



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

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

### Summary record of the 641st meeting

Held at Headquarters, New York, on Thursday, 22 January 2004, at 10 a.m.

*Chairperson:* Ms. Acar

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

**Statement by Ms. Maria Francisca Ize Charrin,  
Chief, Treaties and Commission Branch, Office of  
the High Commissioner for Human Rights**

1. **The Chairperson** invited Ms. Maria Francisca Ize Charrin, Chief, Treaties and Commission Branch, Office of the High Commissioner for Human Rights, to make a statement concerning the recent activities of the Office as they pertained to the human rights treaty bodies.

2. **Ms. Ize Charrin** (Chief, Treaties and Commission Branch, Office of the High Commissioner for Human Rights) noted that the second half of 2003 had been difficult for the Office, which had been deeply affected by the death of the High Commissioner, Mr. Sergio Vieira de Mello. However, the staff were determined to continue his work, and much had been achieved under the leadership of the Acting High Commissioner, Mr. Bertie Ramcharan. The Office had made a number of structural changes. Within the Treaties and Commission Branch, restructuring activities had been aimed at enhancing its capacity to support the seven treaty bodies in their work, in particular through the creation of a pooling system designed to ensure flexible staffing. The restructuring was also designed to prepare the Branch for the expected introduction of the expanded core document (ECD) and targeted reporting. The Branch was working on draft guidelines for the ECD and on harmonized reporting guidelines for all seven treaty bodies, and would present its proposals at the Inter-Committee Meeting/Meeting of Chairpersons in June. The Branch was keen to ensure that the newly established Committee on the Rights of All Migrant Workers and Members of Their Families, which would meet for the first time in March, adopted reporting methods reflecting the reform proposals. Several of the treaty bodies were now focusing on follow-up to concluding observations. Consistent with the committees' emphasis on follow-up, the Branch had continued to engage in activities aimed at ensuring the implementation of treaty body recommendations at the national level. During 2004, it hoped to work with the Division for the Advancement of Women concerning the concluding observations of the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child.

3. Action 2 of the Secretary-General's second report on the strengthening of the United Nations (A/57/387) asked the High Commissioner's Office to develop and coordinate a plan, together with the United Nations Development Group and the United Nations Executive Committee on Humanitarian Affairs, to strengthen human rights-related actions at the country level. In that context, a plan of action had been submitted to the Secretary-General. Its goal was to develop the capacities of United Nations country teams, to enable them to support the efforts of Member States to establish and strengthen national systems for human rights protection and promotion. One of the objectives of the plan of action was to integrate the work of the treaty bodies more closely with United Nations work at the country level. Implementation of Action 2 would include training components for United Nations Country Teams, including the development of a country note containing a summary of country-specific issues that had been identified by treaty bodies. The Branch had been heavily engaged in supporting the work of Paulo Sergio Pinheiro, the independent expert appointed by the Secretary-General to lead an in-depth international study on violence against children, who was eager to engage treaty bodies in the study.

4. In order to mark the tenth anniversary of the establishment of the mandate of the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, the Swiss Government had invited 22 women Ministers for Foreign Affairs for the high-level segment of the sixtieth session of the Commission on Human Rights in March, and the Committee Chairperson had also been invited to attend. Lastly, the High Commissioner's Office was working on ways to take part in the Barcelona Universal Forum of Cultures, which would include a Women's World Forum in July and a World Youth Festival in August, both of which were natural focuses for the Committee.

5. **The Chairperson** said that the Committee was grateful to be included in efforts to implement the reform process outlined by Ms. Ize Charrin. The Committee had been working hard to improve its own working methods and to streamline its work. In that regard, it would be holding an informational meeting in the spring, and would report the outcome to the Inter-Committee Meeting/Meeting of Chairpersons.

6. **Ms. González Martínez** said that cooperation between the Committee and the Treaties and

Commission Branch would help improve the reform process, although she herself did not agree with all the planned reforms.

7. **Ms. Morvai** suggested that as part of their cooperative activities the two bodies might consider the question whether United Nations human rights treaties were in fact law. If that were the case, she wondered whether they adhered to the basic principles of the rule of law, which included predictability. Concluding observations were often so inconsistent that no lawyer or Government could regard them as law. If they were indeed law, those responsible for enforcing them should be familiar with their content.

