



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

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**Committee on the Elimination of Discrimination
against Women**
Thirtieth session

Summary record of the 631st meeting

Held at Headquarters, New York, on Tuesday, 13 January 2004, at 3 p.m.

Chairperson: Ms. Acar

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The meeting was called to order at 3.05 p.m.

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

Combined second and third periodic report of Nepal (CEDAW/C/NPL/2-3) (continued)

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

2. **Mr. Mainali** (Nepal), responding to a question about women's involvement in the peace process, confirmed that women had played an active role in that connection.

3. With regard to the report currently before the Committee, he said that it had not been submitted to the Nepalese Parliament because such a submission was not required by law. Turning to the Optional Protocol, he said that it had not yet been ratified owing to a number of legal difficulties but that consultations were currently being held in that connection within the Ministry for Women, Children and Social Welfare.

4. **Mr. Pathak** (Nepal), referring to a question concerning training opportunities for rural women, said that such opportunities existed at the national, district and community levels. The Government took the view that human resources development was a priority and that training was a continuous activity. In that connection, it had, together with representatives of civil society and the private sector, implemented target-specific training programmes in the area of employment. Unfortunately, he was unable to provide any data on the actual number of beneficiaries of such programmes, although he could say that some 500 rural women had received health-care training within the framework of the National Plan of Action.

5. With regard to educational opportunities for rural women, he said that both the Ministry of Women, Children and Social Welfare and the Ministry of Education and Sports had prepared general assessments on the whole education sector which had revealed a number of gaps in the provision of educational services to women. For instance, only 42 per cent of the budgetary allocation for women's education had actually reached its intended beneficiaries. Nevertheless, in collaboration with civil society and the international development community, the

Government had successfully implemented a variety of rural development programmes involving, inter alia, community forestry, drinking water and cooperatives, many of which were led by women. Each of Nepal's 75 districts had an official Women's Development Officer, who was responsible for overseeing the programmes and acted as a gender focal point.

6. The Committee's concluding comments on Nepal's initial report, published in 1999, had been disseminated in Nepal through incorporation into a gender training manual. Although no formal system for monitoring the dissemination of the comments existed, discussions involving representatives of civil society and the Ministry of Women, Children and Social Welfare had also taken place. During the preparation of the report currently before the Committee, the Government had held consultations with relevant experts from civil society. Their participation had been very encouraging and thought-provoking and, in his view, had greatly enhanced the quality of the report.

7. Turning to the strategy to eradicate harmful traditional customs and practices (*deuki, badi* and *jhuma*), he pointed out that such customs and practices were classified as offences under the Nepalese Constitution, which prohibited all forms of exploitation. In strictly legal terms, they were regarded as crimes against the State, and the Government was free to prosecute perpetrators. However, the issue also had a social and cultural dimension, and therefore the Government, in conjunction with a number of non-governmental organizations (NGOs), was taking action, including awareness-raising programmes, to promote economic and social empowerment.

8. With regard to the Optional Protocol to the Convention, a number of ministries were in the process of discussing ratification but it was very difficult to provide the Committee with a time frame. He stressed that the ratification of that instrument offered a very positive opportunity to further the effective implementation of the Convention.

9. The Government had no plans to carry out research in the area of gender-based violence. However, on the basis of the results of various surveys conducted by numerous NGOs, the Government, in consultation with civil society, had drafted legislation on domestic violence.

10. Lastly, he said that the Ministry of Women, Children and Social Welfare had carried out gender

assessment within the civil service and, as a result, gender concerns had been integrated into all governance programmes and the administrative reform process.

11. **Mr. Regmi** (Nepal), in answer to a question about human rights training for members of the judiciary, said that the Ministry of Law, Justice and Parliamentary Affairs had set up the Judicial Service Training Centre for that purpose. Specialist training was also provided by the Judicial Council, and the Government was planning to establish a judicial academy to cater to the needs of judicial officials and Government and private lawyers. The Ministry of Law, Justice and Parliamentary Affairs ran training courses for Members of Parliament, and the police and the army provided training in the area of law enforcement for their own personnel.

