



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

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

**Summary record of the 761st meeting (Chamber A)**

Held at Headquarters, New York, on Thursday, 18 January 2007, at 10 a.m.

*Chairperson:* Ms. Gabr (Vice-Chairperson)

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*Combined second and third periodic reports of India*

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

*The meeting was called to order at 10 a.m.*

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

*Combined second and third periodic reports of India (CEDAW/C/IND/2-3; CEDAW/C/IND/Q/3 and CEDAW/C/IND/Q/3/Add.1)*

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

2. **Ms. Singh** (India), introducing the combined second and third periodic reports of India (CEDAW/C/IND/2-3), said the report had been prepared in consultation with the Inter-Ministerial Committee of the Department of Women and Child Development and State governments and had been widely publicized through the Department website. Her Government was making every effort to address the challenges posed by India's size and large and diverse population. The media and civil society groups also played a key role in disseminating information about gender issues.

3. The Constitution guaranteed equal rights for women. Amendments to the Constitution, proactive legislation and measures, court rulings and the efforts of the media and civil society organizations had further strengthened the realization of women's rights. The country's five-year plans reflected a commitment to making women equal partners in development and governance. The Right to Information Act (2005) promoted transparency and accountability at the government level and established mechanisms for reviewing government policies. Transparency and accountability in promoting women's issues had also been strengthened by decentralization and devolution of power to local bodies.

4. The judiciary was fiercely independent and the courts, in particular the Supreme Court, had affirmed women's rights. The courts had dealt with issues such as compulsory registration of marriage, sexual harassment, protection in the case of inter-caste marriage and maintenance rights of divorced Muslim women. The Supreme Court had upheld the need to prosecute allegations of sexual assault based solely on the testimony of the victim and, with regard to rape, had broadened the concept of lack of consent to

include consent obtained by deceitful means or false promises to marry. Following the Gujarat riots, the Court had set aside a number of acquittals, ordered the review of thousands of cases and transferred some cases out of Gujarat. The issue of protection of witnesses arising out of the Gujarat events was still before the Court. A petition involving the trafficking of women was likewise currently before the Supreme Court.

5. Under article 142 of the Constitution, the Supreme Court had vast powers and had cited the Government's international obligations arising under the Convention and the Beijing Platform for Action to establish guidelines relating to sexual harassment in the workplace and to assert tribal women's property rights. Women could appeal to the Court through individual or collective petitions; such appeals had allowed the Court to affirm rights such as the right to food, health and education under the general category of the right to life.

6. Parliament constantly monitored compliance with laws and policies and reviewed legislation. Her Government's National Minimum Common Programme showed its commitment to the empowerment of women. A new law on sexual harassment was being prepared. Recent legislation included the Domestic Violence Act, which provided civil remedies to prevent domestic violence and protect and assist victims; and the amended Hindu Succession Act, which gave widows and daughters the right to inherit ancestral property, including agricultural land. The Government's commitment to the girl child would be emphasized by the establishment of a Commission for the Protection of Child Rights. The scourge of female feticide was also being addressed.

7. The 73rd and 74th amendments to the Constitution had led to the political empowerment of women through participation in the Panchayat Raj system of local self-governance aimed at promoting grass-roots democracy. Women's representation in local self-government had exceeded the mandatory quota of 33 per cent. More than 1 million women were currently involved in grass-roots political decision-taking. Seats had also been reserved within the women's quota for Scheduled Caste and Tribe women, including for the positions of chairperson. Self-help groups, training and capacity-building were being emphasized to promote the participation of women and links among women's groups. Such efforts would for

example help rehabilitate women scavengers, an occupation currently prohibited by law.

8. Existing legislation relating to trafficking would be amended to protect victims and more severely punish perpetrators. Consultations to enact legislation updating the current National Plan of Action and aimed at reintegrating victims into society were under way. A comprehensive rehabilitation scheme would be included in the Eleventh Five-Year Plan. With a view to addressing the cross-border trafficking of women and ensuring rapid repatriation of victims, her Government had requested the United Nations Children's Fund (UNICEF) to assess the current situation of children trafficked between India and Bangladesh.