#### **Consideration of reports submitted by States parties under article 18 of the Convention**

*Combined initial, second, third, fourth, fifth and sixth periodic report of Bhutan  
(CEDAW/C/BTN/1-3 and CEDAW/C/BTN/1-6/Corr.1)*

##### *Replies of Bhutan*

8. *At the invitation of the Chairperson, the members of the delegation of Bhutan took places at the Committee table.*

9. **Mr. Tshering** (Bhutan), responding to the list of questions submitted by the Committee, said that Bhutan would consider ratification of the Optional Protocol to the Convention and the amendment to article 20.1, and would respond at the appropriate time. With respect to his country's plans to ratify other international human rights instruments, he said that Bhutan was already party to several such instruments and would like to ratify as many as it could, but that its efforts were hampered by a lack of institutional capacity.

10. **Ms. Pem** (Bhutan) noted that the delay in submitting the report had been due to lack of capacity and resources. However, a number of measures had been taken, particularly in the early 1990s, with a view to creating the capacity and institutions needed to meet Bhutan's obligations under the Convention. Those measures included sector-specific studies on the situation of the girl child, enhancement of the capacity to prepare human rights-related reports, the creation of gender focal points and the establishment of the Information, Education and Communication for Health

Bureau. In addition, the Planning Commission Secretariat had been identified as the national body for coordinating gender issues, and significant steps had been taken to strengthen the country's legal, legislative and human rights institutions.

11. With respect to the preparation of the periodic report, she said that the first step had been to carry out the Gender Baseline Study, which was a joint project between the Government and United Nations agencies. The purpose of the study was to collect and analyse gender-disaggregated data on key sectors. Its findings had been discussed and finalized at a stakeholders' workshop involving representatives from various government agencies, the judiciary, the National Assembly, non-governmental organizations, the media, the private sector and development partners. The findings had been used as the basis for the report by the Planning Commission Secretariat, and the final draft had then been submitted to the Government, which had accepted it without changes.

##### *Article 5*

12. **Mr. Tshering** (Bhutan) said that the English version of the Convention had first been disseminated among government agencies and that a summary of it in Dzongkha, the local language, had been circulated to all National Assembly members on ratification in 1981. Translations into various local languages of the entire text of the Convention and a summary of the periodic report had been undertaken in 2003, with support from the United Nations Development Programme, and distributed to all branches of national and local government, civil society and non-governmental organizations.

13. Concerning the extent to which domestic legislation in Bhutan had incorporated the Convention, he noted that the National Assembly had drafted and adopted much new legislation during the previous two decades. Twelve acts had been considered at its latest session alone. Every government agency was able to review the text of bills before they were submitted to the National Assembly, and efforts had been made to take the Convention into account during consideration of relevant legislation. The very process of reporting to the Committee served to increase consciousness. Since ratifying the Convention his Government had made every effort to ensure that new legislation, including the 1985 Citizenship Act, 1996 Marriage Act, 1996

Rape Act and 2001 Civil and Criminal Procedure Code, was in harmony with the Convention.

14. There were no statutory provisions on precedence in the event of conflict between domestic law and the Convention. Should conflict arise, it was generally understood that domestic law would prevail. He acknowledged that further clarification might be required.

15. **Ms. Pem** (Bhutan) said that, with regard to harmonizing traditional perceptions about women's rights and the Convention, Bhutanese customs generally favoured women. On the whole parents did not have a preference for sons over daughters or give less care to girls than boys. Inheritance practices favoured women in many parts of the country. Female infanticide, dowry deaths, bride burning and organized trafficking in women and children did not occur in Bhutan.

16. Her Government recognized, however, the possible need to address certain perceptions that might hinder the achievement of women's development. Increased capacity and experience in Bhutan would make it possible to step up advocacy and awareness programmes towards that end.

17. Concerning temporary special measures, she said that the concerns of women and children had been a priority in her Government's plans for social and economic development during the past 40 years. Since 1992, all five-year development plans had incorporated separate chapters highlighting the special needs of women and children, and new legislation had also adequately covered the concerns of women. The relevant agencies of her Government also encouraged women and girls to participate in areas where their participation and representation were low. Nevertheless, her Government was willing to consider the adoption of temporary special measures where needed.

18. **Mr. Tshering** (Bhutan) said that while there was no specific definition of discrimination in the draft Constitution, there were provisions that explicitly dealt with rights, particularly the right of women to equality before the law, which covered discrimination. Concerning the incorporation of a bill of rights in the draft constitution, while there was no provision entitled "bill of rights", more than 50 different rights were covered in the draft Constitution, including the right to freedom of conscience; freedom of expression; basic

necessities; livelihood; vote; equal pay for equal work; and many others, one of which had drawn the particular attention of a Committee member, namely the right not to be a victim of human trafficking.

