



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

Distr.: General
25 February 2002

Original: English

**Committee on the Elimination of Discrimination
against Women
Twenty-first session**

Summary record of the 439th meeting

Held at Headquarters, New York, on Friday, 18 June 1999, at 3 p.m.

Chairperson: Ms. González

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The meeting was called to order at 3.10 p.m.

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

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

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

2. **Mr. Shakya** (Nepal), responding to Committee members' questions, said that, until 1963, the Muluki Ain (General Law), based on the Napoleonic Code and on caste and gender distinctions, had been Nepal's sole codified law. Efforts had been made to eliminate discriminatory provisions from the Muluki Ain in 1963, in 1975 on the occasion of the International Women's Year, and in 1986 within the framework of the South Asian Association for Regional Cooperation (SAARC). The establishment of a democratic and parliamentary form of government in 1990 had led to the ratification of almost all the human rights conventions, including the Convention on the Elimination of All Forms of Discrimination against Women. The early years of democracy had witnessed the elaboration of legislation on children's rights, labour, trade unions and human rights; however, progress had been slowed by the dissolution of Parliament in 1993 and the destabilization of the Government. Thus, as Committee members had pointed out, gender discrimination persisted, including with regard to property rights and inheritance.

3. In September 1995, the Ministry of Women and Social Welfare had been established with the aim of addressing gender discrimination and carrying out a Supreme Court order to identify and amend all discriminatory legislation within one year. In that connection, legislation had been drafted with input from non-governmental organizations (NGOs), only to become ineffective on the dissolution of Parliament yet again in 1998. A task force, composed of female activists, lawyers and representatives of governmental and non-governmental organizations, appointed within the Ministry of Women and Social Welfare, was drafting new legislation that was more likely to be well received by Parliament under the current majority Government.

4. In answer to another question, he said that the Government's inability to take a firm decision with regard to the National Human Rights Commission had prevented its establishment; he hoped that it would come into being shortly. Draft legislation on the establishment of a National Commission for Women was being prepared.

5. With regard to trafficking in women, he said that since the publication of the report, the figure of 100,000 Nepalese women in Indian brothels had swelled to 200,000. The trend had its origins in Nepalese feudal society, when women from the Hills region had been taken to Kathmandu palaces as housemaids. When, in 1951, that feudal society had collapsed, families had migrated to India and taken their housemaids, only to release them in times of financial difficulty. Those housemaids had ended up in Indian brothels, and that process was continuing even now. It had not been taken seriously until the International Women's Year in 1975, when the Government had introduced protective provisions in the Muluki Ain. However, that legislation, and a law of 1986 stipulating a penalty of 15 years' imprisonment for trafficking in women, had proved to be ineffective, largely because of rampant illiteracy among the victims, who had been unable to file complaints. Moreover, trafficking was steadily increasing. In December 1995, Nepal had ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (CEDAW/C/NPL/1, para. 72). It was hoped that further measures to prevent trafficking in girls and children would be taken on the occasion of a SAARC summit to be held in Kathmandu in November. The Ministry of Women and Social Welfare had established a self-reliance and rehabilitation centre for prostitution victims and many non-governmental organizations were working hard to assist them. In addition, the Police Academy offered human rights training, and the police had established a special unit to deal with trafficking and prostitution, which was aggravated by the development of tourism.

6. Turning to women's participation in public life, he said that, in the former Parliament, there had been seven female representatives in the House of Representatives and six in the National Assembly. In May 1999, 12 women had been elected to the House of Representatives; the number of representatives in the National Assembly had yet to be determined in a future

election. The Local Self-Governance Act provided that women should hold 20 per cent of the posts in local political bodies. Ward councils, Village Development Committees (CEDAW/C/NPL/1, para. 3), municipalities and District Development Committees always included women, and, often, indigent women. In all, more than 40,000 women were represented in local political bodies.

7. The civil service comprised approximately 98,000 men and 7,000 women, the latter being mainly in the lower echelons. Under a 1998 amendment to the Civil Service Act, however, women were allowed to apply for positions until the age of 40, as compared with 35 for male applicants; their probation period was six months, instead of the one year required of men; and they were eligible for promotion one year earlier than the minimum prescribed period of service. Women civil servants were granted 60 days' maternity leave. The impact of the amendment had not yet been evaluated.

