



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined fourth and fifth periodic reports of Nepal at the Committee's forty-ninth session, held in July 2011. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/NPL/CO/4-5). You may recall that in the concluding observations, the Committee requested Nepal to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraph 26 and in paragraph 36 of the concluding observations.

The Committee welcomes the follow-up report received with a 17-month delay in February 2015 (CEDAW/C/NPL/CO/4-5/Add.1) under the CEDAW follow-up procedure. At its sixty-second session, held in October-November 2015 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 26** of the concluding observations that the State party “ensure that the new Constitution provides for equal and full citizenship rights for women, including the right to transfer citizenship to their children and foreign husband”: According to the new Constitution, which came into effect on 20 September 2015, any child whose father or mother is citizen of Nepal at the birth of such child shall be deemed citizen of Nepal by descent. However, a child born in Nepal to a Nepali mother and a foreign father can only become Nepalese by naturalization (unless the father has acquired a naturalised citizenship which is applicable for only after staying in Nepal for 15 years), whereas the child of a Nepali man married to a foreigner spouse is entitled to citizenship by descent. Furthermore, a child born to a Nepali mother and whose father is not identified shall be granted citizenship of Nepal by descent only if he or she is born in Nepal and if his/her mother is Nepali by descent, whereas this principle is not applied to the children of Nepali men. A Nepali woman can still not pass her citizenship to her husband, while a foreign woman married to a Nepali citizen can acquire naturalized citizenship. The Constitution further mentions that naturalized citizens are not eligible to take up certain high political and security positions. The Committee notes that the report of the State party was based on the interim Constitution. It further notes that the new Constitution of Nepal provides for the granting of citizenship by descent to any child whose father or mother is citizen of Nepal at

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his/her birth. However, it considers that some provisions are still discriminatory and that the new Constitution does not provide for equal and full citizenship rights for women, including the right to transfer citizenship to their foreign husband as well as to their children if the husband is a foreigner. The Committee considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “implement training programmes for Government officials at all levels on legal provisions relating to the transfer of citizenship”: The State party indicated that responsible officers of District Administration Offices have been oriented and trained on citizenship laws and procedures. Moreover, the Judicial Service Training Centre and the National Judicial Academy provided three-month training to Chief District Officers and other Government officials on legal provisions, including transfer of citizenship, and also conducted workshops on various issues of citizenship in which participants were from all levels of the Government. Furthermore, local bodies at district and village levels have cooperated in organizing orientation and trainings for officials of Village Development Committees on procedures of referral for citizenship and birth registration. The Committee welcomes the orientation and training programmes provided to Government officials at all levels on legal and procedural provisions relating to citizenship, including the transfer of citizenship. However, it notes that these programmes were based on existing discriminatory provisions. The Committee considers that the State party took some steps towards the implementation of the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “conduct a second comprehensive national campaign to issue citizenship certificates, taking into account the difficulties faced by women in securing proof of nationality”: The State party indicated that the Ministry of Home Affairs launched massive campaigns in 2013 to distribute citizenship certificates throughout the country. A total number of 181,713 citizenship certificates, including 107,966 for women, were distributed at the local level following the deployment of mobile teams, whereas 421,381 citizenship certificates, including 205,744 for women, were distributed under the integrated service delivery campaign. Moreover, with the objective of providing efficient and cost effective services to the marginalized and disadvantaged groups, including rural women, the Ministry of Home Affairs has instructed all District Administration Offices to provide citizenship certificates to eligible applicants within one day. The Committee welcomes national campaigns conducted to issue citizenship certificates and reaching out to marginalized and disadvantaged groups, including rural women. It considers that the State party took significant steps towards the implementation of the recommendation. The Committee considers that the recommendation **has been implemented**.

