



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women Forty-fourth session 20 July-7 August 2009

Concluding observations of the Committee on the Elimination of Discrimination against Women: Bhutan

1. The Committee considered the seventh periodic report of Bhutan (CEDAW/C/BTN/7) at its 890th and 891st meetings, on 23 July 2009 (see CEDAW/C/SR.890 and CEDAW/C/SR.891). The Committee's list of issues and questions is contained in CEDAW/C/BTN/Q/7 and the responses of Bhutan are contained in CEDAW/C/BTN/Q/7/Add.1.

Introduction

2. The Committee expresses its appreciation to the State party for its seventh periodic report, which was submitted on time and follows the Committee's former guidelines for the preparation of the reports, as well as for the consultations it held with different State institutions, civil society and other stakeholders in the preparation of the report. The Committee regrets, however, that some sections of the report provide insufficient relevant information, which limited the ability of the Committee to evaluate the specific situation of women in some areas.

3. The Committee also expresses its appreciation to the State party for its written replies to the list of issues and questions posed by the Committee's pre-session working group, for its oral presentation and further clarifications given in response to the questions posed orally.

4. The Committee commends the State party for its high-level delegation, headed by the Foreign Minister, and composed of the Permanent Representative to the United Nations in New York, as well as representatives from the National Commission for Women and Children, the Gross National Happiness Commission and the Youth Development Fund, and appreciates the constructive dialogue that took place between the delegation and members of the Committee.



Positive aspects

5. The Committee commends the State party for its transition to a Democratic Constitutional Monarchy in 2008, which provides a firm foundation for a sustainable and vibrant democracy.

6. The Committee welcomes the National Commission on Women and Children (NCWC) National Plan of Action for Gender, the first of its kind in the State party, the setting up of a network of Gender Focal Points, including in the armed forces, and the identification of the issue of gender as a cross-cutting development theme in the 10th five-year plan of the Gross National Happiness Commission, which also devotes a chapter to women in development.

7. The Committee commends the State party for its recent ratification of the two Optional Protocols to the Convention on the Rights of the Child. The Committee also welcomes recent legislative developments, including the adoption of the State party's first written Constitution.

8. The Committee welcomes the commitment of the State party expressed during the interactive dialogue to fully implement the Convention and to further improve the progress already achieved in certain areas.

Principal areas of concern and recommendations

9. While recalling the State party's obligation systematically and continuously to implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It also calls upon the State party to submit the present concluding observations to all relevant ministries, other Government structures at all levels, Parliament and the judiciary in order to ensure their effective implementation.

Parliament

10. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its national Parliament, in line with its mandate and procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.

Legal status of the Convention and definition of discrimination

11. While welcoming the adoption in 2008 of the first written Constitution, the efforts of the State party to integrate the provisions of the Convention into the Constitution, and the indication by the delegation that most laws have been harmonized with the Convention, the Committee is concerned that the Constitution does not explicitly include a provision on the applicability of international treaties,

including the Convention, and that it does not specify that, in the event of a conflict between national law and the Convention, the Convention would prevail. The Committee notes that article 7 of the Constitution provides for equal protection before the law which, as the delegation explained, should be interpreted to include formal and substantive equality between men and women, and that article 9 contains specific provisions to safeguard the rights of women. The Committee is concerned, however, that the provisions contained in articles 7 and 9 of the Constitution may be narrowly interpreted and regrets that the Constitution does not contain an express and comprehensive definition of discrimination against women in line with article 1 of the Convention, which prohibits both direct and indirect discrimination.

12. The Committee calls on the State party to consider enacting appropriate national legislation, containing a prohibition of discrimination against women, both direct and indirect, in line with articles 1 and 2 (b) of the Convention, as well as the principle of formal and substantive equality between men and women, in accordance with article 2, subparagraph (a), of the Convention. The Committee further calls on the State party explicitly to provide in its Constitution or other appropriate legislation that the provisions of international human rights agreements, in particular the Convention, are directly applicable at the domestic level and prevail over conflicting legislation.

National machinery for the advancement of women

13. The Committee acknowledges the important work of the National Commission for Women and Children and the institutional changes that it underwent in 2008, including its new status as an autonomous body; its diverse membership, including representatives of the Government, the media, NGOs, the private sector and the armed forces to ensure that all sectors of society are involved in issues related to women and children; its new functions, which include receiving complaints, reviewing national legislation and providing training; and the creation of Gender Focal Points. The Committee is concerned, however, that not enough resources have been allocated to the National Commission to ensure that it can effectively carry out its new functions, that it has low visibility in rural and remote areas and that its independence may be limited by the fact that it is chaired by a Cabinet minister. The Committee is further concerned that the Commission deals both with women and children, thereby reinforcing stereotypes regarding the role of women in society.