9. In the area of health, groups at high risk for HIV/AIDS including pregnant women, were being targeted for prevention and care. The National Rural Health Mission had been launched to restructure rural health delivery by integrating disease-control programmes and creating a single district health community. A primary objective was to protect the health of pregnant women, ensure safe delivery and the health of the newborn and improve the general health of rural women. Accredited Social Health Activists were being appointed at the grass-roots level and there were currently 250,000 such workers.

10. Education was a fundamental right and means of empowerment. To promote girls' education, more schools had been opened closer to towns and villages, girls' toilets were being provided, and scholarships and free materials and uniforms were available, in particular for Scheduled Caste and Tribe and minority girls. A midday meal programme for 120 million children in the 6-11 age group ensured attendance. Textbooks showed women in a positive light, teachers had been made aware of gender issues, and the media often disseminated girl-child-centred educational campaigns. As a result, female literacy rates had increased sharply, even in the most educationally backward states.

11. Employment was a key to poverty alleviation. The National Rural Employment Guarantee Act (2005) guaranteed rural households at least 100 days of work a year for adults who volunteered to do unskilled manual work. At least one third of the jobs were reserved for women, who currently represented 40 per cent of beneficiaries. Welfare Funds for women in the

unorganized sector had been established, and benefits including health care, insurance, housing, education, recreation, water and maternity benefits were provided in the organized sector. The draft Bill on Social Security would extend such benefits to the unorganized sector. In order to empower women and make them more employable, the Government was promoting vocational training institutes for women. More than 90 per cent of the self-help groups in the country were women's groups based on small thrift and credit initiatives. The number of women entrepreneurs had grown from 2 per cent in 1971 to over 11 per cent.

12. Within the Government, gender cells had been established in 50 ministries and all ministries were required to allocate resources for gender issues. The publication "Women and Men in India" provided gender-disaggregated statistics on a number of indicators. All ministries were required to compile gender-disaggregated data for their programmes. Those statistics would provide the basis for a Gender Development and Empowerment Index.

13. Turning to issues specifically raised by the Committee, she said the Special Committee tasked with reviewing the Armed Forces Special Powers Act had submitted its report, which was being examined by the Government. The abhorrent incidents in Gujarat had been an aberration and subsequent events had shown that the Government and people of India had learned some important lessons and had resisted recent attempts to incite violence and hatred between communities, in keeping with the true spirit of the nation. She also recalled the firm action by the Supreme Court in that regard. Efforts by both the government and civil society in Gujarat had contributed to rehabilitation: the situation of women and children was being addressed, confidence-building measures had been put in place, and the State government had set up a Commission of Inquiry.

14. India had been struck by a number of devastating national disasters. Following the tsunami of 2004, the Government, declining international aid, had approved a relief package and rehabilitation programme. Detailed guidelines for disaster relief had been drafted which included gender sensitivity, in recognition of the fact that women were often more severely affected. The governments of the five coastal states affected had opened orphanages and shelters, and orphaned children and adolescent girls had received grants to be made available to them when they reached the age of 18.

15. A National Disaster Management Authority had been established to prevent natural disasters, mitigate their effects and build capacity to deal with them. The Disaster Management Act (2005) provided for the setting up of both national and state disaster management authorities and recognized the special vulnerability of women and children. Her Government was proud to have been able to provide assistance from the Indian Navy to Sri Lanka within hours of the tsunami and was also proud that the first ever female-formed police unit would soon be deployed to the United Nations Mission in Liberia to assist in reaching out to vulnerable populations, including women and children, in conflict and post-conflict societies.

16. India's Eleventh Five-Year Plan would pay special attention to creating an enabling environment for the empowerment of women. In achieving that objective, her Government would continue to work closely with civil society, including non-governmental organizations. In that context, she was happy to inform the Committee that the Convention had been translated into Hindi, the national language, and that three states had translated it into their regional languages. An easy-to-understand version in various Indian languages was being prepared and would be widely disseminated. Efforts were also under way to adapt the indicators developed by the United Nations Development Fund for Women (UNIFEM) to the situation in India.

