



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-fourth session
23 February-12 March 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

NEPAL

1. The Committee considered the fifteenth and sixteenth periodic reports of Nepal, due on 1 March 2000 and 1 March 2002 respectively, submitted in one document (CERD/C/452/Add.2), at its 1630th and 1631st meetings (CERD/C/SR.1630 and 1631), held on 4 and 5 March 2004. At its 1641st meeting (CERD/C/SR.1641), held on 12 March 2003, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and the additional oral information provided by the delegation. The Committee appreciates the efforts made by the State party to respond to its observations made in 2000. The Committee further welcomes the fact that the State party's delegation included a member of the National Dalit Commission and a member of the National Academy to Uplift Nationalities and Indigenous People, and expresses its appreciation for the candid and constructive responses of the delegation to the questions asked during the dialogue.

B. Factors and difficulties impeding implementation of the Convention

3. The Committee notes that the State party is facing serious economic hardship, extreme poverty of a significant part of its population, as well as severe political and institutional difficulties as a result of the insurgency. The dissolution of Parliament in October 2002 also constitutes a significant impediment to the full implementation of the Convention.

C. Positive aspects

4. The Committee welcomes the adoption of several action plans within the framework of the State party's Ninth and Tenth Periodic Plans, in particular the programmes for Dalits, nationalities and indigenous peoples of Nepal.

5. The Committee notes with satisfaction that a number of institutions have recently been established with the aim of promoting human rights and combating discrimination, including the National Dalit Commission, the National Committee for the Upliftment of the Depressed, the Oppressed and Dalits Community, the Academy to Uplift Nationalities and Indigenous Peoples, and the National Foundation for the Development of Indigenous People and Nationalities.

6. The Committee is encouraged by the information provided by the State party on its efforts to implement special measures for members of disadvantaged groups, in accordance with article 2, paragraph 2, of the Convention, to ensure equal enjoyments of rights by all persons.

7. The Committee welcomes the consultation that the State party conducted with civil society organizations during the preparation of the present report.

8. The Committee welcomes the information that the State party is considering withdrawing its reservations to articles 4 and 6 of the Convention and making the optional declaration provided for in article 14.

D. Concerns and recommendations

9. The Committee expresses concern over the effects of the insurgency, especially its impact on vulnerable groups, who are particularly affected. It is also concerned that this has also resulted in the diversion of State resources away from social and development programmes.

While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with its human rights obligations, in particular regarding members of vulnerable groups, and allocate its budgets accordingly. Furthermore, the Committee underscores the importance of the restoration of Parliament in order to expedite the process of resuming normality in the country.

10. The Committee notes that, in addition to the National Human Rights Commission, a number of other institutions have recently been established with the aim of promoting human rights and combating discrimination.

The Committee recommends that these bodies be strengthened and given adequate financial support, so as to ensure their independence and effectiveness.

Furthermore, the Committee requests that in its subsequent reports the State party provide information, inter alia, on their responsibilities, composition, methods and achievements, as well as measures taken to ensure adequate coordination of these bodies. The Committee would also welcome receiving information on the ability and responsibility of the National Human Rights Commission to act as a countrywide monitoring mechanism.

11. While the Committee welcomes the establishment of the National Dalit Commission, it is concerned that the Commission lacks a statutory basis, as long as the Parliament is not restored and a necessary act is not adopted.

The Committee recommends that the State party consider, as a priority, the adoption of the relevant statutory law to enable the National Dalit Commission to carry out its mandate effectively.

12. The Committee remains deeply concerned at the persistence of the de facto caste-based discrimination and the culture of impunity that apparently permeates the higher strata of a hierarchical social system. In particular, it is concerned at information on the existence of segregated residential areas for Dalits, social exclusion of inter-caste couples, restriction to certain types of employment, and denial of access to public spaces, places of worship and public sources of food and water, as well as at allegations that public funds were used for the construction of separate water taps for Dalits.

The Committee recommends that the State party, as a matter of priority, take measures to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, and make determined efforts to ensure the practical and effective implementation of these measures. The Committee further requests that information be included in the next periodic report on any follow-up measures taken by the State party to general recommendation XXIX on descent-based discrimination.

13. The Committee regrets the general paucity of information regarding the implementation of the Convention in relation to the enjoyment of all human rights by the indigenous peoples of Nepal. The Committee is also concerned over allegations of forced relocation and violations of the right of the indigenous peoples to own, develop, control and use their traditional homelands and resources in the name of wildlife preservation.

The Committee recommends that the State party take stricter measures to combat discrimination against indigenous peoples, in line with its general recommendation XXIII on the right of indigenous peoples. It requests the State party to include in its next report information on actions taken, especially on its efforts to reconcile indigenous peoples' land rights with the preservation of wildlife. It further invites the State party to consider acceding to ILO Convention No. 169.