14. The Committee recommends that the State party provide additional financial and human resources to the Commission in order to enhance its effectiveness, and increase its capacity to coordinate and monitor actions related to women's rights and gender equality at all levels, as well as to receive and investigate complaints. The Committee further recommends that the network of Gender Focal Points be strengthened, in particular through placing them at regional and local levels, including in remote and rural areas. In addition, the Committee recommends that consideration be given to ways of reinforcing the Commission's autonomy, independence and accountability, as well as ensuring that there is a clear separation of the Commission's functions in respect of women, on the one hand, and children on the other.

Temporary special measures

15. While noting that the State party indicated it would consider the adoption and implementation of temporary special measures where needed, the Committee is concerned that temporary special measures have not been used to accelerate de facto equality between women and men in all areas covered by the Convention, in particular with regard to access of women to secondary and higher education and the participation of women in public and political life. The Committee is also concerned that a clear understanding of the concept of temporary special measures, as well as the reason for their application in line with article 4, paragraph 1, of the Convention and further explained in the Committee's general recommendation No. 25, seems to be lacking in the State party.

16. The Committee encourages the State party to introduce specific legislation providing for the adoption and implementation of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 in order to accelerate the realization of women's de facto equality with men in all areas where women are underrepresented, or in rural and remote areas. The Committee recommends that the State party raise public awareness about the importance of temporary special measures in accelerating the process of gender equality.

Political participation and participation in public life

17. While taking due note of the fact that 54.2 per cent of the voters at the last elections were women, the Committee is concerned at the low rate of representation of women at all levels of public and political life, particularly at a time when society is undergoing significant transformation. The Committee is especially concerned at the low level of participation of women in decision-making bodies, including Parliament (13.88 per cent), the Government and the diplomatic service, and at the regional and local levels, and that the rate of participation has, in some cases, decreased in recent years.

18. The Committee requests that the State party implement, as a matter of urgency, sustained policies aimed at the promotion of women's full, active and equal participation in decision-making in all areas of public and political life. In particular, the Committee encourages the State party to review criteria required for certain positions when such requirements turn into obstacles or barriers to women's access to decision-making. It also recommends the use of temporary measures according to article 4, paragraph 1, of the Convention and in the Committee's general recommendation Nos. 25 and 23. The Committee further recommends the implementation of awareness-raising activities about the importance of women's participation in decision-making positions during the current transition of society as a whole, including in its remote and rural areas.

Violence against women

19. The Committee welcomes the various initiatives taken by the Government to address sexual, gender-based and domestic violence, including the commissioning of a report on violence against women, setting up mobile police stations, training the police on gender issues, and initiatives taken by civil society, such as opening a crisis and rehabilitation centre for women victims of such violence. The Committee

further welcomes the delegation's indication that a bill on domestic violence would be tabled by 2010. The Committee is nonetheless concerned that violence has reportedly been experienced by women in marriage, within the family and at their workplaces, and that the State report has identified a low level of awareness among women of their rights and that there is a culture of silence. The Committee considers that there are many issues to address in the fight against violence against women, particularly in light of the very few court cases on sexual and other forms of violence against women. The Committee is further concerned that domestic girl child workers may be particularly vulnerable to such violence.

20. The Committee urges the State party to give priority attention to eliminating all forms of violence against women, as well as increasing access to justice for women victims of such violations, including in remote and rural areas. The Committee encourages the State party to enact legislation, including on domestic violence, as a matter of priority. Such legislation should ensure that violence against women and girls constitutes a criminal offence and the basis of a civil claim; that perpetrators are prosecuted and punished in accordance with the seriousness of the offence; and that women and girls, including in remote and rural areas, who are victims of such violence have access to protection. The Committee encourages further training and awareness-raising for law-enforcement officials and health-care providers to ensure that they are sensitized to all forms of violence against women. The Committee also recommends that the State party adopt measures to increase the number of women working on these issues, including in the police force and other law-enforcement agencies.

Trafficking

21. Recalling the signing of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and welcoming new measures to combat trafficking, including the specific training of law-enforcement personnel and the introduction of mobile police units, the Committee nonetheless expresses concern at the growth of this phenomenon. The Committee is further concerned at the definitions of trafficking and prostitution included in the Penal Code, which may be at variance with the international definition of these terms, particularly where women trafficked for sexual exploitation are concerned. In addition, the Committee regrets the lack of information available on this issue in the State party's report, and is further concerned at the lack of protection for women at risk of trafficking, and the limited support, shelter and psychological help available to victims, as well as at the very low number of court cases on these and related issues.

