

## **UN Committee on the Elimination of Discrimination Against Women (CEDAW) review of India (2, July 2014) in the 58<sup>th</sup> session of the Committee**

### **IDSN July 2014 - CEDAW review of India**

The Committee on the Elimination of Discrimination against Women (CEDAW) considered India's [4th and 5th periodic reports](#) in the 58<sup>th</sup> session of the committee (2, July 2014 10.00-13.00 and 15.00-17.00)

Please also see the [UN Press Release 2, July 2014](#)

#### Participants in the review

##### **Delegation of India**

*Permanent Mission of India to the UN Office and other International Organizations in Geneva*

Ambassador H.E. Mr. Dilip Sinha

Deputy Permanent Representative of India Mr. B.N. Reddy

Counsellor Mrs. Gloria Gangte

Counsellor Mrs. Uma Sekhar

Second Secretary (human rights) Dr. Visnuvardhan Reddy

Second Secretary Ms. Nabanita Chakrabarti

##### *Government of India*

Secretary and Leader of the Delegation H.E. Mr. Shankar Aggarwal (Ministry of Women and Child Development)

Joint Secretary Ms. Rashmi Goel (Ministry of Home Affairs)

Joint Secretary Dr. Neery Chadha (Ministry of External Affairs)

Joint Secretary (UNES) Shri Tanmaya Lal (Ministry of External Affairs)

Joint Secretary Mr. Manjoj Jahlani (Ministry of Health and Family Welfare)

Joint Secretary Mr. Sanjeev Kumar (Ministry of Social Justice and Empowerment)

Director Dr. Maninder Kaur Dwivedi (Deptt of School Education and Literacy – Ministry of Human Resources Development)

##### **Expert committee members**

Ms. Noor Al Jehani

Ms. Nicole Ameline

Mr. Niklas Bruun

Ms. Hilary Gbedemah

Ms. Nihla Haidar

Ms. Ismat Jahan

Ms. Dalia Lemarte

Ms. Theodora Oby Nwankwo

Ms. Pramila Patten

Ms. Maria Helena Lopes de Jesus Pires

Ms. Dubravka Šimonović

Ms. Xiaoqiao Zou

Ms. Meriem Belmihoub-Zerdani

Ms. Biancamaria Pomeranzi

Ruth Halperin-Kaddari

### Introduction by the Indian delegation

Please find a link to the full [Opening Statement by Secretary \(WCD\) and Leader of the Delegation of India H.E. Mr. Shankar Aggarwal](#)

Mr. Shankar Aggarwal:

- Presented a short description of India's historic background and noted it is the largest democracy.
- Its respect for women flow from ancient Indian civilisation and is in its constitution.
- Considerable work has been done and will be done to ensure the advancement of women
- India is an open society, has built independent Judicial system, has a free and vibrant media.
- Recently, international attention was brought to incidences of violence against women. I would like to submit that these incidents are condemnable and have no space in a civilised society – these are not widespread. The people of India, the government, the Civil Society, the media has very strongly come out to reject such crimes and punished violators. The government has been aware of these challenges and has been working to put in place measures to control such crimes.
- For the past few years, significant things have taken place. A rights-based approach has been adopted in action and policies – right to information act, right to public services act, right to education act
- The key strategies of the GoI include economic empowerment of women, infrastructure, women participation in government, inclusion of all marginalised and gender-sensitive policies which are all crucial policies for women empowerment.
- Key initiatives taken by India to improve the wellbeing of women since its last review include:
  - The national food act.
  - Enactment of sexual harassment act 2013 to secure women in the work place and enable a safe environment that should encourage women to join the work force and include mechanisms to address local complaints.
  - Criminal law amendments; offences such as acid attacks, stalking, naked parading are incorporated in the Indian penal code. Definition of rape now include non-penetrative rape, rape by persons in dominant position, by armed forces and of women unable to consent. There are increased penalties for gang rapes and serious cases of women left in vegetative states – we are very stringent and provide for penalties for public servants if refusing to act on allegations. First aid to victims of sexual assaults is provided. Recent criminal law defines trafficking and gives live imprisonment for trafficking of children.
  - A Manual Scavenging act was enacted by the government in December 2013 prohibiting the employment of manual Scavengers, insanitary latrines and manual cleaning of septic tanks without protective gear. The Act provides for the identification of manual scavengers and their rehabilitation with stringent penalties for violations.
  - A new law titled protection of children from sexual acts to protect children from sexual offences constitutes a major shed from usual criminal law. In view of greater vulnerability, the act provides for speedy trials to be completed.
- Programmes implemented:
  - 2013 Fund to support government and NGOs in ensuring the safety of women
  - Established anti-human trafficking unit
  - Ratified UN convention on organised crime
  - Set up centres to help women affected by sexual violence providing medical aid, legal aid and counselling
  - Scaling up of education

