

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON ECONOMIC SOCIAL AND CULTURAL RIGHTS

38<sup>TH</sup> SESSION

NEPAL, 2<sup>ND</sup> REPORT, 1 – 2 MAY 2007.

Information submitted to the Committee .....	1
Themes and issues .....	2
Implementation of the Covenant in domestic law .....	2
Caste-based discrimination .....	4
IDPs and compensation for victims .....	5
Truth and reconciliation .....	5
Housing .....	5
Education .....	6
Right to food and water .....	7
Women's rights .....	8
Migrant workers .....	8
Trafficking .....	9
Refugees .....	9
Rural population .....	9
Other issues .....	9
Conclusion .....	10

### Information submitted to the Committee

Nepal presented its second periodic report to the Committee on Economic, Social, and Cultural Rights (the Committee) on 1 May 2007.<sup>1</sup> The delegation also provided written replies<sup>2</sup> to the Committee's list of issues.<sup>3</sup> The report was in line with the Committee's guidelines and the delegation explained that it had tried to take previous concluding observations on board. The report provided information on legislation and plans and

<sup>1</sup> E/C.12/NPL/2. Report is available at <http://www.ohchr.org/english/bodies/cescr/cescrs38.htm>.

<sup>2</sup> E/C.12/NPL/Q/2/Add.1. Available at <http://www.ohchr.org/english/bodies/cescr/cescrs38.htm>.

<sup>3</sup> E/C.12/NPL/Q/2. Available at <http://www.ohchr.org/english/bodies/cescr/cescrs38.htm>.

programmes relating to all of the articles covered under the Covenant on Economic, Social and Cultural Rights (the Covenant). There was a particular emphasis on the challenges caused by the political instability and civil war and the recent reforms following the Nepal Peace Accord. In its concluding observations,<sup>4</sup> the Committee acknowledged that Nepal's efforts to comply with some elements of the Covenant are impeded by the large number of victims, displaced persons, severely damaged infrastructure and the lack of essential goods and services. The Committee also regretted that Nepal was not able to implement the Committee's recommendations from 2001.

In addition, six parallel reports were submitted to the Committee by non-governmental organizations (NGOs).<sup>5</sup> The report submitted by the Human Rights Treaty Monitoring Coordination Committee (HRTMCC) gave a broad overview of all provisions relating to the Covenant. The report claimed that there was a lack of pro-active national strategies to prevent institutionalized discrimination based on sex, caste and ethnicity. It described discrimination as being 'rampant in all communities', and that people committing these acts enjoy impunity due to a lack of strong legal provisions. The report also touched on several other critical issues, such as internally displaced persons (IDPs), following the ten-year conflict between the State and the Maoist insurgency.

The Center for Reproductive Rights submitted a parallel report concerning the reproductive health of women, as Nepal has one of the highest maternal mortality rates in the world. It noted with concern that despite the legality of abortion, there are not enough clinics providing safe services, and unsafe abortion remains a leading cause of morbidity among pregnant women. Other issues raised by the reports were extreme poverty,<sup>6</sup> the lack of adequate housing,<sup>7</sup> treatment of Tibetan refugees,<sup>8</sup> and the right to food.<sup>9</sup> The common theme was that Nepal did not have an effective strategy to adequately address these issues. In its concluding observations, the Committee regretted that the information provided to the Committee was not sufficiently detailed to advance its understanding of the level of enjoyment of the rights enshrined in the Covenant.

## Themes and issues

The Nepalese delegation was relatively small, comprising of only three members. The head of the delegation was Dr Trilochan Upreti, the Joint Secretary of the Office of the Prime Minister, who was joined by Mr Kedar Paudel, the Joint Secretary from the Ministry of Law, Justice and Public Affairs, and Mr. Bharat Raj Paudyal, a representative to Nepal's Permanent Mission to the UN in Geneva. They stated that they tried to provide a true picture of the situation, and that the report had been prepared in consultation with all relative stakeholders from the Government and civil society.

## Implementation of the Covenant in domestic law

The delegation stated that the new interim Constitution had guaranteed all the 'major rights' of the Covenant. The Committee acknowledged this as a positive step. However, Committee member Mr. Walid Sa'adi reminded the delegation that the Committee was interested in the implementation of all the rights guaranteed under the Covenant, and that implementing only the 'major rights' was not satisfactory. The Nepalese

---

<sup>4</sup> E/C.12/NPL/CO/2. Available at <http://www.ohchr.org/english/bodies/cescr/cescrs38.htm>.