22. The Committee urges the State party to intensify its efforts to combat all forms of trafficking. It encourages the State party to undertake research to determine the scope of the problem, and to collect and analyse data on trafficking available to the police and international sources. Further, the Committee encourages the State party to align its national definition of prostitution and trafficking with international standards, and recommends that the State party intensify its efforts to provide support to girls and women at risk, including through the development of mechanisms for access to justice and alternative livelihood options as well as further training of the judiciary, law-enforcement personnel, including the border police, medical service

personnel and social workers. The Committee further recommends that bilateral measures and agreements be considered with countries of origin and neighbouring countries.

Stereotypes and cultural practices

23. While welcoming the efforts undertaken by the State party to address stereotypes and negative cultural practices, including the publication of the ethical Guidelines aimed at the media for reflecting an objective image of women, the Committee remains concerned that women are still facing various forms of discrimination both in the family and in public life, which perpetuate sex-specific roles and responsibilities.

24. In line with its previous recommendations (A/59/38), the Committee urges the State party to analyse existing traditions and stereotyped views in order to assess their impact on the achievement of gender equality. It recommends that policies be developed and programmes be directed at men and women to support the elimination of stereotypes associated with traditional roles in the family, the workplace and society at large, and to prevent the emergence of new stereotypes that are discriminatory against women. It also recommends that the media be encouraged to project a positive image of women and the equal status and responsibilities of women and men both in the public and private spheres.

Education

25. While noting the progress made regarding girls' enrolment in primary education, including that 83 per cent of qualified girls attend primary school, the impact of community primary schools and the expansion of the Continuing Education Programme, as well as the work done by NGOs in this field, the Committee is concerned at the growing gender gap and higher dropout rates of girls in secondary and further education. The Committee is also concerned at the limited access to schools for girls who live in rural and remote areas, due to a lack of qualified teachers and safe transportation and the inadequate infrastructure of the schools. The Committee is further concerned at the high rate of illiteracy among girls and women. While taking due account of the revision of textbooks to address the issue of gender sensitivity, the Committee remains concerned about traditional attitudes in some parts of the country, which may contribute to the low levels of education of women and girls.

26. The Committee urges the State party to adopt and implement targeted measures to ensure equal access for girls and women to all levels of education. More specifically, the Committee recommends that the State party examine the possibility of providing incentives to girls and their families to encourage them to remain in schools. The State party should take all necessary steps to increase the number of qualified teachers, adequate educational infrastructure, including in rural and remote areas, as well as adequate transportation. The Committee also urges the State party to take measures, including the development of non-formal education, to address girls' and women's illiteracy, including through the continuation and increase of programmes for adult education. In addition, the Committee urges the State party to take the necessary steps to encourage pregnant girls and married girls to continue their education.

Health

27. While noting the free access to traditional and modern health care and the Government's intent to continue to commit the necessary resources in this field, as well as the major qualitative and quantitative progress made in certain areas of maternal and reproductive health care, the Committee is concerned at the lack of information provided on the overall health of women, including specific information on the morbidity and mortality rates and on early detection of women screened for breast, ovarian and uterine cancers. Regarding reproductive health, taking due account of the progress achieved regarding access to contraception, the Committee is concerned at the lack of information regarding the frequency of medical consultations for pregnant women, as well as information regarding family planning measures and sex education for young and adolescent girls, and its consequent impact on teenage pregnancies. The Committee is also concerned at the limited access to confidential medical care and advice in this context, and notes that despite efforts aimed at improving access to emergency general and reproductive medical care in remote and rural areas, this remains limited. Further, the Committee is extremely concerned at the prevalence of HIV/AIDS among women under the age of 25.

28. The Committee recommends that the State party continue to take measures to improve women's access to general, mental health and reproductive health care, for all women, including older women, and women in rural and remote areas. The Committee requests the State party to provide information in its next periodic report regarding the existence of an integral health policy for women, including facilities for cancer screenings. It urges the State party to make every effort to increase women's access to health-care facilities and confidential medical assistance by trained personnel, in particular in rural and remote areas, despite the difficult terrain. It further recommends that family planning and reproductive health education be widely promoted, including in remote areas, and targeted at girls and boys, with special attention being paid to the prevention of early pregnancies and the control of sexually transmitted diseases. The Committee urges the State party to undertake comprehensive research to determine the factors leading to the feminization of HIV/AIDS, with a view to developing appropriate strategies to reduce women's vulnerability to the disease.

Employment

29. While welcoming the adoption of the Labour and Employment Act, the Committee remains concerned at the high rates of reported cases of sexual harassment in the workplace. In addition, the Committee is concerned at the very high number of foreign and migrant workers, who may not benefit from basic rights and minimum protection, including access to basic health care. The Committee is also concerned about the feminization of poverty, particularly in rural areas and about the lack of data on poverty.

