



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

### Concluding observations on the combined fourth and fifth periodic reports of India\*

1. The Committee considered the combined fourth and fifth periodic reports of India (CEDAW/C/IND/4-5) at its 1219th and 1220th meetings, on 2 July 2014 (see CEDAW/C/SR.1219 and 1220). The Committee's list of issues and questions are contained in CEDAW/C/IND/Q/4-5 and the responses of India are contained in CEDAW/C/IND/Q/4-5/Add.1.

#### A. Introduction

2. The Committee appreciates that the State party submitted its combined fourth and fifth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-session working group of the Committee. It welcomes the oral presentation of the delegation and the further clarifications provided during the dialogue. However the Committee regrets that the delegation did not provide responses to some questions posed orally by the Committee.

3. The Committee notes the State party delegation which was headed by Mr Shankar Aggarwal, Secretary, Ministry of Women and Child Development, and included representatives from the Ministries of Home Affairs, External Affairs, Health and Family Welfare, Social Justice and Empowerment, and Human Resource Development.

#### B. Positive Aspects

4. The Committee welcomes the progress achieved since the consideration in 2007 of the State party's combined second and third periodic reports (CEDAW/C/IND/2-3) in undertaking legislative reforms, in particular the adoption of:

- (a) The Criminal Law Amendment Act, 2013;
- (b) The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013;
- (c) The National Food Security Act, 2013;

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\* Adopted by the Committee at its fifty-eighth session (30 June – 18 July 2014).

- (d) The Sexual Harassment of Women in the Workplace (Prevention, Prohibition and Redress) Act, 2013;
  - (e) The Protection of Children from Sexual Offences Act, 2012; and
  - (f) The Right of Children to Free and Compulsory Education Act, 2009.
5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as:
- (a) The establishment of the Bank for Women *Bharatiya Mahila Bank Ltd.* in 2013 to advance economic empowerment of women;
  - (b) The creation of the National Mission for Empowerment of Women (NMEW) in 2010 to address women's issues in a coordinated manner at the Central and State levels;
  - (c) The introduction of the Indira Gandhi Matritva Sahyog Yojana (IGMSY) maternity benefit scheme in 2010.
6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international instruments:
- (a) The Convention on the Rights of Persons with Disabilities in 2007;
  - (b) The Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air, in 2011.

## C. Principle areas of concern and recommendations

### Parliament (*Rajya and Lok Sabha*)

7. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage the Parliament, in line with the applicable procedures and where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations between now and the next reporting process under the Convention.**

### Equality and Non-discrimination

8. The Committee notes that article 15 of the Constitution guarantees equal protection under the law for women and men and prohibits discrimination on the ground of sex. However the Committee is concerned at the absence of a comprehensive anti-discrimination law addressing all aspects of direct and indirect discrimination against women, and all the forms of intersectional discrimination, as explicitly listed in paragraph 18 of the Committee's General Recommendation 28 (2010).

9. **The Committee recommends that the State party: (a) adopt comprehensive anti-discrimination legislation which prohibits discrimination on all grounds referred to in the Committee's General Recommendation 28 (2010); (b) protects women from multiple or intersectional forms of discrimination and other grounds as referred to in the Committee's General Recommendation 28; and (c) includes a comprehensive definition of discrimination against women in accordance with articles 1 and 2 of the Convention as well as the principle of equality between women and men.**

**Violence against women**

10. The Committee notes the State party's efforts to enact a legal framework to prevent and respond to violence against women, including women from the marginalized caste and communities, such as the Dalit and Adivasi women, and the establishment in 2013 of the Justice Verma Committee to review existing normative gaps. However, the Committee is concerned about:

(a) The stark increase of violent crimes against women, especially rape, kidnapping and abduction, and the high number of cases of rape reported by the National Crime Records Bureau in 2012, indicating an increase by 902.1% since 1971, and on-going impunity for such acts;

(b) The retention in the Penal Code of an exemption from punishment of rape when committed by the victim's husband if the wife is above 15 years of age;

(c) The escalation of caste-based violence, including rape, against women and girls, and the downplaying by key State officials of the grave criminal nature of sexual violence against women and girls;

(d) The poor implementation of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, and the impunity of perpetrators of severe crimes against women;

(e) The high number of dowry-related deaths since 2008;

(f) The persistence of so-called "honour" crimes perpetrated by family members against women and girls;

(g) The declining girl-child sex ratio from 962 per 1000 in 1981, to 914 per 1000 in 2011;

(h) The criminalization of same-sex relationships, as referred to in the Supreme Court ruling (*Suresh Kumar Koushal v. Naz Foundation*, 2013);

(i) The increasing number of acid attacks against women since 2002, despite the underreporting of such crimes.

