



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

Distr.: General
27 February 2002

Original: English

**Committee on the Elimination of Discrimination
against Women**
Twenty-sixth session

Summary record of the 546th meeting

Held at Headquarters, New York, on Monday, 28 January 2002, at 3 p.m.

Chairman: Ms. Manalo (Vice-Chairperson)

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Ms. Manalo, Vice-Chairperson, took the Chair.

The meeting was called to order at 3.10 p.m.

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

Third and fourth periodic reports of Sri Lanka (continued) (CEDAW/C/LKA/3-4; CEDAW/PSWG/2002/I/CRP.1/Add.4 and CEDAW/PSWG/2002/I/CRP.2/Add.2)

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

2. **Ms. Saiga** after commending the Government for its efforts to eliminate discrimination against women, said that women should not only be able to seek remedies in the courts but that the equal status of women in the private sector must be guaranteed in the Constitution.

3. Referring to paragraph 73 of the report dealing with nationality, she asked for clarification on the legal status of the various statutes, directives and guidelines which had been issued.

4. **Ms. Kwaku** expressed concern at the discriminatory provisions in Sri Lankan legislation and asked for further details regarding the composition, membership and terms of reference of the Human Rights Commission of Sri Lanka (HRC) and the National Committee on Women and how the latter was funded. She also wished to know which authority was responsible for implementing the National Plan of Action for Women in Sri Lanka. While pleased that the minimum age for marriage had been raised to 18 years, she found it disturbing that under Muslim law the minimum age was 12 years.

5. Turning to the situation of rural women, she asked what proportion of the rural population consisted of women and said she looked forward to hearing more about the amendments to the Land Development Ordinance of 1934. She was curious to know how the women's societies known as "Kantha Karya Sanvidanaya" (KKS) and "Pradeshiya Bala Mandalaya" (PBM) functioned and what funding they received.

6. **Ms. Kapalata** said she looked forward to reading the next report and, in particular, to receiving an update on legislation on the age for marriage. She asked

whether, under the Land Development Ordinance of 1934, women in fact had the right to own land.

7. **Ms. Tavares da Silva**, while thanking the delegation for its informative report and responses which illustrated the Government's concern for improving the situation of women, noted that stereotyped gender roles were deeply entrenched in Sri Lankan society. She stressed the importance of temporary special measures in accelerating change and urged the Government to adopt such measures, in all their forms, to hasten the process of granting women full equality.

8. **Ms. Dissanayake** (Sri Lanka), replying to Committee members' questions, said that 12 members of the National Committee on Women were selected from among experts in various fields including law, health, and education and two were selected on the basis of their work in women's organizations. The Executive Director, was appointed by the President of Sri Lanka. The Committee's main function was to monitor the implementation of the various sections of the Women's Charter and to hear complaints on violations of its provisions. The National Committee was not a legal entity but would become one when it was converted into the National Commission on Women.

9. The National Plan of Action for Women in Sri Lanka would be implemented by government and non-governmental institutions and the implementation would be monitored and coordinated by the Ministry of Women's Affairs.

10. Women accounted for about 50 per cent of the rural population. The *Kantha Karya Sanvidanaya* (KKS) were village-level groups, established in 1978, which received technical input and guidance — but no funding — from the Women's Bureau of the Ministry of Women's Affairs. Some financial support, however, was provided by the Bureau's revolving credit fund. The Bureau also provided training in the areas of entrepreneurship, health and nutrition, accounting and community work. The *Pradeshiya Bala Mandalaya* (PBM) was a federation of the various KKS groups at the district level which liased with the Women's Bureau. One of the Bureau's more recent initiatives involved preparations for a meeting in Colombo of between 100 and 200 BPM representatives to promote the participation of women in politics.

11. Some women did own land, but they accounted for less than 5 per cent of all landowners and they did not enjoy equal status with men under the Land Development Ordinance.

12. **Ms. Wijayatilake** (Sri Lanka), elaborating on a response given at a previous meeting, said that, while the Supreme Court had no mandate to hear cases of infringement of rights by non-State actors, it could provide some relief in instances of State inaction with regard to violations of constitutional guarantees in the private sector (CEDAW/C/LKA/3-4, para. 12). Efforts were being made to strengthen national machinery to deal with such violations so that the Supreme Court would not be flooded with complaints.

