



ngo group for the crc

STATE PARTY EXAMINATION OF NEPAL'S SECOND PERIODIC REPORT

39TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE
CHILD

16 MAY – 3 JUNE 2005

Contents

Opening Comments	1
Legislation	2
Budget	2
Child Participation	2
Child Labor	2
Juvenile Justice	2
Corporal punishment	2
Adoption	3
Armed Conflict	3
Birth Registration	3
Health	3
Disabled Children	4
Street Children	4
Sexual Exploitation	4
Discrimination	4
Education	4
Concluding Remarks	5

Nepal ratified the Convention on the Rights of the Child (CRC) in 1990. The Committee on the Rights of the Child (the Committee) met with State Party representatives on 20 May 2005 to consider Nepal's second periodic report on the implementation of the CRC.

Opening Comments

Mr. Rabindramin, the head of the Delegation began by underlining the new legislation that was adopted, such as the Children's Act and the Local Self Governance Act. The National Plan of Action addressed children's issues and was the guiding document on development, protection and participation of children. The State had made efforts to implement the CRC, by collaborating with children, UNICEF and NGOs in programmes on health, education, trafficking, sexual exploitation, and child labour.

The Delegation highlighted the escalation of violence in Nepal over the previous nine years due to the Maoist insurgency. It had resulted in many people becoming homeless, orphaned, widowed, or forced to become child soldiers. The Government was committed to improving overall human rights, although many targets had not been met due to severe poverty and political instability.

The Country Rapporteurs Ms. Smith and Mr. Siddiqui, warmly welcomed the delegates. They highlighted Nepal's natural resources, strong culture and proud people. Economically Nepal was extremely poor, ranking 140 out of 170 countries, with 40% of the population living under the poverty line. Positive changes included legislation about community services options for juveniles,

extensions of juvenile homes rather than prison, and the Supreme Court's move against corporal punishment.

The internal conflict's dire consequences on children made it difficult for the Committee to formulate remarks. The King and his Government was responsible to protect children even in times of conflict despite the difficulties. The Committee was aware that the Maoists committed the worst atrocities, and the Government could not control them.

Legislation

The Committee asked about the level of harmonisation between the CRC and national legislation. It was told that Human Rights treaties supersede local legislation. When asked about whether UNICEF was consulted for the National Plan of Action, the Delegation confirmed that the approved 10- year plan was based on 'A World Fit for Children'. UNICEF and civil society were involved in this process.

Budget

The Committee condemned the Maoist insurgency, but confirmed the Government's responsibility to address the deprivation of marginalized people that foster uprisings (e.g. the Maoist). The Delegation that indicated the Government was trying to address these issues, but the Maoist wanted to establish a one party State.

The Committee enquired about standards of living and the effectiveness of social security in the conflict situation. It also wanted to know about progress in reducing poverty and the extent of support from other states. The Committee noted that the Government's budget had tripled. It asked how this affected children and the amount spent on school constructions, books, and scholarships. The Committee asked about the 2005 budget and recommended that allocations for children be more clearly defined in the next budget report.

The Delegation indicated a commitment to ensure the implementation of the CRC despite the insurgency and poverty. A recent World Bank report indicated that poverty had decreased by 9%. The Government was also doing its best to provide shelter for 100,000 refugees.

Child Participation

The Committee asked about the importance of children's views in schools. The Delegation indicated that children were encouraged to participate, with 3,500 children's clubs established as well as school cultural groups and literary magazines. This was not the traditional practice of the Nepalese culture but it was changing.

Child Labor

The Delegation indicated child labour was decreasing and that the Government was developing a bylaw on child labour and a regulation act. This would deal with the formal sector issues. The informal sector was being dealt with by social workers. The number of children going to school was increasing.

Juvenile Justice

The Committee asked if pre-trial detention was the same as custody. The Delegation stated that correction homes used to serve sentences were the same for pre-trial and custody. The Committee asked who decided about pre-trial detention. The Delegation said that the police had to present a child to the legal authority within 24 hours. The latter then decided on custody or release.

Corporal punishment

The Committee noted there was a law that condoned corporal punishment and asked if it had been amended.

Adoption

The Committee asked if lower class children were discriminated against in adoption and asked about the cost of adoption. It also wanted to know which authorities decided that a child had no family. The Committee warned that if the State was not careful, children would be trafficked. The Hague Convention offered some protection against the purchase of children.

The Delegation indicated there was no problem of discrimination, but the Nepalese preferred newborn sons. In addition, Aryan people chose Aryan children and Mongolian people chose Mongolian children. Adoption was free in Nepal. Certain children in institutions had been put there illegally for adoption. Children would not be put up for international adoption because they were poor. The Delegation informed the Committee that there were formal institutions for adoption. Nepal had not yet signed the Hague Convention.

Armed Conflict

The Committee noted that the Maoists recruited children for their armed forces. Children made up as much as 30% of the armed forces. There were also reports that the Government used children as spies and for other activities. The Committee asked what the Government did to protect these children and what it did with children it captured. Perpetrators seemed to benefit from impunity. The delegates admitted that underage children used to cook and carry out other activities in the military, but this was no longer the case. Nepal was working towards signing the Optional Protocol on the involvement of children in armed conflict. The Delegation noted that the Government was trying to coordinate partnerships with civil society. Over 300 children who were displaced by the conflict had been reintegrated.