<sup>5</sup> Human Rights Treaty Monitoring Coordination Committee, Center for Reproductive Rights, Global Initiative, Internal Displacement Monitoring Centre, International Campaign for Tibet, and Rights & Democracy. Available at <http://www.ohchr.org/english/bodies/cescr/cescrs38.htm>.

<sup>6</sup> The Human Rights Treaty Monitoring Coordination Committee

<sup>7</sup> Ibid.

<sup>8</sup> Campaign for Tibet.

<sup>9</sup> Rights and Democracy.

delegation responded that being a least developed country (LDC) has made it very difficult to guarantee all of the rights enshrined in the Covenant due to capability constraints. Furthermore, it reminded the Committee of the difficult situation caused by the ten-year conflict with the Maoist insurgency. Nevertheless, the Committee stated in its concluding observations that the State party is obliged to the maximum of its available resources to comply with obligations under the Covenant.

Some Committee members were concerned about the level of awareness in Nepal of the new constitutional guarantees. The Committee was concerned that due to the high rate of illiteracy many may not be aware of their constitutional rights. The delegation responded that various NGOs and Government campaigns have been launched in order to help raise awareness about the interim Constitution. Also, Government officials receive human rights training, and the Constitution is part of the school curriculum.

The Committee inquired about Nepal's position on a future Optional Protocol for the Covenant, which is being drafted through an intergovernmental Working Group to establish an individual complaints procedure under the Covenant.<sup>10</sup> The delegation replied that it is currently a party to the two optional protocols of the *International Covenant on Civil and Political Rights* and the *Convention on the Elimination of All Forms of Discrimination against Women*,<sup>11</sup> and that the Optional Protocol to the Covenant was currently under study.

### **Judiciary**

Committee member Mr. Attangana sought more information about the Nepalese judicial system and its independence. He reminded the delegation that the Committee against Torture noted with concern at its 35<sup>th</sup> session that officials did not execute or respect the decisions of the judiciary, and asked if the Government had addressed this issue. The delegation responded that the judiciary was fully independent, and that even at the time of direct rule by the King the judiciary had been exemplary, citing as an example the court's ruling that the Royal Commission on Corruption was void.

The delegation also cited a five-year strategic plan of the judiciary that is designed to make justice available to all. Committee member Riedel inquired as to whether economic, social and cultural rights would get full coverage under this plan.

### **The National Human Rights Institution**

The Committee expressed interest in Nepal's National Human rights Commission (NHRC), but the discussion surrounding it was quite vague. The Committee noted with satisfaction that it had been upgraded from a statutory to a constitutional body. The delegation explained that the appointment to the body is being done through the Constitutional Council. Ms Dandan expressed concern that there had been no appointments to the newly reconstituted NHRC to date, and was worried that there was a protection gap.

The delegation stated that the issue of the appointment of commissioners to the NHRC was a highly sensitive one. The head of the delegation explained that the Government was considering the election date of the constituent assembly and consulting with all major parties [after which the members of the NHRC could then be appointed. Ms Dandan asked for clarification, because as she understood it, the elections scheduled for June were to be postponed, and she inquired whether an *ad hoc* body would be set up in the meantime. The delegation responded that it has many more pressing issues to deal with, but that the appointment will happen very soon. He stated that the NHRC is in place and has been carrying out investigations. He added that Nepal has the largest field presence of the Office of the High Commissioner for Human Rights

---

<sup>10</sup> More information on the Optional Protocol is available at <http://www.ohchr.org/english/issues/escr/group3.htm>. The open-ended Working Group to consider options regarding the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights will be holding its fourth meeting in Geneva from 16 to 27 July 2007.

<sup>11</sup> The International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women.

(OHCHR), and that its mandate had been extended by two years. The Nepalese delegation added that civil society and the International Committee of the Red Cross are also helping to fill the protection gap. Ms Dandan suggested that the Government should take advantage of the presence of the OHCHR and consider some kind of mechanism for social inclusion. Ms Dandan suggested that there might be a possibility for Dalits to be included in an internship program with OHCHR. In its concluding observations, the Committee recommended that Nepal improve its cooperation with OHCHR.