#### *Articles 1 to 6*

17. **Ms. Halperin-Kaddari** said that the State party's declaration relating to articles 5 (a) and 16 (1) of the Convention, citing its policy of non-interference in the personal affairs of any Community without its initiative and consent, undermined the Convention. There were clearly circumstances relating to marriage and divorce in India, based on cultural and traditional factors, that were patriarchal and violated women's rights. The Committee was of the view that reservations to article 16 based on national, traditional, religious or cultural reasons were incompatible with the Convention. It was unrealistic for the State party to wait for proposals for change to come from within the minority communities; the Government must take a leadership role. She therefore appealed to the State party to withdraw its declaration.

18. **Mr. Flinterman**, noting that, according to the delegation's written responses, the Government was reviewing the Optional Protocol to the Convention,

asked whether the State party intended to ratify the Optional Protocol, and, if so, when. He wondered whether women from the Scheduled Castes and Tribes and minorities had access to legal remedies pursuant to article 2 (c) of the Convention, in particular legal aid, and whether any mechanisms existed to ensure and monitor implementation of the Convention by the national as well as the State governments. Since the Convention was not directly applicable in the courts, judges had to rely on the equality provisions of the Constitution. He, therefore, requested more information on guarantees of equal treatment by the State authorities and on whether there was any general law on gender equality prohibiting gender discrimination in both the public and private spheres.

19. Referring to the written response to question 29 of the Committee's list of issues, he expressed concern that the non-discrimination provisions of the Constitution were not as broad as those contained in article 1 of the Convention. He noted the State party's efforts to meet the needs of refugees and asylum-seekers in its territory, including vulnerable groups such as women, but urged the State party to become a party to the relevant international instruments protecting the rights of refugees and asylum-seekers, such as the 1951 Convention on the Status of Refugees and its 1967 Protocol.

20. **Ms. Dairiam** said that, although there had been legislative reforms to improve the situation of women, more needed to be done to ensure that such legislation was actually applied. The report listed many reasons for that lack of enforcement as well as attempts by the Government to address the problem, but she stressed that the reasons for lack of progress must be analysed and remedies found.

21. Legislative gaps remained and had been identified by bodies such as the National Commission for Women. Sexual assault was still an area of concern. The proposed law to curb communal violence must provide guarantees against acts or omissions by the State itself and take into account new types of crimes such as mass gender or sexual crimes, and include provision for reparations for the victims of communal violence. The Penal Code should be amended to address the problem of intimidation of witnesses. In general, the State party must do more to create an enabling environment for the empowerment of women, including implementing special measures such as quotas.

22. **Ms. Saiga** asked whether a new plan of action to implement the National Policy for the Empowerment of Women had been drafted to replace the Tenth Five-Year Plan (2002-2007), which was about to expire. What was the planned time frame for the Government's "active consideration" of the strengthening of the powers of the National and State Commissions for Women as recommended by the Committee in its previous concluding comments?

23. **Ms. Neubauer** expressed concern that the mandate of the National Commission for Women focused on rights enshrined in the country's Constitution, without referring specifically to the provisions of international human rights treaties. The delegation should provide further details of the Commission's investigation of individual complaints of the denial of women's rights, including any specific invocation of the Convention. It should also indicate whether the Commission was authorized to intervene in both the public and private sectors and what changes were envisaged to establish systematic cooperation between the National and State Commissions.

24. **Ms. Pimentel** welcomed the recent enactment of a law on domestic violence and noted that the Government acknowledged that the ever-increasing violence against women was yet another manifestation of the low and unequal status of women in Indian society. To ensure the de facto realization of women's rights, there was an urgent need for a coordinated and comprehensive plan of action to combat violence against women. What measures were being taken to overcome negative stereotypes and prevent crimes and atrocities against dalit, tribal and other vulnerable women?

25. **Ms. Singh** (India), responding to questions put to her delegation, said that, although India had no central legislation for the compulsory registration of marriages, state laws to make registration compulsory were being enforced in the States of Goa, Andhra Pradesh, Maharashtra, Karnataka and Himachal Pradesh. Additionally, various communities had personal laws providing for the registration of marriages. The Supreme Court had directed the Government to issue guidelines in that regard to the various states, and the Government had committed itself to compulsory registration, with a view, inter alia, to outlawing child marriage. Any central legislation would, however, have to be based on community

initiatives. The issue was a complex one, requiring further deliberation.