Regarding the recommendation that the State party “accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness”: The State party mentioned that it is examining the two Conventions with a view to acceding to them in due course of time. The Committee notes that the State party has not yet acceded to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. It considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “ensure that children born in the territory of Nepal who would otherwise be stateless be granted Nepalese citizenship”: According to the new Constitution, every child who is found in Nepal and whose parents’ identity is not known shall, until the father or mother of the child is traced, be deemed citizen of Nepal by descent (art. 11 (4)). Moreover, a child, born in Nepal to a Nepali mother and whose father is not identified, shall be granted citizenship of Nepal by descent, provided that in case his/her father is proved to be a foreign citizen, the citizenship of the child shall be converted into naturalized citizenship (art. 11 (5)). The Committee welcomes that children who are found in Nepal and whose parents’ identity is not known shall, until the father or mother of the child is traced, be deemed citizen of Nepal by descent. It also notes that a child, born in Nepal to a Nepali mother and whose father is not identified, shall be granted citizenship of Nepal by descent until the father is traced and his citizenship determined. It considers that the State party took significant steps to ensure that children

born in the territory of Nepal who would otherwise be stateless be granted Nepalese citizenship. The Committee considers that the recommendation **has been implemented**.

The Committee recommends that, in relation to paragraph 26 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Ensure that the new Constitution provides for equal and full citizenship rights for women, including the right to transfer citizenship to their foreign husband and children if the father is a foreigner; and
- 2) Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Regarding the recommendation made in **paragraph 36** of the concluding observations that the State party “prioritize the consideration of the draft laws on the Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances; ensure that the Commissions are gender-sensitive, independent and authoritative and that the Truth and Reconciliation Commission deals with sexual violence; and pay particular attention to the social and security dimension of public testimony for victims of sexual violence”: The State party mentioned that the Act on Commission of Investigation of Disappeared Persons, Truth and Reconciliation was enacted by the Constituent Assembly on 25 April 2014 and established the Commission on Disappearances and the Truth and Reconciliation Commission, which comprise 20 per cent and 40 per cent of women, respectively. It is expected that both Commissions will address the issues of gross violations of human rights that occurred during the armed conflict. The Act enlists the crimes of rape and sexual violence committed during the armed conflict as a gross violation of human rights and prohibits any type of amnesty for perpetrators involved in serious violations of human rights, including the offence of rape. Moreover, the Truth and Reconciliation Commission has the power to investigate into all such cases of violations of human rights and should make special arrangements to facilitate the filing of complaints and the testimony of children, senior citizens, persons with disabilities and victims of sexual violence. The Committee welcomes the enactment of the Act establishing the Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances and notes that women account for 30 per cent of all commissioners. It further welcomes the enlistment in the Act of the crimes of rape and sexual violence committed during the armed conflict as a gross violation of human rights, as well as the special arrangements to facilitate the filing of complaints and testimony of victims of sexual violence. However, it considers that the State party did not provide information on specific measures taken to ensure that the Commissions are gender-sensitive, independent and authoritative and that particular attention is paid to the social and security dimension of public testimony for victims of sexual violence. The Committee considers that the State party took some steps towards the implementation of the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “investigate, prosecute and punish all acts of violence, including acts of sexual violence perpetrated by the armed forces, Maoist combatants and private actors, through transitional and restorative justice, and ensure that, under the draft law on the Truth and Reconciliation Commission, the statute of limitations on filing complaints relating to rape and other forms of sexual offences during the conflict does not preclude women’s access to justice”: The State party indicated that it has been implementing the National Action Plan on Implementation of the United Nations Security Council Resolutions 1325 and 1820 with a purpose to strategically ending impunity for cases of sexual and gender-based violence (SGBV) by instituting necessary reforms in the justice and security sectors. It further added that the Bill to Amend Some Nepal Laws has been tabled in the Legislature-Parliament for increasing the statute of limitations on filing complaints relating to rape (which is currently set at 25 days), and that trainings are being organized in various districts to strengthen the capacity of law enforcement agencies, women development officers and court officials for effective and prompt investigation and prosecution of cases of SGBV during conflict and post-conflict