19. **Ms. Pem** (Bhutan) said that the Planning Commission responsible for incorporating aspects of the Convention in sectoral plans and policies was the national focal point for coordination of gender issues, while the National Women's Association represented civil society. The Planning Commission had prepared the periodic report with funding from the Royal Government. The National Commission on Women and Children was responsible for monitoring implementation of the Convention.

20. Concerning the improvement of data collection, the Central Statistical Organization, which had recently been restructured into an autonomous body, the National Statistics Bureau, had nearly doubled its trained staff in order to improve its work in all 20 districts of Bhutan. One of its main responsibilities was the coordination and standardization of data collection, with mandatory disaggregation by gender shortly to be introduced.

#### *Article 2*

21. **Mr. Tshering** (Bhutan) wished to add that, as the newly appointed chairperson of the Bureau, he was aware of the need for data broken down by gender, which the Bureau would endeavour to collect in any relevant statistical analysis.

22. Turning to the situation of women and children in refugee camps, he said that economic immigration was the root cause of the problem. The Nepalese immigrants who had begun entering southern Bhutan in the first half of the twentieth century had been granted Bhutanese citizenship in 1958. Illegal immigration had increased considerably after his Government had embarked on its first five-year plan in 1961. By the late 1980s, Bhutan, a tiny country with a population of some 600,000, which had already absorbed immigrants numbering about 23 per cent of its own population and granted them citizenship, had been obliged for its own survival to stem the continuous tide of economic migrants.

23. The national census of 1988 had revealed a large number of illegal settlers. Politically motivated people, many of whom had settled in Bhutan illegally, had engaged in terrorist activities and opposed the census

and any policies aimed at curbing illegal immigration. Having failed to win mass support, they had congregated vast numbers of people into refugee camps in eastern Nepal with the goal of launching a political campaign based on ethnicity, baseless accusations of human rights violations against his Government and slogans of democracy to achieve their narrow political ends.

24. His Government and the Government of Nepal had been engaged in bilateral talks since 1993 and established a Ministerial Joint Committee to find a lasting solution to the problem of the people in the camps and immigration in general. Despite initial slow progress, the two Governments had made considerable progress, including the establishment of a joint verification team to verify the antecedents of the people in the camps. His Government had agreed to take full responsibility for any Bhutanese citizens found to have been forcibly evicted from Bhutan. The two Governments had agreed that emigrants would be dealt with in accordance with the citizenship and immigration laws of the two countries. Emigrants who wished to return to Bhutan would be given the option to reapply for Bhutanese citizenship, which now involved a probation period of two rather than 15 years. People whose citizenship applications were pending would be eligible for employment, would receive free health and educational benefits in Bhutan and would be given the option to apply for Nepalese citizenship in accordance with the laws of Nepal.

25. The joint verification team had completed its inspection of one of seven camps and the two Governments had agreed to act on its findings in mid-February 2004. The team had experienced a setback in December 2003 when it had been viciously attacked by residents during a briefing session. The two Governments were conducting a thorough investigation of the incident so that the teams might resume work.

26. With regard to citizenship, children of Bhutanese citizens married to a foreign national, whether male or female, were eligible for naturalization. His Government fully understood the humanitarian aspects of that complex problem and was doing everything possible, together with the Nepalese Government, to reach a just and durable solution.

27. Violence against women was a criminal offence and punishable by law. While Bhutanese legislation contained no definition of domestic violence, it was

encompassed in the provisions of the draft Penal Code which addressed different forms of violence. With assistance from the Red Cross, the Office of the High Commissioner for Human Rights and the Danish good governance project, many human rights workshops were being conducted with judges, police, doctors, teachers, journalists and political officials to raise sensitivity to the issue of violence against women and sexual harassment. Although women faced no legal obstacles in reporting instances of violence against them, pressure to reconcile differences within the family discouraged them from doing so.

28. The 1996 Rape Act defined rape as sexual intercourse involving lack of consent, any use of force or fear of physical harm or death. Furthermore, a provision of the draft Penal Code specifically defined marital rape as sexual intercourse without the consent or against the will of the spouse.