8. The Ninth Plan (1997-2000) stressed the right to education and promoted gender equality at all levels, particularly in basic, primary and informal education. The female student body at State universities accounted for nearly one third of the total enrolment of 154,528. In addition, some 3,000 women were enrolled in private universities. With regard to the question on free and compulsory education, he said that his Government was required to provide free education up to the higher secondary level but that the Constitution of Nepal was silent on compulsory education. In some municipalities, however, education was compulsory on a trial basis. Free textbooks were distributed to both boy and girl pupils up to the fifth grade, and numerous scholarships were awarded in order to encourage girls to enrol in school. In the past five years, approximately 14 per cent of the national budget had been allocated to education, with 8 per cent going to primary and basic education and 6 per cent to secondary and higher education.

9. A large proportion of the annual budget was expended on health facilities. As the Ninth Plan had indicated, Government health policies stressed equal access to health services on a referral basis, beginning at the level of the Village Development Committee. The safe motherhood programme was a donor-assisted priority programme implemented in 11 districts and soon to be expanded. Its objective was to reduce the maternal mortality rate from 47.5 per 10,000 women to

40 per 10,000 by the year 2002 through improved prenatal health care and family planning services. The district health delivery system consisted of 4,137 institutions, including 74 district hospitals, 17 health centres, 120 primary health centres at the electoral constituency level, 736 health posts at the ilaka level and 3,190 sub-health posts at the ward level. As for women's participation in the health sector, there were over 12,000 traditional birth attendants, over 46,000 female community health volunteers and 3,189 maternal and child health workers.

10. With regard to the question of miscarriage versus abortion, he said that abortion was characterized as a criminal act in Nepal; it was permitted only in cases where the mother's life was in danger. Various efforts to liberalize abortion legislation had failed in the previous Parliament. It was too soon to know the fate of legislation introduced in the current Parliament which, if adopted, would make incest, rape and possible birth defects valid grounds for abortion as well. In response to another question, he said that, at the end of July 1997, 103 children had been in prison together with their mothers, who had mainly been convicted of infanticide. Owing to illiteracy and social taboos, campaigns to increase contraceptive use had been largely unsuccessful.

11. With regard to the question concerning women and development, he said that a rural development bank had been established in 1991 and by the end of 1998 had opened 115 branches and had disbursed approximately \$1.5 billion in loans to rural and indigent women. Through the bank, rural women had access to microcredit for income-generating activities. The incorporation of women in development had also been pursued by sector development programmes in 25 districts in 1998, and was an ongoing objective of non-governmental and intergovernmental organizations.

12. Turning to the question on women's participation in the judiciary, he said that there were currently six female judges in the district and appellate courts and none in the Supreme Court. There was no specific constitutional provision providing for the inclusion of women in the Judicial Council, which was composed of the Chief Justice, two other senior judges, a Minister of Law and Justice and a jurist. However, women were sometimes appointed as jurists. In reply to another question, he confirmed that the criminal law system would be reviewed by the Nepal Law Reform Commission. With regard to the divorce system, he

said that women were entitled to custody of their children and to receive alimony payments for five years after divorce unless they remarried. Efforts were being made to amend the latter provision.

13. Although prohibited as early as 1976, the dowry system remained a serious problem in the southern part of the country. Another instance where the laws were in place but practice was discriminatory was the problem of child registration by single mothers. Under the provisions of the Children's Act of 1992, a child could be registered by either father or mother and given the mother's name if the father's was unknown. In practice, however, registrars often insisted on knowing the father's nationality. Programmes were needed to raise the awareness of public officials and the general public. Registration of marriage was also provided for but not compulsory. Lack of registration did not keep children or marriages from being recognized, but certainly made it harder to control the trafficking in girls and women, a task already aggravated by Nepal's nearly wide-open borders. The lack of statistics was a hindrance to many programmes, and the Government was making efforts to increase registration.

14. The chief aims of the campaign to appoint at least one female teacher in each primary school were to increase female employment and to encourage women to become teachers. Where abortion was concerned, the bill before Parliament was, admittedly, contrary to the Convention in that it required the consent of the husband for a married woman or of the parents for an unmarried woman. With respect to protection against violence and sexual harassment in the workplace, the Labour Act provided for health and safety for industrial work, but it should be recalled that 90 per cent of working women were engaged in agriculture; women working in industry constituted a very small group. There were currently no statistics or studies available on the mental health of Nepalese women or on women's abuse of tobacco or drugs, but the Government would ensure that such information was included in the next report.