11. **The Committee urges the State party to:**

**(a) Implement the recommendations of the Justice Verma Commission regarding violence against women;**

**(b) Promptly enact the draft Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, ensure that it provides for a comprehensive system of reparations for victims and for gender-sensitive victim-centred procedural and evidentiary rules;**

**(c) Amend the Criminal Law (Amendment) Act, 2013 ensuring that marital rape is defined as a criminal offence, as requested by the Committee in its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and expanding the scope of protection of the Act to cover all prohibited grounds of discrimination, and defining gang rape as constituting an aggravating factor calling for a more severe punishment;**

**(d) Enact specific legislation to introduce heavier sentences for perpetrators of acid attacks, to regulate the sale and distribution of acid substances, and to conduct large-scale campaigns to raise public awareness on the criminal nature of such attacks;**

**(e) Strengthen the efficiency of the police, ensure that police officers fulfil their duty to protect women and girls against violence and are held accountable, adopt Standard Procedures for the police in each State on gender-sensitive investigations**

and treatment of victims and of witnesses, and to ensure that FIR (First Information Reports) are duly filed;

(f) Establish, without delay, one-stop crisis centres providing women and girls victims of violence and rape with free and immediate access to medical attention, psychological counselling, legal aid, shelters and other support services;

(g) Provide systematic training on women's rights to all law enforcement personnel, to medical staff and judicial officials;

(h) Put in place an effective system to monitor and evaluate the implementation, effectiveness and impact of legislation to combat sexual violence;

(i) Take efforts towards eliminating any criminalisation of same sex relations by studying the possibility, as accepted by the State party at the Universal Periodic Review (A/HRC/21/10/Add.1), and take notes of the ruling of the India Supreme Court (Suresh Kumar Koushal v. Naz Foundation, 2013) in this regard;

(j) Take urgent measure to adopt its National Plan of action for improving the girl child sex ratio; and

(k) Allocate sufficient resources for the immediate enforcement of legislation on violence against women and for the establishment of special courts, complaints procedures and support services envisaged under that legislation in a time bound manner;

#### **Violence against women in border areas and conflict zones**

12. The Committee is deeply concerned about the reported high level of violence against women in conflict-affected regions (Kashmir, the North East, Chhattisgarh, Odisha and Andhra Pradesh; p.149, Justice Verma report), including rape and other forms of sexual violence, enforced disappearance, killings and acts of torture and ill-treatment. It is particularly concerned about:

(a) The provisions of the Armed Forces Special Powers Act requiring prior authorization by the government for prosecuting a member of the security forces, and the reportedly high risk of reprisals against women who complain about the conduct of the security forces;

(b) The significant number of displaced women and girl, particularly in the North Eastern region, as well as a result of sporadic communal violence, their precarious living conditions and exposure to serious human rights violations and the lack of gender sensitive interventions at all stages of the displacement cycle;

(c) the continued marginalization and poverty of women and girls survivors of the Gujarat riots living in the relief colonies and their precarious living conditions with limited access to education, health care, employment and security, and poor infrastructure in terms of sanitation, water, transportation and housing;

(d) The lack of centres providing medical, psychological, legal and socioeconomic support to women and girls who are victims of sexual violence in conflict-affected areas;

(e) The limited regulation of arms trade and the proliferation of small arms and light weapons and their impact on the security of women;

(f) The restrictions imposed on women human rights defenders, particularly on those operating in conflict areas including restrictions to international funding and the surveillance under which they are placed; and

(g) The absence of women in peace negotiations in the north-eastern states of the State party.