situations to punish the perpetrators and provide protection to victims. According to information received by the Committee, there is no provision for crimes under international law currently not defined in Nepali law to be included in the scope of such prosecutions, including rape or other forms of sexual violence (which are defined as ordinary offences under Nepali law). The Committee welcomes the measures taken by the State party to combat impunity and investigate and prosecute cases of sexual and gender-based violence perpetrated during the conflict. It further welcomes the current review of the law to increase the statute of limitations on filing complaints relating to rape. However, the Committee notes that the Bill to Amend Some Nepal Laws does not provide for an extension of the statute of limitations on filing complaints relating to forms of sexual offences other than rape. The Committee considers that the State party took some steps towards the implementation of the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “initiate a thorough and complete investigation into the perpetration of sexual abuse during the armed conflict and post-conflict periods”: The State party mentioned that the Act on Commission of Investigation of Disappeared Persons, Truth and Reconciliation provides for procedures of recommendations to be submitted to the Government by the Commissions for legal actions against perpetrators of gross violations of human rights, including rape and other heinous crimes. It further indicated that the National Human Rights Commission, which is responsible for monitoring the implementation status of the recommendations made by the two Commissions, may admonish the Ministry of Peace and Reconstruction if their recommendations are not implemented. Moreover, the Bill to Amend Some Nepal Laws proposes amendments with a view to ensuring justice to victims and survivors of gender-based violence, including rape, sexual violence, trafficking in persons, and domestic violence. The Committee notes the mechanisms in place to refer alleged cases of sexual abuse to the judicial authorities for prosecution, and the supervisory role of the National Human Rights Commission to ensure the effective implementation of the recommendations made by the Commissions. However, the Committee considers that the State party did not indicate whether specific measures have been taken to initiate a thorough and complete investigation into the perpetration of sexual abuse during the armed conflict and post-conflict periods. The Committee considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “ensure women’s access to justice and make legal aid available and accessible to all women affected by the conflict, including women victims of sexual violence during the conflict and post-conflict periods”: The State party indicated that, under the Legal Aid Act (1997), indigent peoples, including women, are eligible to obtain free legal aid services if their incomes are below a prescribed amount. Moreover, the Government allocated funds for the provision of legal aid in all the government established shelter homes and rehabilitation centres for victims of violence against women and girls. The Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs also developed a programme aimed at strengthening 32 District Legal Aid Committees to provide effective free legal aid services to the conflict-affected women and girls. Furthermore, the National Women Commission provides free legal aid to the victims and survivors of Sexual and Gender-Based Violence. The Committee welcomes the measures undertaken by the State party to ensure women’s access to justice and to make legal aid available and accessible to all women affected by the conflict, including women victims of sexual violence during the conflict and post-conflict periods. The Committee considers that the State party took significant steps towards the implementation of the recommendation. It considers that the recommendation **has been implemented**.

Regarding the recommendation that the State party “ensure the protection of victims and witnesses and provide shelter homes for victims of sexual violence, including in rural and remote areas”: The State party indicated that the Victim and Witness Protection Bill, which proposes to prohibit bribery, harassment and threatening of witnesses and victims and accord procedural protection to them in cases of rape, incest, human trafficking, sexual exploitation and other criminal offences, is in progress. Measures of punishment are also foreseen in case the real identity of the victims is disclosed. Moreover, travel and daily allowance facilities for witnesses of

