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Committee on Economic, Social and Cultural Rights Fifty-third session

Summary record of the 57th meeting

Held at the Palais Wilson, Geneva, on Thursday, 20 November 2014, at 10 a.m.

Chairperson: Mr. Kedzia

Contents

Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Nepal (continued)

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

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Third periodic report of Nepal (continued) (E/C.12/NPL/3; E/C.12/NPL/Q/3 and Add.1; HRI/CORE/1/Add.42)

1. *At the invitation of the Chairperson, the delegation of Nepal took places at the Committee table.*
2. **The Chairperson** invited the delegation of Nepal to continue its replies to the questions raised at the previous meeting.
3. **Mr. Malla** (Nepal) said that his Government had always engaged in constructive dialogue with the United Nations treaty bodies in order to share its achievements, future plans and concerns. It was committed to fully implementing the Covenant and had established a large number of relevant laws and policies to that end. However, there remained much to be done; in particular, social transformation was required in order to change social attitudes and eradicate harmful traditional practices. In that regard, non-governmental organizations (NGOs) and civil society provided vital assistance to the Government by implementing awareness campaigns. The country was in transition and was seeing gradual changes as people became more conscious of their rights. He recognized that political stability could not be ensured pending the adoption of the new Constitution, the target date for which was mid-January 2015.
4. **Mr. Ramesh Dhakal** (Nepal), replying to a question on the human rights service bill, said that the Cabinet had submitted the draft text to the parliament for approval. On the dissemination of concluding observations, he said that those observations had only been published in Nepali as yet but would be disseminated in various other languages. In response to a question on the representation of dalits and persons with disabilities in the civil service, he said that the Government intended to conduct a survey of the civil and public service, which would produce the requested data. With regard to the assessment of programmes to rehabilitate former haliyas and kamaiyas (bonded labourers), he referred to the Freed Kamaiya Rehabilitation Implementation Committee, which included representatives from relevant NGOs, a special monitoring committee mandated to evaluate rehabilitation programmes and the Freed Haliya Rehabilitation and Monitoring Taskforce. That task force had categorized former bonded labourers according to whether or not they owned a house or land and established targeted programmes for each category. Responding to the request for additional information on punitive measures to combat corruption, he referred to the Prevention of Corruption Act, which included special provisions relating to corruption offences committed by high-ranking Government officials, who were sentenced to a further 5 years' imprisonment in addition to the standard 10. Furthermore, convicted persons were sentenced to pay a fine equivalent to the amount gained through corruption and all property derived from that corruption was confiscated. They were also prohibited from holding public office or standing for election. Lastly, he said that there were no plans to ratify the Convention and Protocol relating to the Status of Refugees but that the Government was drafting a bill to address the issue of refugees.
5. **Ms. Shin**, noting that a foreign woman was granted Nepalese citizenship upon marrying a Nepalese man, asked whether the same applied to foreign men who married Nepalese women. Noting that Nepalese fathers could transfer citizenship to their children, she asked whether there were any conditions applied to the transfer of citizenship from a Nepalese mother to her child.