In relation to the National Human Rights Commission, the Committee noted in its concluding observations that the absence of Commissioners has created a serious gap in the protection and promotion of human rights in Nepal. The Committee was concerned that there was no provision in the interim Constitution dealing with the financial autonomy of the Commission. The Committee recommended that Nepal establish a transparent appointment process of Commissioners in the NHRC to enable the Commission to have full institutional capacities in accordance with the Paris Principles.

### **Caste-based discrimination**

The Committee was concerned about the persistence of discrimination in Nepal, namely on the basis of caste and gender. The delegation stated that the interim Constitution prohibits caste-based discrimination, and that it has been criminalized. Furthermore, the delegation explained that the Nepalese House of Representatives declared Nepal free of untouchability in 2006. Committee member Ms. Bras-Gomes raised the point that the information provided in the written replies does not tally with some of the information that was provided by other sources. She explained that despite the fact that the Nepalese Government has outlawed caste-based discrimination, and declared the State caste-free, there are reports that caste-based discrimination still persists. Committee member Mr Kerdoun felt that the House of Representatives' declaration was more of an aspiration, and asked the delegation to clarify what this really meant. The Committee asked whether there were any positive discrimination programmes in place, as well as the concrete steps taken to implement an affirmative action policy on non-discrimination.

The delegation stated that the Constitution itself provides for positive discrimination, and that the *Civil Service Act* was in the process of amendment, which would include provisions for positive discrimination. However, it was not clear whether any positive discrimination measures had been implemented.

With regards to caste-based discrimination, the delegation reiterated that it was now a criminal act, and that there were cases where certain individuals had been fined. However, the delegation did not cite any specific cases or outline how this law works in practice. Committee member Mr. Sa'adi stated that it was not enough to outlaw caste, but that there must be implementation at the grass roots level. He also added that the 'ethno caste phenomena' has affected all of the rights guaranteed under the Covenant. In its concluding observations, the Committee expressed its concern that caste-based discrimination persists with impunity in spite of it being prohibited in the Constitution.

### **Nationalities**

Ms Dandan expressed concern about discrimination in the Terai region, where Madassis are politically marginalized. She claimed that four million Madassis are lacking citizenship, and that there was serious violence in the region. The delegation corrected Ms Dandan, explaining that the issue of citizenship had been resolved, and that citizenship will be distributed on the basis of birth within the next two to three weeks (stated on 1 May 2007). Ms Dandan stated that the fact that citizenship was now being distributed was a sign that there had been a problem in the region.

The Government of Nepal recognizes 59 official ethnicities recognized in Nepal. However, the Committee received information that claimed that there were over 100 ethnic groups. The head of the delegation explained that this was due to a study carried out by the National Foundation for Development of Indigenous

Nationalities, a statutory body, which is in a process of reviewing these figures. However, for the time being, the Government has recognized these figures as the authentic number. In its concluding observations, the Committee regretted the lack of clarification about the criteria used by the National Foundation for Development of Indigenous Nationalities to officially recognize indigenous nationalities. It recommended that the State include these criteria in the next report.

### **IDPs and compensation for victims**

A major issue in Nepal following ten years of civil strife is the situation of internally displaced persons (IDPs). Committee member Ms. Wilson stated that even after the insurgency, IDPs remain a challenge for the Government of Nepal. Ms Wilson referred to Nepal's replies to question ten in the list of issues, which stated that the Government formulated a national policy on IDPs in 2005 aimed at 'ensuring fundamental human rights, providing required relief assistance, minimizing displacement problems and rehabilitating the displaced individuals in places of origin'. The reply also explained that a unit for the management of relief assistance has also been set up at the Ministry of Home Affairs. Ms. Wilson stated that these measures were commendable. The Nepalese reply had also stated that the policy was currently under review 'to suit the present changed political context'. Ms Wilson took the opportunity to ask what has been the success of the plan to date, and what changes are envisaged for the future. Ms Wilson added that they had received figures that state that over 200,000 were displaced, and that there have been cases of ill treatment and killings when IDPs return home. According to the delegation, the most recent data suggested that 19,614 remain displaced.

Committee member Mr Kerdoun inquired as to what has been done for victims of the ten-year conflict. Although he acknowledged that the State has given some remuneration to victims, he stated that this was not enough, and that there needed to be a reconciliation process. The Committee also asked if compensation was being given to both victims of State abuses as well as those that were victims of the Maoist insurgents.

