asked how the State would ensure that victims would be able to claim their legal rights given the reported intimidation of witnesses, deliberate misplacing of evidence, arbitrary closure of cases and release on bail of accused rapists.

18. The compensation already granted did not make up for the appalling conditions in the colonies where there was still no drinking water and no sanitation. She wished to know why so many Muslim families were still living in the camps and why the Government had not made any efforts to build better ones or to resettle and rehabilitate their occupants. Would the Special Rapporteur on violence against women, its causes and consequences, be allowed to visit the camps? She requested information on whether funds had been provided so that the affected communities could rebuild their destroyed infrastructure and whether the police been trained to handle gender-based violence.

19. She asked for the employment figures for the Muslims in Gujarat: they accounted for over 70 per cent of the state’s population but apparently held less than half the jobs. She also requested an explanation of the reported victimization of young Muslim men under the Prevention of Terrorism Act and of why Muslim lawyers had not been appointed to defend Muslim victims.

20. **Mr. Gopinathan** (India), replying to a question from Mr. Bruun, said that all the 121 relief camps had been closed down. What remained were the camps often referred to as

colonies. With regard to Ms. Patten's question on training for judicial and police personnel, he said that no specific training in human rights was given but that the need to enforce the country's human rights obligations was being imparted.

21. As reported in the exceptional report and the supplementary material, the Government had taken effective measures to provide immediate relief to the victims of Gujarat, in the form of medical care, cash grants and rations, and longer-term rehabilitation in the form of skills training, employment and seed capital loans. A survey of the colonies, conducted in June 2010 with NORAD support, had shown that with increased economic self-reliance, the women were regaining their confidence.

22. The preliminary findings of a recent Government survey showed that all the colonies were in reach of primary schools offering midday meals, and of fair price shops, and 82 of the 86 colonies were in reach of secondary schools that offered midday meals. All colonies had access to child development centres and were visited regularly by health workers. Most colonies had drinking water, electricity, roads and sanitation. Various physical and social infrastructure projects were under way. It was true that the majority of the colonies had not been built by the Government but with the support of civil society, international agencies and bilateral aid donors. Once they had been established, the Government had worked to provide the necessary infrastructure. Whether the people of the colonies would be granted title to the land on which they lived depended on local laws and regulations. Resources were limited, but the Government endeavoured to provide adequately trained medical and law enforcement personnel. He stressed that any act of commission or omission on the part of the national Government or the state government could be brought to the attention of the judiciary.

23. The sexual assault cases referred to in the exceptional report involved charges of rape, but the 120 cases referred to in the supplementary material involved various charges, including voluntary damage, murder and intimidation. The Indian Criminal Procedure Code and the Penal Code were being amended, in consultation with civil society, to specifically cover sexual violence. With regard to the wrongful closure of cases, the Government had taken prompt action as soon as the Supreme Court had ruled on the matter.

24. As far as he knew, the National Human Rights Commission did not include representatives of NGOs, but did include prominent personalities. Civil society, the media and the statutory rights-based commissions had played a leading role in the social transformations in the post-liberalization era since 1991. There had been a shift away from dependence on the Government for jobs, and participation in government jobs should no longer be considered an indicator of discrimination in employment. There was no systematic bias against any community in government recruiting, and lack of proportional representation would be due to other factors, such as greater availability of jobs in other sectors.

25. **Mr. Flinterman** said that, nine years after the event, it was imperative for the full truth to be revealed, justice to be done, and the victims to be compensated and rehabilitated. He was pleased to hear that the services in the colonies were being monitored, but wondered how regularly they were monitored and whether special attention was being paid to the needs of women and children. He was concerned that the 86 colonies seemed to be permanent, since that would imply the re-victimization of those worst affected by the riots. He wished to know what steps the Government was taking to return people to their original homes and whether there was a timetable for closing the colonies. What had the national and state governments done in the way of rehabilitation and housing in the areas where the riots had taken place?

26. With reference to chapters 7 and 9 of the supplementary material, he noted that the conclusions of the Sachar Committee Report published in 2006 were based on comparisons

made with Muslims in other states of India not with the Hindu community in Gujarat. He wondered whether any reconciliation measures had been recommended and whether the important role that women could play in reconstruction had been recognized.

27. Although the communal violence bill was still under consultation, he would like to know whether the Committee's recommendations, set out in its concluding comments in 2007 (CEDAW/C/IND/CO/3, paras. 23 and 24), were being taken into account. He also asked for information on the potential role of the National Human Rights Commission, the National Commission for Women and the National Commission for Minorities, in Gujarat given the State party's acknowledgement of their importance in India.