13. **The Committee calls upon the State party to:**

(a) **In accordance with the recommendations of the Justice Verma Committee report, promptly review the continuance of the application of the Armed Forces Special Powers Act and related legal protocols and to enforce special powers protocols in conflict areas and assess the appropriateness of their application in those areas;**

(b) **Amend and/or repeal the Armed Forces Special Powers Act so that sexual violence against women perpetrated by members of the armed forces or uniformed personnel be brought under the purview of ordinary criminal law and pending its amendment or repeal, remove the requirement for government permission to prosecute members of the armed forces or uniformed personnel accused of crimes of violence against women or other women's human rights abuses and grant permission to enable prosecution in all pending cases;**

(c) **Amend section 19 of the Protection of Human Rights act and confer powers to the National Human Rights Commission to investigate cases against armed forces personnel, in particular cases of violence against women;**

(d) **Ensure that the security sector is subject to effective oversight and that accountability mechanisms, with adequate sanctions, are in place and provide systematic training on women's rights, to the military and other armed forces involved in security operations and adopt and enforce a code of conduct for members of the armed forces to effectively guarantee respect for women's rights;**

(e) **Ensure the full and effective implementation of the Communal Violence (Prevention, Control and Rehabilitation of Victims) Act, as soon as enacted;**

(f) **Adopt an integrated policy to enhance the living conditions of women and girls survivors of the Gujarat riots including by adopting appropriate economic recovery measures, the allocation of Below Poverty Line (BPL) cards and the provision of other available government Scheme benefits; intensify witness protection and security measures especially for women and girls living in relief colonies;**

(g) **Ensure the participation of women in peace negotiations in the north eastern states as well as their participation in the prevention, management and resolution of conflicts in line with Security Council Resolution 1325 and the Committee General Recommendation 30; and**

(h) **Remove restrictions to the work of human rights defenders such as restrictions to their funding and by not placing them under surveillance.**

**Extra-territorial State Obligations**

14. While commending the State party's cooperation programme in post-conflict areas such as the India Housing Project in the North East of Sri Lanka, the Committee expresses concern at the lack of a gender perspective in and of consultations with women over this project. The Committee is further concerned with the impact on women, including in Nepal, of infrastructure projects such as the Lakshmanpur dam project, including their displacement, loss of livelihood, housing, and food security as a result of the subsequent floods.

15. **The Committee reaffirms that the State party must ensure that the acts of persons under its effective control do not result in violations of the Convention, including those of national corporations operating extraterritorially, and that its extraterritorial obligations extend to their actions affecting human rights, regardless of whether the affected persons are located on its territory, as indicated in the**

**Committee's General Recommendations number 28 (2010) and 30 (2013). Accordingly it recommends that the State party:**

**(a) Undertake an immediate review of the impact of the India Housing Project in Sri Lanka and adopt a consultative and gender-sensitive approach in implementing the ongoing and future phases of the project and address the needs and concerns of the most disadvantaged and marginalised groups of women;**

**(b) Adopt all necessary measures including an impact assessment on the effects of the Lakshmanpur dam project on women in Nepal, and ensure that adequate measures are adopted, including to prevent or remedy their loss livelihood, housing and food security, and provide adequate compensation whenever their rights have been violated.**

#### **Women's National Machinery**

16. Whilst the Committee welcomes measures taken to strengthen the government strategy and its machinery for the advancement of women, including the Ministry for Women and Child Development, the adoption of the National Mission for Empowerment Women (2010-2015) and of the proposed amendment to the National Commission on Women Act, 1990, the Committee continues to be concerned at the limited operational and financial independence of the National Commission on Women and the state commissions; and at the lack of a transparent system of nomination of the members and Chairperson of the National Commission of Women which undermines the independence of the Commission as well as its capacity to effectively fulfil its broad mandate. The Committee is also concerned that budgets allocated for women's empowerment in the Ministry for Women and Child Development as well as under the gender budget statements of Ministries, are insufficient.

**17. The Committee encourages the State party to strengthen the independent status, capacity and resources of the National Commission of Women in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles; see General Assembly resolution 48/134 of 1993, Annex); ensure that the composition and activities of the commission are gender-sensitive, and increase the budget for the empowerment of women in the Ministry for Women and Child development, as well as that under the gender budget statements.**

#### **Temporary special measures**

18. The Committee is concerned that the State party may not have full understanding of the purpose of temporary special measures in accordance with article 4 (1) of the Convention and the Committee's General Recommendation No. 25 (2004) on temporary special measures. It is also concerned that no temporary special measures have been or are being applied as part of a necessary strategy to accelerate the achievement of substantive equality between women and men in areas where women are disadvantaged, such as education or in the judiciary, as well as for promoting participation of women from religious minorities and scheduled castes and scheduled tribes in various areas under the Convention

