



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

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 434th meeting

Held at Headquarters, New York, on Tuesday, 15 June 1999, at 10 a.m.

Chairperson: Ms. Ouedraogo (Vice-Chairperson)

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In the absence of the Chairperson, Ms. Ouedraogo, Vice-Chairperson, took the Chair.

The meeting was called to order at 10.20 a.m.

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

Initial report of Nepal (CEDAW/C/NPL/1)

1. *At the invitation of the Chairperson, Mr. Shakya (Nepal) took a place at the Committee table.*

2. **Mr. Shakya** (Nepal), introducing the initial report of Nepal (CEDAW/C/NPL/1), said that Nepal had recently become party to a number of international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). He was also pleased to report that, with the adoption of the new Constitution in 1990, the death penalty had been completely abolished. The Constitution encompassed all basic rights and fundamental freedoms and had been promulgated on the basis of equality between men and women. But poverty was a major obstacle to the implementation of many international instruments: an estimated fifty per cent of the people of Nepal lived in absolute poverty, with urban poverty increasing swiftly over the past decade. The Government believed that human rights should be an integral part of all poverty alleviation strategies and efforts.

3. On the eve of the twenty-first century, Nepalese women were still suppressed, exploited, neglected and had little security because of illiteracy, poverty, tradition and a discriminatory legal system. Since women constituted just over half the population, their development contributed to the country's overall development. Thus, a "women in development" approach had been national policy since the sixth five-year development plan. In the eighth plan, several policies had been adopted to involve women in the development mainstream in order to ensure their participation in every sector, improve their social, economic, educational, political and legal status, increase capacity by providing skills for employment generation and create an appropriate environment for access to decision-making from the national to the local level. In accordance with the commitments made at the Fourth World Conference on Women in Beijing, a National Work Plan for Gender Equality and

Women's Empowerment had been formulated and the Ministry of Women and Social Welfare established.

4. Challenges to be met in improving the status of women included a legal and social system which denied them access to property, employment and other economic resources. Because of their low educational level, women were still denied access to political and administrative decision-making. The maternal mortality rate of 53.9 per 10,000 live births was very high, and contributed to the lower life expectancy for women than for men. Women's literacy was only 30 per cent compared to 66 per cent for men.

5. The ninth five-year development plan targeted women to achieve its overall aim of poverty alleviation and human resources development. Its implementation strategies and policies would involve women in the national development mainstream. Women's contributions to household labour would be evaluated and incorporated into the national accounting system. The existing institutional structure would be strengthened and appropriate gender disaggregated indicators would be developed for monitoring and evaluation. In order to eliminate gender inequalities, a review of legislation would be conducted to remove discriminatory laws, and existing discrimination would gradually be reduced with the adoption of positive policies and programmes. Governmental and non-governmental organizations and local bodies would be mobilized to combat violence against women through prevention and rehabilitation.

6. The National Work Plan for Gender Equity and Women's Empowerment encompassed 11 sectors requiring serious attention: poverty, education, health, violence, armed insurgency, economy, policy-making, institutional structure, human rights, the environment and children. A number of programmes in those sectors would be implemented in the context of the ninth development plan. In the education sector, the goal was to increase women's literacy to 67 per cent and the proportion of women teachers and participants in vocational training to 50 per cent. In the health sector, programmes would emphasize safe motherhood and care of elderly women. The family planning programme would also be expanded significantly. To increase women's productivity in agriculture, programmes to ensure their access to production technology and credit were planned. Programmes to increase women's entry into the economy would emphasize microcredit schemes and training. In the

legal sector, a family court would be established, and legal provisions made to reduce the economic disparities between men and women. The legal approach to preventing violence against women would be reviewed and strengthened as well. To raise consciousness about gender equality at the political, administrative and local levels, training seminars and publicity campaigns would be carried out.

7. The issue of trafficking in women and girls and prostitution was becoming more serious. In response, a “self-reliance and rehabilitation home” had been established to provide a residential six-month job skills training programme for women engaged in prostitution. It would also provide rehabilitation services for victims of trafficking. The Ministry of Women and Social Welfare had formed a national coordination committee to coordinate all programmes being implemented by Government agencies in order to avoid duplication and provide effective monitoring and evaluation. Secretaries of the main ministries were members of the committee. It had also formulated a National Plan of Action as a follow-up to the Beijing Platform for Action.