13. Citizenship and the granting of residence visas to foreign spouses were two distinct issues. While the Citizenship Act per se did not contain discriminatory provisions, the Controller of Immigration and Emigration was implementing it on the basis of guidelines that proposed one set of criteria for granting visas to foreign spouses of women and another for foreign spouses of men. The Supreme Court had ordered that those guidelines be amended and the Attorney-General had since certified that they were no longer discriminatory. The other issue under the Citizenship Act was that it did not recognize the citizenship of a child whose mother was Sri Lankan but whose father was foreign. That provision was about to be amended.

14. The Human Rights Commission was empowered to hear complaints of human rights violations, build awareness of human rights values and norms, encourage the Government to adopt human rights legislation or accede to and ratify international human rights instruments, and monitor compliance with human rights norms by all sectors of society. It could also make recommendations to the Government concerning actions to assist particularly vulnerable women, for example, those who had been internally displaced or were in conflict zones.

15. **Ms. Dissanayake** (Sri Lanka) acknowledged that Committee members' suggestions concerning temporary special measures were relevant, and that household responsibilities did interfere with women's postgraduate studies. It was incumbent on the Government to provide greater support to women in that situation. Scholarships and paid leave based on

merit were awarded to both men and women for postgraduate studies at home and abroad.

16. **Ms. González** recognized that Sri Lanka had made progress in the area of gender equality, particularly compared to other countries in the region and expressed appreciation for the State party's sincerity in acknowledging that there were discrepancies between its Constitutional provisions on gender equality and the reality. The temporary special measures recommended under article 4, paragraph 1, of the Convention should be applied, in particular, in the areas of employment and violence against women, where the persistence of stereotypes and the undervaluing of women and their potential contribution to society caused serious problems.

17. The statistics concerning violence against women, particularly domestic violence, were alarming. Moreover, the delay of two to three years in hearing cases of violence against women, as indicated in the State party's response to the list of issues and questions, constituted a violation of both article 15 of the Convention and the provisions of the International Covenant on Civil and Political Rights. She was also concerned at reports of sexual violence and other human rights abuses of female prisoners and detained prostitutes, and, in particular, of ethnic minority women, at the hands of the very police and armed forces responsible for protecting them. That called for the imposition of severe penalties. Perhaps Sri Lanka would consider, within the context of its constitutional reforms, characterizing violence against women as a human rights violation, in keeping with numerous international human rights instruments to which it was a party.

18. **Ms. Myakayaka-Manzini**, after congratulating Sri Lanka on its efforts on behalf of women, especially in the field of law reform, said that she did not understand the necessity for a National Commission on Women. Would it act as a gender equality mechanism, with the right to prosecute or to amend the law? She would be grateful for an explanation of what added value the National Commission would bring to Sri Lanka's existing national machinery.

19. The Government was to be congratulated on its efforts to counter violence against women and its commitment to treat such violence even-handedly everywhere, including in conflict areas. She was also pleased that body searches of women would henceforth

be carried out by women, and asked whether a woman would have any recourse if such a search was conducted by a man. More generally, she urged that women, who typically had a different perspective on conflict, should be brought into the conflict resolution process as full partners.

20. She would appreciate knowing whether a married woman needed her husband's permission to get contraceptives. Noting that payment of maintenance to a former wife was difficult to enforce, she wondered whether the legislation might be amended so that a man who was in arrears could be brought to court.

21. Given that women accounted for just a small percentage of elected representatives, it was clear that women's needs were being neglected. It was unfortunate that no steps had been taken during the tenure of the current prime minister, herself a woman, to establish representation quotas and otherwise improve women's participation. She concurred with previous speakers that it was up to the Government to take a proactive role in that respect. She looked forward to hearing, in the next report, about the impact of the various laws and measures that had been adopted, particularly those aimed at altering cultural traditions and patterns in family life and employment.

22. **Ms. Corti**, after noting that Sri Lanka had many outstanding women whose educational achievements were impressive, said that the majority of Sri Lankans migrating to Italy were women, and that most of them appeared to be motivated more by a desire to find a job than by a desire to escape the conflict in Sri Lanka.

23. The private sector appeared to lie beyond the reach of government control, as did the area of domestic work. Hence working conditions were harsh. Given that it was the duty of the State to ensure better living and working conditions for its people, she considered that temporary special measures were needed for the poorest population groups, and that the labour laws should be reviewed in accordance with article 11 of the Convention. She called on the delegation on its return home to urge the legislators to improve conditions so as to stem the exodus from the country.