12. Turning to the issue of discriminatory legislation, he said that, in accordance with the Committee's recommendations, a high-level committee had been established in order to ascertain which provisions of Nepalese law conflicted with the Convention. That committee had submitted a report detailing its findings and a draft law had been prepared and forwarded to the Prime Minister for consideration. In accordance with the domestic legislative amendment process, all draft laws must be approved by the Ministry of Law, Justice and Parliamentary Affairs and the Council of Ministers before being submitted to Parliament. However, since Nepal was currently without a House of Representatives, it was unclear when the draft law would be finalized and promulgated.

13. As far as amendments to the Constitution were concerned, he said that the amendment process was laid down in the Constitution itself. A draft law to amend or repeal a provision of the Constitution could be submitted to either the Upper or the Lower House of Parliament and required a two-thirds majority in order to be passed. He added that, in the absence of a functional Parliament, urgent constitutional amendments could be approved by means of a decree promulgated by the King.

14. **Mr. Thapa** (Nepal) expressed appreciation to the members of the Committee for their acknowledgement of the difficulties faced by Nepal. In answer to the questions posed by Mr. Flinterman about the National Human Rights Commission, he said that the Commission was an independent advisory body, which

submitted recommendations to the Government. Although it was not empowered to make binding decisions it was able to act *suo moto* in order to investigate any alleged violation of human rights. He was unable to specify the exact number of investigations undertaken by the Human Rights Commission, but a number of cases had been brought to its attention.

15. Nepal's laws on citizenship did not discriminate against women. Although the Constitution did not permit dual citizenship, it did provide for Nepalese citizenship for all women. If a woman married a foreign national, she did not automatically lose her Nepalese citizenship, and any children born to the couple could choose to acquire the citizenship of either parent. Children born out of wedlock automatically acquired Nepalese citizenship unless the father was traced.

16. Lastly, with regard to the precedence of international law over domestic law, he said that if a provision of domestic law conflicted with a legal obligation under an international instrument to which Nepal was a party, the international provision prevailed.

17. **Ms. Pokhrel** (Nepal) said it was regrettable that only a husband or father could transmit Nepalese citizenship to a spouse or child. The National Commission on Women had suggested amendments to make the Constitution more gender-sensitive and would continue its efforts in that regard. Her Government was also attempting to meet the needs of women in conflict areas, many of whom were widows. Training programmes were provided to them, including in non-traditional areas, and they and their children were eligible for special compensation; for the first time, some women were receiving military training. In the area of health, 500 women countrywide were receiving training in women's health issues.

18. **Ms. Gnancadja** welcomed the State party's clear desire to deal with the issue of discrimination against women and noted that steps had been taken to amend legislation; she stressed that any such efforts should aim at the complete elimination of discrimination against women. She was concerned, however, that discriminatory provisions would continue to exist even after the reforms, for example in areas such as women's property rights and marital status. She expressed concern at the continued practice of bigamy and early marriage and pointed out that although a girl

could be married at 15, she could not request annulment of the marriage until she was 18, and even then only if she had no children.

19. She wondered whether any effective sanctions existed or were planned to prevent discriminatory practices under civil or criminal law and whether progress had been made towards adopting a law relating to family violence. Another priority for reform should be the requirement for women petitioners before a court to have the approval of their father or husband as well as provisions that prevented a woman from disposing of family property without the permission of her father in the case of a daughter, her husband in the case of a wife or her son in the case of a widow.

20. **Ms. González Martínez**, referring to paragraphs 136 through 141 of the State party's report (CEDAW/C/NPL/2-3), expressed concern that despite constitutional provisions guaranteeing the equality of all citizens and forbidding discrimination on the basis of sex, many situations which constituted a flagrant violation of women's rights, such as domestic violence, persisted. Abuses such as polygamy, bigamy, preferences for male children and discrimination against women in the family and marriage were explained as being related to customary or patriarchal values, but practices which so obviously discriminated against women should not be dignified by being characterized as values.

21. The State party must show greater political will to implement legal and administrative measures, such as those mentioned in paragraph 142 of the report, in order to meet its international obligations under the Convention and end abuses by increasing awareness of women's rights among both men and women. Furthermore, it would not be enough to simply adopt laws; effective follow-up and application were necessary in order to ensure effective implementation of the Convention.