15. It was difficult to set target deadlines for the enactment of the anti-discriminatory legislation proposed by the task force of women activists and lawyers formed by the Ministry of Women and Social Welfare, since lawmaking was the prerogative of the Parliament and earlier bills had failed. However, since the recent elections the Government had enjoyed

majority support and had high hopes that it would be able to put through legislation on, among other things, domestic violence, inheritance and the establishment of a family court.

16. The Ministry of Women and Social Welfare was currently headed by the Prime Minister himself, but in a few weeks a minister would be appointed, who would certainly be a woman. In recent Governments there had been as many as four women ministers at one time.

17. Some traditional practices detrimental to women were on the decline. Polygamy, which had been prevalent when it was made illegal in 1963, was decreasing. Recognizing that the present penalty of two months' imprisonment was little deterrent, the Government was proposing to amend the penalty to three years' imprisonment. The practice of dedicating girls to a god or goddess as temple prostitutes (*Deuki*) was still common but was also decreasing. Since the Children's Act of 1992 had made it illegal, very few cases had been reported. Scholarships were another government tool to combat the practice. The traditional practice of service to the goddess *Kumari* was restricted to the Kathmandu valley, and the superstition that used to prevent former *Kumari* girls from marrying later in life was no longer widely current. On the other hand, the traditional vocation of women of the Badi caste as entertainers, dancers and musicians had degenerated into outright prostitution. Government and non-governmental organizations were running programmes for *Badi* women to help them develop alternative ways to earn a living. There were also programmes in force and others proposed in the legislature to assist the development of the Dalit (untouchable) caste.

18. Domestic violence was indeed a serious problem in the country. The Government was working on a new domestic violence bill, with the valuable collaboration of non-governmental organizations, which were supplying grass-roots feedback. Unfortunately, domestic violence was traditionally considered normal by victim, perpetrator and society at large, so that few cases were reported. Illiteracy was another obstacle that kept women from reporting. The proposed family court should improve the situation.

19. **Ms. Taya** said that the most urgent business for the Government of Nepal was to change the many discriminatory laws, notably those on tenancy, inheritance, nationality and abortion. Not only were

they contrary to the Convention, Nepal's Supreme Court had also found them to be inconsistent with the Constitution. Yet instead of declaring the laws void ab initio, it had merely given an order to the Government to amend the laws while respecting deep-rooted custom. It was a pity that the Supreme Court had not acted more boldly. Nonetheless, it was the Government's obligation to bring the country's laws into compliance with the Convention.

20. Her second point concerned the right of women to education. Nepal's most serious problem was poverty. True, it was small and landlocked, yet in medieval times it had been prosperous. Hence, its poverty was man-made, the result not only of overpopulation, deforestation and water pollution, but also of the low social status of its women. The Government's basic primary education programme, introduced in 1992, was commendable, but so far it had reached relatively few girls. Illiteracy rates were appalling, and illiterate women were prevented from participating in vocational training programmes. The gender gap in education was glaring. Four crucial measures were needed: free, compulsory education for all girls; revision of the curriculum; vocational and skills training for the new generation; and greater access to non-stereotypical education. Her request for information on the percentage of the national budget allocated to education, year by year and in comparison with the years prior to 1992, had not been answered, and she hoped to see it in the next report.

21. **Ms. Abaka** said that she deeply sympathized with the women of Nepal, especially those of reproductive age, who faced daunting health problems. She would look forward to seeing information on women's mental health, and particularly on depression, in the next report. Moreover, the fate of women seriously affected their children. She would like to know, for example, what health and educational facilities were available to children living in jail with mothers serving sentences, many of them for abortion.

22. **Ms. Schöpp-Schilling** said that she was grateful to the delegation of Nepal for the thoroughness of its answers. It was evident that there was an awareness in Nepal of women's issues and the problems confronting women and also of the long road yet to be travelled before full implementation of the Convention was reached. The efforts in that direction were commendable, and she hoped that the Government

would enjoy sufficient political stability to be able to put through the necessary reforms.

23. She was concerned about the criminalization of abortion. Spacing of children was a human right. The abortion bill as it stood was too narrow, and while abortion was not to be encouraged as a means of contraception, women's lives should not be threatened by unsafe abortions or excess births. Developing the use of contraceptives was essential, but it was a slow process which would require both time to improve general literacy and money to get contraceptives to users. Incidentally, international help might be sought in developing contraceptive programmes that were not heavily dependent on literacy. Over the long run, of course, more education was needed. Unless Nepalese women were healthy and not overburdened with children, they could not improve their earning capacity, and until they did so the trafficking could not be stopped. In the meantime, the experience of other countries had shown that, legally or otherwise, women would seek abortions, and to make abortion illegal merely made the situation worse. She would urge the Government to take a close look at other countries' practices and other human rights instruments and to refashion the bill in accordance with the best models.

