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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-ninth session

SUMMARY RECORD OF THE 1033rd MEETING

Held at the Palais Wilson, Geneva,
on Friday, 20 May 2005, at 3 p.m.

Chairperson: Mr. DOEK

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

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 5) (continued)

Second periodic report of Nepal (CRC/C/65/Add.30; HRI/CORE/1/Add.42, CRC/C/Q/NPL/2; CRC/C/RESP/88)

1. At the invitation of the Chairperson, Mr. Acharya, Mr. Adhikary, Ms. Bajracharya, Mr. Joshi, Mr. Nepali, Mr. Sapkota, Mr. Sharma and Mr. Thapa (Nepal) took places at the Committee table.
2. Ms. ORTIZ asked the delegation to comment on reports that children from the higher castes were given priority in matters of adoption. She was concerned at the many cases of child abuse and exploitation in foster care and enquired how children in foster care were monitored. She wondered whether foster parents who wished to adopt their foster child had to follow a special procedure. She was concerned that Nepal had no criteria to determine the suitability of children for intercountry adoption and that some adoption agencies charged US\$ 2,000 or more for intercountry adoption.
3. Mr. KOTRANE asked whether Nepalese labour norms applied to the informal sector, particularly to agriculture. It would be useful to know who was responsible for monitoring the implementation of labour norms relating to children. It appeared that children had no legally guaranteed right to social security. He asked what measures the Government was taking to provide assistance to working children.
4. According to some sources, 42 per cent of Nepalese prisoners were under the age of 16, and 30 per cent were under the age of 14. He asked whether that information was correct and what steps the Government was taking to ensure that children under 15 were not sent to prison.
5. Ms. SMITH said that the United Nations and bilateral donor agencies had issued a joint statement warning that Nepal stood on the brink of a humanitarian crisis. Children were especially threatened. Supplies of vaccines, vitamin A capsules, deworming tablets and essential drugs would need to reach rural areas over the next few months in order to prevent avoidable deaths.
6. She asked the delegation to comment on reports that the security forces had used schools for military purposes. She would welcome information on Tibetan refugees and on measures to protect girls from sexual harassment in refugee camps.
7. Mr. POLLAR asked what measures had been taken to protect the rights of informally “adopted” children and what was meant by “non-formal” education. He wished to know whether the Government intended to make the reporting of child abuse mandatory and whether any studies had been carried out to determine the extent of child abuse in Nepal. The delegation should comment on information that, under the Terrorist and Disruptive Activities (Control and Punishment) Act, children could be detained for up to one year.
8. Mr. ACHARYA (Nepal) said that the Government was committed to promoting and protecting children’s rights and was taking measures to reduce child mortality and illiteracy and to increase school enrolment of girls.

9. Nepal was providing shelter to both Tibetan and Bhutanese refugees. The Office of the United Nations High Commissioner for Refugees (UNHCR) ensured that Bhutanese refugees and their children were registered and had access to basic facilities. A number of steps had been taken to accommodate Tibetan refugees. He was not aware of any problems with regard to the situation of Tibetan refugees.

10. The Government was taking steps to prevent the security forces from using schools for military purposes; at present, no schools were being used for such purposes. Under the Treaty Act, the international conventions ratified by the Government took precedence over domestic law. He said that the data cited by Mr. Kotrane concerning children in prisons was incorrect.

11. The CHAIRPERSON expressed concern that children of refugees were not always provided with birth certificates. The Government should take measures to rectify that situation.

12. Mr. SAPKOTA (Nepal) said that the Government was establishing juvenile benches to deal with cases involving juvenile offenders; it was also amending juvenile justice legislation. Special cells for female and juvenile offenders had been set up in 26 district detention centres. District welfare officers, child psychologists and social workers were responsible for handling juvenile delinquency cases. There were no children in Nepalese prisons. At present, 18 children were being held in correction homes, which had basic health and educational facilities. Children who reached the age of 16 years and did not wish to continue their education were provided with vocational training.

13. The Government was taking steps to rehabilitate and monitor children who had returned home after being abducted by Maoist rebels. A special rehabilitation centre had been set up for that purpose and, to date, 10 children had been rehabilitated.

14. The CHAIRPERSON, asked whether persons aged 16 and 17 were treated as adults. Referring to table 34 in the written replies, he asked what was meant by "children encountered in custody". The data concerning juvenile delinquents in the written replies did not seem realistic. The delegation should provide an estimate of the number of delinquents in Nepal between 10 and 16 years of age.