29. Concerning enactment of the draft Constitution, a second draft had been completed in August 2003 and would likely undergo further revisions before being submitted to the King and Government. It would be finalized and enacted by Parliament once the text became available and sent to all districts for further consideration. While the first draft had been prepared on the basis of internal expertise and experience to maximize ownership of the document, the Government had sought outside assistance, particularly from its partners, in preparing the second draft.

30. He said that there was no difference between the General Law and Supreme Law of 1957. "Supreme Law" was the literal translation of "Thrimzhung Chhenpo", the first set of modern laws enacted by the National Assembly, while "General Law" was used because of the wide range of issues addressed.

31. Concerning the procedure for amending laws, he said that members of parliament and government agencies had been active in proposing amendments to meet the changing economic and social needs of Bhutan. National Assembly members were required to visit villages and explain new legislation to their constituencies. From his own experience, such visits often dragged on late into the night. Fortunately, Bhutan was still small enough to allow for such meetings.

32. In conclusion, he acknowledged the many gaps in the report and said that his delegation would encourage

the relevant agencies to provide the requisite data in the future.

#### *Article 3*

33. **Ms. Penjor** (Bhutan) said that the National Women's Association was an autonomous non-governmental organization headed by a member of the royal family to improve the living standards of women, particularly rural women, raise awareness about maternal and child care, nutrition, clean drinking water and hygiene and encourage women to take an active part in social and economic development through vocational training, environmentally sound projects to generate income and rural credit schemes. Representing civil society, the Association participated in numerous forums on women's issues, including the Committee, and played a role in monitoring implementation of the Convention.

34. Concerning relations with non-governmental organizations, her Government was conscious of the useful role that they could play in promoting national development and recognized their autonomy.

35. The National Commission on Women, an independent body, was responsible for monitoring implementation of international and regional conventions related to women and children to which Bhutan was a party, making recommendations to the Government on women's and children's issues, preparing periodic reports for Bhutan and raising awareness about agreements on women's rights such as the Convention.

36. **Ms. Pem** (Bhutan) said that measures relating to the promotion of women had been incorporated in all five-year plans, sectoral projects and programmes since 1992. The establishment of the National Commission for Women and Children, the ongoing focus given to the generation of gender-disaggregated data and capacity-building for women's focal points in all relevant agencies would ensure that gender concerns were taken into account in policy-making. The current plan included programmes to promote women's health, education, employment opportunities and representation in public life. Efforts were also being made to achieve the Millennium Development Goals, to which her Government was a signatory, relating to gender equality and the advancement of women.

#### *Articles 5 to 7*

37. **Ms. Penjor** (Bhutan), responding to questions on efforts being made by her Government to change the more subdued forms of discrimination and stereotyped views, said that education was recognized both as a basic right and a prerequisite for achieving the wider social, cultural and economic goals set for the country. One of the main strategies adopted for that sector was to continuously improve the quality and relevance of education to ensure holistic development of the child, irrespective of gender. More specifically, through education, particularly through special programmes such as scouting and career counselling, the Government encouraged girls to participate equally in all spheres. The curriculum department of the Ministry of Education made conscious efforts to avoid gender-biased words and pictures in the school textbooks.

38. **Mr. Chöpel** (Bhutan) said that the reference in the report to "immoral trafficking" was not a qualification of trafficking. That was purely a linguistic style and the provisions of the draft Immoral Trafficking Act had now been incorporated into the draft Penal Code of Bhutan. Bhutan had ratified in 2003 the South Asian Association for Regional Cooperation (SAARC) Convention on the Prevention and Combating of Trafficking of Women and Children for Prostitution. It had been assumed that the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others was similar in substance. However, based on the Committee's recommendations, the Government would study the latter Convention for any similarities or differences.

39. Turning to political participation, he noted that the number of women in the National Assembly had increased over the years. Currently, 13 out of the 100 elected representatives were women, including one Royal Advisory Counsellor. Women also participated in the District Development and Block Development Committees, for which data would be provided in the next periodic report. While Bhutan had women in the judiciary, it still had some way to go to attain a certain level of parity. Exact data in that regard would be provided in the subsequent report. Moreover, the number of women undertaking legal studies outside the country was increasing and data thereon would be provided in the subsequent reports. The reference to civil disorder in the report had been specific to a brief period in the early 1990s, during which anti-national

elements had perpetrated violence against civilians in the border communities. That issue had been resolved by strengthening the presence of law enforcement personnel along the border and increasing policing and vigilance.