22. **Ms. Kwaku** wondered whether efforts to suppress bigamy and polygamy, for example the provisions contained in the Country code (Eleventh Amendment), and others, had been effective in reducing or eradicating those abuses.

23. **Mr. Regmi** (Nepal) noted that his Government had identified the discriminatory provisions in existing legislation and was preparing a draft omnibus bill to address the problems identified. The bill was still

under consideration, but his Government was committed to dealing with the problem of discrimination in a comprehensive manner. New provisions could be added to that bill by Parliament or by women's groups, and suggestions made by the Committee could also be incorporated into the draft.

24. **Ms. Pokhrel** (Nepal), referring to the issues of bigamy and polygamy, noted that polyandry was also practised in some ethnic groups. She said that despite being illegal, there were many cases of polygamy. Legally, a man could take a second wife if the first wife had been infertile for 10 years, was suffering from a major disease or had become blind or disabled; a woman did not, however, have the same right if the situation was reversed. With regard to the disposal of property in a marriage, a woman, while she had the right to inherit property, could not dispose of it without the permission of her father in the case of a daughter, or her son in the case of a widow.

25. **Ms. Saiga** expressed surprise that although the Act Relating to Land (1964) guaranteed tenancy rights for daughters, daughters-in-law and granddaughters, it did not include daughters in the definition of family (para. 17). She wondered therefore how family was defined under the Country Code and whether girl children had equal rights to boy children (in all areas, including health and education). She took note of the court decisions mentioned in paragraph 19 of the report giving, for example, priority to daughters over adopted sons or stepsons, but wondered whether there was effective follow-up to and application of court decisions protecting women's rights.

26. Noting the National Plan of Action against Trafficking in Children and Their Commercial Sexual Exploitation (para. 32), she expressed surprise that one component of the Plan was income and employment generation and wondered whether that implied tolerance of child labour. She also asked whether there was any similar plan to prevent trafficking in and exploitation of women. With regard to the nationality of children born to a Nepalese woman and a foreign national, she said that the child should have the right to choose the mother's nationality, thereby affirming the mother's right to transfer her own nationality to her children.

27. **Ms. Shin** expressed concern that a woman needed the permission of her husband or her father in order to receive or renew a passport and wondered whether an

act of parliament was necessary to change that requirement; if not, the Government should immediately take whatever administrative measures were necessary to remedy that situation. She also urged the Government to lift the ban on Nepalese women seeking employment as domestic workers in the Gulf States. She welcomed the lifting of the ban on abortion, but noted that no abortion services were in fact available and wondered whether any women were still imprisoned for abortion-related offences.

28. **Ms. Šimonovic** said that article 9 of the Constitution, which stipulated that only a Nepalese father or husband could pass on Nepalese citizenship to a child or spouse, was a clear violation of article 9 (2) of the Convention and also seemed to violate constitutional guarantees of equality between the sexes. That situation must be remedied as soon as possible.

29. **Ms. Schöpp-Schilling** said although reform was certainly necessary in the areas of legislation and education, women's health issues must also be addressed. She noted the gap between health services available to urban and rural women, for example in the areas of family planning, prenatal and post-natal care and childbirth and wondered what resources and what priority had been given to women's health issues in general in the Government's efforts to implement the Convention.

30. **Ms. Morvai** said that the fact that only men had the right to transmit their nationality to spouses or children was a clear case of discrimination against women. The fact that a Nepalese woman could not marry a foreign national and thereby transmit Nepalese citizenship to her husband was also a factor which affected a woman's right to freely choose her spouse. That situation was discriminatory and constituted a clear violation of articles 2, 9 (2) and 16 of the Convention, and it should be remedied immediately.

31. **Mr. Melander** drew attention to his earlier question concerning the situation of refugee women.

32. **Ms. Achmad** asked to what extent the current plan for development maintained a balance between employment, health and education, which were areas crucial to the advancement of women.

33. She was also interested in knowing whether training of the members of the judiciary and law enforcement bodies was offered specifically with respect to gender equality. She believed it was

important that the training curriculum offered to such personnel should include a component on the treaty obligations of States.

34. In order to clarify the meaning of discrimination, she suggested that a single law should be drafted, based on the usage of the term as defined in the Convention.

35. **Ms. Gnancadja** asked whether there were legal provisions which placed an obligation on men to provide child support in the event of divorce or separation.