14. The Committee regrets the lack of information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination, and the role of the National Human Rights Commission and the National Dalit Commission in dealing with such cases. The Committee stresses the need for a determined enforcement of the criminal justice system, and reminds the State party that the absence of complaints and legal action by victims of racial discrimination may be the result of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.

The Committee requests that the State party include in its next periodic report statistical information on complaints lodged, prosecutions launched and penalties imposed in cases of offences which relate to racial or ethnic discrimination. In particular, the Committee would welcome further information on cases invoking article 88 and article 11, paragraph 4, of the Constitution and the Miscellaneous Chapter of the Country Code. The Committee also requests information on legal measures that prohibit activities and organizations which promote or incite discrimination, or participation in them.

15. The Committee is concerned at the allegations of ill-treatment and ineffective protection of and discrimination against Dalits and other vulnerable groups in society, by law enforcement officials, especially the police. The Committee stresses that prompt and impartial investigations are paramount in counteracting discriminatory attitudes and practices.

The Committee recommends that the State party intensify its efforts to end such discriminatory practices. It further recommends that the procedure relating to the investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the police.

16. The Committee notes the lack of information in the periodic report on the situation of women belonging to disadvantaged groups who are victims of multiple discrimination, and expresses concern over the situation of forced prostitution of girls and women of the Badi caste.

The Committee recommends that the State party consider issues of political representation, personal security, employment and education, in line with general recommendations XXV (2000) on gender-related dimensions of racial discrimination and XXIX (2002) on descent-based discrimination, in taking measures to eliminate multiple discrimination against women who belong to vulnerable groups. The Committee further requests the State party to include in its next report the measures taken in this regard, including specific action taken to eradicate forced prostitution of Badi girls and women.

17. While welcoming the State party's efforts to implement special measures to advance and protect persons subjected to discrimination, the Committee remains concerned over the underrepresentation of disadvantaged groups in government, legislative bodies and the judiciary.

The Committee urges the State party to engage in efforts to promote awareness among the general public, as well as among members of disadvantaged communities, of the importance of their active participation in public and political life. The Committee recommends that the State party continue to enforce special measures to guarantee to members of disadvantaged groups the right to participate in elections, to vote and stand for election, and to have due representation in government, legislative bodies and the judiciary.

18. The Committee is concerned that, although the system of agricultural bonded labour known as *Kamaiya* was abolished in July 2000, the emancipated *Kamaiyas* are facing many problems, including lack of housing, land, work and education for their children.

The Committee recommends that the State party ensure effective enforcement of the Bonded Labour Prohibition Act 2002 and programmes adopted to put an end to the practice and discrimination against *Kamaiyas*. It further requests the State party to include information on the implementation of the act in its next periodic report.

19. The Committee is concerned by information that only the Tibetans who arrived in Nepal before 1990 and the Bhutanese are recognized as refugees by the authorities, and by recent information on forced expulsion of Tibetan refugees. It further expresses concern over the serious restriction of rights for the Bhutanese refugees and the lack of specific measures for unaccompanied refugee children.

The Committee reiterates its concern at the absence of legislative protection for refugees and asylum-seekers, and urges the State party to enact relevant legislation, and to ratify international instruments relating to the protection of refugees. It also encourages greater interaction with the Office of the United Nations High Commissioner for Refugees in this regard. The Committee wishes to receive further information in the next periodic report on measures taken by the State party.

20. The Committee notes that governmental action has been taken to sensitize the general public, including members of vulnerable groups, against discriminatory traditional customs and societal attitudes.

The Committee recommends that the State party take further measures to ensure the training and education of teachers, social workers and law enforcement officials, especially those deployed against the insurgents as well as the political segments of the society. The Committee encourages the State party to carry out comprehensive public education campaigns and to include intercultural education in school curricula.

21. The Committee notes that the Government broadcasts in several national languages. The Committee is concerned, however, with the lack of representation of disadvantaged groups in the State-owned media, and that issues such as racial discrimination and human rights receive little coverage by the media in general.

The Committee invites the State party to consider introducing special measures to ensure due representation in the mass media of members of disadvantaged groups, including Dalits.

22. The Committee urges that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal has been reiterated by the General Assembly in its resolution 58/160.

23. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, and that it include in its next periodic report information on the follow-up measures taken.

24. The Committee encourages the State party to continue its engagement with civil society organizations during the preparation of the next periodic report and to disseminate it widely among the public upon submission. It further recommends that the Committee's concluding observations be similarly publicized.

25. The Committee recommends that the State party ensure the timely submission of its seventeenth, eighteenth and nineteenth periodic reports, combined in one document, due on 1 March 2008, and that it be an updating report, addressing all the points raised in the present observations.