28. **Ms. Rasekh** said that she rejected the Government's attempt to downplay the seriousness of the events in Gujarat by referring to them as a riot. They constituted a premeditated massacre of a community. There had been numerous reports of lack of intervention by the police during the violence and on the inaction and indifference of the Government with regard to its responsibility to compensate, rehabilitate and reintegrate the victims. NGOs, humanitarian aid agencies and Muslim organizations had been left alone to help the victims and subsequently provide services in the colonies without help from the state government. The national Government had provided some relief, as explained in the exceptional report, but it bore no proportion whatsoever to the scale of the crisis: she would appreciate an explanation for the lack of any measures for the long-term rehabilitation of victims; were there any plans to introduce such measures? In particular, she wished to know what the Government's rehabilitation plans were for women and girls and their families in the short and the long term.

29. The contradictions between the report, the supplementary material, and the many NGO reports needed to be resolved, in order to clearly show what support and assistance the Government was providing. She asked for more specific details, including dates and amounts, of the compensation offered to the women victims of violence and those who had lost family members, as well as more complete information on the schools that served the colonies and the health facilities available to them.

30. Women who had seen members of their families subjected to brutal violence needed psychological support, in order to deal with possible post-traumatic stress disorder. Were counselling services provided, and were the counsellors sensitive to the victims' needs? She asked whether the Government would agree to the Committee carrying out a country visit to India, in order to facilitate preparation of its follow-up report.

31. **Mr. Gopinathan** (India) said that the Committee's recommendations from 2007 had been taken into account in the communal violence bill. It would be premature to establish a schedule for closing down the colonies; the people living there should be the ones to decide when the time was right to leave. It would take time for the conditions that had led to the creation of the colonies to change. Being a low-income developing country, with low literacy levels, it was difficult for India to provide adequate training to police, doctors, counsellors and the judiciary in the specific needs of victims.

32. The Sachar Committee had not looked into the Gujarat riots but into the situation of Muslims throughout India more generally. The recommendations in its report did not specifically apply, therefore, to the post-riot situation in Gujarat; they were still being considered by the Government and no decision had been taken about which ones to implement.

33. With regard to vocational and livelihood training for women victims and widows, he referred the Committee members to the relevant sections of the supplementary material. While it was true that NGOs had played an important role in rehabilitation efforts, the Government's involvement and expenditure had been considerable. Information on long-term rehabilitation, such as skills training, housing assistance and support for the rebuilding

of small businesses, had been provided in the report and the supplementary material. Post-traumatic stress counselling had been provided to victims by trained volunteers.

34. He was not qualified to say whether the events in Gujarat constituted genocide. Similarly, it was not for him to discuss whether local police officers had failed to intervene during the violence. He would be happy to provide written clarification of any contradictory information, together with further information, disaggregated by sex, on compensation for victims. The global figure spent by the Government on compensation amounted to almost 3 billion rupees.

35. **Ms. Patten** acknowledged that the Government had responded promptly to the instructions issued by the Supreme Court, but expressed concern that the Supreme Court was not acting *proprio motu* but rather at the insistence of human rights defenders and civil society. The Government should not play a passive role, but should take proactive measures to improve legal representation and provide lasting protection for victims and witnesses, given the existing climate, in which perpetrators of violence had recently won local elections while facing charges of rape or mass murder. She would be interested to hear the delegation's views on the Supreme Court's refusal to reopen cases where the discovery of illegal mass graves had vindicated previously dismissed widows' claims.

36. **Mr. Bruun** asked what lessons had been learned that would ensure that the events of Gujarat were not repeated. With regard to reconciliation measures, how had the Government involved the Hindu groups that had played a part in the conflict?

37. **Mr. Gopinathan** (India) said that a dynamic civil society was surely a cause for celebration, not concern. Similarly, the Supreme Court's active role in ensuring that justice was done was to be welcomed in a democratic society. He could not provide any information on its refusal to reopen cases, but it was possible under the Constitution to apply for review of a Supreme Court decision.

38. The peaceful coexistence of different communities could not be brought about by legislation; rather, a harmonious atmosphere must be fostered through other measures, including awareness-raising. To that end, the Ministry of Home Affairs had produced a set of guidelines on coexistence, which had been widely disseminated. India had taken all judicious and effective steps to address the range of issues that had arisen in the aftermath of the Gujarat riots, and he had taken careful note of the observations and concerns expressed by the Committee. With regard to the possibility of a country visit by the Committee, he would reply in writing.

39. **The Chairperson** thanked the delegation for the constructive dialogue that had taken place. While acknowledging India's democratic values and pluralism, and its commitment to secularism and the rule of law, she said that the State party had not fully met its obligations under the Convention and that the Committee was deeply concerned about many of the issues arising from the massacres. The women and girl victims must be given full compensation and rehabilitation, to enable them to lead functional lives without fear or intimidation. The perpetrators of the heinous acts that had been committed must be brought to justice and punished without delay. The necessary laws must be passed, or amended, to ensure that sexual violence in all its forms was criminalized. More sensitive training was also required, with regard to gender as well as ethnic and religious diversity. The Government should take all measures to ensure that similar events did not happen again, and should perhaps consider the possibility of special measures to increase women's participation in law enforcement and other areas of government in the state of Gujarat. She hoped that the Government would address the Committee's concerns, with a view to full implementation of the Convention.

The meeting rose at 1.05 p.m.