In its concluding observations, the Committee noted its concern that in many parts in Nepal IDPs have not been allowed to return to their homes or to fully integrate where they were currently residing. It also stated that in many cases property and land had not been returned to individuals, contrary to the November 2006 Comprehensive Peace Agreement. The Committee was also concerned about the ambiguous criteria for identifying genuine IDPs, which has resulted in a lack of protection against displacement and discrimination on compensation and assistance.

### **Truth and reconciliation**

With regards to reconciliation, Committee member Mr. Mejia stressed the importance of the right to truth. He explained that it is critical that people living in Nepal know the truth about disappearances, because otherwise it can have a significant impact on mental health. The delegation responded that there is an arrangement for establishing a truth and reconciliation commission in the peace agreement to address the human rights abuses during the conflict. The delegation was hopeful that they could secure the necessary funding in order to establish this commission.

### **Housing**

The Committee expressed concern about the housing situation in Nepal. Committee member Mr. Pillay explained that although the State report explains that 91.6% of the population own houses, 31% are in very poor condition. Furthermore, the Committee was extremely worried that the report stated that housing is the sole responsibility of individuals and not the State.

Committee member Mr. Kolosov stated that he had learned from other sources that 50 % of houses in Nepal are of a temporary nature. He requested that the delegation explain if this meant that the houses are of low quality or relatively 'primitive'.

The delegation explained that providing adequate housing requires ‘huge resources’ and that the Government of Nepal, being a LDC, is doing its best. The delegation explained that despite the fact that the houses might not be of a high standard, most people do have shelter.

There was some discussion regarding Nepalese land reform policies. Committee member Ms. Barahona asked the delegation why certain Dalit and indigenous communities do not own land, and that the State report acknowledges that many lands have not been distributed. The Committee inquired as to whether there was a program to distribute land, as well as any programs that allow indigenous peoples to get recourse and ownership of traditional lands in areas with natural resources. The delegation explained that in the early 1960’s, land was redistributed to landless people by setting a ceiling on the amount of land that one could hold. However, this land act was reformed in 2004 in order to lower the ceiling for the maximum amount of land ownership. With regards to indigenous peoples, the delegation stated that there were no problems in terms of their land rights being recognized.

Committee member Mr. Pillay also raised the issue of forced evictions. He explained that while the State report acknowledges that squatting is on the rise, it also states that there are no forced evictions in urban areas. However, the Committee reminded the delegation that squatters are susceptible to eviction at any time, and that there is an absence of legislation for their protection. Mr. Kolosov inquired into the State’s claim that it was planning to elaborate tenancy rights, and asked what sorts of additions were envisaged. However, the delegation did not respond to this question. The Committee expressed its concern in the concluding observations that there was no national housing policy which addresses the needs of the rural poor and disadvantaged and marginalized individuals by providing low-cost housing.

## **Education**

The delegation described the position of the Government that the provision of basic quality education free of cost was the mandatory responsibility of the State. The delegation vaguely described that there were ‘various programs and schemes’ in place in order to promote education among Dalits, girls and those living in extreme poverty. According to the delegation, those living in extreme poverty receive a stipend as well as grants for textbooks from the State. The delegation also announced that the Government would be recruiting 3000 female teachers in the fiscal year in order to address the gender gap.

Committee member Ms. Barbara Elaine Wilson found that there was no indication in any of the information received by the Committee that education was compulsory. She asked if this was indeed the case that education was not compulsory, and if so, why. The delegation explained that the interim Constitution has made education free, and that the State has since encouraged enrolment. Although the Government was discussing making primary education compulsory, the State was only encouraging families to send their children to school for the time being. In its concluding observations, the Committee expressed concern that education was not completely free due to fees charged to parents for school supplies and uniforms. The Committee also noted with concern that the State party has yet to adopt a policy of compulsory education, and recommended that it be implemented.

The delegation followed that the Government is doing its best to increase enrolment. It claimed that its aim was to achieve 90% enrolment by the end of 2007, and 100% by 2015. The delegation explained that current enrolment of girls was 45.3%, and that Dalit enrolment was only 7.9%. The delegation specified that free education was provided from grades one to five, and that textbooks are also provided. Girls continue to receive free education until grade 10, but it did not remain free for all students. The Committee also expressed concern about the low literacy rate in Nepal, at 53.7%. The delegation answered this question by explaining that there are ‘various programs’ in place to deal with the issue, and that the Government is undertaking literacy campaigns.