**19. The Committee calls upon the State party to ensure all relevant officials are familiar with the concept of temporary special measures, and encourage their application in accordance with article 4 (1) of the Convention and the Committee's General Recommendation No. 25 (2004), especially measures aimed at increasing:**

**(a) The number of girls, including from disadvantaged groups, enrolled at the secondary and tertiary levels of education in all states; and**

**(b) The number of women in the judiciary through a quota system for the recruitment of women judges and special scholarships and other support schemes for female law students.**

#### **Stereotypes and harmful practices**

20. The Committee notes with concern that the State party has maintained its declarations to articles 5 (a) and 16 (1) and (2) of the Convention, and reiterates its view that this is incompatible with the State party's constitutional guarantees of equality and non-discrimination. It is further concerned with the persistence of patriarchal attitudes and deep-rooted stereotypes, entrenched in the social, cultural, economic and political institutions and structures of Indian society and in the media, that discriminate. It is also concerned about the persistence of harmful traditional practices in the State party, such as child marriage, the dowry system, so-called "honour" killings, sex-selective abortion, Sati, Devadasi, and women accused of witchcraft. The Committee is particularly concerned that the State party has not taken sufficient sustained and systematic action to modify or eliminate stereotypes and harmful practices.

**21. The Committee reiterates its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and urges the State party to:**

- (a) Review its declarations to articles 5 (a) with a view to withdrawing it;**
- (b) Put in place without delay a comprehensive national campaign and strategy, with concrete goals and timelines, to eliminate patriarchal attitudes and stereotypes that discriminate against women, in accordance with article 2 (f) of the Convention; and**
- (c) Strengthen its awareness-raising and educational efforts, targeted at both women and men, with the involvement of civil society and community leaders, to eliminate all harmful traditional practices, and collaborate with the media to enhance a positive, non-stereotypical and non-discriminatory portrayal of women.**

#### **Trafficking and exploitation of prostitution**

22. The Committee takes note of the establishment of Anti-trafficking Units, sensitization programmes, the draft protocol and Standard Operating Procedures, as well as the Task Force on human trafficking. However, it remains concerned at the alarming persistence of trafficking in the country, both internal and cross-border, at the lack of protection and services available to women and girls victims of trafficking and sexual exploitation and at the lack of efforts to address their root causes. The Committee is also concerned at the persecution of women in prostitution as a result of measures taken to address trafficking such as raid and rescue operations.

**23. The Committee recommends that the State party:**

- (a) Review the Immoral Traffic Prevention Act (1986) and include provisions addressing the prevention of trafficking in women and girls and the economic and emotional rehabilitation of victims;**
- (b) Address the root causes of trafficking by promoting alternative income generating activities developing the economic potential of women and raise awareness among the population in rural areas on the risks of trafficking and the way in which traffickers operate;**
- (c) Ensure the effective investigation, prosecution and punishment of traffickers and collect data and establish appropriate mechanisms aimed at early identification and referral of, and assistance and support for, victims of trafficking including foreign women, and provide them with remedies; and**

**(d) Ensure that trafficked women and girls have access to victim and witness protection shelters, quality medical care, counselling, support programmes for alternative income-generation programmes, for their reintegration in the education system and labour market, as well as access to adequate housing and free legal aid regardless of their availability or willingness to testify against traffickers.**

#### **Participation in political and public life**

24. While noting that there are six women Ministers in the 23-member cabinet of the new Government, the Committee remains concerned about the low representation of women in political and public life, for instance in the *Lok Sabha* (Lower House of Parliament), where only 62 out of the 543 Members of Parliament are women, or on the Supreme Court of India where only one of the 26 sitting judges is a woman. The Committee is further concerned about the delay in adoption of the Women Reservation in Services Bill which has been pending before Parliament since 2010.

