

Distr.: General  
18 November 2016

Original: English

**ADVANCE UNEDITED VERSION**

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## **Committee on the Elimination of Discrimination against Women**

### **Concluding observations on the combined eighth and ninth periodic reports of Bhutan\***

1. The Committee considered the combined eighth and ninth periodic reports of Bhutan (CEDAW/C/BTN/8-9) at its 1437th and 1438th meetings, on 27 October 2016 (see CEDAW/C/SR.1437 and 1438). The Committee's list of issues and questions are contained in CEDAW/C/BTN/Q/8-9 and the responses of Bhutan are contained in CEDAW/C/BTN/Q/8-9/Add.1.

#### **A. Introduction**

2. The Committee appreciates that the State party submitted its combined eighth and ninth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group of the Committee. It welcomes the oral presentation of the delegation and the further clarification provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party's delegation, which was headed by His Excellency Mr. Kinga Singye, Permanent Representative of the Kingdom of Bhutan to the United Nations and Office at Geneva. The delegation included representatives from the National Commission for Women and Children, the Supreme Court, the Office of the Attorney General, the Ministry of Agriculture and Forests, the Ministry of Foreign Affairs, and the Permanent Mission of Bhutan to the United Nations Office at Geneva.

#### **B. Positive Aspects**

4. The Committee welcomes the progress achieved since its consideration in 2009 of the State party's seventh periodic report (CEDAW/C/BTN/7) in undertaking legislative reforms, in particular the adoption of the following legislation:

(a) The Domestic Violence Prevention Act, in 2013, and the Domestic Violence Prevention Rules and Regulations, in 2015;

(b) The Child Care and Protection Act, in 2011, which contains provisions on combating trafficking in children; and

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\* Adopted by the Committee at its sixty-fifth session (24 October-18 November 2016).

(c) The Penal Code (Amendment) Act, in 2011, which increases penalties for the crime of rape.

5. The Committee welcomes the State party's efforts in improving its policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) The National Development Plan (2013-2018), which seeks to integrate a gender perspective into the plans and programmes within the 11<sup>th</sup> FYP period; and

(b) The National Employment Policy in 2012, which seeks to enhance women's enrolment in higher education.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, both in 2009.

## **C. Principle areas of concern and recommendations**

### **Parliament**

7. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with Parliamentarians, adopted at the forty-fifth session, in 2010). It invites Parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

### **Legal status of the Convention, visibility and harmonisation of laws**

8. The Committee notes the clarification provided by the State party' delegation that under article 10(25) of the State party's Constitution, the Convention is part of the law of the State party and directly applicable before domestic courts. However, it notes that no information is available on any court judgments making reference to the provisions of the Convention. The Committee commends the establishment of the National Law Review Taskforce in charge of harmonising laws with contradictory provisions, including provisions pertaining to women and children, but notes that there is no timeframe for the completion of the harmonisation process.

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

(a) **Intensify efforts to disseminate information about the Convention and the Committee's general recommendations, as well as capacity building programmes for judges, prosecutors and lawyers through the Bhutan National Legal Institute, which was established to provide continuous judicial and legal education; and**

(b) **Establish a clear timeframe for the completion of the harmonisation of laws and ensure that consultations that are currently being undertaken by the Women, Children and Youth Committee of the National Assembly on the harmonisation of laws are participatory and include a thorough gender analysis of all laws in the State party that are in conflict with other statutory laws and the Convention.**

### **Access to justice and legal complaint mechanisms**

10. The Committee commends the State party's continued efforts to improve access to justice in the State party through the provision of legal aid under the Jabmi Act of 2003 and the establishment of specialised courts for women and children. The Committee notes that

the State party's Office of the Attorney General conducted a needs assessment on legal aid with a view to establishing a national regulatory framework that reflects the best international standards and practices. However, the Committee is concerned at the lack of data on the challenges that women face in accessing justice, particularly women living in rural areas where physical accessibility might be limited due to the State party's topography.