- Formulation of government schemes to improve economic empowerment of women, government established bank exclusively for women with special attention to the discriminated and rural women to ensure inclusive and sustainable growth
- Bill enacted to prevent and control the spread of HIV/AIDS
- Recently created institution dealing with disabilities
- High Level Committee on the status of women has been set up comprising civil society and other stakeholders
- National Commission for women has been mandated inter alia to give legal safeguards, facilitate redressal and advise the government on all policy measures affecting women
- Training and Capacity building of people working with women (health officials, police, judiciary) enabling an environment of gender equality

### Article 1-3 on legislation

#### **Expert members of the Committee**

Ms. Nicole Ameline spoke of the government adopting anti-discrimination legislation, possibilities for the ratification of the Optional Protocol to CEDAW and translating CEDAW into national languages.

Ms. Pramila Patten referred to CEDAW general recommendation no. 30, the case of women in Gujarat, ongoing peace talks in North Eastern States of India and measures taken to ensure women participation.

Ms. Silvia Pimentel spoke of budget allocation to women and children and the extent to which the allocation to women is adequate.

#### **Responses of the Indian delegation**

- Reiterated the commitment of India to all forms of discrimination against women.
- Noted it is not necessary to sign the Optional Protocol
- Ms. Gloria Gangte noted awareness raising on CEDAW taking place

#### **Follow up by Expert members of the Committee**

Ms. Xiaoqiao Zou noted the National institution of Women and Children and the High Level Committee and asked about their relationship. Further, that gender /ethnicity aggregation is lacking.

Ms. Dubravka Šimonović stressed the Optional Protocol

#### **Responses of the Indian delegation**

- The High Level Committee provides a report of the status of women

### Article 4 on temporary special measures

#### **Expert members of the Committee**

Ms. Xiaoqiao Zou noted that there are many disadvantaged groups of women such as Dalits who face systematic and structural discrimination in all areas such as education and health and even in the judiciary

and women are underrepresented. Ms. Xiaoqiao Zou asked whether the government intends to apply temporary special measures in this area.

#### Article 5 on prejudices and customary practices

##### **Expert members of the Committee**

Ms. Dubravka Šimonović stated that social and cultural stereotypes continue and asked for an explanation as to the declaration that allows for cultural relativity locally. She noted that there exists a strong connection between ongoing violence and impunity and stereotypes that are at the cause of these forms of violence. In rape cases, high level officials from India, in public statements, explain that rape is sometimes right and sometimes wrong. Ms. Dubravka Šimonović made it clear that this is not in line with CEDAW articles and asked what measures the government has taken with regards to this statement that shows clearly that stereotypes are being upheld. Furthermore, the expert member asked for further data as to women claiming their rights.

Ms. Pramila Patten noted violence against women from disadvantaged groups and further noted that women from marginalised castes including Dalits are a matter of serious concern. She noted reports of violence from dominant castes who use violence as political tools for their assertion. She noted that reports of police covering up crimes by not registering cases have been brought to light and reference was made to the incidence of the minister responding to the rape of two Dalit girls. She noted reports of village heads ordering the gang-rape of an Adivasi woman for falling in love with a man of a different caste. Ms. Pramila Patten asked what measures have been taken to address the violence against women from these marginalised groups. And further, what targeted measures have been taken to sensitise disadvantaged groups on their rights and to enhance their access to justice.

Another Committee member made four comments; 1. Asked whether the government is intending to criminalise marital rape and noted that it was alarming that it was left out of recent revisions. 2. In terms of public norms that affect the attitude and inaction of law enforcement such as the police, asked what measures the government have taken to make law enforcement officials more accountable. With reference to the rape and hanging of the two cousins where two police officers refused to take the complaint from the father, asked what action has been taken against these two police officers. 3. More broadly, in terms of the range of societal attitudes that go against women who want to exercise their freedom of choice in marriage. Ironically, those laws to protect women from kidnappings and forced marriages are very often turned against them by relatives who file complaints and result in acquittals. Therefore, asked whether the government is considering action against these. 4. Asked about the free legal aid problem that remains inaccessible to many women, especially in rural areas.

Ms. Noor Al Jehani explained that the trafficking and exploitation of prostitution of women, although illegal, remains a big and significant problem. Women and girls are mostly trafficked for sexual exploitation but also for forced marriage and organ harvesting, The state party report fails to provide disaggregated data making it difficult to analysis the situation on the ground. Furthermore, protective services to victims is inadequate. There is a need for protection to foreign victims

##### **Reponses of the Indian delegation**

- The Government is committed to the security and safety of every women in the county. Rules and laws have been enacted.