With regards to monthly stipends, the delegation stated that all Dalit children receive a monthly scholarship while approximately 50% of girls receive the same amount. The Government is attempting to provide free basic education until grade eight and provide stipends until this age as well.

The delegation explained that 16% of children are outside the basic education system. The factors that the delegation cited were 'multi-faceted', and that the Government had been taking steps to reach its targets. The delegation described its 'Food for education' program, where schools provide girls with two litres of cooking oil a month to encourage mothers to send their daughters to school.

The delegation explained that there were a total of 200,000 students in higher education. The percentage of females that were in higher education is 8.4%, which is relatively low when compared to the male enrolment of 17.8 %.

The Committee inquired into what the Government was doing in order to provide textbooks available in the mother tongues of pupils. The delegation announced that the Ministry of Education has implemented a mother tongue program, as well as a special program for multilingual education. The Government has thus produced textbooks in sixteen different languages, which will be available in mid-July. Committee member Mr. Sa'adi commented that education plays a key role in increasing national unity and identity, which was acknowledged by the delegation.

The Committee raised the issue of human rights education, and referred specifically to the United Nations World Programme for Human Rights Education.<sup>12</sup> The Committee asked if the Government was aware of this programme and if had taken the specific steps necessary in order for it to be implemented. More specifically, the Committee inquired into whether school buildings meet international standards. Committee member Wilson explained that it had come to light that many schools have been destroyed during the insurgency. The delegation replied that many of their school buildings might not be up to standard, but that the Government is trying to rebuild schools with help from NGOs and the international community. The delegation also explained that students are given vacations during very hot and cold times of the year.

The Committee was concerned that caste-based segregation still existed in schools despite that it had been outlawed by legislation. The delegation replied that there was no caste-based discrimination, and that allegations of segregation were 'not true'. However, the delegation did admit that there might be some cases in remote areas.

### **Right to food and water**

Regarding the right to food, Committee member Mr Eibe Riedel inquired into what is being done to provide food in remote areas, and what mechanisms were available if there was no easy court access. This question was not answered by the delegation, and was not followed up on. However, in its concluding observations, the Committee expressed its concern that as much as a quarter of the population is undernourished. The Committee stated that the seasonal food deficits being experienced in most of the mountain and hill districts by the majority, who are farmers engaged in low-productivity subsistence farming on small plots of land, are exacerbated by the rigid social structures that prevent the lower castes from benefiting from communal lands and public services.

The Committee also expressed concern about water distribution in Nepal. Committee member Mr. Mejia pointed out that although the State report explained that 71.6% of the total population had access to drinking water, 55% of tube wells in twenty Terai districts were microbiologically contaminated.

---

<sup>12</sup> More information available at <http://www.ohchr.org/english/issues/education/training/programme.htm>

The Committee stated that there was evidence of cases of discrimination with regards to water distribution on the basis of caste. Committee member Mr. Pillay requested that the delegation cite specific cases and the actions taken by the courts. The acknowledged that there were cases in rural areas, and that these were criminal acts that should be prosecuted. However, the delegation did not cite specific cases when it was indeed prosecuted. Committee member Mr Riedel added that water shortages in Nepal were caused by distribution problems rather than a lack of resources. In its concluding observations, the Committee expressed its concern that people from lower castes were being denied their access to wells, which threatens their right to life and their right to the highest attainable standard of health.

### **Women's rights**

The Committee raised many key issues regarding women's rights. One of the key concerns related to Nepalese property rights. The delegation explained that previously, only males had full property rights. However, this law had been amended in order to give equal inheritance rights for both genders. However, the delegation conceded that the Government does not know if it has been effectively implemented in practice due to the lack of disaggregated data. Another member of the delegation elaborated on this point, and explained that women were previously excluded from inheriting parental property, but the law had now been amended so that both sons and daughters have equal inheritance rights. The delegation added that it is a voluntary process, and that women who choose to claim their property have no problem obtaining it. The Committee stated that this was not enough, and that just having an inheritance law will not move things ahead. Committee member Ms. Bras Gomes explained that in a traditional society with centuries of this practice, most women are not even aware that they have this right. The delegation responded that this law was the result of ten years of public discussions and consultations, but that nevertheless, people need to be made aware that the law is now in effect.

