



## **Economic and Social Council**

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### **Commission on the Status of Women**

#### **Fifty-seventh session**

4-15 March 2013

**Follow-up to the Fourth World Conference on Women and  
to the special session of the General Assembly entitled  
“Women 2000: gender equality, development and peace  
for the twenty-first century”: implementation of strategic  
objectives and action in critical areas of concern and  
further actions and initiatives**

### **Statement submitted by National Coalition Against Racial Discrimination and Forest Peoples Programme, non-governmental organizations in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.



## **Statement**

### **Introduction**

This written statement is respectfully submitted to the Commission on the Status of Women and relates in part to the fifty-seventh session's priority theme of the elimination and prevention of all forms of violence against women and girls. It seeks to present the political and economic context, evidence, current state of practice and gaps and challenges regarding the rights of indigenous women and girls.

Discrimination against the indigenous women of Nepal emerges from their status as indigenous persons, from their gender as women and in many cases from their poverty as well. In the emerging modern republic of Nepal, caste and ethnic and gender-based discrimination continue to have lasting effects. Although the Interim Constitution of Nepal contains positive steps towards recognizing these multiple forms of discrimination, efforts to address them have largely failed to effectively protect the rights of indigenous women.

### **Political participation**

Disagreements among traditional political parties, particularly on the right to local autonomy and self-determination for indigenous groups in the new federal structure of Nepal's new constitution, led to the dissolution of Nepal's Constituent Assembly tasked to write the first democratic and inclusive Constitution for the country. Indigenous peoples had little to no say in those issues or the overall Constitution-drafting process, as a result of the lack of participation through their freely chosen male and female representatives in the process and the non-recognition of their right to self-selected collective representation.

Only 0.76 per cent of indigenous women are represented in the major political parties. Hence, indigenous women are severely under-represented in decision-making structures. This is true not only at the national level but also at the local levels. This is not yet addressed, as required by the concluding observations of the Committee on Economic, Social and Cultural Rights at its thirty-eighth session (E/C.12/NPL/CO/2) that the State ensure that, in the Constitutional process, disadvantaged and marginalized groups, particularly the Dalit, Madhesi and indigenous communities, and women within these groups, are represented in decision-making bodies at all levels.

### **Lack of data**

There are no disaggregated data for indigenous women that would reveal their true situation. Owing to relative differences in literacy rates, land ownership status, occupation, language, population size and educational attainment, the systematic practice of social exclusion of indigenous women is experienced at very different levels from those experienced by non-indigenous women. Different studies show that 96 per cent of indigenous women have lower levels of education; the literacy rate among indigenous women is 25 per cent on average. Approximately 10 per cent get access to health services and 90 per cent rely on traditional medicine. For women of indigenous backgrounds, access to and long-term participation in education are made far more difficult by the insistence on Khas Nepali as the language of instruction at all levels.

### **Linguistic marginalization**

Furthermore, as the Committee on the Elimination of Discrimination against Women has noted, the multilingual nature of a population must be taken into account when developing public communication strategies, particularly communication that reaches out to women, who are less likely than men in indigenous communities to speak the national language. The case of a recent training course on sanitation and health supported by a semi-governmental poverty alleviation fund provides an example in this regard: the implementing organization had to arrange for a trainer with indigenous Kulung language skills to provide the training in the remote Cheskam village of Solukhumbu district in eastern Nepal, after it was found that none of the women in the village understood Khas Nepali.

### **Loss of lands**

Nepalese indigenous women continue to face the appropriation of their customary and traditional lands, resulting in the loss of customary occupations, livelihoods and roles in their societies, including through mega-projects imposed on the lands of indigenous peoples. A recent case in point is that of the indigenous Bote community in Palpa district of south-western Nepal, which was affected after the Kali Gandaki Hydroelectric Project dried up the river in Yamghaa village and left 16 Bote families living off the river through their traditional livelihoods of fishing and ferrying in dire conditions. Consequently, the families have not been able to afford education for their children, and that has encouraged the migration of males for foreign employment and the child marriage of girls. The Botes of surrounding villages are also struggling to make a living owing to the loss of traditional occupations.

### **Recommendations**

In the light of the above, we respectfully submit that the Commission review the following recommendations and, where appropriate, include them in the Commission's final report. We herein recommend that the Government of Nepal:

- Promote effective participation in the political and public spheres in Nepal to ensure respect for the rights of indigenous women. This must entail full respect for the right of indigenous peoples to self-determination, by providing that indigenous peoples may participate in national politics through their own traditional or freely chosen institutional structures.
- Provide for the participation of indigenous peoples, through their freely chosen male and female representatives, in the Constitution-drafting process, including recognizing their right to self-selected collective representation.
- Ensure that data collected in Nepal are disaggregated by categories of indigenous ethnicity or nationality and referenced in relation to gender, taking into account the criterion of self-identification, in order to promote an accurate understanding of indigenous peoples' situations and the development of appropriate, gender-sensitive programming.
- Devise quotas or reservation systems to ensure proportional representation, where appropriate, and reflect the need for gender mainstreaming of participation within marginalized groups, thereby addressing both forms of discrimination.

- Ensure that indigenous languages are recognized as a medium of instruction in majority indigenous schools and that bilingual education programmes are established to support the growth of literacy rates among indigenous girls and boys. The provision of bilingual education should be paired with specific support from the Ministry of Culture in working with indigenous peoples to design programmes to strengthen their cultures, including their distinct languages.
- Provide for the legal equality of indigenous languages in the judicial system, in public health and education outreach and in all other areas of State communication with and from the peoples of Nepal.
- Ensure that mega-projects in indigenous lands are permitted only with the free, prior and informed consent of the peoples concerned. Where consent is obtained, Government requirements for large-scale projects of public concern must contain specific guidance regarding appropriate and specific forms of compensation for indigenous men and women, including land for land, ensuring that caste and ethnicity do not result in unequal benefit-sharing arrangements.
- Strengthen its efforts to make widely known the prohibition of such discrimination and to implement improved access to judicial and administrative remedies in cases of alleged violations, including by providing translation services, legalizing the use of indigenous languages in judicial settings and providing transport assistance to remote communities.
- Undertake a thorough review of national laws, potentially through the establishment of a National Commission on Indigenous Peoples tasked with this, with a view to identifying and rectifying all provisions that directly or indirectly permit discrimination on the basis of caste and multiple forms of discrimination against women from certain groups. Such law reform, at a minimum, must include legislation denying indigenous land tenure and restricting traditional livelihoods.
- Ensure that reforms on land access and land tenure are carefully designed to ensure that the right of indigenous women to access and manage their resources and land is not denied, through the inclusion of indigenous women in the law reform process. This includes recognition of the collective right of indigenous peoples to maintain their cultural ties to their lands and own and manage their resources.
- Include legislative measures to ensure that land rights are recognized, beginning with land demarcation and titling procedures in areas of Nepal where land titling has not been completed or where it has been completed without due regard for the rights of indigenous peoples, and provide a mechanism to provide redress to indigenous persons, male and female, as well as indigenous peoples as collectives, where land has been taken without their consent.
- Establish mechanisms, potentially under the oversight of a possible National Commission on Indigenous Peoples, to monitor the implementation of programmes to protect and promote the full enjoyment without discrimination of the economic, social and cultural rights by disadvantaged and marginalized groups, in particular the Dalit, the Madhesi and indigenous communities, and especially women within these groups.