6. **Mr. Sadi** asked why there were no plans to ratify the Convention and Protocol relating to the Status of Refugees.
7. **Mr. Ramesh Dhakal** (Nepal) said that citizenship could be acquired through either descent or naturalization under the current Constitution and the Citizenship Act. Anyone whose father or mother was a Nepalese citizen was entitled to citizenship by descent at birth; it was not necessary for both parents to have citizenship. Persons born in Nepal before 1990 and with permanent residence there were also deemed citizens by birth. Foreign women who married Nepalese men could obtain citizenship by submitting an official application with the relevant supporting documentation. A child born to a Nepalese woman and a foreign citizen and domiciled permanently in Nepal could be naturalized on condition that he or she had not already acquired foreign citizenship from his or her father. According to a recent Supreme Court ruling, citizenship could be granted to a child on the basis of the mother's citizenship. While there were still legal challenges to resolve, the necessary legal provisions were in place and the new Constitution would address remaining problems, if any. With regard to the absence of plans to ratify the international instruments on refugees, he explained that the Government wished to establish the necessary infrastructure and policies before ratification, in order to ensure the effective implementation of those instruments.
8. **Ms. Shin**, referring to the permanent residence conditions governing naturalization, requested more information on specific provisions relating to citizenship and statistics from 2007 onwards indicating the number of citizenship applications lodged, disaggregated by gender and type.
9. **Mr. Dasgupta** asked whether a mother could transfer citizenship to her child if the father had not been identified, especially in cases of rape, which had occurred frequently during the civil war. There were reports that some children whose parents were not citizens faced problems enrolling in primary school.
10. **Mr. Ramesh Dhakal** (Nepal) said that, under the current Constitution, every child residing permanently in Nepal, the whereabouts of whose parents was unknown, was deemed a Nepalese citizen until the father or mother had been located. District administration officers had been granting citizenship certificates to children on the basis of their mother's citizenship, simply stating on the document that the father had not been identified. His delegation did not have statistics relating to applications lodged from 2007 onwards but that information could be provided later.
11. **Mr. Teertha Raj Dhakal**, in response to questions on poverty alleviation, said that there was a growing realization on the part of the Government that poverty was linked to power relations and should be viewed from a gender perspective. There was also a strong correlation between the cycle of poverty and gender discrimination. Such discrimination manifested itself through unequal access to education, financial resources, social and cultural assets, health services and opportunities to participate in public life. Overall, poverty levels in Nepal were decreasing, thanks to an increase in social investment, the implementation of targeted measures and the support of NGOs and civil society. Based on the national poverty line, the poverty rate in Nepal had almost halved since the mid-1990s. However, figures varied greatly depending on social group and geographical region and the pace of poverty reduction was slower among disadvantaged groups such as the dalit community.
12. With regard to gender disparities, he said that positive changes had been seen in women's literacy levels, their participation in the non-agricultural sector and their share of landownership. The budget allocated to directly gender-responsive measures such as capacity-building among women and increasing women's access to social and cultural assets had almost doubled since 2007.

13. In response to a question on social security allocations, he said that social benefits had been extended to many social groups, including all dalit people over 60 years of age, single women and persons with disabilities. The Committee had expressed concern that the monthly allocation of 500 rupees for elderly persons and single women was not sufficient, but the amount had already been increased substantially and the Government was considering increasing it further. In addition, there had been massive increases in the budget allocated to health and education.

14. Responding to a question on measures to evaluate national programmes, he said that an institutional monitoring structure was in place, which included a number of regular national surveys, the data from which were used to inform Government policy. Third parties were also engaged in project evaluation and the resulting reports were available on the Government website. The national reproductive health programme was currently being evaluated; preliminary findings indicated that there was a need for improved infrastructure in the health sector, better governance and capacity-building among women health volunteers, which would contribute greatly to reducing the maternal mortality rate. To promote the accountability of service providers, community organizations and citizens' forums had been established to enable people from all social groups to contribute to the improvement of service delivery. Third party evaluations were under way to assess a number of education programmes and some important recommendations were being implemented, notably with regard to the provision of mother-tongue education and the accountability of teachers and school management structures.

15. In response to a question on school dropouts, studies had indicated a correlation between dropouts among girls and the availability of separate girls' toilets in schools. Accordingly, there was a policy to increase the number of girls' toilets and the current budget provided for 3,000 new facilities, with a view to reducing dropout rates by 1.7 per cent.

16. The current maternal mortality rate, which in 2012–2013 had stood at 170 per 100,000 live births, remained one of the highest in the world, but it had decreased sharply in recent years. The Government wished to maintain that downward trend and was implementing programmes to raise awareness, increase the frequency of prenatal visits and improve nutrition for mothers.

17. Concerning a question on the disaggregation of data relating to poverty levels and access to basic services, he said that there was a movement towards such disaggregation based on gender, social group and geographical area. With over 100 ethnic and caste groups in Nepal, it was not easy to disaggregate data by each individual group. Therefore, efforts were under way to establish 11 "clusters".

18. Lastly, he noted that some of the figures cited by Committee members were incorrect. He referred in particular to the size of the population, which stood at 28.5 million according to the 2011 census, rather than 39.5 million as stated during the previous day's meeting.