The Committee noted the numerous disappearances, burning, bombing and closing of schools and wanted to know how the Government brought perpetrators to justice. The Delegation responded that the conflict had created great difficulty and the Government was doing what it could. The Committee also asked for further information concerning military executions. The Delegation stated that the Government was unable to prosecute due to a lack of willing witnesses (even with witness protection). They also did not have accurate numbers on people killed.

The Committee noted the increasing problem of disappearances in Nepal. There had been 1,629 complaints on disappearances, with over 1200 attributed to the army and 300 to Maoists. The Delegation responded that most cases were complicated by the absence of a registration process. When the Special Rapporteur went to Nepal, he received full cooperation and found that 60% of the people were freed from the jail, 25% were still in jail, and 6% were dead.

The Committee asked what happened if the State army committed crimes such as rape or murder. The Delegation answered that when the military was involved, the case was forwarded to the civilian court for trial. In the case of rape, half the property of the perpetrator could go to the victim.

Birth Registration

The Committee noted the lack of registration of children in rural areas. In addition, mothers were not allowed to register their children, leaving them vulnerable. The Committee also wanted to know about birth registration of Bhutanese refugees. The Delegation noted that birth registration was not part of Nepalese culture. However, the trend was increasing. Together with UNICEF they were able to register people even if they did not have birth certificate.

Health

The Committee asked questions about disabilities, immunisations, stunting and infant mortality. Clean water and the promotion of breastfeeding were emphasised. Additional questions about the structural organisation of health and disparities between rural and urban areas were asked. In

addition, they wanted to know about the effects of privatisation and decentralisation. The Committee also asked about the measures taken to deal with interruptions (due to the armed conflict) on vaccination programmes and whether international programmes could facilitate the continuation. They noted that the basic right to life was not being met due to the conflict and poverty.

The Delegation confirmed that a health focus was the provision of safe drinking water. HIV/AIDS was a new issue and a strategy was being developed. More expertise and support were needed from the international community. The Delegation indicated that there was no privatisation plan for governmental hospitals, although there were private hospitals.

The Committee noted that abortion appeared to be banned, but it learnt that it was available in cases of rape, incest and poor health conditions.

Disabled Children

The Committee noted that in 1996 the State party said it would distribute a special card for the disabled. The Delegation answered that disabled children received free schooling and special allowances for books and other needs. Society and families of disabled children still had negative attitudes towards them, even if the level of acceptance was increasing. Health, development and education sectors worked together to provide appropriate services.

Street Children

The Committee asked about the services provided to street children. The Delegation answered that 300,000 children were on the street and that some programmes were available. The Government was negotiating with institutions and UNICEF to collaborate on this issue. Many children ended up in care when mothers went to jail, as fathers remarried and abandoned their children.

Sexual Exploitation

The Committee asked what was happening in the area of girl trafficking.

Discrimination

The Committee commented on the discrimination against Dalit children and the girl child. It wanted further information about the extent of the problem. The Committee enquired whether the dowry system, which puts girls at risk, was still used and if females married to foreigners were refused citizenship. The Committee was also interested in the differences between boys and girls in areas of nutrition and child labour. The Committee commented on marginalized children and its concerns about the Dalit, the indigenous, the disabled, and minorities. It mentioned the Deuki and Jhuma who were given to the temple for God, the Kumari given as living goddesses to the temple, the Badi who were born into prostitution, and the Kamlaris whose daughters were given to landlords in exchange for land.

The Delegation reported that the Badis were no longer entering the sex- trade, as a result of awareness programmes. Parents did not want their children to have the same life. Children of Badis received citizenship based on the word of their mothers, as fathers were often unidentified. Kamlaris were given land but there were continuous problems due to poverty. The Government had started various programmes to deal with poverty and marginalization. The Dalit, disabled children, and ethnic minorities were provided with uniforms and incentives to attend school.

Education

The Committee commented on a study about the conflict causing poverty and resulting in children being pulled out of school because their mothers worked. The Delegation agreed this was the case. The Committee asked about the State's declaration of schools as peace areas and asked if any efforts were made to agree on this with the Maoists. Unfortunately, the latter had not been in negotiation with the Government since 2003. The State was hoping the Maoists would agree and many NGOs

and organisations had tried to convince them. The chair of the Committee assumed that the State would appreciate the Committee's support in defining schools as zones of peace.

The Committee heard about fees for school and reminded the Delegation of the Dakar framework for free education for all. It planned to provide free, compulsory, and good quality education by 2015. The Delegation indicated that school was not mandatory. If it was, there would be no way of enforcing it.

Concluding Remarks

The Country Rapporteurs noted positive changes in legislation and promising programmes. There was good cooperation with NGOs, international organisations and other donors. The continuous conflict was leading to the suffering and death of many children. Nepal, in many ways, was not a country fit for children. Even the right to life was not met. The Rapporteurs were looking forward to new commissioners to the HR commission so this important work could continue. The Rapporteurs realised that the Maoists committed the worst atrocities, and that the Government could not do anything about it. The King said that he would restore peace in the following three years. The Committee urged the Government and Maoists to respect the schools and children's rights to life.

The Head of the Delegation thanked the Committee and noted that Nepal had good programmes despite problems in implementation. This required international cooperation and dialogue. The State was committed to good cooperation with the Human Rights Commission in Nepal and with the CRC Committee.