**25. The Committee recommends that the State party:**

**(a) Enact the Women's Reservation in Services Bill, to reserve at least 33 per cent of the seats in the state and central legislative bodies for women candidates, as stated in its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and ensure that political parties increase women's representation in their decision making bodies at all levels; and**

**(b) Create an enabling environment for women to participate in all democratic processes including elections, and in particular strengthen women's participation in *Gram Sabhas*, *Mahila Sabhas* and other formal and informal governance forums at the local level;**

#### **Education**

26. The Committee takes note of the Right of Children to Free and Compulsory Education Act, 2009, guaranteeing free and compulsory education for all children aged 6 to 14. However, it remains concerned that only 4 per cent of the GDP is spent on education, that girls with disability and minorities still register low enrolment rates, and that the dropout rate among adolescent girls is as high as 64 percent, making them particularly vulnerable to child marriage. The Committee is also concerned about girls' low retention and completion rates at the secondary level due to early marriage, harmful practices and poverty, especially in rural areas. The Committee is equally concerned that girls are subjected to sexual harassment and violence including in conflict-affected regions where the reported occupations of schools by the security forces contributes to school drop-out.

**27. The Committee reiterates its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and calls upon the State party to allocate increased resources for the implementation of the Free and Compulsory Education Act and to take measures to:**

**(a) Ensure that schools are girl-friendly, within reasonable distance from communities, have supplies of potable water and separate hygienic toilets for girls.**

**(b) Address safety issues for girls in and out of schools, including escort to schools for girls in unsafe areas and effective investigation and prosecution of acts of corporal punishment, harassment or gender-based violence against girls at school.**

**(c) Adopt a life cycle approach to girls' education, and ensure that the special needs of disadvantaged and marginalized girls are integrated into policy making;**

**(d) Improve the literacy rate of women and girls and organize programmes for girls affected by conflict who leave school/university prematurely;**

**(e) Address causes of the low enrolment rate of girls from minorities and girls with disability, and the high dropout rates of adolescent girls from school, including those living in conflict areas, such as gender stereotypes, poverty and sexual harassment in school, and early marriages and formulate re-entry policies enabling young women to return to school after pregnancy;**

**(f) Prohibit the occupation of schools by security forces in conflict-affected regions in compliance with international humanitarian and human rights law standards; and**

**(g) Improve the quality of education by providing teachers with systematic and gender-sensitive training and by conducting a revision of the curriculum and textbooks to remove gender stereotypes.**

### **Employment**

28. The Committee notes with concern the declining female labour force participation, both in rural and urban areas, and at the situation of women working in the informal economy (agriculture, domestic and home-based work) not covered by labour laws and other social protection measures. It is concerned at the gender wage gap indicating that women earn only 50-75 per cent of the wages earned by men; and statistical data showing that women only own 9% of land. The Committee is further concerned that the newly enacted Sexual Harassment of Women in the Workplace Act includes clauses that might undermine its efficiency, such as prescribing conciliation as a preliminary step, and also that it does not include an effective complaints mechanism for domestic workers, and that the State party has not ratified the ILO Convention No. 189 (2011) concerning decent work for domestic workers.

29. **The Committee urges the State party to:**

**(a) Adopt effective measures in the formal labour market, including temporary special measures, to increase female participation, to narrow and close the wage gap between women and men, and to ensure the application of the principle of equal pay for work of equal value, as well as equal opportunities at work;**

**(b) Adopt the Draft National Policy on Domestic Workers, and ensure that the provisions of Sexual Harassment of Women in the Workplace Act is reviewed and applied to domestic workers; and**

**(c) Ratify the International Labour Organization (ILO) Convention No. 177 (1996) concerning Home Work, as well as ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers, and amend the relevant domestic legislation accordingly.**

### **Health**

30. While noting efforts undertaken by the state party to achieve greater coverage in maternal health services, the Committee is concerned about the persistently high rate of maternal mortality in some states and the high rate of deaths resulting from unsafe abortions, lack of access to safe abortions, to post-abortion care, and to quality services for the management of complications arising from unsafe abortions. The Committee is also concerned at the low budgetary allocation to health services, the disparities in maternal health care, including between the urban and rural areas; limited availability of, and accessibility to modern forms of contraceptives including emergency contraception to prevent unwanted pregnancy; lack of information and education on reproductive and sexual health, conditional maternity benefits that exclude some women, and the lack of a mechanism for universal and accurate reporting of maternal deaths.