Committee member Ms Barahona inquired into the role and function of the Women's Commission in Nepal as an institution responsible for 'gender autonomy'. The delegation responded that the Government has implemented microfinance projects, among others, in order to increase women's participation in the economy. However the delegation acknowledged that women's participation in the public sector was not encouraging. Ms Barahona stated that women's poverty is one of the biggest challenges faced by Nepal, and that there needs to be programs in place to combat the poverty of women.

The Committee was also concerned that there was no specific criminal provision specifically outlawing violence against women. Ms Wilson pointed out that this makes it difficult to punish those responsible. The delegation acknowledged that there is no specific law to punish violence against women, but stated that it can be prosecuted under other provisions, and added that the Government is studying the drafting of a law to combat violence against women more effectively.

In its concluding observations, the Committee was seriously concerned about practices that violate the rights of women and girls as *deuki* (dedicating girls to a god or goddess), *badi*, (widespread practice of prostitution among the Badi caste), *chaupadi* (isolating a woman during menstruation), marrying child brides and witchcraft. The Committee also regretted the lack of information in the State report regarding the full extent of such practices and efforts being made to eradicate them.

### **Migrant workers**

The Committee was aware that there were approximately 1.4 million Nepalese workers in India, and that no visas were required. While Mr Riedel acknowledged that this relieved unemployment in Nepal, he inquired into what was being done in order to protect the rights of these migrant workers. The delegation stated that there was indeed no visa regime between the two countries, and that there is a long tradition of exchanging workers. However, the delegation did say that the *Foreign Employment Act* is under review.

## **Trafficking**

Ms Barahona inquired into how many cases of smuggling and trafficking of persons have gone to the courts, and if the law has been applied with the corresponding sanctions. The delegation outlined that the Government had a strong legislative framework regarding trafficking. Trafficking was explained as a strict liability crime where ‘the accused must prove his innocence’, and is liable to receive up to twenty years imprisonment.

The delegation explained that the roots of the trafficking problem are linked to large cities in India, where persons are usually sent. In order to combat this, the Government has embarked on awareness raising activities as well as poverty alleviation. Furthermore, victims of trafficking are provided with shelter, rehabilitation and vocational training. In terms of specific cases, the delegation did not know of any offhand but informed the delegation that they will forward them to the Committee in writing.

The Committee was also concerned about the ongoing practice of child marriage. The delegation explained that the practice has been outlawed, but that it is still a problem. They stated that this practice is partly due to tradition, but that it is also linked to child trafficking.

## **Refugees**

The Committee acknowledged Nepal’s long tradition of taking in refugees, and inquired into why it had not acceded to the *1951 Convention on Refugees*. Furthermore, the Committee inquired into what relevant legislation the State has in place.

The delegation responded that although Nepal is not party to the Convention on Refugees, that the country has hosted 1,500 Bhutanese and 15,000 Tibetan refugees and given them a ‘high standard’ of living. The delegation added that the United Nations High Commissioner for Refugees (UNHCR) had conducted a census in the refugee camps in the eastern Nepal.

## **Rural population**

Nepal is a predominantly peasant country. Committee member Mr. Zhan explained that 80% of the population of Nepal are peasants, and that agricultural output accounts for 40% of the gross domestic product. Therefore, the improvement of their situation is of great significance in the realization of economic, social, and cultural rights. The Committee inquired into what steps have been taken to raise the revenues of peasants and decrease their burden.

The delegation replied that unless the Government improves cultivation and productivity of the agricultural sector and invests more in technology, developing Nepal’s overall infrastructure would not be possible. The delegation briefly outlined the *Agricultural Prospective Plan*, a twenty-year plan being implemented with the assistance of the World Bank and other bilateral partners.

## **Other issues**

### ***Health***

Committee member Mr Riedel stated that the figures for tuberculosis were laudable, but was concerned about the increase in cases of HIV/AIDS. He also inquired into how the Government is integrating mental health problems into the regular healthcare system. The delegation did not answer these questions in depth, but stated that hospitals offer equal treatment and do not discriminate on the basis of disease. In its concluding observations the Committee expressed its concern that a significant number of the population has limited or no access to health services, which results in a high rate of infant and maternal mortality.