26. She wished to assure the Committee that India possessed a comprehensive system of checks and balances as part of its democratic functioning, with legal aid and recourses made available to all citizens. However, the Optional Protocol being optional, the Government's position on the issue remained unchanged and no time frame for its adoption could be given.

27. Her Government was making a concerted attempt to bridge the acknowledged gap between the de jure and de facto protection of women's rights in India. The country's entire legal framework, as well as all the initiatives and programmes for the advancement of women, were aimed at eliminating discrepancies between the situation of women of different regions, castes and religions. A large number of issues had been raised concerning rural women who were negatively affected by globalization. In that context, she wished to cite the 73rd and 74th Amendments to the Constitution which gave a voice to marginalized and rural women. On a positive note too, women were expected to account for up to 40 per cent of the beneficiaries of a new scheme guaranteeing 100 days of work per year. She was also pleased to announce that the microcredit movement boasted some 2.2 million self-help groups, 90 per cent of which were composed exclusively of women.

28. The National Commission for Women was a statutory body established by Parliament. It provided for alternative dispute-resolution mechanisms through the Lok Adalats (People's Courts), conducted legal awareness programmes and contributed significantly to the promulgation of women-related legislation. The body was also empowered to investigate complaints of atrocities and human rights violations, including domestic violence, sexual harassment, dowry deaths, torture, desertion, bigamy and rape.

29. In 2005 alone, the National Commission had received more than 10,000 individual complaints. Remedies were established on a case-by-case basis. Family disputes could often be resolved through counselling, and the Commission intervened in cases of police apathy. For serious crimes, enquiries were established to examine witnesses and take evidence, and the ensuing report invariably led to corrective action. She wished to stress that the Commission dealt

with women's concerns irrespective of their religion or caste.

30. **Mr. Vahnavati** (India) said that secularism and religious freedom were basic aspects of the country's Constitution which had been drafted in 1950 against a backdrop of religious violence. India's unity in diversity was non-negotiable and communities enjoyed the right to minister their own institutions. The Government, for its part, could not impose change without evidence of a movement from within the community. He was pleased to note that, with increased education, vulnerable women were becoming increasingly aware of their rights. In *Danial Latifi's* case, the Supreme Court had upheld the right of a Muslim woman to claim maintenance from her divorced husband even beyond *iddat* (the three-month period after divorce). Thanks to active media, mindsets were at least beginning to evolve.

31. He wished to draw the Committee's attention to the establishment by the country's Parliament of a National Legal Services Authority, which was headed by a sitting Supreme Court judge. Legal literacy programmes sought to make deprived sectors of the community aware of their rights. He was pleased to note that women increasingly made use of legal aid services available. As to whether the Convention could be invoked directly in the country's Courts, the earlier position had been that, unless an international treaty was incorporated into domestic law, it was not enforceable. From 1993, however, a series of Supreme Court judgements had been specifically based on the Convention, as in the *Madhu Kishwar vs Union of India* and *Seema vs Ashwini Kumar* cases referred to in the consolidated reports. Articles 14, 19 and 21 of the Constitution provided a legal basis for combating discrimination in the private sector.

32. In response to the question on asylum-seekers, it must be understood that India was grappling with the problem of people moving in from neighbouring countries, not necessarily to obtain asylum, but in the hope of a better life. Witness protection had been an issue in the Gujarat riot cases, with victims changing their testimonies to achieve acquittals. The matter had been handed over to the Supreme Court, and a central security force had been ordered to provide witness protection, in view of a lack of confidence in the Gujarat State police. Significantly, the Supreme Court had underscored the need for a witness protection scheme to cover the entire country.

33. Although progress in achieving the advancement of women was hampered by illiteracy and scarce resources, the fact remained that women could only be empowered by knowledge. In that context, the National Human Rights Commission was playing a very active role. On the Commission's initiative, for example, the *Best Bakery* case had been reopened, leading to a successful prosecution.

34. **Ms. Singh** (India) said that the outcome of the midterm appraisal of the Tenth Five-Year Plan and the results of broad-based consultations with civil society would be incorporated in the Eleventh Plan, to come into effect on 1 April 2007. Major themes to be covered in the new plan included women's empowerment and children's development.