#### *Article 8*

40. **Mr. Chöpel** (Bhutan) noted that, while Bhutan had no serving woman ambassador, it still had a fairly good participation of women in the foreign and diplomatic services. The post of Foreign Secretary of Bhutan, the second highest position in the diplomatic service, was held by a woman. The deputy chief in two of the country's six missions was a woman. Women diplomats took up 44 per cent of all training and fellowship programmes offered by the Ministry. Currently, two of the three diplomats pursuing postgraduate studies were women. In the last decade, one out of two delegates sent from the capital to the United Nations General Assembly had been a woman diplomat. An attempt was being made to ensure that there was at least one woman diplomat in each of Bhutan's missions abroad.

#### *Article 9*

41. **Mr. Tshering** (Bhutan), responding to questions on citizenship, said that the 1958 and 1977 Citizenship Acts had granted citizenship to children of a Bhutanese father. Non-Bhutanese spouses and children of non-Bhutanese fathers were granted residence status with provision for naturalization. The 1985 Citizenship Act was gender neutral and citizenship could be acquired by birth if both parents were citizens; by registration if a person had been permanently domiciled in Bhutan on or before 31 December 1958; and by naturalization upon fulfilling certain requirements. Marriage to non-Bhutanese did not change the nationality of a woman. Women were neither rendered stateless nor forced to acquire the nationality of their husbands. For non-Bhutanese spouses and children, residence as well as access to health, basic education and other services were provided without any restriction.

#### *Article 10*

42. **Ms. Penjor** (Bhutan) said that, with the increase in enrolment at the primary level and improvement in retention rates at all levels of general education, a corresponding increase was expected in the enrolment of women at the tertiary level. The gap in enrolment

between boys and girls at the primary school level had narrowed from 24 per cent in 1990 to 4 per cent in 2003. Even so, under the ninth plan, the Ministry of Education had adopted the following strategies to increase enrolment of girls at all levels: establishment of community schools; enhancement of facilities, such as the provision of separate latrines to ensure a safe and friendly environment for girls; and the implementation of a study on the status of girls' access to primary schools. Bhutan was committed to eliminating gender disparity in primary education by 2005. Girls and boys had equal access to education, including technical education. Bhutan pursued a merit-based policy in all selection processes, irrespective of class or gender. As Bhutan was a small country, that approach had promoted harmony and respect among boys and girls. While education was free from the primary to the tertiary levels, including technical and vocational training, the financial burden on the Government was tremendous. Accordingly, the country sought international assistance for education and some 40 per cent of the education budget was funded through international aid.

43. The pace of development and urbanization was weakening traditional family ties and community-based support systems, with the most vulnerable sectors of the population being children and youth. The challenge in that regard was to strike a balance between development and preserving the tested values system of a traditional society. Measures had been taken by the Government to achieve such a balance and Bhutanese educators had responded by strengthening values education in schools. In addition, reproductive health education was now an important part of the school curriculum, which responded to the needs of girls in particular. Bhutan did not have an education act, but it had a national education policy with a teacher's code of conduct and students' code of conduct. Female teachers taught at all levels. In 2003, the percentage of female teachers had been 36 per cent. The Government was making a conscious effort to enhance the literacy level of the population and achieve its goal of complete literacy countrywide by 2012. To that end, a number of strategies had been put in place, including the current practice of using existing space in primary schools, introducing non-formal education in the pre-service teacher training programme and providing post-literacy support through community resource centres. While data was available on the number of training

programmes offered, they were yet to be disaggregated by gender.

#### *Article 11*

44. **Mr. Tshering** (Bhutan) said that the Ministry of Labour and Human Resources, established on 20 June 2003, was the newest ministry in the Government and, as such, faced the difficulties of getting organized and enjoyed the luxury of approaching issues from a fresh perspective. It had decided on a policy of 50-50 recruitment of personnel; currently, 49 per cent of its staff was female. There was no discrimination in terms of equal employment opportunity for Bhutanese women. The Royal Civil Service Commission regulation served as a standard for many private enterprises, including with respect to equal pay and opportunity. A national labour policy and legislation under formulation would ensure equal pay for equal work and equal employment opportunities for all Bhutanese. Currently, gender-disaggregated details of the 50,000 future job seekers were not available. As in other areas, the generation and use of disaggregated data in employment would be given priority by the Ministry of Labour and Human Resources, which would try to focus its plans and policies and include activities that targeted both gender and temporary special measures.