31. **The Committee urges the State party to:**

(a) **Undertake a review of the reproductive health policies to make them more inclusive, with a view to increasing quality maternal health services in the states where they are lacking, removing conditions from maternal benefits; ensuring adequate funding to reproductive health services including provision of reproductive health information and education and their effective coverage of urban and rural areas;**

(b) **Provide women with access to quality and safe abortion services, including the management of complications arising from unsafe abortions and increase access to and use of effective and affordable methods of contraception, including by subsidizing them, in order to reduce the use of abortion as a method of family planning;**

(c) **Adopt a policy for mandatory and accurate reporting of maternal deaths irrespective of whether the deaths occur in public or private health facilities, homes, or on the way to a health facility and establish a system for effectively monitoring the delivery of transparent health-care services.**

**Rural women**

32. The Committee is concerned at the prevalence of customs and traditional practices that prevent rural women from inheriting or acquiring land and other property, especially the women from scheduled castes and tribes. It is also concerned at the difficulties faced by rural women and women living in remote areas in gaining access to health and social services and in participating in decision-making processes at the community level, and that rural women are particularly affected by poverty and food insecurity, lack of access to natural resources, safe water, and credit facilities.

33. **The Committee recommends that the State party:**

(a) **Abolish traditional practices and customs that prevent rural women from inheriting and acquiring land and from fully enjoying their rights, and guarantee land ownership rights to women;**

(b) **Strengthen its efforts to address the needs of rural women and provide them with enhanced access to health services, education, safe water and sanitation services, fertile land, natural resources, credit and income-generating opportunities.**

**Women from scheduled castes and scheduled tribes**

34. The Committee is concerned that Dalit women and women from scheduled tribes face multiple barriers in accessing justice, due to legal illiteracy, lack of awareness of their rights, and limited accessibility of legal aid. It notes with concern the financial, cultural and physical barriers faced by Dalit, and women from scheduled tribes in accessing gynaecological and maternal health services, their limited knowledge of birth registration procedures, as well as the existence of bureaucratic obstacles and financial barriers which prevent them from registering births and obtaining birth certificates for their children.

35. **The Committee recommends that the State party:**

(a) **Monitor the availability and efficiency of the Legal Services Authorities, implement legal literacy programmes, increase the awareness of Dalit women and women and girls from scheduled tribes of all legal remedies available to them, and to monitor the results of such efforts.**

(b) **Strengthen public awareness-raising campaigns and take concrete measures to ensure that Dalit and women from schedule tribes are aware of the**

**procedures for registration of births and obtaining birth certificates, and ensure their access to these facilities.**

**(c) Provide training to medical and health professionals in order to ensure that Dalit as well as women from scheduled tribes are attended by trained health-care personnel.**

#### **Women with disabilities**

36. The Committee notes that the Rights of Persons with Disabilities Bill (2014) is pending before the Parliament and is concerned that women with intellectual or psychosocial disabilities can be denied legal capacity and committed to institutions without their consent and without recourse to any meaningful remedy or review. It is particularly concerned that women with intellectual disabilities can be sterilized without their consent. The Committee is further concerned that women with disabilities experience a high rate of poverty, lack access to education, employment and health services, especially in rural areas; face multiple challenges, including the lack of adequate access to public spaces and utilities, often experience harassment in public; and are excluded from decision-making processes. It is equally concerned at the lack of disaggregated data on persons with disabilities, and that responses to violence against women with disabilities fail to take account of the type of impairment, whether physical, sensory or intellectual.

**37. The Committee urges the State party to:**

**(a) Enact the Rights of Persons with Disabilities Bill (2014) without delay and incorporate a specific section to protect women and girls with intellectual disabilities from forced sterilization, and to repeal laws and prohibit disability-based detention of women, including involuntary hospitalization and forced institutionalization;**

**(b) Ensure that rights of women with disabilities are mainstreamed within the national strategies and action plans for women, develop support services in the community in consultation with organizations of persons with disabilities as well as intensify its efforts to provide social and health services support to families with girls and women with disabilities.**

**(c) Facilitate advocacy by and on behalf of women and girls with disabilities;**

**(d) Create a database and ensure regular collection of data on persons with disability, disaggregated by sex, age and types of disability as well as region, and promote the regular analysis and dissemination of such data and develop capacity to undertake this.**

#### **Marriage and family relations**

38. While noting that the implementation of the Prohibition of Child Marriage Act (2006) has led to a certain decrease in the number of early and forced marriages of girls, the Committee is concerned that the State party's declaration on article 16 (2) has not been withdrawn. The Committee also notes with concern the high prevalence of such marriages and that victims of child marriages must file a petition with a court to void the marriage within two years after reaching the age of majority. The Committee is equally concerned at reports that judges often authorize marriages of under-age girls based on Muslim Personal Laws, and that no legislation ensuring the registration of all marriages in the State party has been adopted.