15. Mr. ZERMATTEN asked who decided whether a child offender should be placed in pre-trial detention.

16. Mr. SAPKOTA (Nepal) said that the police could keep a juvenile offender in custody for up to 24 hours. The offender was then referred to a judicial authority that would decide whether the offender should be placed in a correction home.

17. He said that the Child Labour (Prohibition and Regularization) Act regulated child labour in the formal sector. Separate regulations were being drafted to regulate child labour in the informal sector. The International Labour Organization (ILO) Time-Bound Programme against the Worst Forms of Child Labour was being implemented and the Child Labour Master Plan 2001-2010 had been adopted. The Master Plan had been formulated as a complement to the Time-Bound Programme.

18. The CHAIRPERSON asked whether the Government intended to raise the minimum age for engagement in hazardous employment from 16 to 18 and whether measures had been taken to address the issue of child domestic labour.

19. Mr. SAPKOTA (Nepal) said that the minimum age provisions would be reviewed during the next round of reforms of child labour regulations. In order to address the issue of child labour in the informal sector, the registration of child domestic workers had been made mandatory in some municipalities, and agreements had been reached with employers with a view to guaranteeing those children's access to basic education.

20. The Government had allocated land for resettling the displaced Kamaiya. However, some Kamaiya continued to live in camps, and poverty and illiteracy hampered the implementation of the targeted health and education programmes for those populations.

21. Ms. ORTIZ said that, in Paraguay, when families enrolled a child in primary education, they were required to indicate whether the child lived with his or her family of origin or worked as a domestic servant. That system had proved useful in tracing child domestic workers and protecting their rights and might serve as an inspiration for the Nepalese authorities.

22. Mr. SAPKOTA (Nepal) said that the major health risks affecting children were unsafe drinking water and malnutrition. The Government had made the provision of safe drinking water a priority. A number of non-governmental organizations (NGOs) conducted nutrition-awareness programmes.

23. In Nepal, mother-to-child HIV transmission was a relatively new phenomenon. Effective measures to combat the spread of HIV required technical and other assistance from Nepal's development partners.

24. Mr. LIWSKI asked whether the Government intended to strengthen measures to prevent diarrhoea-induced infant mortality at the community level. The provision of oral rehydrating solutions had proved very effective in that regard.

25. Mr. SAPKOTA (Nepal) said that diarrhoea was not the only cause of infant mortality. The Government was currently concentrating its efforts on the provision of safe drinking water, which had had a number of positive effects on the health and welfare of entire communities. Health-care services were provided for a nominal fee; basic medicines were provided free of charge. There were no plans to privatize State-run hospitals. Abortion was legal if the pregnancy was the result of rape or incest or if the pregnancy endangered the woman's health.

26. Nepalese legislation provided that all childcare institutions must register with the local authorities. The Government had adopted minimum standards for the care of children; minimum standards for the protection of children with special needs were currently being drafted. Children separated from their families were generally placed in institutional care pending a permanent arrangement. Foster families received financial support to ensure access to basic health care and education for children in their care.

27. Ms. ALUOCH asked whether the Government actively promoted the reunification of children living in institutions with their families.
28. Ms. LEE wished to know whether Nepal had signed the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.
29. Mr. SAPKOTA (Nepal) said that Nepal had not yet ratified the Hague Convention. Family reunification was encouraged, and the Government provided financial assistance to relatives entrusted with the care of children who had been separated from their families. Relevant provisions would be included in the minimum standards for the protection of children with special needs.
30. The use of children of the Badi community as commercial sex workers had been virtually eliminated. A series of awareness campaigns and rehabilitation programmes had been conducted, and members of the Badi community were gradually being integrated into mainstream society. If the identity of the father was unknown, Badi children were entitled to citizenship through the mother.
31. The Central Bureau of Statistics was responsible for data collection and the Ministry of Women, Children and Social Welfare used that information and child rights monitoring indicators to prepare status reports on children. The establishment of a national resource and documentation centre was under way.
32. Children with disabilities were eligible for free education and special scholarships. A number of awareness-raising activities were being conducted with a view to changing society's attitudes towards children with disabilities. Efforts were being made to improve services for such children, including the establishment of centres for children with mental disabilities. A national plan of action on disability was in the final stage of approval. A mechanism had been set up at the district level to facilitate the issuance of identity cards or certificates to persons with disabilities; the cards and certificates entitled such persons to a number of benefits, including free public transport and free health care.
33. Primary education lasted for five years and was free of charge. Attendance was not compulsory. Dalit children, children belonging to ethnic minorities and children with disabilities were eligible for scholarships and free school uniforms. Incentives in kind were used to encourage the enrolment of girls in education.
34. Ms. ALUOCH asked the delegation to comment on the impact of the armed conflict on children's right to education.
35. Mr. SAPKOTA (Nepal) said that the Maoist insurgency had had a considerable impact on the life of Nepalese children, and parents were often reluctant to send their children to school for security reasons.
36. Ms. ORTIZ asked whether the Government had made any efforts to reach an agreement with the insurgent groups, particularly with a view to prohibiting the recruitment of child soldiers.