#### *Article 12*

45. **Mr. Chöpel** (Bhutan), referring to the telemedicine service, said that it had been launched under the seventh plan with the hope that it would considerably facilitate the delivery of capacity and services and help overcome the remoteness of various basic health units. It had definitely improved the care and attention to critical maternal emergencies, both through teleconsultation and the appropriate timing of referrals. The Government was now in the process of examining how to expand the scope of the service within the country and at the same time see how it could be linked with some other centres outside the country. On clandestine abortions, he noted that, while no specific data on the number of abortions conducted outside the country were available, hospitals had reported cases of young girls and women who had been admitted with complications following abortions abroad. That was a cause of great concern for the Government. A number of initiatives were now ongoing in the country to discourage such activities.

They included the Comprehensive School Health Programme, which was a collaborative programme of the health and education sectors; it was making concerted efforts to educate young girls on reproductive health and family life, with particular emphasis on family planning methods, complications of teenage pregnancy and responsible lifestyles. Similar programmes were also conducted for teachers with particular emphasis on adolescent health and counselling skills. The Queen of Bhutan, a UNFPA goodwill ambassador, also continued to address the key issues of adolescent health during her visits to schools in different parts of the country.

46. Regarding the high population growth rate, he noted that Bhutan was in the process of finalizing its population policy. The current ninth five-year plan included the intensification of reproductive health services and sustaining the ongoing population planning activities as one of the 10 key objectives. In view of the high birth rate, the Government had been expanding the use of contraceptives, particularly permanent methods such as the intra-uterine device, through advocacy and awareness programmes to even the remotest outreach clinics. While there was no information on HIV cases among refugee women, they had good medical services in the camps. The health sector was one of the key sectors decentralized right from the beginning when the Government had instituted its decentralization policy. The communities themselves managed the outreach clinics and over 1,327 village health workers were trained and supported the health services in undertaking community-level activities. The basic health units and all 20-bed hospitals were also decentralized to the district administration level.

#### *Article 14*

47. **Mr. Chöpel** (Bhutan), responding to a question on the work performed by rural women, said that the Baseline Gender Pilot Study had found that rural women were involved in productive as well as household tasks and hence had multiple responsibilities. There was no distinct division of roles between women and men in most rural areas. However, more specific studies would have to be undertaken to clearly define such roles and responsibilities, especially the extent to which they affected advancement prospects for women. He stressed that Bhutan needed to build on the existing traditions where women played

an important role in the household and in the decision-making process.

48. Disability in all its forms had not been a cause for marginalization within traditional Bhutanese society. However, with modernization, the Government had become increasingly concerned with the quality of life of the disabled. Towards addressing that concern, a school for the visually handicapped had been established in the mid-1970s, and in 1976 a National Leprosy Control Programme had been launched. Under the eighth five-year plan, as a result of the concerted efforts of the Government, its collaborating partners and the patronage of the royal family, the target of leprosy elimination had been achieved. The issue of disabilities had come into focus when Bhutan had become a signatory to the Commission on Disability of the Economic and Social Commission for Asia and the Pacific in 1993. The Government was currently undertaking a large-scale survey to ascertain the level of disability in the country and establish whether the 3.5 per cent prevalence found in the eighth five-year plan was still valid. The findings would be incorporated in subsequent reports. The legal rights of disabled children were protected under the General Law of 1957, the Prison Act of 1980 and the Civil and Criminal Procedure Code of Bhutan. Currently, 9 out of the 35 children enrolled in the National Institute of the Disabled were girls.

#### *Article 16*

49. **Mr. Wagdi** (Bhutan), responding to various questions raised with regard to the system of marriage and related issues, said that any person who was 18 years old could get married and secure a marriage certificate by registering with the court. Without such a certificate, a marriage was not legally recognized. Under-age marriages occurred in rural areas where they went unregistered. The court would not issue certificates for such marriages and anyone who performed such marriages was liable to a fine. Under-age marriages could be reduced by enhancing awareness that they would not be legally recognized and would be liable to fines. On women and citizenship, he noted that, should women choose to marry non-Bhutanese men, their husbands would be granted residency status with provisions for naturalization. Polygamy and polyandry were not widespread. Indeed, polyandry and polygamy could be practised only with the consent of the spouse. With

socio-economic changes and increasing education, such practices were fast declining. In the event of divorce, the mother was given custody of the child until it attained the age of nine. Thereafter, the child could choose to live with either parent.