8. The Ministry had formed a task force to review all laws which discriminated against women and recommended amendments to those laws to the Ministry of Law and Justice. A bill establishing inheritance rights of daughters, a law on domestic violence and the formation of family courts had been presented to the House of Representatives, but unfortunately, as a result of the elections which had taken place in May 1999, the Parliament had been dissolved and the bill would have to be reintroduced at the next session. Women were still under-represented in the country’s civil service, making up less than 8 per cent of the total workforce, and only 3 per cent of the highest employment grades.

9. Referring to the participation of women in the political process, he noted that in the May 1999 general election, 13 out of 142 women candidates had been elected to the House of Representatives. That figure was double the total of the previous election. The Constitution now mandated that five per cent of the candidates fielded by political parties had to be women; in the recent elections, 10 per cent of the candidates had been women. While there were still no women in the Council of Ministers, the Prime Minister had given firm assurances that when the Council was expanded, women ministers would be included. His

delegation would welcome any suggestions by members of the Committee on how to improve its subsequent periodic reports and the status of women in Nepal in general.

10. **The Chairperson** congratulated the Government of Nepal for having ratified the Convention without any reservations and for its efforts to promote equality of opportunities for both men and women. She commended the delegation for the objectivity and frankness of its report. The report had complied with the guidelines of the Committee and that would not only facilitate its assessment but would also favour constructive dialogue.

General comments

11. **Ms. Taya** hailed Nepal’s efforts to strengthen democracy since 1990, particularly its effort to improve girls’ education and promote grass-roots democracy.

12. **Ms. Abaka** said that the equal rights laws were not being enforced. She was particularly concerned about the trafficking in children for commercial sexual exploitation and child labour, despite legislation dating as far back as 1950. The relevant penal provisions should be strictly enforced. Fourteen-year-old children, who were at particularly high risk, must be adequately protected by the Government. She was also concerned that women’s reproductive health rights were not being recognized as a basic human right.

13. **Ms. Corti** said that she would have preferred to have had the report introduced by a woman, since, when it came to their own rights and realities, women were more sensitive. Noting the considerable number of ethnic groups, languages and religions in Nepal, she wondered how difficult it would be for the Government to develop a policy that enjoyed the support of such a diverse population. In her view, maintaining the cultures of different groups could sometimes be an obstacle to the advancement of women and equality. State mechanisms in Nepal seemed to be controlled by patriarchal norms, beliefs and values, resulting in a very low status of women. In that regard, she enquired whether the Minister for Women and Social Welfare was a woman or a man. She also wondered who had prepared Nepal’s report and to what extent non-governmental organizations had been involved in its preparation.

14. Patriarchal values dominated laws in Nepal. For example, a single mother could not register the birth of her child, and women were discriminated against under the adoption law. Indeed, the so-called son preference was very deeply rooted in Nepal and its legislation. The very high rate of prostitution, especially among girl children, together with the lack of any explicit measures to stamp out that criminal phenomenon, demonstrated a lack of political will to overcome discrimination against women. Moreover, as the recent figures for parliamentary elections showed, women's political participation was virtually non-existent. Patriarchal attitudes and norms appeared to be the main obstacles to the advancement of women in Nepal and to implementing Nepal's commitments under the Convention. Very little was being done to eliminate stereotypes.

15. **Ms. Aouij** said that, while Nepal had abolished the death penalty, it still criminalized abortion, which killed women daily and denied them their right to life — a fundamental right. Indeed, abortion-related complications were the main cause of the maternal mortality rate of 1,500 per 100,000 births, the highest in south Asia. That was also the reason for the lower life expectancy of women. Even under the bill before Parliament which sought to revise existing laws abortion would be legal only for married women, with the consent of their husbands, which meant that women still did not have control over their own bodies. The bill needed to be revised and adopted as soon as possible by Parliament, because the progress of women and their health were linked directly to the development of the country and its well-being.

Articles 1 and 2

16. **Ms. Taya**, referring to the bills in Parliament on inheritance and tenancy rights submitted by the Government, wondered whether there were any obstacles foreseen for passing them and would appreciate information on the time frame required for doing so. She also wished to know what actions had been taken by the Government to amend the apparent discriminatory laws, such as those on marriage and bigamy, besides submitting the bill to Parliament.

17. **Ms. Cartwright** said that, while she welcomed the ratification of the Convention by the Government of Nepal without reservations, compliance with its provisions was a much more difficult task. Nepal had considerable problems concerning poverty and health,

and there was an enormous gap between law and practice. There was great significance in ensuring that laws were not only promulgated but enforced, since that would demonstrate that the Government would not discriminate against any of its citizens.