36. She asked for a clarification of the implications of the comprehensive amending statute to which reference had been made, and the process through which such amendments would be carried out.

37. **Ms. Khan**, noting that abortion had been decriminalized, asked whether there were still women in prisons for abortion-related offences, and if so, what measures had been taken to release them.

38. **Ms. Belmihoub-Zerdani** said she wondered whether it would be possible for legislation to be enacted by virtue of an ordinance through the appropriate authorities, which was often the case when national parliaments were dissolved. If so, she believed that all legislation could be embraced under a single instrument which would then provide the possibility for violations of the Convention to be addressed.

39. She also asked whether Nepal had derived sufficient benefit from resources provided by developed countries in order to overcome its development problems, which lay at the root of discrimination.

40. **Mr. Regmi** (Nepal) said that the definition of family was treated differently under various legal provisions. With regard to tenancy rights, he said that under the concept of single ownership in the current Land Act, the issue of tenancy rights did not arise for either men or women.

41. In response to questions raised on abortion, he said the Government of Nepal had approved procedures for the performance of safe abortions. There were no longer women serving prison terms for abortion-related offences. There were, however, persons imprisoned for the crime of infanticide.

42. Concerning passport procedures, he said that amendments could be made by the Government, and

therefore legal provisions that were not in line with the Convention could be handled without undue delay.

43. Citizenship in Nepal was granted on the basis of *jus sanguinis* and in general could neither be lost nor acquired through marriage. However, it was possible for foreign women married to Nepalese men to obtain citizenship on the basis of their marital status. As for refugees, he assured the Committee that men and women were treated equally in the granting of refugee status.

44. **Mr. Pathak** (Nepal) said that the ban on women working in the Gulf States had not yet been lifted for domestic work for several reasons. A main concern of his Government was the need to establish labour offices and diplomatic representations to provide adequate support to migrant workers. Nepal was in the process of introducing skills training and orientation programmes for the benefit of women. It had also concluded bilateral agreements with receiving countries and was currently drafting legislation on foreign employment which would provide comprehensive protection and support to women working abroad.

45. **Mr. Dhakal** (Nepal) said that he was not aware of any cases in which women were required to have the consent of their husbands in order to apply for passports, but would be willing to investigate any such allegation.

46. **The Chairperson**, in thanking the delegation for the oral presentation of the second and third periodic reports and for its frank approach to the issues raised, said that the Committee was particularly gratified by the presence of the minister and experts from Nepal.

47. The Committee looked forward to further action to bolster the rights of women and human rights issues in Nepal. She urged the Government to adopt relevant measures to ensure that such issues were not accorded low priority, despite the absence of a parliament. She hoped that as a State that had unreservedly ratified the Convention, Nepal would proceed to the amendment of discriminatory legal provisions. In that vein, serious attention should be paid to the law on citizenship as it did not grant the same rights to women as it did to men, particularly with respect to the passing of citizenship to their offspring. Similarly, action on laws which perpetuated harmful traditions and effective implementation of existing laws on the obligations of State parties were needed.

48. The Committee was pleased that the Government of Nepal had attached great importance to the Convention and had established the appropriate institutions for the promotion of women's rights. It should seek to ensure that those bodies received adequate financial and staffing resources, as well as powers, to allow for their proper functioning.

49. Concern had been raised over the political participation of women in the decision-making process, and in that context she highlighted the importance of women in peacemaking efforts. Other issues, such as gender equality, health and cultural attitudes, had also been of interest to the Committee. In conclusion, she expressed the hope that consultations currently under way on the ratification of the Optional Protocol would lead to early action in that regard.

50. **Ms. Yadav** (Nepal), speaking on behalf of the Nepalese Government, expressed gratitude to the Committee for the opportunity to present its periodic reports and thanked the NGOs that had participated in the process.

51. Her delegation had done its utmost to convey her Government's interest in promoting the rights of women and had noted the comments and suggestions offered by the Committee. Nepal was aware that the full and effective implementation of the provisions of the Convention was a continuous process and required political will and dialogue at all levels. She reiterated the commitment of her Government to the achievement of freedom and full enjoyment of human rights for women.

The meeting rose at 4.50 p.m.