37. Mr. ACHARYA (Nepal) said that there was no agreement between the Government and the insurgents. The Government intended to declare education facilities “zones of peace” in the hope that the insurgents would respect those sites. Human rights organizations and NGOs were also engaged in a dialogue to that effect with the insurgent groups.

38. The CHAIRPERSON asked whether the Government had established temporary schools pending the reconstruction of facilities destroyed during the conflict and, if so, whether the international community was supporting such efforts.

39. Mr. ACHARYA said that child protection committees had been set up in districts and communities that were particularly affected by the conflict. Emergency funds had been created to pay for additional materials and infrastructure. Nepal’s development partners supported measures to extend the programme to other parts of the country.

40. Mr. FILALI said that, if the insurgents failed to cooperate, the Government had the responsibility to take appropriate measures to protect children’s physical integrity and their right to education.

41. Ms. SMITH requested information on rehabilitation and reintegration programmes for former child combatants.

42. Mr. ACHARYA said that his Government was fully aware of its responsibilities. At the same time, it wished to draw the international community’s attention to the difficulties caused by the insurgency. In spite of those difficulties, the Government of Nepal had made sustained efforts to ensure the continuation of children’s education.

43. In general, former child combatants were easily reintegrated into their community of origin; there was therefore no need for a fully fledged rehabilitation programme. However, rehabilitation support services could be provided on request and demobilized Maoist leaders were protected from retaliation.

44. The CHAIRPERSON asked whether primary education incurred hidden costs. He wished to know how child domestic workers reconciled school and work life, and what programmes existed to meet the goals set for the extension of pre-school education.

45. Mr. SAPKOTA (Nepal) said that school uniforms were provided free of charge only to members of disadvantaged groups.

46. Mr. KRAPPMANN asked whether primary education would be made compulsory and extended to eight years by 2015. The delegation should comment on reports that some schools charged tuition fees and that schools sometimes used funds allocated for scholarships for other purposes.

47. Ms. LEE asked what steps the Government intended to take to prohibit child labour and to make education compulsory.

48. Mr. ACHARYA (Nepal) said that the Government recognized the multiple advantages of education, and one of its priorities was to increase coverage at all levels. Owing to the difficulty of enforcement, the Government had decided was not to make education compulsory but rather

to encourage primary education, increase the enrolment of girls and develop innovative ways of reaching the goal of universal education. With support from the international community, the Government was, to the extent possible, investing its own resources in education and health.

49. Ms. LEE said that the Dakar Framework for Action promoted free basic education for all.

50. Mr. SAPKOTA (Nepal) said that the Government had developed an excellent education plan based on the Dakar Framework and would do its best to ensure that all Nepalese children received free, quality education.

51. Child marriages were declining, although the practice still existed in some regions of Nepal. Government action to discourage child marriages included refusing legal recognition of child marriages, sanctioning the families of the couple concerned and launching a campaign to raise awareness among adolescents.

52. The adoption authorities in Nepal were faced with various problems: adoptive parents often wanted a child from their own ethnic group, nearly all wanted a son, and most wanted a newborn baby. In addition, many parents were reluctant to reveal that they were adopting a child. The Government of Nepal imposed no fee for intercountry adoptions. Improvements were being made in monitoring children's eligibility for adoption. Progress was being made in discouraging the abandonment of children.

53. The CHAIRPERSON asked whether prospective adoptive parents from abroad were required to process the adoption through the courts.

54. Ms. ORTIZ said that the great demand for children internationally and the inadequate control over intercountry adoptions originating in Nepal was such that Nepal risked becoming a source of trafficking in persons. It was very important for a central authority - and not adoption agencies - to be responsible for monitoring and regulating adoption. Once Nepal ratified the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, the Government should declare that only its central adoption authority was competent to decide whether or not a child was eligible for adoption.