35. The Convention was being actively disseminated and translated into the various local languages. There was no dispute regarding the Committee's recommendations or the goals of the Convention. The problem was one of implementation in a country of great size and diversity. Concerns in Mizoram, for example, were different from those in Kerala, hence the need for region-specific approaches. The importance of mindset change, training and capacity-building would be emphasized in the new five-year plan and sensitization efforts would target members of Parliament, political representatives, civil servants, the police and the judiciary. Data-generation was seen as one of India's major priorities, to ensure that national women's policy was implemented on the ground by the various states.

36. **Mr. A. K. Srivastava** (India) said that it was not the main aim of the communal violence prevention and control and rehabilitation of victims bill to establish new offences, since the Penal Code already covered most of the relevant offences. Rather, it would provide for certain preventive measures such as the depositing and seizure of arms and ammunition and powers of search and detention. It would also establish more severe penalties for violence perpetrated in a communal setting.

37. Turning to the question of gender-sensitivity, he said that the bill in question would contain provisions on offences committed against women specifically, such as sexual assault and rape. In addition, the Parliamentary Standing Committee, to which most bills were referred for detailed scrutiny before being considered and adopted by Parliament, had recently submitted a report on the bill suggesting that councils

should be established at the district, state and national levels to monitor and supervise relief and rehabilitation measures. The consolidated reports had also suggested that such councils should have a minimum number of women members. The bill would give the central Government the power to issue instructions to State governments in certain situations involving communal violence.

38. With regard to witness protection, the bill would criminalize the intimidation of witnesses and would allow courts to keep the identity of a witness secret at his or her request. It would also establish penalties for witnesses who turned hostile. In order to improve the administration of criminal justice in relation to offences committed against vulnerable sections of society, including women, various legislative and administrative measures were being implemented. Laws, including those relating to crimes against women, were reviewed on an ongoing basis and amended where necessary to increase their deterrent effect.

39. With regard to administrative measures, there was continuous dialogue between the central Government and State governments. Annual conferences of senior police officers were held for the purpose of discussing crimes against women and other vulnerable groups. Workshops were set up to raise awareness at the state level of the need for more effective action to combat such crimes, and another recent national workshop had focused on the prevention of trafficking in women. Many State governments had set up special cells to deal with crimes against women. The number of women in the police force was gradually increasing, and measures were being taken to accelerate that increase in the future.

40. **Ms. Singh** (India) said that the Government was committed to introducing legislation to reserve one third of seats in Parliament and in State legislatures for women. A bill had been brought before Parliament but had not yet been enacted. It was hoped that civil society representatives, including non-governmental organizations (NGOs), would help campaign for the speedy enactment of the bill. The 73rd and 74th Constitutional Amendments had introduced similar quotas at the local government level and had had a huge impact on the functioning of grass-roots-level democracy.

41. The National Commission for Women had a Chairperson and six members, all of whom were women. The Secretaries to the Commission were senior officers of the Government of India. More detailed information about the Commission's support staff could be provided later, if the Committee so wished. With regard to combating stereotypes, training programmes were already in place to raise awareness among various groups, such as police officers and political representatives. Such programmes would be stepped up under the Eleventh Five-Year Plan. Education materials were being screened with a view to eliminating gender stereotypes. The media and civil society played a crucial role in highlighting important issues in that regard and actively supported the Government's efforts.

42. Affirmative action was being implemented by State governments: for example, a number of jobs were reserved for women. Progress was being made, but changing traditional attitudes and practices was an uphill task. With regard to dissemination of the Convention, the text had been translated into the national language and some of the regional languages. As for monitoring of the implementation of the Convention, an inter-ministerial committee met regularly to review action taken in that regard. Similar committees were to be set up at the State level with a view to monitoring implementation on the ground and holding State governments accountable for non-implementation.

43. Lastly, it was true that adequate mechanisms were needed at the State government level to implement the Protection of Women from Domestic Violence Act. The Eleventh Five-Year Plan made extensive provision for training and capacity-building in that regard.

44. **Ms. Shin** commended the efforts made by the Government of India to implement the Convention, which was clearly a difficult task in such a large and populous country. In particular, she welcomed the positive developments that had taken place with regard to the prosecution of rape cases. However, there was still room for improvement in that regard. She hoped that serious consideration would be given to extending the definition of rape to include all kinds of sexual contact. The issue of marital rape should also be considered, particularly since, in cases of child marriage, marital rape also constituted statutory rape. The problem of child sexual abuse in general needed to be addressed.