24. **Ms. Abaka** thanked the delegation for distributing the Women's Charter and said that she had been sorry to learn that, although it incorporated many of the Convention's provisions, the Charter had no legislative status. If it were to be adopted as a policy

document, its implementation would solve many of the problems raised during the discussions.

25. She was delighted to see, from section 13 of the Charter, that family planning policies were to be equally focused on men and women. Experience showed that, without men's involvement, family planning did not work. She was also pleased with the official recognition that women needed access to health programmes to protect their mental health as well as their physical health. For women who had been raped or subjected to incest, being obliged to give birth to an unwanted child was mental torture. The same was true of women who knew that they were carrying an abnormal foetus. The wording of section 13 (ii) (a) could be used to justify the inclusion of rape, incest and foetal abnormalities as grounds for abortion aimed at protecting women's health.

26. **Ms. Shin** said that she had been delighted to hear about the many mechanisms that had been established to protect women, especially women from ethnic minorities, from human rights violations at the hands of the police and military and she wondered how those safeguards were working in practice. Recalling the barricades and check-points she had encountered in Colombo, she wondered how a woman who, in addition, faced police harassment in a remote area, could get to the proper authorities to file a complaint. Were such women even aware of the safeguards that had been instituted? Had information about grievance procedures been disseminated to women in remote areas? How many convictions had been brought about?

27. Referring again to the plight of migrant women workers, she said that the Government was to be commended on its registration system and insurance scheme and asked how effective those protective measures were in reality. Information from NGO and other sources suggested that there were instances of fraud and corruption by registration personnel. She asked whether monitoring and supervision mechanisms existed and how many cases of fraudulent registration they had detected. It was crucial to keep a close watch, given the large numbers of Sri Lankan women earning dollars abroad.

28. **Ms. Acar**, while welcoming the news that the Government was devoting its attention to the question of discriminatory personal laws in the Muslim community and that favourable developments in that field could be expected in the near future, said that it

would have been better if the initiative had come from the community itself. She understood that a committee for Muslim religious and cultural affairs formed in 1990 had initiated a consultative process leading to the formulation of an extensive set of recommendations in 1993 and she urged the Government to act on those recommendations.

29. **The Chairperson** drew attention to the fact that the third and fourth reports had not contained any information about a comprehensive, integrated policy and programme for older women in Sri Lanka and she asked that details thereof be included in the next report.

30. **Ms. Dissanayake** (Sri Lanka) stated that the Women's Charter was not being discarded; on the contrary, an attempt was being made to strengthen the institution responsible for implementing it. To that end, the National Committee on Women was being turned into a National Commission on Women with full legal status and additional powers to act on complaints. Hitherto complaints had been referred to the relevant authorities for action, whereas in future the Commission would be entitled to deal with complaints directly.

31. Turning to the question of contraception, she explained that the husband's consent was generally sought before a woman was sterilized, but his agreement was not necessary when any other methods were employed. A campaign was under way to encourage men to use condoms as a means of preventing sexually transmitted diseases and taking more responsibility for family planning.

32. **Ms. de Silva** (Sri Lanka) confirmed that, while the consent of the spouse was generally obtained before performing a sterilization operation on either a man or a woman, there was no legal requirement to do so. The aim of many reproductive health schemes was to persuade men to be accountable for family planning and to take an active part in family life and the care of infants. A number of social and health measures were targeted at the over-sixties, who made up 10 per cent of the population. Moreover Sri Lanka had a special unit providing health care for the elderly and 50 out of the 256 health authorities offered programmes for senior citizens. It was hoped that by 2004 those programmes would be extended to the whole island.

33. **Ms. Wijayatilake** (Sri Lanka) conceded that justice delayed was justice denied and that urgent steps

were required to deal with the huge backlog of cases pending before the criminal courts. Her country was striving to introduce reforms and consequently legislation had been drawn up with a view to expediting magisterial inquiries. Magisterial inquiries into the abuse of children below 16 years of age had been abolished and the indictment was now sent straight to the High Court. In other cases, a magisterial inquiry was a prerequisite for filing an indictment in the High Court, because it was the magistrate who decided whether sufficient evidence existed to bring charges against a suspect. A full inquiry was necessary in the event of rape or murder. When the victims of those crimes came from an ethnic minority or from the conflict areas, the Attorney General often sent the accused for trial at bar. That meant a trial according to a swifter procedure by three judges sitting without a jury.