18. There was an urgent need to amend legislation to ensure that women had the same right to inherit property as men did. She was seriously concerned that while the Supreme Court had wide powers to direct the amendment of legislation and policy, the House of Representatives had introduced a bill which had been allowed to lapse. She was equally concerned that, although the court had taken action on the inheritance laws, it had nonetheless asked the House of Representatives to ensure that men were not discriminated against. The Supreme Court's comments and the inaction of the House of Representatives demonstrated deep-seated and damaging discrimination against women. The Nepalese Government had firmly indicated that it wanted to bring women into the development process equally with men. If the Government was serious about ensuring women's participation in development, then women had to have access to land and other assets on the same basis as men.

19. As for other laws needing amendment or implementation, the marriage laws should establish the same marriageable age for women as for men. She drew attention to the Committee's general recommendation No. 21 setting out the reasons why both spouses should attain the age of 18 before marriage, among them physical maturity and the ability to shoulder adult responsibilities. In any case, the marriage of children under 16 — a serious infringement of their bodily integrity and their right to a childhood — must be prohibited and punished severely. The laws of nationality should be amended to allow the children of naturalized women as well as men to obtain citizenship. Furthermore, in order to remedy the presence of so few women in the judiciary, the Government must begin vigorously to seek suitably qualified women; and since members of the judiciary were selected by the Judicial Council, the Government might begin by changing its composition to include some women. The Government should also amend the divorce laws to allow equal access to divorce and should do away with dowry payments, which fostered discrimination.

20. The criminal law also needed broad revision to ensure equal treatment. Apparently there was no law on violence against women, a major problem. The Committee's general recommendation No. 19 and the General Assembly Declaration on the Elimination of Violence against Women provided useful definitions that could be starting points for legislation and policy. Lastly, the Government should be applauded for the preliminary steps that it had taken to stem trafficking in women, another serious problem in Nepal.

21. **Ms. Shalev** said that the situation of women in Nepal was distressing. In facing the formidable tasks before it, the first and easiest step for the Government would be to adopt legal measures. The poverty and the cultural or social stereotyping were indeed daunting, but it was in the hands of the Government to legislate with regard to the family. Thus, it should amend as soon as possible the discriminatory provisions in the divorce laws which denied custody of children to the mother after divorce. Abortion must also be immediately given legal status for, as indicated in the Committee's general recommendation No. 24 on women and health, it was discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women.

22. **Ms. Ferrer**, endorsing Ms. Cartwright's concerns regarding the application of article 2, asked what specific measures the Government was taking to fulfil its stated intention to establish equal treatment and to abrogate discriminatory laws, and what priorities it had set. The report (paras. 45 and 50) indicated that the Supreme Court had the right — which it had on occasion exercised — to abrogate, under extraordinary powers of judicial review, any law that unreasonably restricted the enjoyment of fundamental rights. She wondered if the Government was planning to avail itself of that existing procedure.

23. **Ms. Khan** commended Nepal for being one of the few south Asian States to have ratified all the major human rights instruments and incorporated the Convention into its domestic legislation. The Government was clearly aware of its obligations, in view of the constitutional provisions outlined in the report (paras. 34 et seq.). Nevertheless, as Ms. Cartwright had pointed out, it was very disappointing that there were so many discriminatory laws in effect that restricted women in so many spheres. With regard to the inheritance laws, complex social and legal mechanisms reinforced each other to

deprive women of their rights. Poverty, a lack of social awareness and deep-rooted prejudices were at the heart of the problem. Yet how could the Government raise social awareness if it countenanced discrimination by not putting anti-discrimination laws in place? Public authorities must be the first to act if social and behavioural patterns were to change. She therefore would like to know what action the Government had taken to abolish laws that violated both the Convention and article 11 of Nepal's Constitution; and also whether there was any likelihood of the early reintroduction and adoption of the bill establishing the inheritance rights of daughters (addendum to report, p. 18).