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

**(a) Ensure that women have effective access to justice in all parts of the State party, particularly women living in rural areas, by addressing concerns regarding physical accessibility;**

**(b) Take into account the guidance provided by the Committee in its General Recommendation No. 33 (2015) on women's access to justice especially when establishing its national regulatory framework on legal aid; and**

**(c) Ensure that specialised courts for women and children are well resourced and accessible, and that women are informed through awareness raising programmes about the legal remedies available to them.**

**National machinery for the advancement of women**

12. The Committee welcomes that the National Commission for Women and Children (NCWC), which is the body responsible for coordinating the advancement of women, has been strengthened by, inter alia, increasing its human resources and appointing a Minister as its chairperson. The Committee also notes that the NCWC is currently undergoing an organisation review following the expansion of its mandate to monitor the implementation of the Child Care and Protection Act, 2011, the Child Adoption Act, 2012, and the Domestic Violence Prevention Act, 2013. The Committee commends the State party for its efforts to incorporate the Sustainable Development Goals (SDGs) into its Gender Indicator Handbook with the help of the National Statistics Bureau and the NCWC, and splitting its mandates on children and women such that the gender component is a separate one with exclusive emphasis on gender. It also commends the State party for establishing a Gross National Happiness policy screening tool, which has gender equality as a parameter for rating national policies. The Committee notes that the State party is in the process of formulating a new National Gender Equality Policy. However, the Committee is concerned at:

(a) The limited coordination between the NCWC and Gender Focal Persons (GFPs), particularly at the *Dzongkhag* (district) level, and the limited training provided to them;

(b) The limited information provided on the NCWC's activities to monitor gender mainstreaming, including gender-responsive budgeting; and

(c) The lack of disaggregated data on women and girls, which would inform the State party's programming activities.

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

**(a) Strengthen coordination between the National Commission for Women and Children and the Gender Focal Persons in *Dzongkhags* (districts), and ensure that Gender Focal Persons receive adequate training on women's rights, particularly gender mainstreaming;**

**(b) Provide information in the next periodic report on the activities of the National Commission for Women and Children in monitoring gender mainstreaming activities, including gender-responsive budgeting; and ensure that it has adequate human and financial resources to effectively discharge its expanded mandate;**

(c) **Intensify efforts to collect disaggregated data on women and girls, and ensure that the draft National Gender Equality Policy avoids gender neutral language and facilitates the collection and dissemination of such data; and**

(d) **Ensure the effective use of the Gross National Happiness Policy screening tool and the Gender Indicator Handbook, which incorporates Sustainable Development Goals and their indicators, in assessing the effectiveness of policies in promoting gender equality.**

#### **Temporary special measures**

14. The Committee recalls its previous concluding observations (CEDAW/C/BTN/CO/7, para. 15) and reiterates its concern that notwithstanding the State party's indication that it would consider drafting a law on temporary special measures, no such measures have been adopted in order to accelerate de facto equality between women and men in the areas covered by the Convention, in particular with regard to education and women's participation in political and public life. The Committee is also concerned that efforts to promote understanding of temporary special measures is hampered by gender stereotypes and prejudices that consider such measures to be incompatible with a merit-based system.

15. **The Committee recommends that the State party adopt and fully enforce legislative provisions on temporary special measures to increase women's participation in political life, education and employment, in accordance with article 4 (1) of the Convention and the Committee's General Recommendation No. 25 (2004) on temporary special measures, as a necessary strategy to accelerate the achievement of substantive equality of women and men in all areas of the Convention where women are underrepresented or disadvantaged. It also recommends that the State party raise awareness among parliamentarians, government officials and the general public of the need for temporary special measures.**

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

16. The Committee notes the State party's efforts to implement the National Plan of Action for Gender (NPAG) in order to change stereotypical attitudes among the general public. However, it remains concerned at the persistence of discriminatory stereotypes and deep-rooted patriarchal attitudes regarding the roles and responsibilities of women and men in the family and in society. The Committee also notes with concern the lack of data on the extent of harmful practices such as polygamy. It recalls its previous concluding observations (CEDAW/C/BTN/CO/3, paras. 23 and 24) and notes that the State party has not yet conducted a comprehensive analysis on existing discriminatory stereotypes in order to assess their impact on the achievement of gender equality.