45. The adoption of the domestic violence act was a positive development, but action was needed to combat other forms of violence against women, such as dowry death, bride-burning and witch-hunting. Such crimes must be punished, since impunity served to perpetuate the disadvantaged position of women in society. With regard to the Prohibition of Sex Selection Act, care should be taken to ensure that it was used to punish doctors who performed sex-selective abortions rather than the women concerned, who were usually acting under pressure from their families or society. Effective implementation of laws for the protection of women was crucial, and efforts should be made to identify and address weaknesses in that regard. She suggested that the life-cycle approach used with regard to women's health could also be applied to combating violence against women at all stages of their lives.

46. It was regrettable that, despite the Committee's repeated requests, no information had been provided in the consolidated reports about the events in Gujarat in 2002. The information provided more recently was welcome, but it contained no figures for the number of women killed, abused and assaulted. There were also discrepancies between the information provided by the State party and that obtained from other sources. In addition, much more needed to be done to provide justice and compensation for the victims. She commended the active role of the National Human Rights Commission in that regard, but pointed out that the Government should bear primary responsibility for investigating and prosecuting the perpetrators.

47. Lastly, the issue of violence against women should be given due prominence in the communal violence bill, rather than merely being mentioned in passing. A clear message needed to be sent that such violence would not be tolerated.

48. **Ms. Schöpp-Schilling** wondered why the Government of India was reluctant to ratify the Optional Protocol to the Convention. She would also like to know the reason for the consistent delays in the submission of the State party's reports and the failure, until recently, to provide the requested information about the events in Gujarat. The information received recently was welcome, but many concerns remained. Certain sources, including India's own National Human Rights Commission, gave much higher figures for the number of victims than the official figures from the State government of Gujarat cited in the State party's responses to the list of issues. Furthermore, the impact

on women in particular was unknown because the figures provided were not disaggregated by sex. It was disappointing that there appeared to be no recognition of the specific crimes committed against women in Gujarat, which constituted a form of discrimination under article 1 of the Convention.

49. She welcomed the action being taken by central Government with regard to the events in question, but no information had been provided about the content of the reports written by the Parliamentary Committee on Empowerment of Women or on any action taken by the central Government on the basis of the reports. The central Government could, under the Constitution, play a more active role in the investigation and prosecution of the crimes committed and the rehabilitation of the victims. No figures were provided for the number of women rehabilitated or rehoused to date. Independent information suggested that more than 5,000 Muslim families were still living in campsites or colonies.

50. To her knowledge, six rape cases had been brought before the courts in connection with the events in Gujarat. She requested up-to-date information on the status of those cases and also asked what barriers to justice delivery existed in Gujarat and what steps the central Government could take under the Constitution to remove them. Noting that the Supreme Court had ordered some cases relating to the incidents in Gujarat to be reopened owing to the destruction of evidence, she asked whether those responsible for destroying evidence were being prosecuted and how many reopened cases related to women and sexual crimes.

51. The communal violence bill seemed to strengthen the position of State officers rather than that of victims, which was surprising in the light of the events in Gujarat. She requested more information on Muslim women and girls, in particular the reasons for their low level of education and low rate of participation in the workforce and in politics. What was being done to improve the situation? Lastly, she asked whether the recent report of the National Commission for Minorities, which seemed to be more gender-sensitive than certain other reports, would be discussed in Parliament and which central ministry would follow it up.

52. **Ms. Singh** (India) said that issues relating to violence against women were addressed through legislation, appropriate policies and the provision of support services, including rehabilitation, training,

capacity-building and awareness-raising. Existing legislation, for example on rape, sex selection and the practice of sati, had been strengthened or was in the process of being strengthened. However, though the legislation empowered the central Government to act, the problem lay in implementation on the ground and in raising awareness of the issues among State officers. Lastly, she welcomed the idea of taking a life-cycle approach to violence against women.