- In particular, in the case of rape of the two cousins, all the accused have been arrested and police officers who were found to be lacking in responsibilities have been placed under suspension.
- With regards to the statement being made on rape, statements gets distorted by the media; many statements are made in reference to certain contexts and many times these get distorted. However, the government condemns each and every act of violence against women.
- In that direction, the government is now launching a particular scheme of having one stop centres in every district that will provide medical aid, legal aid, counselling and be managed by NGOs and civil society and be accorded structural and financial autonomy.
- The government has taken various legislative and administrative measures in terms of violence against women; the government has amended the criminal law, taken measures of gender sensitisation of the police to minimise delays in crimes against women, set up special women courts. The police should take pro-active role and ensure full implementation. Increasing the representation of women in the police has also been a priority.
- In terms of trafficking, Coordination meetings between states have taken place, training and capacity building of police officers have been undertaken, anti-human trafficking units have been established.
- Mr. Sanjeev Kumar: In terms of violence against disadvantaged groups, the SC/ST Prevention of Atrocities Act was enacted and brought to force in 1990. Structures and mechanisms have been implemented for monitoring this act. Special courts have been set up in districts of the country. Special prosecutors have been provided to defend cases and officers have been appointed. Relief to victims is provided. Various advisories are ensued for the police to take appropriate action. Sensitisation and training of police officers is undertaken to minimise delays and improve investigations. Awareness raising is undertaken in vulnerable sections of society. After wide consultations with NGOs, Civil Society and states, the act was further strengthened through an amendment in 2014 strengthening preventative measures.
- Mr. Gloria Gangte: Question regarding access to justice, NALSA was set up for free legal services for weaker sections of society. In every state, NALSA has been constituted to give effect to policies. Currently the government is implementing a project with UNDP for marginalised people focused on strengthening access to justice for scheduled castes and creating legal awareness to strengthen capacities of intermediaries.
- Knowingly disobeying and not giving attention to an person or knowingly disobeying due to prejudice and failing to record information given to him shall be punished with imprisonment, no less than 6 months and may extend to 2 years.
- In terms of the remarks of some leaders, it is stressed that the government is in no doubt about its responsibilities towards its citizens and ensuring that nothing happens to harm society and the causes of women

### **Follow up by Expert members of the Committee**

Ms. Noor Al Jehani noted that marital rape is not considered rape according to the constitution. A Delhi court affirmed this a month ago. A husband was exempt from punishment. The expert member did not understand the answer from the delegation.

Ms. Pramila Patten noted that she has tried to feel reassured by remarks of the Head of delegation. However, having a legal framework is not enough. Expert members are trying to make it clear that the government has enacted laws but these are not implemented. Ms. Pramila Patten asked for information as to how many police officers have been prosecuted for non-registration. And specifically, In the recent case of the cousins, asked what happened to the two police officers in charge

Another expert member noted that there are 623 million men and 586 million women in India and asked what main policies have been worked on in terms of sex selection.

### **Reponses of the Indian delegation**

- Tracking pregnancies with technological advances could improve the situation of sex selection.
- In terms of the rape cases of the two cousins, the police officers were arrested, cases registered against them and senior officials were suspended and cases handed over to higher instances.
- Ms. Gloria Gangte: In terms of data on trafficking, referred to a government website. Commented on the issue of marital rape.

Articles 7 (political and public life), 8 (representation in government) and 9 (changing nationality)

### **Expert members of the Committee**

Dalia Lemarte noted India's very low representation in the upper and lower house, that it has taken more than a decade for women's reservation and the failure of the lower house to vote on the bill. Second area is the judiciary, there is only one woman judge in the supreme court which is of concern. Furthermore, women representation in the foreign service is extremely low

Maria Helena Lopes de Jesus Pires spoke

Nihla Haidar spoke on Internally Displaced People

### **Reponses of the Indian delegation**

Ms. Gloria Gangte : With regards to the comment that there is only one woman judge in the Supreme Court. Ms. Gloria Gangte read out the rules as to appointments including the reference to SC/ST people.

Article 10 on education

### **Expert members of the Committee**

Ms. Hilary Gbedemah noted the comparative data disaggregated by sex and caste on enrolment rates in all levels of education presented by the government. The enrolment figures are present but retention figures by which to assess the situation are non-existent. Even though the ratio is narrowing, alternative reports show that drop-out rates amounts to 64 % from mostly Dalits, indigenous and Muslim communities. The reasons for this include Dalit girls being dedicated to temples, Caste-based discrimination, poor infrastructure and poor teaching especially for Dalits. The expert member asked what interventions are in place, and especially for these groups. Also, asked about the legal framework for those committing violence against women in schools, addressing limited availability of vocational training and addressing disabilities.