30. The Committee recommends that the State party take effective measures to ensure access to remedial mechanisms, including access to justice, for women victims of sexual harassment. The Committee also recommends that the fundamental rights of all migrant workers, including women, be taken into consideration, including their right to basic health care. The Committee further recommends the creation of adequate job opportunities with decent pay for

rural women, as well as the provision of a broad range of support services for women in the informal sector and the creation of access to market facilities. The Committee also calls upon the State party to provide social benefits to home-workers and to provide in its next periodic report sex-disaggregated data on poverty.

31. The Committee is concerned at the persistence of child labour, in particular the situation of girl child domestic workers, mainly from rural and remote areas, who work long hours, do not have access to education and may be subject to violence.

32. **The Committee urges the State party to strengthen its efforts to eradicate domestic child labour abuse, and ensure that children, in particular girls, have access to education, health care and social protection, as well as enjoy the protection of the minimum labour standards elaborated by the International Labour Organization. Further, the Committee recommends that the State party engage in a public outreach campaign to inform the population about the need to ensure that the rights of all children are respected, including access to education and medical care.**

Family relations

33. The Committee is concerned that custody of children under the age of 9 is automatically granted to the mother, reinforcing gender stereotypes, and that children who are 9 years of age or older have the right to choose their custodian. The Committee is further concerned that there is insufficient information in the report regarding the various practices and laws regulating, inter alia, marriage and its dissolution, including inheritance, and family relations. While welcoming that the legal age for marriage of men and women is 18, the Committee is concerned at the persistence of illegal underage marriage. The Committee also remains concerned at the continuing existence of polygamy in some parts of the country.

34. **The Committee recommends that the State party bring its provisions regarding custody of children on dissolution of marriage in line with article 16, paragraph 1 (d), of the Convention, which highlights the need to take into account the best interests of the child. In addition, the Committee requests that the State party provide in its next periodic report information on marriage and its dissolution, including inheritance and family relations, which would facilitate a better understanding of the situation in this context. The Committee also encourages the State party to take effective measures, including through legal action and public outreach campaigns, to put an end to the practice of illegal underage marriage. The Committee recommends that the State party take appropriate action to end the practice of polygamy, in accordance with the Committee's general recommendation No. 21, on equality in marriage and family relations.**

Discriminatory nationality law

35. The Committee recalls its previous recommendation on the situation of ethnic Nepalese women who lost their Bhutanese citizenship following the enactment of the 1958 Citizenship Act, and expresses its continued concern at the impact that this may have on women acquiring citizenship based on their marital status and passing their citizenship to children born outside of the country, as well as children with

non-national fathers, in particular those under 15 years of age, whose rights, including to education and access to health care, may be limited.

36. The Committee is encouraged by the State party's willingness to resume talks with the Government of Nepal and recommends that it resolve all outstanding issues, including ensuring full access to free education and health services to all children under 15 years of age.

Optional Protocol and amendment to article 20, paragraph 1

37. The Committee notes the positive statement made by the delegation regarding the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and encourages the State party to ratify it as soon as possible, as well as to accept the amendment to article 20, paragraph 1, of the Convention, regarding the meeting time of the Committee.

Beijing Declaration and Platform for Action

38. The Committee urges the State party to utilize fully, in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Millennium Development Goals

39. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

Ratification of other treaties

40. The Committee notes that States' adherence to the nine major international human rights instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Bhutan to ratify the treaties to which it is not yet a party, namely, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

Dissemination of concluding observations

41. The Committee requests the wide dissemination in Bhutan of the present concluding observations in order to make the people, including Government officials, politicians, parliamentarians and women's and human rights

organizations, aware of the measures that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in this regard. It requests the State party to continue to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Follow-up to concluding observations

42. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraph 18 on political participation and participation in public life and paragraph 20 on violence against women. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate, for implementation of the above recommendations.

Technical assistance

43. The Committee recommends that the State party avail itself of technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the above recommendations and the Convention as a whole. The Committee expresses its willingness to continue the dialogue with the State party, including through a country visit by Committee members to provide further guidance on the implementation of the above recommendations and the State party's obligations under the Convention. The Committee also calls upon the State party to strengthen further its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Development Programme, the United Nations Development Fund for Women, the United Nations Children's Fund, the United Nations Population Fund, the World Health Organization, the Office of the United Nations High Commissioner for Human Rights, the Statistics Division and the Division for the Advancement of Women of the Department of Economic and Social Affairs of the Secretariat.

Date of next report

44. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its eighth and ninth periodic reports in a combined report on 30 September 2014.