53. **Mr. Vahnavati** (India) agreed that there was a need for a new, less restrictive definition of rape and sexual assault, as was recognized by the National Commission for Women, which was seeking to introduce amendments to that effect in the Indian Penal Code. With regard to the quality of the legal aid provided to victims, while there could be a risk of thereby offering employment to out-of-work lawyers, there were in India a number of high-quality lawyers dedicated to women's issues who offered their services free of charge, in addition to *amici curae* who were often called on by the courts.

54. The events in Gujarat should never have happened; they were an aberration and a source of shame. He commended those NGOs and media that, at considerable sacrifice and personal risk, had worked to expose the injustices committed. In the Best Bakery case, an appeal had been lodged with the High Court against the original acquittal; the appeal having been dismissed, a final appeal had been made to the Supreme Court, in accordance with article 32 of the Constitution. Recognizing the barriers to justice existing in Gujarat, the Supreme Court had ordered the case to be transferred to the neighbouring State of Maharashtra.

55. It had also reopened over 2,000 cases that had been closed because of a failure to find the guilty parties; they had then been reopened and subsequently assigned to a district judge; some, such as the Bilkis Bano rape case, had been referred to the Central Bureau of Investigation. There was a constitutional problem in India in that law and order was the responsibility of each state and the police of each state, not of the central Government; such was the essence of federalism. The Supreme Court had however been able likewise to transfer the Bilkis Bano case out of Gujarat to Maharashtra and would in February 2007 be considering other cases pertaining to the incidents in Gujarat with the help of *amici curae* in order to determine what further orders might be made. Under

article 355 of the Constitution, the Government was empowered to offer states the assistance of the Union in the event of internal disturbance, but sensitivity was required.

56. **Ms. Singh** (India) said that India's Eleventh Five-Year Plan (2007-2012) included a relief and rehabilitation package for victims of rape. On the question of definitions, she said that they would be improved in the new legislation.

#### *Articles 7 to 9*

57. **Ms. Coker-Appiah** noted that the Prime Minister had held a meeting with party leaders in order to seek a consensus for amendments to the Constitution on the introduction of a reservation of not less than one-third seats for women in the Parliament and the state legislatures. She wished to know whether a consensus had indeed been achieved and, if so, what the expected time frame was for bringing in the changes. She similarly asked whether the recognized need for affirmative action to ensure at least 30 per cent of women in services in the public sector, noted in the responses (CEDAW/C/IND/Q/3 Add.1, p. 20), had been addressed in practice. The Committee would be grateful for information on such action and its results, based on the midterm appraisal. It would be particularly appreciated if an indication could be given of the number of women promoted and the sectors concerned, disaggregated by minority group.

58. **Ms. Singh** (India) said that the Government was committed to the introduction of such a reservation in the Parliament and the state legislatures but that no consensus had emerged from the Prime Minister's meeting. While she was therefore not able to indicate any time frame, the Government intended to make the necessary legislative changes as soon as possible. She had no figures immediately available on the current representation of women in the public sector. However, according to the report already referred to on women and men in India, the overall proportion of women in local and state bodies had risen from 11 per cent in 1981 to 18 per cent in 2002.

59. **Mr. A. K. Srivastava** (India) said that it was difficult to talk about the representation of women in the labour force of India since 93 per cent of employment was in the unorganized or informal sector. In the formal sector, while the level was not satisfactory, the trend was improving: the proportion

had risen from 21.6 per cent in 1983 to 25.9 per cent in 1999, and then to 27.4 per cent in 2004. He cited a report of the Food and Agriculture Organization of the United Nations (FAO) according to which the total share of women's participation in the labour force in India in 2004 was 33 per cent.

60. **Ms. Schöpp-Schilling** expressed regret at not receiving any explanation for the delay in producing reports. The combined reports under consideration were only the second submission since ratification in 1993. She was stressing the point not in a carping spirit but in the event that some assistance might be given. All States had the same reporting obligations, whether a small island or a large and complex federation like India, so as to enable the Committee to discharge its monitoring function adequately in respect of all States parties. On the matter of the Optional Protocol, she feared that there was a misunderstanding: it did not imply an attack on the independence of the judiciary of any country but was designed, through a communication procedure and an inquiry procedure, to improve implementation of the Convention. She did not understand why India did not wish to avail itself of such a useful instrument. She also regretted that there had been no official recognition in India of the discriminatory thrust of the Gujarat disaster. The Government should acknowledge cases where women were singled out and brutalized in order to shame and destroy a community.