24. **Ms. Acar** said that de jure equality, though not sufficient in itself, was the fundamental to any further progress. The Government must therefore act immediately to nullify laws contrary to the Convention and the Constitution. She was disturbed by the Government's resigned attitude betrayed in the statement in the addendum to the report (p. 4, para. 2) that from a long-term perspective, it could be visualized that Nepal could be one of the countries giving more value to sons rather than daughters, unless political, administrative, socio-economic and legal affirmative policies were formulated and implemented. Especially in patriarchal, authoritarian societies, where political action was an effective tool, bold, radical steps had to be taken. Egalitarian juridical policies had to precede affirmative action. A recent Supreme Court directive for the immediate adoption of remedial legislation had been thwarted in Parliament, and it would be interesting to know what the Government intended to do to deal with that situation, and to take more urgent action in general.

Article 3

25. **Ms. Goonesekere** said that she agreed with Ms. Cartwright that the Government had an obligation to make a comprehensive effort to achieve equality for women. Nepal stood out in south Asia as a country in which the people's power had led to the creation of a democratic Government, and therefore its people's expectations were correspondingly high. Yet there was a contradictory situation which the laws were at odds with and a Constitution proclaiming equality and international human rights norms. The promise of democratization had not yet reached the women in Nepal. The Government should set goals and target

dates for the advancement of women and identify the indicators of progress.

26. She would like to know if the Government had in fact done so, and also if it had any long-term plan and target dates for law reform, which had to be done consistently, across the board. How, for instance, was the Government planning to enforce the Supreme Court order for the adoption of non-discriminatory inheritance laws, which Parliament had failed to pass? The issue had to be addressed, because a government was seriously undermined when judicial decisions were not followed by executive and legislative action. She would also like to know why the 1997 Human Rights Commission Act had not been implemented; whether the Government had developed any gender management plan and, if so, how the various institutions would coordinate action under the plan; and would appreciate a specific breakdown of the budget for women's issues.

27. Poverty alleviation had to be the main goal, but if women were not brought into the process, it would not happen. Although no Nepalese woman had yet done so, the option of appealing for international redress under the Optional Protocol to the International Covenant on Civil and Political Rights, after the exhaustion of domestic remedies — and soon under an Optional Protocol to the Convention — was a distinct possibility unless the Government acted quickly to remedy the situation of women in the country.

Article 5

28. **Ms. Hazelle**, referring to customary practices, observed that Nepal had legislation prohibiting child marriages and polygamy, serious violations discussed in the Committee's general recommendation No. 21; and yet the laws were ineffective in part because of the disproportionately light penalties imposed, which, in effect, indirectly sanctioned such practices. She asked how the Government planned to convey a serious message that it intended to enforce the prohibitions.

29. Regarding the grounds for the dissolution of marriage and the statement in the report (para. 62 (ii)) that a woman could not obtain a divorce if she simply found that marriage was detrimental to her person, mentally, physically or emotionally, it should be pointed out that there was nothing innocuous about gender-based violence. Such abuse threatened the very life of a woman. Lastly, it would be useful to know

whether the Government had taken action on the Supreme Court decisions cited in paragraphs 142, 143 and 144 of the report, all of which involved cases filed by women against legislative provisions that discriminated against them.

30. **Ms. Ferrer** said that the Government would require strong political will to alter the deeply rooted traditions that subjugated Nepalese women, among them such aberrant practices as giving prepubescent children in marriage, marrying girl children to older men, and the tradition of "temple prostitutes". It would be useful to know whether the Ministry of Education provided training and awareness courses in those matters to teachers, professionals and the general community, and whether it disseminated relevant educational information through the mass media.

31. In several instances, the report cited minor changes to legislation that was clearly discriminatory. A law which permitted women to divorce their husbands for such actions as keeping another wife or refusing support was described as a provision that freed women from subjugation by their husbands. But a woman should be free to divorce her husband simply because she no longer loved him. Did the Government envisage a radical revision of legislation in order to guarantee women their rights under the Covenant? Lastly, it would be useful to know what the incidence of violence against women was in Nepal, how such acts were handled under the law, and what treatment was available to battered women.

32. **Ms. Goonesekere** said that, regrettably, the report made no reference to the issue of violence against women. She noted that legislation prohibiting abortion imposed lengthy prison sentences on women who had undergone that procedure, and that concerns had been raised with regard to violence against women in prison. Did the Government envisage the enactment of measures to protect women from violence perpetrated by prison personnel? Nor did the report discuss dowry violence, a problem common in the countries of south-east Asia.