Article 11 on employment

### **Expert members of the Committee**

Mr. Niklas Bruun posed questions regarding employment. Noted that the government referred to vocational programmes not reaching many people. Asked when India would take steps to increase women

participation in the labour market. Also, noted equal pay for equal work. Welcomed the adoption of the sexual harassment act, however expressed concern over two clauses undermining the acts potential efficiency. Expressed concern about night work for pregnant women. Widespread violence against women is also reflected on the labour marker, there is particularly a tradition where caste women/caste girls are exploited under the Devadasi practice of forced labour. Also noted informal sector of female workers, especially sex workers and women with disabilities

#### Article 12 on health care

##### **Expert members of the Committee**

Ms. Theodora Oby Nwankwo noted that disparities in maternal mortality (MMR) continues. Greatest disparities can be seen in the urban/rural divide. Early marriage especially damages the health of women. In terms of maternal mortality rates, Adivasi women and Dalit women are especially disadvantaged in access to maternal mortality. The expert asked what the state party is doing in terms of this discrimination against vulnerable people.

##### **Response by the Indian delegation**

###### Health (article 12)

- Will address questions on health and backward castes, Adivasi etc.
- Mr. Manjoj Jahlani noted that MMR continues to be an area of concern and India will reach MDG health targets
- Mr. Manjoj Jahlani noted disparities between rural and urban and between different social categories as an area of concern which the government tries to address in a focal manner; India has adopted a concept of reproductive child health focusing attention on all key life stages.
- India does have lowest public spending on health

###### Employment (article 11)

- On employment and the low participation rate of women in the work force, there are various measures the government has undertaken. Many ministries and departments have programmes and schemes to allow for women employment. Have rural livelihood scheme in place. The government does not discriminate according to sex. Have attempted to get women into information technology industry.

###### Education (article 10)

- Independent estimation of out of school children is taking place yearly. Cyclical research has been done. Also 41 monitoring institutions are in place that visit education institutions and provides advice to the state. With regards to disaggregated data, on the website, education data is available. Commented on drop-out rates. Enrolment of disadvantaged groups (SC, Adivasi) was 30,5% from SC's and other data was provided.

##### **Follow-up by Expert members of the Committee**

Maria Helena Lopes de Jesus Pires noted budgetary allocation and whether there are plans to increase this. Secondly, noted drop-out rates reported.

#### Article 13 on economic and social life and Article 14 on rural women

##### **Expert members of the Committee (article 13)**

Ms. Biancamaria Pomeranzi noted a need for data on vulnerable women (Selected castes and Selected Tribes) in order to achieve non-discriminatory sustainable development.

#### **Expert members of the Committee (article 14)**

Ms. Meriem Belmihoub-Zerdani noted data on rural women. Focused on land property rights. Noted reports of unmarried women not being able to own forest land. In terms of nutrition, asked whether future plans will be undertaken in terms of production of food. In case a dam is built between India and Nepal, asked whether the dam will have an impact on land property and whether rural women will be remunerated.

#### **Response by the Indian delegation**

- Gender budgeting is being undertaken by all ministries. Funds are clearly earmarked for women.
- In terms of micro-financing, the only way is through skills building, self-help growth. Also, constructed a bank only for women. Women in vulnerable groups should be given strong help to continue journey towards economic advancement. Working hard to bring people, especially from vulnerable groups, into the ministries.
- Ms. Gloria Gangte stated that domestic workers are included in the sexual harassment act.
- In terms of Indigenous populations, noted by a member. In India, there are no indigenous people, there are tribal people and people belonging to scheduled castes and all are taken at the same level. Those belonging to tribes have specific property/land rights.
- Regarding services in rural areas, all steps are being taken to ensure access. In particular, toilet services.

#### **Expert members of the Committee**

Ms. Ruth Halperin-Kaddari noted the Family/religious laws still in place in India. Asked for examination of legal systems to see how and whether they can be harmonised with international conventions. Aware of the special marriage act which allows for a civil legal system. However, this law is almost in operational and statistics show that requests for marriages under this act are denied, almost unequivocally. Further spoke of safeguarding women's economic rights and the issue of child marriages.

#### **Response by the Indian delegation**

- There cannot be any discrimination on the basis of sex or religion. However, the government will not interfere in local/individual religion. If no conflict, then law of land will prevail. With regards to child marriage, it is a work in process.
- Ms. Gloria Gangte spoke of the Special marriage act and noted the ease of special marriages by providing her personal story of her own marriage (of a Hindu and Christian).