50. Legally, marriage contracted between persons within the degree of consanguinity and affinity permissible by the local custom was recognized by the law. In practice, union among first cousins was discouraged. According to the Marriage Act, either the husband or wife could petition the court for divorce on various grounds, including adultery, abandonment, sterility and impotence and wilful negligence by one of the spouses. On verification of the minimum age for marriage in the absence of birth certificates, he noted that the court usually issued marriage certificates to a couple in good faith. Moreover, one person acting as legal representative from each party had to testify before the court that they were persons of legal age and would be responsible for the consequences thereof. Under the Rape Act, sexual intercourse without consent was sufficient to constitute a rape. While the Marriage Act did not contain a specific definition of marriage, different aspects of marriage were covered under the various provisions of the Act. As to action taken by the Government to prevent immature and arranged marriages, he noted that in the initial Marriage Act of 1980, the legal age for girls had been set at 16 years. However, after becoming a party to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, the minimum age for girls had been raised to 18 years, on a par with that of boys. The Marriage Act prohibited marriages of minors and whoever performed such marriages was liable to fines under the Act.

51. **Ms. Pem** (Bhutan), responding to a question on land owning patterns in the urban areas, said that the Baseline Gender Pilot Study had found that 60 per cent of the women in rural areas owned property as opposed to 40 per cent of men. However, in the urban areas, more men, 55 per cent, as compared to women, 36 per cent, owned property. On the issue of whether land ownership in the rural areas had prevented or limited girls' access to educational facilities, she noted that some participants in a gender-planning workshop in 1993 had found that "the traditional system of daughters' inheritance" was one of the factors that prevented girls from pursuing higher education. That finding had been mainly based on the belief that

Bhutanese women felt that their daughters should continue to inherit and take care of property, which had led them to discourage their daughters' enrolment in educational institutions. However, in-depth studies would need to be conducted to validate the actual influence of that perception, particularly in the light of the economic security provided by the present traditional system of inheritance.

52. **Ms. Schöpp-Schilling** recommended that the Constitution should contain the same definition of discrimination that appeared in the Convention: namely, direct and indirect discrimination and the notion of substantive and formal equality. She pointed out that the Committee would be adopting, at the end of the current session, a general recommendation on temporary special measures, and said that many States parties had included in their constitutions a clause to the effect that temporary measures did not conflict with the notion of non-discrimination. Regarding discrimination in the workplace, the burden of proof should be shifted from the employee to the employer, given the difficulty women experienced in proving such discrimination. Further, in the interest of substantive equality and pursuant to the provisions of the Convention, the notion of equal pay for work of equal value should be added to that of equal pay for equal work.

53. **Ms. Shin** suggested that the disparity between men's and women's enrolment in technical institutions — dependent solely on merit — could also be reduced without necessarily abandoning the criteria in force.

54. **Ms. Saiga** asked whether it was generally understood that international law would prevail over domestic law in the new Constitution. She asked whether the 1958 and 1977 Citizenship Acts had been totally superseded by the 1985 Act and whether a child of one Bhutanese parent remained stateless until the age of 15.

55. **Ms. Kapalata** suggested that the authorities should look closely at articles 7 and 8 of the Convention to determine whether urgently needed special measures could be applied. With reference to article 8, she requested a reply to the question concerning the provision of training for women.

56. **Ms. Achmad** suggested that the priority given to women's and children's socio-economic development in the social sectors should extend to all sectors

covered by the Convention. She asked whether the entire process of drafting the Constitution would be internal, as implied in the written reply to question 24, or whether experts on international treaties would be consulted. Regarding the written reply to question 33, she said that the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child should also inform the country's measures to eradicate the stereotyping of women and girls.

57. **Ms. Patten**, applauding the drafting of the Labour Act, suggested that it should include special anti-discrimination measures, which were lacking elsewhere, especially to deal with discrimination and sexual harassment in the workplace. The authorities might seek technical assistance from the International Labour Organization in that connection.

58. **Ms. Šimonovic**, referring to article 2, said that the lack of institutional capacity that prevented Bhutan from ratifying, as it wished, the majority of international instruments, could be remedied through advice and assistance from the Office of the United Nations High Commissioner for Human Rights, already offered in the context of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

59. **Mr. Tshering** (Bhutan) said that Committee members' statements and questions had been delivered in a spirit of practical advice rather than criticism and had focused positively on the crucial phase of legislative and legal changes, thus affording an ideal opportunity for remedial action.