33. **Ms. Khan** enquired whether the Government had considered reviewing the provisions of the Muluki Ain, which, according to the report, were based on the caste system and a tradition of male domination. She too regretted that the report contained no reference to domestic violence, which according to non-governmental organizations was widely prevalent. The

Muluki Ain condoned polygamy despite the constitutional and legal prohibitions against it. Since polygamy, a major cause of violence against women, was alarmingly prevalent in Nepal, she would like to know whether studies had been undertaken to assess that practice. The prostitution of women and girls was likewise alarming: young women of the Badi caste who had traditionally worked as entertainers in Western Nepal had turned to prostitution, and as many as 200,000 Nepalese girls between the ages of 16 and 20 were working as prostitutes in neighbouring countries.

34. Although the Nepalese tourist industry was booming, the report made no mention of tourism, which exposed women and girls to sexual exploitation. The next report should take up that matter. It would be useful to know whether the Government had a comprehensive plan of action to address trafficking in human beings, whether steps had been taken to enforce the relevant provisions of the Muluki Ain, and whether law enforcement personnel were trained to deal with that issue. She would like to know whether Nepal had engaged in any regional cooperation efforts with a view to implementing the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and whether it intended immediately to ratify the convention on the suppression of prostitution recently concluded by the South Asian Association for Regional Cooperation (SAARC). It would also be useful to know the principal features of the plan of action to combat trafficking in women and children, what recommendations had been put forward by the national task force, and whether any mechanisms had been established to eliminate that scourge.

35. Likewise unmentioned in the report was the vast diversity of ethnic groups living in Nepal. Some of those groups inhabited isolated mountain regions, and the isolation had a strong impact on the situation and status of women. The Terai women of Southern Nepal were not only bonded labourers, but also considered the sexual property of landowners. Their children became bonded at birth, and the system of exploitation thus passed from generation to generation. Dalit women, who belonged to the lowest caste, were not only extremely poor, but also dominated by the higher castes. Although the national female literacy rate was 25 per cent, among Dalits it was only 4 per cent. The national contraception prevalence rate was 30 per cent; among Dalits it was 7.

36. Maternal mortality was much higher among Dalits than among other Nepalese women. In addition, more and more Dalits were becoming involved in trafficking and petty crime; according to one report, a large majority of women in prison were Dalits. Their extreme social and economic isolation precluded any possibility of upward mobility. It would be useful to know whether the Government planned to enact measures to redress their situation, whether laws had been enacted to prohibit discrimination on the basis of caste, and whether Government officials were subject to punishment for denying mandatory services to persons of a lower caste.

37. She drew attention to the recommendations resulting from the consultations on culture and custom, recently conducted by the International Women's Rights Action Watch (IWRAP) which had concluded that efforts to advance the status of women and to change deep-seated cultural prejudices and practices must begin by deconstructing the ways in which men dominated the social order, defined culture and justified discriminatory practices. As a person from a traditional culture, she profoundly believed that the only way to effect change was to challenge those justifications. It was the Government, however, that was responsible for bringing about change: it must modify legislation and conduct intensive educational campaigns. But it must, above all, honour its commitment to establishing the rights of women.

Article 6

38. **Ms. Taya** observed that the Ministry of Women and Social Welfare had drafted national plans and policies to combat trafficking in girls, which included, inter alia, alleviating poverty, empowering women, and establishing international cooperation to halt such trafficking. What measures had been taken to implement those plans immediately?

39. **Ms. Regazzoli** said that although Nepal had endorsed all the major international initiatives designed to combat trafficking in children, very few traffickers had been reported. It was therefore unclear whether any practical measures had been taken to eliminate that problem. She enquired whether the Government had arranged to report such incidents to the International Criminal Police Organization (INTERPOL), and whether it had taken measures to facilitate the rehabilitation of children who were rescued and brought home. In addition, it would be useful to know

what the national annual earnings from tourism were, and whether programmes had been established to teach women to profit from tourism and forestry. In her view, training women to engage in productive work could prove an effective means of combating sexual exploitation of both women and children.

40. **Ms. Corti** enquired what plans had been made to tackle immediately the alarming phenomenon of the prostitution of Nepalese women. She would like to know whether the Government had commenced talks with India and other countries regarding trafficking in women and children; whether it had begun the process of reviewing and reforming relevant legislation; whether it envisaged the establishment of centres for the rehabilitation of girls traumatized by prostitution and the payment of compensation to victims; and whether free legal counselling for victims of violence was available. Nepal had spoken of conducting seminars and distributing publications; it would perhaps be best to begin by improving the female literacy rate.

The meeting rose at 1 p.m.