39. The Committee urges the State party to:

(a) Speedily enact legislation to require compulsory registration of all marriages and to consider withdrawing its declaration to article 16 (2) of the Convention;

(b) Ensure that the Prohibition of Child Marriage Act (2006) is implemented without exception;

(c) Automatically void all child marriages and ensure that the Protection of Children from Sexual Offences Act (2012) also applies to child brides; and

(d) Strengthen efforts to raise awareness about the prohibition of child marriages, as well as on their harmful effects on girls' health and education, and to effectively investigate, prosecute and punish cases of forced and early marriage.

40. The Committee is also concerned about the coexistence of multiple legal systems with regard to marriage and family relations in the State party which apply to the different religious groups and which results in the deep and persistent discrimination against women, and notes with concern the State Party's continuing reluctance to review its policy of non-interference in the personal laws of communities without their initiative and consent to withdraw its declarations on articles 5(a) and 16(1) of the Convention. It is further concerned about the procedural requests of the Special Marriage Act which *de facto* hamper couples, especially women, from seeking permission to marry and register marriages. The Committee is particularly concerned that spousal property is overall governed by a regime of separate property so that women are not awarded their share in the property accumulated during marriage, and that the proposed amendments to the Special Marriage Act and Hindu Marriage Act only provide a limited and discretionary possibility for distribution of marital property.

41. The Committee reiterates its previous concluding observations (CEDAW/C/IND/CO/3, 2007), recalls article 16 of the Convention and calls on the State party to ensure equality between women and men in marriage and family relations by:

(a) Ensuring that all the laws on marriage and family relations governing the different religious groups, as well as their further amendment, are in full compliance with articles 15 and 16 of the Convention and the Committee's General Recommendation no. 21 (1994) on equality in marriage and family relations;

(b) Ensuring that all the laws on marriage and family relations governing the different religious groups, as well as their further amendment, are in full compliance with articles 15 and 16 of the Convention and the Committee's General Recommendations no. 21 (1994) and no. 29 (2012) on equality in marriage and family relations and on economic consequences of family relations and their dissolution;

(c) Reviewing the application of the Special Marriage Act to remove procedural barriers regarding the application for permission to marry and the registration of marriages.

(d) Reviewing existing legal framework on spousal property relations so as to ensure women are provided their share in the marital property in light of the Committee's General Recommendation no. 29 (2012) on equality in marriage and family relations and on economic consequences of family relations and their dissolution.

### **Optional Protocol and amendment to article 20, paragraph 1, of the Convention**

42. The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.

### **Beijing Declaration and Platform for Action**

43. The Committee calls upon the State party to utilize the Beijing Declaration and Platform for Action, in its efforts to implement the provisions of the Convention.

### **Millennium Development Goals and the post-2015 development framework**

44. The Committee calls for the integration of a gender perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development framework.

### **Dissemination**

45. The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests the timely dissemination of the concluding observations, in the official language(s) of the State party, to the relevant state institutions at all levels (national, regional, local), in particular to the Government, the ministries, the Parliament and to the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organisations, universities and research institutions, media, etc. It further recommends that its concluding observations be disseminated in an appropriate form at the local community level, to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the CEDAW Convention, its Optional Protocol and jurisprudence, and the Committee's General Recommendations to all stakeholders.

### **Technical Assistance**

46. The Committee recommends that the State party consider seeking international assistance and avail itself of technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the above recommendations as well as the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with specialized agencies and programmes of the United Nations system.

### **Ratification of other treaties**

47. The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of

<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with

their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the 1951 Convention relating to the status of refugees and its 1967 Protocol, to which it is not yet a party.

**Follow-up to concluding observations**

48. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 11 a, e, f, g, h, and 13 a, d, f, g, h above.

**Preparation of the next report**

49. The Committee invites the State party to submit its sixth periodic report in July 2018.

50. The Committee requests the State party to follow the “Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents” (HRI/MC/2006/3 and Corr.1).

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Disabilities.