19. **Mr. Adhikari** (Nepal) said that, as a least developed country that was still recovering from an internal armed conflict, Nepal faced many challenges in implementing the Covenant rights but was no less committed to doing so. It was a party to almost all core human rights instruments and had been making slow but steady progress in the field of economic, social and cultural rights. The Labour Act of 1992 included a number of safeguards for workers, such as provisions on basic working conditions, working hours, holidays, overtime pay and protection from hazardous chemicals and substances. Workers whose rights had been violated could lodge a complaint to seek compensation. The Ministry of Labour and Employment conducted inspections of workplaces to ensure that labour laws were observed. The minimum wage had been established as part of a 2011

agreement, with separate minimum wages for workers in certain industries, such as agriculture, tea estates and the media. Local bodies oversaw the enforcement of minimum wage regulations, and the Ministry of Labour and Employment planned to establish a high-level authority to ensure protection of labour rights, including the implementation of the minimum wage agreement.

20. While he could not confirm the percentage of the population working in the informal sector, he recognized that the sector was large and that it might include many women working in entertainment. The Government planned to extend certain benefits currently available only to employees in the formal sector to include employees in the informal sector and self-employed persons. A bill had also been prepared that would extend social security benefits to domestic workers and workers in the informal sector. Bills on sexual harassment in the workplace and sexual violence in public places were currently being considered in parliament. Guidelines had been established on controlling sexual exploitation in bars and dance halls. Workers in the informal sector had been organizing in recent years to demand respect for their rights.

The meeting was suspended at 11.15 a.m. and resumed at 11.25 a.m.

21. **Mr. Ramesh Dhakal** (Nepal) said that a number of sectoral employment policies were already in place, but that the interim Constitution had required the enactment of a comprehensive national employment policy, which was currently being considered by the Cabinet. The interim Constitution prohibited discrimination on all grounds in both the public and private sectors, while the Protection and Welfare of Persons with Disabilities Act contained specific protections from discrimination for such persons. Nevertheless, the Government recognized that discrimination did sometimes occur in practice and had therefore launched several programmes to put a stop to it and ensure de facto equality. Those programmes had shown results, and the number of cases of discrimination had decreased. The Government was doing its best to implement the Protection and Welfare of Persons with Disabilities Act, though it faced many challenges and constraints in that regard. Persons with disabilities made up 1.9 per cent of the total population.

22. The Government did take a rights-based approach to social security, as evidenced by a number of laws, including the Trade Union Act and the Senior Citizens Act. A contributory social security fund was in the process of being established under a new bill submitted to parliament. A mechanism was in place to completely eliminate the worst forms of child labour in accordance with the Child Labour Act, under which the employment of children under 14 years of age in hazardous work was prohibited. A new children's bill was being finalized and would soon be submitted to parliament. The National Action Plan for Children 2005–2015 included actions to protect children from sexual abuse, exploitation and violence.

23. There was no specific mechanism in place for recognizing the unpaid labour of women working in the informal sector. The bill on social security should address some of the concerns related to that issue, however. Age restrictions on female migrant workers were in place only for those working in certain countries and were intended to protect those workers from exploitation and violence. The Government had signed agreements on minimum age requirements with five countries thus far and was in the process of negotiating with others.

24. **Mr. Sadi** asked why the relevant provisions of the Covenant did not appear to figure in the State party's definition of poverty or its efforts to combat it. He also asked what criteria were used to determine the minimum wage.

25. **Ms. Bras Gomes** asked whether the Government was considering ratification of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). She noted that the Labour Act applied only to the formal sector and asked whether the

Government shared the view, held by many employers and trade unions alike, that broad reform of the Act was needed. Recalling that Nepal had been involved in a pilot project to establish human rights indicators in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), she asked whether any follow-up had been given to that project and whether such indicators were being used.

26. **Mr. Teertha Raj Dhakal** (Nepal) said that the national poverty line was determined on the basis of the amount of money needed to purchase sufficient foodstuffs to meet one's daily calorie requirements and to cover other necessary expenditures. Since similar methods were used by more than 70 countries, the approach was useful for comparative purposes. Separate poverty lines were calculated for urban and rural areas and for different regions, while the national poverty line was an average of those calculations and stood at 19,261 rupees.