60. The complex issue of discrimination needed to be addressed in a variety of ways: one was a more formal definition in the Constitution, the other being institutional rather than ad hoc temporary measures. His delegation looked forward to the Committee's forthcoming general recommendation on the subject.

61. The need for a clearer definition of discrimination in the workplace in the Labour Act and the matter of the burden of proof would be studied in greater detail. The advice of persons experienced in those areas would be sought for defining and updating that concept and for expanding in the Constitution the notion of equal pay for equal work to include equal pay for work of equal value. The question of ensuring that international treaties took precedence over domestic law would need

to be looked at carefully so that Bhutan did not give away its hard-won sovereignty.

62. Bhutan's firm commitment to raising the level of education and health services was evidenced by the fact that over 35 per cent of the budget was allocated to those two sectors; however, the delegation realized that the focus should not be solely on social sectors, but should extend to economic and political activity. It had also noted the suggestion that the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child could be useful as a basis for such action.

63. Bhutan's cleanest slate was in the area of labour policy. While most processes did indeed begin at the local level, he conceded that action should eventually encompass a much wider arena. In that connection, the authorities maintained contacts in certain fields with other small countries with which it felt affinity, including the Nordic countries; examples included the Labour Act and the Constitution. Regarding the training of diplomats, the proportion of women diplomats receiving training was high compared to the female population. Parity was important for Bhutan's image abroad and two of three foreign postgraduate training slots were filled by women, one in Japan, the other in Paris.

64. While under the 1958 Citizenship Act a large group of people of very unclear status had been granted citizenship, the 1977 and 1985 Acts had introduced progressive changes, one change being that the Act had become gender-neutral. The 1985 Act had given children with one Bhutanese parent the choice, at age 15, to adopt either Bhutanese citizenship or that of the other parent, the country having no dual citizenship. Pending their choice of citizenship, such children were accommodated as residents for purposes such as travel.

65. He had neglected to mention that six people — including two members of the delegation — had received training through the Office of the United Nations High Commissioner for Human Rights since 1991 and that Bhutan had indeed received technical assistance from that Office, with which it maintained an ongoing dialogue.

66. **The Chairperson** congratulated the delegation on producing its written replies in such a short time and for the further clarifications afforded by its oral answers to the Committee's questions. The Committee acknowledged the measures the country had taken to

implement the Convention. She hoped it would ratify the remaining human rights instruments in order to pave the way for an enabling environment for implementation of the Convention and for human rights as a whole. Constitutional reform offered a rare opportunity to ensure that the building blocks for the safeguard of human rights were put in place. She urged the authorities to build a modern system and legal framework that would ensure that traditions which supported women would be preserved and utilized.

67. The fact that in some parts of the country women were favoured in terms of inheritance was commendable, but caution should be taken against excessive stereotyping. Discrimination against women took many forms throughout the world, not least that of patriarchal attitudes. The Convention should serve as a lens through which customs, practices and laws should be carefully studied to ensure that they were not discriminatory. The Committee's numerous general recommendations on specific articles of the Convention would be useful in that Convention.

68. She stressed the need to adopt specific legislation on violence against women, without which the many forms of such violence would go unpunished. The measures under way to train law enforcement and security personnel should be seriously pursued. She commended the intention to provide gender-disaggregated statistics on all the issues discussed, for without them problems could not be properly identified. She requested the authorities to provide such data in its next report, to be submitted in 2006.

69. Bhutan needed to accelerate its diplomatic and judicial efforts in the interest of good governance and modern political and legal systems. She applauded the country's success in ameliorating the situation of boys and girls, although there was clearly a need to increase girls' enrolment at all education levels, while literacy training for adult women was a critical issue. The delegation had acknowledged the usefulness of drawing on other countries' experience in the design of employment policies. Sex-disaggregated data was a basic need, as were research on the gender implications of the labour market and proactive measures for combating inequality. She urged the authorities to take steps to eliminate polygamy, as well as the early marriages prevalent in some parts of the country. In conclusion, she commended the delegation's candid and informative exchange with the Committee.

70. **Mr. Tshering** (Bhutan) thanked the members of the Committee for their keen participation in the discussion on his country's report and for their understanding of the reasons for its late submission. The current overhaul of Bhutan's institutional capacity would ensure better implementation of the Convention and prompter reporting thereon. He assured the Committee that the authorities would take all its observations into account.

*The meeting rose at 1.10 p.m.*