24. **Ms. Khan** thanked the delegation for its valiant efforts to answer a host of questions. She urged the Government of Nepal not to yield to the temptation so common in the region, her own country included, to blame failure on poverty, illiteracy and tradition, rather than on a lack of commitment to changing the laws and the situation. The system of dowry, for example, was not just an unfortunate social tradition but a major cause of violence and even death for women which must be combated. In the case of trafficking in women and girls, it was easy to blame open borders and traditional practices, when what was needed was an energetic two-pronged approach: first, to review the existing legislative measures to ensure that they were sound; and second, to undertake an extensive human rights education campaign to change attitudes. The Hindu religion had been blamed for many social maladies, but in India, the cradle of Hinduism, much progress had been made through vigorous enforcement of the law.

25. She wished to congratulate Nepal on its vibrant women's NGO movement. With such support and sufficient commitment on the part of the Government,

she was sure that there would be great improvements to announce in the next report.

26. **Ms. Ferrer** said that there were evidently many serious obstacles to implementation of the Convention in Nepal and that women there were suffering in many ways from very widespread discrimination. A whole series of Government decisions must be taken in order to change not just the legislation but deep-rooted practices in society. To achieve that, the political will expressed by the delegation of Nepal must be converted into specific actions for the advancement of women. Above all, there must be a programme of action to transform stereotypes by challenging cultural traditions. A concerted effort would be needed to bring about real change in the way people thought, and the process should begin by raising awareness — at the community level among such people as teachers, health workers and media professionals. The educational campaign should be aimed at women as well as men and should begin at the most elementary levels in schools: only in that way would the Convention become a reality in Nepal.

27. **Ms. Aouij** said that although the delegation of Nepal had shown good will towards the cause of advancing the status of women, she remained unconvinced that the political will to effect real change existed. The situation of women in Nepal was reminiscent of a bygone age, and on the eve of the twenty-first century it was quite intolerable that large numbers of women were dying after abortions or childbirth. Although the Government had recently improved maternity leave for women working in public service, that was hardly an adequate response to the problem, and she trusted that the Government would ensure that the further measures to which the representative of Nepal had referred were adopted promptly.

28. It was surprising to be told that women in Nepal did not complain when they were subjected to violence: no human being could take violence or rape lightly unless they had been brought up to accept it as a normal occurrence. She expressed the hope that violence against women, whether in society or in the family circle, whether attributable to repressive legislation or not, would be eliminated as quickly as possible.

29. She expressed regret concerning the economic situation in Nepal, which all members had taken into

consideration in their assessments of the situation there. However, women should nevertheless be treated as the real resource they were and as fundamental factors in development. If that happened, there would be a real chance of women in Nepal making progress.

30. **Ms. Feng Cui** said that she could well understand the difficulties facing the Government of Nepal: the country's age-old traditions meant that the situation of women there could not be changed overnight. She suggested that the Government should undertake a long-term project to relieve poverty and improve conditions for rural women, who did most of the work in the rural areas. In that connection, she noted that, while the Government had a budget for rural projects, village committees and rural members of Parliament, it had none for rural women, and she suggested that some of the money for rural members of Parliament might be diverted, to a long-term project for them.

31. While the Government appeared to be committed to changing discriminatory legislation, it was slow in taking action. She had had conversations with Nepalese women in 1995, following the Beijing Conference, and all had stressed the need for the offending legislative provisions to be amended. Four years later, therefore, she would have expected more of a sense of urgency on the part of the Government.

32. **Mr. Shakya** (Nepal) confirmed that non-governmental organizations had participated in drafting Nepal's report. He said that changing discriminatory legislation must indeed have priority. A time limit would perhaps be useful. In that connection he recalled the delays attributable to past minority Governments' impotence and instability. The current Government was not in the same position, and he felt reasonably sure that, if the Government stayed in power for the full five-year term, many if not all the issues raised by the Committee would be settled.