61. **Mr. Flinterman** said that, while each State had the sovereign right not to become party to the Optional Protocol, many democratic rule-of-law States had in fact ratified it because of the complementary protection that it offered. He asked whether the most vulnerable groups had easy access to legal aid services. It was clear from the reports of violence to dalit women and of the existence of a culture of impunity for offenders, that significant measures needed to be taken to improve the administration of justice in India, in particular through the provision of legal aid. He expressed appreciation of India's record in respect of asylum-seekers and refugees. However, such persons remained extremely vulnerable, especially women, so long as India did not ratify the relevant international conventions. He asked whether the Government had any intention of so doing.

62. **Ms. Dairiam** wondered whether women's empowerment offered the best means of ensuring their equal treatment. Since the Constitution guaranteed

equality of the sexes, she asked how the Government was able to reconcile that principle with its refusal to take the measures needed to achieve that end in every sector. The bill on communal violence, while strengthening the powers of the state, did not seem to penalize state officials for offences of commission or omission. She referred in that connection to the destruction of evidence by police officers in some of the Gujarat cases. As for the definition of violent crime against women, since it had taken 200 years for the Government to recognize that there was a problem in that regard in the Penal Code, one could not trust the same Court to deal adequately with such crimes; Government intervention was necessary.

63. **Ms. Shin** wished to know whether the Eleventh Five-Year Plan contained provision for the prosecution of the perpetrators of sexual crimes against women, since that was an important element in the rehabilitation of victims. She also asked how many, among the more than 2,000 cases reopened in connection with the Gujarat riots, women had been assaulted or killed.

64. **Ms. Simms** acknowledged the relatively small size of the formal sector in India but noted that the central Government was a big employer and should set an example. She urged the adoption of special temporary measures, in accordance with article 4 of the Convention, stressing that the meritocracy should be determined not by caste or gender but by intellectual capacity: given the chance, women always outstripped men in tertiary education. She welcomed the presence in the delegation of the Solicitor General of India as it was crucial that there should be men and women on the bench who understood women's issues. A formal education in law needed to be complemented by special training in that area; there should also be a larger number of women judges.

65. **Ms. Singh** (India) said that she regretted the delay in reporting by India; every effort would be made in future to submit reports on time. The door was not closed to the ratification of the Optional Protocol, but she could not go beyond the Government's current position in that regard.

66. **Mr. Vahnavati** (India) recognized that women were particularly vulnerable to communal violence and undertook to examine the possibility of providing special protection for them. On the question of access to legal aid by dalits, legal aid services committees

were being established and publicized throughout the country so as to ensure that dalits had access to magistrates' courts.

67. The empowerment of women was a slow process and necessitated the striking of a delicate balance in society. Muslim women, in particular, were reluctant to speak of the injustices that they suffered; improved educational levels in Muslim society were expected to have a positive impact in that regard. As for the definition of violent crime, while the Penal Court was able to address the issue within its existing provisions, new legislation would contain the necessary new definitions. Figures could be provided on the number of women on the bench; in the State high courts there was a large number and until just recently there had been one woman in the Supreme Court. All judges were given adequate training, which included sensitization to human rights and women's issues.

68. **Mr. A. K. Srivastava** (India) said that public servants who failed in their duties were indeed liable to be punished; he read out a provision to that effect in the bill on the prevention and control of communal violence. Following the communal violence in Gujarat, 4,259 cases had been registered, in 2,135 of which charge-sheets had been filed. Of those, 67 cases had concerned violence against women, including two cases that had been reopened.

69. **Ms. Singh** (India) stressed that the communal violence bill was still at the draft stage and therefore open to improvement. Indeed, legislation was never static but could always be changed. Possible amendments to the legislation relating to rape were currently being discussed, and all constructive suggestions would be considered. On the question of whether the Eleventh Five-Year Plan would include provision for the prosecution and punishment of perpetrators of crimes against women, she stressed that the issue was a legislative and not a programmatic one and that it was being addressed along with a number of other related matters in ongoing discussions.

*The meeting rose at 1 p.m.*