27. **Mr. Ramesh Dhakal** (Nepal) said that the Government did have plans to revise the Labour Act. In fact, a bill had already been drafted and was being submitted to the Cabinet for endorsement. It was true that the Labour Act applied only to the formal sector. Human rights indicators had been developed in cooperation with the Office of the Prime Minister, and efforts were being made to include those indicators in specific plans and programmes. The minimum wage was set by the Minimum Wage Fixation Committee, a tripartite body that included government, employer and worker representatives. The Minimum Wage Fixation Committee acted in accordance with the guidelines set out in the Labour Act.

28. While various pieces of sectoral legislation helped to provide food security either directly or indirectly, more framework legislation was needed to ensure access to the right to food, food security and even food sovereignty, and the Government planned to draft such legislation. In the meantime, it had launched a number of programmes to combat malnutrition. The Agricultural Development Strategy currently being considered by the Cabinet covered several specific issues related to food security. His Government believed that the problem of food security could be solved through large-scale intervention by the State together with market forces.

29. While the interim Constitution guaranteed the right to own property, the Government could requisition private property in the public interest if it provided compensation to the owners. Although individuals were not allowed to occupy public land, the tenure rights of indigenous peoples were recognized in cases where they traditionally had a connection to the land. The Government was drafting a policy to provide alternative accommodation to persons evicted from sites to be used for the public interest or for development projects. There were plans to build more than 1,700 residential units for the urban poor, with a particular focus on vulnerable groups such as the dalits. Such persons were also eligible for low-interest housing loans.

30. Abortion had been made legal in Nepal in 2002, and public health facilities, volunteers, media outlets and NGOs had all been involved in massive efforts to disseminate information to the public on the availability of safe abortion services, which were provided free of charge at government hospitals. While guidelines on safe abortion were already in place, there were plans to introduce a law covering all aspects of safe abortion from a rights-based approach. Targets had been set for increasing the use of family planning and decreasing the fertility rate.

31. Child marriage was a serious violation of children's rights and was prohibited in Nepal, and the number of child marriages was declining thanks to joint actions being taken by the Government, development partners and NGOs to raise awareness of the problem. Female community health volunteers were the backbone of the public health-care system. The Government, development partners and NGOs offered training to those volunteers, and

the Government was also considering providing more specific training along with regular financial support.

32. A variety of measures had been adopted to address domestic violence, violence against women and sexual violence. The Government was also reforming existing laws to ensure adequate safeguards for victims.

33. Any form of corporal punishment was prohibited in Nepal, as reflected in a number of laws, policies and other measures, and in the Constitution.

34. The main reason for continued low birth registrations, despite relevant legislation being in force since 1976, was a lack of awareness, particularly in rural areas, where home births predominated. A campaign to raise awareness and increase birth registrations had been in operation since 1990, including door-to-door canvassing. In addition, women had recently gained the right to register births in the absence of their husbands, and there were plans to introduce a requirement to produce a birth certificate as a prerequisite for school enrolment. The Government had begun to publish birth registrations in the different languages to engage public interest, which it hoped would encourage more people to register births.

35. A national strategy, policy and action plan on providing access to safe drinking water and sanitation in rural areas had been in place since 2004, together with a community-led sanitation programme launched in 2003. Current data indicated that over 85 per cent of people had access to safe drinking water.

36. The Government provided generous allowances to older persons, including for medical costs, and information on the benefits available was disseminated through the mass media, particularly community radio and television.

37. **Ms. Ravenberg** wondered why raising awareness of government policies and programmes on important issues such as abortion was left to NGOs, when it was clearly the State's responsibility to ensure the highest standard of physical and mental health of its people.

38. **Mr. Martynov** asked whether the new Constitution would include a provision recognizing community ownership of the land on which indigenous peoples lived.

39. **Ms. Shin** asked whether consultations were held with the indigenous peoples living on land earmarked for development and their needs discussed. She wondered why the State did not make community health volunteers paid employees, given their important role in maintaining the health-care system and reaching out to people in the community.

40. **Mr. Ramesh Dhakal** (Nepal) agreed that it was the State's responsibility to ensure the highest attainable standard of physical and mental health; indeed, the Government had more than achieved that through its various programmes. Partnerships with NGOs and civil society were vital, and that was why the Government involved them in campaigns to raise awareness of its policies, particularly in rural areas.