33. Education was crucial to ending poverty of all kinds, not just for women. School education was free up to the ninth grade and would be compulsory up to the fifth grade by 2002. There were some vocational education programmes, but they were not available everywhere in the Kingdom. He recalled Nepal's long history of isolation: road links had first been established with India in 1959 and since 1963 had reached to the Tibetan region of China. Until a university had been founded in 1960, people had had to

go to India to study. Male literacy was still poor, and girls had begun to receive education only in 1986.

34. Politically, Nepal had not really opened the door to the outside world until 1990 with its new Constitution, parliamentary democracy and political pluralism. It had since ratified nearly all the major conventions without reservation, a step which was unusual for the countries of the region. Those ratifications had been reflected in changes in the law in 1992-1993. However, there had then been five years of political turmoil, crisis and paralysis during which the Government had been unable to fulfil all its commitments under those conventions. Nevertheless, Nepal was moving in the right direction. Its NGOs were doing a great deal of good work by assisting the Government in areas it could not reach and providing it with information.

35. Reproductive health remained a major problem. He recalled that in 1960 the country had had only one hospital. Currently, there were 26, with a target number of 75. The "Safe Motherhood" initiative had been in operation since 1993. However, only 13 per cent of deliveries were carried out with the assistance of trained midwives, let alone hospital care, and the remaining 87 per cent took place in a family setting, usually with the woman's mother-in-law in attendance.

36. Under the new legislation, abortions were permitted only when there was a threat to the life of the mother, or to her physical or mental health, and in cases of rape or incest. A married woman needed her husband's approval for a termination, while an unmarried woman needed permission from her parents. While those provisions were not in line with the Convention, much had been achieved since 1990. Obviously, the death of the mother as a result of abortion was intolerable on the eve of the twenty-first century, yet liberalizing Nepal's abortion legislation would not of itself help: the country was only beginning to build the necessary infrastructure and was not in a position to implement fully the existing legislation.

37. Radio and television were being used to promote contraception, but television did not cover the whole country, and uneducated women found the campaigns difficult to understand. In Nepalese society even men were hesitant about going to a drugstore to buy condoms.

38. Under Nepalese legislation, children of parents who were in jail and who did not have anyone else to look after them stayed with their parents. Currently Nepal had 75 districts with only one court and one judge per district to handle all matters civil and criminal. There were in addition 16 appellate courts and one supreme court. The Government was drafting legislation providing for juvenile and family courts. Because the budget was stretched to the limit, the Government had in the meantime asked existing district courts to set aside a day or a time for family or juvenile matters.

39. He had not heard of any cases of "dowry death" in Nepal. If there were any such deaths, they would most probably occur in the south, nearest to India, where marriages across the open border, with their attendant citizenship and other problems, were more common.

40. He stressed that *Deuki* and *Badi* prostitution was viewed as a bad thing and that there were many programmes to eliminate it, with NGOs doing a great deal to raise public awareness. Child personifications of the goddess *Kumari*, on the other hand, were deeply rooted in tradition and even the King worshipped the goddess personified in that way. However, children currently became *Kumari* at the age of 7 or 8 and ceased at age 12.

41. Women were disinclined to report domestic violence because, if they left their husbands, their only option normally was to go back to their fathers. That solution had its problems, because, traditionally, once given in marriage, a daughter was not expected to return to her family. It was not currently feasible for the Government to create a system of women's shelters.

42. He had taken note of the suggestion from Ms. Ferrer concerning a programme to transform gender stereotypes. His Government would give the matter due consideration, and he believed that its response would be such as to prove that it did indeed have the necessary political will, together with the ability to translate that will into action. It would take into consideration also Ms. Feng Cui's suggestion on targeting rural women through a long-term programme which would be funded by diverting existing funds.

43. **Ms. Taya** made the following recommendations on behalf of the Committee as a whole. First, the next country report must include the proper definition of

discrimination in its information on the implementation of article 1 of the Convention. Second, discriminatory laws inconsistent with the Convention must be amended as a matter of urgency. For that purpose, very strong political will would be needed. Third, gender sensitization and advocacy programmes should be organized for all law enforcement officials. Fourth, bilateral dialogue should begin between receiving and sending countries with a view to tackling the problem of trafficking in girls. Fifth, the Government should create more opportunities for income generation and self-employment, especially among marginalized and rural women, in order to combat poverty. Sixth, to boost education for girls, the Government should enforce punitive measures against parents who failed to comply with their obligations in respect of compulsory education and should work together with NGOs to develop mass public awareness campaigns in favour of women's education. Seventh, abortion should be properly legalized and safe abortion services should be provided.

The meeting rose at 5.15 p.m.