55. Mr. SAPKOTA (Nepal) said that certain institutions in Nepal were authorized to process intercountry adoptions by means of agreements concluded with foreign adoption agencies. The requesting families filed the relevant documents, and the Nepalese institutions tried to match a child to the request. When a child became available, a decision was taken and sent to the respective district administration, which forwarded it to the Ministry of Women, Children and Social Welfare. The Ministry took the final decision on the adoption. The draft regulations on adoption included the provision that Nepalese embassies abroad should monitor intercountry adoptions originating in Nepal and report their findings to the Government.

56. Ms. ORTIZ said that many orphans in Nepal were reportedly not being adopted. Priority for intercountry adoptions from Nepal should be placed on the needs of the children awaiting adoption, not on those of the prospective adoptive families. In order to take control of its adoption process, the central adoption authority should establish a prioritized list of children awaiting adoption and should then look for families outside Nepal if none were available within the country.

57. Mr. SAPKOTA (Nepal) said that the adoption process in Nepal was currently oriented to the needs of children awaiting adoption and not to the needs of prospective adoptive families. Provision to that effect had been included in the draft regulations on adoption.

58. The CHAIRPERSON asked whether the Government had set up any programmes to reduce the number of street children, which reportedly totalled some 5,000. He enquired whether the Government subsidized the helpline for street children and whether the helpline was toll-free. He wished to know where children who had stayed with their mothers in prison until the age of 2 were placed after they reached that age.

59. Mr. SAPKOTA (Nepal) said that the Government had estimated that the number of street children was no more than 3,000; nearly half of those children had families. A number of programmes for street children had been set up by the Government and by various civil society organizations to register children, provide them with an identification card and offer financial support to street children with families as encouragement to return home. The Government was working with a number of development partners to find solutions for street children without families. Negotiations were currently under way with service providers to set up toll-free hotlines for street children. Various NGOs organized education programmes, including occupational training, for street children.

60. Mr. ACHARYA (Nepal) said that, even when street children were placed in homes, they often returned to the street to make money.

61. Mr. SAPKOTA (Nepal) said that the Government's first priority was to place children who had stayed in prison with their mothers until the age of 2 with family members; failing that, such children were placed in a children's home until the mother completed her sentence.

62. Ms. SMITH wished to know how many hospitals in Nepal provided specialized services for children and whether the Government considered such services to be adequate.

63. Mr. SAPKOTA (Nepal) said that only one State-run hospital provided specialized services for children. Four other semi-autonomous hospitals catered specifically for children and a number of others provided paediatric care. In general, there were not enough hospitals or trained human resources to meet the needs of the population.

64. Mr. ADHIKARY (Nepal) said that two hospitals were operated by NGOs. The national hospital had a capacity of 300 beds.

65. Mr. KRAPPMANN wished to know whether the Government had concluded an agreement with employers to facilitate the situation of child workers who attended school.

66. Mr. LIWSKI asked whether the health centres and health posts throughout Nepal could be used to increase the number of assisted deliveries for pregnant women.

67. Mr. SAPKOTA (Nepal) said that Nepal's health centres and health posts provided basic health care but not specialized treatment. However, health workers at all health posts were trained in safe delivery. Persons requiring specialized treatment had to travel to the regional

hospitals or the capital. A number of NGOs were providing a non-formal basic education programme that awarded child workers a certificate of equivalency on completion of a prescribed course of studies.

68. Ms. LEE wished to know what steps the Government was taking to monitor the impact of the many policies and programmes it had introduced.

69. Mr. SAPKOTA (Nepal) said that, in general, monitoring and evaluation of government policies and programmes needed to be strengthened. A mechanism had been set up to monitor and evaluate the Government's initial plan of action for children.

70. Ms. SMITH (Country Rapporteur) said that the Committee was concerned about the ongoing armed conflict in Nepal, which directly or indirectly killed thousands of children, reduced opportunities for education and increased the numbers of orphaned or displaced children. The Committee welcomed the agreement that had made it possible to set up a monitoring operation in Nepal; perhaps that would help establish accountability for human rights abuses and prevent further violations. She urged both the Government and the Maoist insurgents to respect children's rights to life and to education, and to make efforts to settle the conflict in order to create a new society that was fit for children.

71. Mr. ACHARYA (Nepal) thanked the Committee for its constructive comments. His Government was committed to cooperating with the National Human Rights Commission to ensure that human rights, including those of children, were respected in Nepal.

The meeting rose at 5.20 p.m.