41. The land reform agenda was crucial for the Government. It was planning to revise the existing Land Act and develop a policy which would make provision for consultations with persons affected by development plans and for accommodation and support to be made available to them. Land reform would be a key priority area in the new Constitution.

42. **Mr. Teertha Raj Dhakal** (Nepal) said that the practice of carrying out a stakeholder analysis was already in operation. It involved consulting persons likely to be affected by land development projects, informing them in advance about their displacement, and seeking their input.

43. Recent discussions about making community health volunteers salaried staff members had concluded that that would not be a viable option because they worked for only a few hours per day. However, further discussions were under way on the possibility of increasing their subsistence allowances and building their capacities, while keeping their status as volunteers.

44. **Mr. Ramesh Dhakal** (Nepal) said that the Government would first have to establish the requisite national infrastructures before acting on the ratification of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

45. Existing laws recognized the traditional knowledge, values and customary rights of indigenous peoples. A range of programmes had been developed to ensure that they were able to enjoy their identity, culture and traditional languages. Primary schools in predominantly indigenous areas were encouraged to provide education in indigenous languages, and school textbooks were already available in 16 languages for that purpose.

46. The sale of organs was a serious problem. Existing legislation prohibited the extraction and sale of organs without the consent of the person concerned. However, there were instances of persons selling their own kidneys, particularly in poor rural areas. The Government was investigating those cases, and raising awareness of the issue, especially along the Nepal-India border.

47. **Mr. Mancisidor** requested more specific information on legislation and practices in place concerning indigenous and minority languages in the official, formal education system.

48. **Ms. Bras Gomes** asked whether Nepal had set a time frame for ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

49. **Mr. Marchán Romero** sought clarification on whether or not Nepal had already ratified ILO Convention No. 169. A 2009 report seemed to indicate that it had, yet the response just given suggested otherwise.

50. **Ms. Shin** asked whether there was routine close cooperation and coordination between the various ministries on the issues to be addressed.

51. **Mr. Malla** (Nepal) said that a mechanism was in place to ensure high-level cooperation and coordination between ministries. Nepal had indeed already ratified ILO Convention No. 169, but the Government was still in the process of finalizing an implementation plan, which was currently under consideration by the Cabinet.

52. **Mr. Ramesh Dhakal** (Nepal) stressed that ratification of the Optional Protocol to the International Covenant had to be considered as part of a package. There were other human rights instruments that had not yet been ratified, including the Rome Statute of the International Criminal Court, the third Optional Protocol to the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance. Efforts had been directed towards establishing relevant infrastructure and legislation. Once that work had been completed, the Government would be able to declare its position.

53. With regard to legislation and practice concerning indigenous and minority languages in the official, formal education system, a number of laws, programmes and policies had been adopted, which contained specific provisions to preserve native languages, cultural heritage and texts of indigenous tribes.

54. **The Chairperson**, speaking as a member of the Committee, agreed that it was important for countries to develop national infrastructures before ratifying the Optional Protocol to ensure that they complied with their obligations under the International

Covenant. He suggested that Nepal should contact OHCHR to seek assistance in accelerating the process.

55. **Mr. Malla** (Nepal), delivering his concluding remarks, said that Nepal highly valued and was fully committed to international human rights instruments. It was aware of how much more it needed to do and the resources it would require. Nepal was actively engaged in drafting a new Constitution, as part of its peace- and nation-building process. The Committee's concluding observations would provide a practical framework for the adoption of a more inclusive development approach.

56. **Ms. Bras Gomes** (Country Rapporteur) said it was the Committee's hope that the new Constitution would be finalized as soon as possible. It should include all economic, social and cultural rights, guarantee the constitutional status of international treaties, and build on acquired rights. She recognized that Nepal had emerged from a painful conflict and, despite concerted efforts, there were bound to be legislative gaps. The Committee's concluding observations would include some suggestions and recommendations on how to reduce those gaps. She encouraged Nepal to maintain an open and constructive partnership with NGOs.

57. **The Chairperson** said that the Committee had learned much about the transformation process in Nepal. Despite significant challenges, the State party had made encouraging steps forward. He expressed the hope that the process of drafting the Constitution would be finalized before the deadline. The significant presence of NGOs was a reflection of their important contribution to Nepal's human rights development.

The meeting rose at 1 p.m.