### ***Foreign aid***

The issue of Nepal's aid dependency was of concern to the Committee. Nepal's outstanding debt in 2006 climbed to 3.1 billion US dollars, which accounts for 40% of the country's GDP. Ms Dandan was concerned that this might hinder the ability of the Government to act independently. However the delegation responded that the relief money is being spent predominantly in the social sector with a view to improve the lives of the poor.

Committee member Riedel raised the point that if a country is unable to provide the rights guaranteed under the Covenant due to resource constraints, that it is required to seek international assistance.

### ***Bonded Labour***

Mr Riedel stated that the delegation gave good examples of the abolition of bonded labour [in report or plenary?], but that it seemed that problems had shifted to massive unemployment. He requested information on measures are being taken to address this issue. The delegation responded that a special committee had been set up following the 2002 *Bonded Labour Act* in order to develop a comprehensive strategy to deal with the effects of abolishing the practice. In the concluding observations, the Committee stated that freed bonded labourers face significant difficulties regarding their access to work and livelihood and appropriate education for their children.

### **Conclusion**

Throughout the examination, there was a general concern among the Committee regarding the implementation of Nepal's legal framework. Given the small size of the delegation, it was relatively cooperative with the Committee. However, it did not include any individuals from the relevant ministries that could have answered the Committee's queries regarding implementation challenges.

The Committee thanked the delegation of Nepal for their efforts, and stated that it looked forward to receiving information on Nepalese case law regarding trafficking and discrimination. The delegation thanked the Committee for its frankness and interest, and Dr Upreti stated that this was a good opportunity to gauge the Government's recent progress.

The Committee addressed many issues that were raised by several other committees. The Committee on the Elimination of All forms of Discrimination Against Women (CEDAW) recommended that the State take measures to eliminate all forms of discrimination regarding women's access to land.<sup>13</sup> CEDAW also recommended that sex education be widely promoted, with special attention paid to sexually transmitted diseases and HIV/AIDS.

The Committee on the Rights of the Child (CRC) addressed the issue of sexual exploitation of children, and stated that insufficient efforts have been taken to protect particularly vulnerable groups of children from sexual exploitation. It also stated that children of lower castes are disproportionately represented among sex workers, **and persistence of *Badi* (widespread practice of prostitution among the Bedi caste).**<sup>14</sup>

On the issue of education, the CRC also recommended that Nepal make primary education compulsory and free for all children for more than just five years of primary school, work to strengthen enrollment rates, and reduce the high dropout rate.

---

<sup>13</sup> A/59/38 (SUPP) (CEDAW, 2004), paragraph 216.

<sup>14</sup> CRC/C/ADD.261 (CRC, 2005), paragraph 87.

The Committee on the Elimination of Racial Discrimination recommended Nepal implement, *inter alia*, affirmative measures to advance and protect persons subjected to caste-based discrimination.<sup>15</sup>

Nepal's next periodic report is due by 30 June, 2011.

---

<sup>15</sup> CERD/304/ADD.108 (CERD 2001), paragraph 1(q).

## **TREATY BODY MONITOR STAFF**

**Gareth Sweeney**, Human Rights Officer, Information Program

**Eléonore Dziurzynski**, Communications Officer, Information Program

## **AUTHOR OF THE NEPAL REPORT**

**Rami Chalabi**, Intern

## **ABOUT THE PUBLICATION**

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the seven treaty bodies and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

## **COMMENTS AND FURTHER INFORMATION**

We would welcome your feedback on this publication so please send any comments and suggestions to [information@ishr.ch](mailto:information@ishr.ch). If you wish to receive the Treaty Body Monitor by e-mail after each session of a particular treaty body, please e-mail [information@ishr.ch](mailto:information@ishr.ch) with your request, or check the latest reports published on <http://www.ishr.ch/hrm/TMBs>. Your e-mail address and personal information will not be shared or sold to any third parties. We may from time to time send you a notification about other publications in the Human Rights Monitor Series that you may be interested in downloading or subscribing to.

## **COPYRIGHT AND DISTRIBUTION**

Copyright © 2007 International Service for Human Rights

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.

## **DISCLAIMER**

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on or any use of this publication. We are however happy to correct any errors you may come across so please notify [information@ishr.ch](mailto:information@ishr.ch).