34. The presumption of innocence made it impossible to mete out immediate punishment to those in a position of power, since the accused had to be given a fair opportunity to defend himself. As a result of changes to evidentiary rules, consideration was, however, being given to shifting the burden of proof in cases concerning rape in custody, so that the woman bringing the action would no longer have to establish absence of consent. There would then be a presumption of lack of consent, owing to the constraints of custody.

35. Any abusive behaviour which amounted to degrading treatment was regarded as a violation of human rights. In a very recent case, the Supreme Court had found that women who had been abused at a checkpoint had been denied their fundamental rights and substantial compensation had been awarded to them. Furthermore, the Attorney General was indicting those responsible in the High Court. Two courses of action were open in cases of human rights violations. The first possibility was for the petitioner to file a fundamental rights application in the Supreme Court. The Court would then determine whether such a violation had occurred and, if it had, would award compensation; however, the accused could not be sent to prison. The other possibility was for the accused to be indicted in criminal proceedings before the High Court and, if found guilty, to be sentenced to prison, ordered to pay compensation and fined.

36. The Women's Charter was divided into two parts: Part I set out rights and policies that were accepted by the State and supplemented by the equality clause in

the Constitution; Part II spelled out the mechanism for monitoring the observance of those rights and provided for the establishment of the National Committee on Women, which was merely an administrative body. Nevertheless once the act setting up the National Commission on Women was passed, that body would have statutory recognition and its decisions would have the force of law.

37. She believed that women in conflict area were probably not aware of the remedies available to them if they were harassed or raped by the police or security forces; efforts were being made to publicize complaint procedures and it was expected that word of deterrent action against the perpetrators would spread and that the women would then realize that the State did not tolerate such behaviour. The Ministry of Justice acknowledged the need to enhance awareness of individual rights and of the responsibilities of officials and it planned to publish a quarterly bulletin focusing on machinery to deal with human rights abuses in an effort to publicize rights, international norms and the country's obligations under international treaties.

38. As for follow-up action and the remedies available to women who had been searched by men at checkpoints, she said that the women could file a fundamental rights application. Once a complaint had been lodged, disciplinary action could be commenced and in several cases the Court had awarded relief to petitioners. If the Supreme Court found in favour of the petitioner, criminal action and a disciplinary inquiry naturally followed. She admitted that her Ministry had been unhappy with the way law-enforcement authorities had been handling disciplinary inquiries. In order to overcome those shortcomings, the Ministry of Defence and the Ministry of the Interior had appointed senior officials who were responsible for monitoring each inquiry and ensuring that evidence was obtained.

39. Maintenance orders were enforced through the courts. Applications had to be submitted to the courts; a person could be sent to prison for failure to pay maintenance.

40. Sri Lankans had been seeking asylum in other countries since 1983; the main reason for emigration was not to find employment, as had been borne out by a report of the Council of Ministers of the European Union. Several measures had been taken to deal with rejected asylum-seekers. The Government had signed bilateral agreements with Switzerland, the Netherlands

and Sweden to facilitate voluntary repatriation. An action plan was being negotiated with the European Union to address issues related to asylum-seekers and trafficking in human beings. An agreement signed with the International Organization for Migration also covered questions of assistance for refugees and internally displaced persons.

41. An attempt had been made to introduce legislation permitting abortion when pregnancy had followed rape or incest or if the foetus displayed congenital abnormalities. Parliament had not, however, passed the bill, but efforts to improve matters were still continuing. The Government had never received the report on the amendment of personal laws drawn up by the Committee established in 1990. In her opinion, a new committee should be set up to look into that question as a matter of priority, so that the State could base its policy on recommendations from within the community concerned, since that would ensure better compliance with the reforms.

42. **Ms. Dissanayake** (Sri Lanka) commented that illegal Sri Lankan migrants who had gone to Italy had done so through private contacts and had not been covered by government registration procedures. For that reason, the State had few records of those people and was unable to pursue matters unless complaints were received. In her opinion, the main purpose of illegal migration was to find employment abroad, but sadly some people then became trapped in virtual slavery.

43. Her delegation had welcomed the opportunity for a most enlightening dialogue. It had taken due note of the Committee's recommendations and promised that the next report would be fuller.

44. **The Chairperson** said that the report attested to the conscientious approach of the Government to the implementation of the Convention and she believed that the dialogue had been mutually beneficial.

The meeting rose at 5.15 p.m.