cases under prosecution are provided since Fiscal Year 2013/2014. Medical treatment, psychosocial support and legal counselling have further been provided to conflict-affected women and girls through the establishment of service centres in 17 districts. Additionally, a total of 240 Women and Children Service Centres have been established within the Police at central and local levels. The Committee notes that the drafting of the Victim and Witness Protection Bill is in progress. It also notes the measures taken to provide transportation allowance to witnesses of cases under prosecution, as well as shelter homes and service centres to women affected by the conflict in various districts. However, the Committee considers that the State party did not take sufficient measures to ensure the protection of victims and witnesses, and to extend the provision of shelter homes for victims of sexual violence to the entire territory, especially to rural and remote areas. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “ensure the effective implementation of the national plan of action on Security Council resolutions 1325 (2000) and 1820 (2008) and ensure that victims of sexual crimes receive appropriate reparations, rehabilitation and counselling”: The State party indicated that the National Plan of Action on Implementation of the UN Security Council Resolutions 1325 and 1820 is now on its fourth year of implementation. The Mid-Term Monitoring Report 2014 shows that considerable achievement has been made in its implementation, particularly in increasing general awareness and technical, material and financial capacities of government and security officials and service providers. Moreover, a Women’s Section has been established within the Nepal Army as a mechanism to raise awareness on gender issues and violence against women, and to investigate incidents of gender-based violence within the Army. The Committee welcomes the progress made in implementing the national plan of action on Security Council resolutions 1325 (2000) and 1820 (2008), as well as the opportunity provided by the Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances for enhancing victims’ rights to reparation, including for those who were subjected to rape or other forms of sexual violence. However, the Committee considers that the State party did not indicate what concrete measures were taken to ensure that victims of sexual crimes receive appropriate reparations, rehabilitation and counselling. The Committee considers that the State party took some steps towards the implementation of the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “establish counselling centres for women to address their traumatic experiences, specifically with regard to sexual violence, and provide adequate access to health-care services”: The State party mentioned that it has created Rehabilitation Fund, Service Fund and Gender-based Violence Prevention Fund to facilitate the delivery of services to victims of gender-based violence free of cost, and that budgets have been allocated from these funds in all the districts of Nepal. Moreover, it stated that medical treatment, psychosocial counselling and family reintegration services are being provided all over the country through numerous rehabilitation and service centres, as well as shelter homes established by the government and non-governmental organizations. Similar services are also being provided by Women and Children Service Centres within the Police Departments. The Committee welcomes the efforts made by the State party to provide rehabilitation and psychosocial counselling, as well as access to health care services to women victims of gender-based violence. The Committee considers that the State party took significant steps towards the implementation of the recommendation. It considers that, for the period under consideration, the recommendation **has been implemented**.

Regarding the recommendation that the State party “enhance the inclusion and representation of women survivors in peacebuilding institutions and mechanisms at the decision-making, policymaking and implementation levels”: The State party mentioned that a Directive Committee has been set up at the central level for the effective implementation of UN Security Council Resolutions 1325 and 1820 and comprising representatives from the National Women’s Commission. Similarly, an Implementation Committee has been formed and encompasses representatives from various ministries, the National Women Commission and UN Women.

Moreover, District Coordination Committees have been created and provisions have been made to ensure representation of one woman activist and one woman affected by the conflict. Local Peace Committees have also been established in all the 75 districts and women should account for one-third of their total members. The Committee welcomes the measures taken by the State party to foster the participation of women in peacebuilding institutions and mechanisms. However, it considers that the State party did not take specific measures to enhance the inclusion and representation of women survivors in peacebuilding institutions and mechanisms at the decision-making, policymaking and implementation levels. The Committee considers that the recommendation **has not been implemented**.

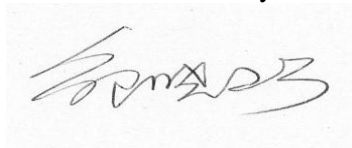
The Committee recommends that, in relation to paragraph 36 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Ensure that the Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances are gender-sensitive, independent and authoritative; pay particular attention to the social and security dimension of public testimony for victims of sexual violence;
- 2) Investigate, prosecute and punish all acts of violence, including acts of sexual violence perpetrated by the armed forces, Maoist combatants and private actors, through transitional and restorative justice, and ensure that the statute of limitations on filing complaints relating to rape and other forms of sexual offences during the conflict does not preclude women's access to justice;
- 3) Initiate a thorough and complete investigation into the perpetration of sexual abuse during the armed conflict and post-conflict periods;
- 4) Ensure the protection of victims and witnesses and extend the provision of shelter homes for victims of sexual violence to the entire territory, especially to rural and remote areas;
- 5) Ensure the effective implementation of the national plan of action on Security Council resolutions 1325 (2000) and 1820 (2008) and ensure that victims of sexual crimes receive appropriate reparations, rehabilitation and counselling; and
- 6) Enhance the inclusion and representation of women survivors in peacebuilding institutions and mechanisms at the decision-making, policymaking and implementation levels.

The Committee looks forward to pursuing its constructive dialogue with the authorities of Nepal on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



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Rapporteur on follow-up
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