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

(a) **Expand public education programmes on the negative impact of discriminatory stereotypes on women's enjoyment of their human rights, in particular by rural women as well as review school curricula in order to ensure that it facilitates the elimination of gender stereotypes;**

(b) **Intensify cooperation with the media in order to educate the general public and raise awareness about existing gender stereotypes that persist at all levels of society and monitor the use by the media of its Ethical Guidelines so that it portrays positive images of women and girls as active participants in political, economic and social life;**

(c) **Conduct national studies aimed at analysing existing discriminatory stereotypes in order to assess their impact on the achievement of gender as well as establishing the extent of and prevalence of the harmful practice of polygamy; and**

**(d) Regularly monitor and review the measures taken to eliminate gender stereotypes and harmful practices in order to assess their impact.**

**Gender-based violence against women**

18. The Committee commends the adoption by the State party of the Domestic Violence Prevention Act in 2013 and its Rules and Regulations in 2015. The Committee also commends the State party for adopting the Penal Code (Amendment) Act in 2011, which increases the penalties for the crime of rape and extending the establishment of Women and Child Protection Units/Desks to more districts. The Committee is concerned at the lack of specialised courts on gender-based violence against women including domestic violence. It is in particular concerned at:

(a) The prevalence of gender-based violence against women and girls and the low reporting rate on such cases;

(b) Reports that about 74 per cent of women believe that domestic violence is justified notwithstanding awareness programmes and activities undertaken by the State party;

(c) The fact that Section 22 of the Domestic Violence Protection Act of 2013 allows for mediation in domestic violence cases that are classified as misdemeanours; and

(d) The limited number of shelters for women victims of violence and the fact that those available are wholly run and funded by civil society organisations.

**19. Recalling its General Recommendation No. 19 (1992) on violence against women, the Committee recommends that the State party:**

**(a) Ensure that all cases of violence against women and girls are thoroughly and effectively investigated and that perpetrators are prosecuted and adequately punished; and establish specialized courts to address gender-based violence against women including domestic violence;**

**(b) Undertake awareness raising campaigns to eliminate women's social acceptance of domestic violence; and identify and address the root causes for non-reporting by women victims of violence;**

**(c) Amend Section 22 of the Domestic Violence and Prevention Act of 2013 to preclude the settlement of domestic violence cases through mediation;**

**(d) Establish a coordinated, multi-sectoral system of support services for victims and survivors of gender-based violence against women in line with the Standard Operating Procedures on Case Management and Referral System for Women and Children in Difficult Circumstances, and the Joint Programme on Reducing Violence against Women and Children in order to contribute to Gross National Happiness;**

**(e) Develop a clear plan and an adequate budget for the implementation of the Domestic Violence and Prevention Act of 2013, undertake a needs assessment to establish the demand for shelters by women victims of violence in the State party, and provide funding to NGOs operating such shelters; and**

**(f) Continue to enhance the capacities of the Royal Bhutan Police and other law enforcement agencies to prevent and respond to cases of gender-based violence against women and girls through the institutionalization of capacity building programmes and by increasing the number of Women and Child Protection Units.**

**Trafficking and exploitation of prostitution**

20. The Committee welcomes the adoption of the Child Care and Protection Act of 2011, which contains a section on combating trafficking in children and the State party's efforts to revise the definition of the crime of trafficking in line with international standards. The Committee notes that the State party is in the process of formulating Standard Operating Procedures for a Multi-Sectoral Response to Combat Trafficking in Persons and that a proposal aimed at identifying the lead agency on trafficking has been submitted to the Cabinet. However, the Committee is concerned that:

(a) The State party remains a source and destination country of trafficking in persons, in particular women and girls, mainly for purposes of forced labour and sexual exploitation and at the lack of adequate shelters for women and girls who are victims of trafficking;

(b) Girls, mostly from rural areas, are frequently subjected to exploitative domestic work; and

(c) There is a lack of data on women in prostitution and on exploitation of prostitution in *drayang*s (entertainment centres).

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

(a) **Intensify efforts to address the root causes of trafficking in women and girls and ensure the rehabilitation and social integration of victims, including by providing them with access to shelters, legal, medical and psychosocial assistance;**

(b) **Collect data on the extent and forms of trafficking in women and girls, disaggregated, inter alia, by age and region;**

(c) **Collect data on women in prostitution and on exploitation of prostitution, particularly in the *Drayang*s, and ensure that the planned study of women in prostitution analyses the gender aspects of recruitment and exploitation of women and girls; and**

(d) **Intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking, including by exchanging information and harmonizing legal procedures to prosecute traffickers, particularly with neighbouring States and other South Asian countries.**

**Participation in political and public life**

22. The Committee notes the 3 per cent increase in women's representation following local government elections in September 2016 and commends the State party for formulating a National Plan of Action to Promote Gender Equality in Elected Office. The Committee notes that the main reasons for the low representation of women in political life relate to gender stereotypes, lower educational level and lack of financial resources, which incidentally are also the main reasons for their unhappiness under the State party's Gross National Happiness Index. The Committee is concerned that despite efforts to enhance functional literacy among female candidates running for local government positions, their representation remains low. It is particularly concerned that:

(a) Women occupy only 8 per cent of seats in the National Assembly and 10 per cent in local governments;

(b) Women remain under-represented in decision making positions, particularly as Ministers, judges, diplomats and at the higher levels of authority in the civil service; and

(c) Temporary special measures, including quotas, have not been introduced in order to accelerate *de facto* equality between women and men

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

(a) **Introduce measures, including temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's General Recommendation No. 25 (2004) on temporary special measures and General Recommendation No. 23 (1997) on women in political and public life, such as a gender parity system for appointments and accelerated recruitment of women in senior positions, in order to accelerate women's full and equal participation in elected and appointed bodies, including the judiciary, Ministerial positions, in the diplomatic and civil service, and at the local levels of government;**

(b) **Ensure the effective implementation of the component of the National Plan of Action to Promote Gender Equality in Elected Office, which seeks to increase nomination for women candidates; and address concerns regarding the Functional Literacy Test, which is seen as an obstacle for women seeking to participate in local government elections; and**

(c) **Speed up the process of amendment and passage of the Public Election Fund Act of 2008, in order to extend public funding for female candidates running for political office both in national and local elections.**

**Education**

24. The Committee welcomes the efforts made to increase women's literacy such as the provision of scholarships for girls and the delivery of the Non-Formal Education Programme (NFE). The Committee notes that in line with the Bhutan Education Blueprint 2014-2023, the State party has established residential "Central Schools" in order to reduce the high drop-out rates due to marriage and pregnancy. The Committee notes that as a result of these measures, the number of Extended Classrooms (ECs), designed to reduce walking distances to schools and, therefore, improve access for girls, has been reduced. The Committee is, however, concerned at the high dropout rate between the primary and secondary levels, and about the high illiteracy rate among women and girls in the State party. The Committee is also concerned at the lower number of female teachers in schools.

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

(a) **Develop measures aimed at ensuring the effective retention of women and girls in schools, especially when they are making the transition from primary to secondary school and at higher levels of education;**

(b) **Undertake an impact assessment on the effectiveness of "Central Schools" and on the impact of the reduction of Extended Classrooms in reducing school-drop among girls due to marriage and pregnancy, and provide information on the findings in the next periodic report;**

(c) **Intensify the provision of Non-Formal education and other adult literacy programmes in order to reduce female illiteracy; and**

(d) **Increase the number of female teachers in schools by intensifying the enrolment of women in teacher training centres and colleges.**

**Employment**

26. The Committee commends the State party for extending maternity and paternity leave from 3 months to 6 months and from 5 days to 10 days, respectively for the public sector. It notes that the State party is engaged in consultations with the private sector to establish child care facilities and to consider extending to their employees more favourable conditions of employment regarding parental benefits. The Committee also commends the State party for incorporating mandatory indicators on gender equality into the 2016-2017 Annual Performance Agreements of all government Ministries and autonomous agencies. It

notes that through the Employment Skills Scheme, the Overseas Employment Scheme and the Direct Employment Scheme, a number of women have been trained and employed. However, the Committee is concerned at:

- (a) Information that the unemployment rate is higher among women than men and that women's labour force participation declined in 2013;
- (b) Information that women have limited opportunities for employment outside the agricultural and domestic sectors where wages are low; and
- (c) Limited information regarding the concrete measures taken to address sexual harassment and the lack of data on complaints by women regarding occupational segregation and its bearing on wage gaps.

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

- (a) Intensify efforts to fully implement the existing laws and regulations on gender equality in the areas of employment and reduce unemployment among women by promoting the entry of women into the formal economy through, inter alia, the provision of vocational and technical training;**
- (b) Strengthen efforts aimed at eliminating structural inequalities and occupational segregation, both horizontal and vertical; introduce a more progressive policy on child rearing so that responsibilities are shared by men and women, and improve the provision of child care facilities; and**
- (c) Collect statistical data on the extent of the problem of sex discrimination in the workplace including cases of sexual harassment, and conduct regular labour inspections aimed at enforcing compliance with labour laws and codes of conduct on sexual harassment.**

**Health**

28. The Committee commends the State party for its efforts to reduce maternal and infant mortality by introducing mobile clinics, which provide pre natal and postnatal services at community levels. The Committee is, however, concerned that, despite the provision of free contraceptives, early pregnancy rates and sexually transmitted infections including HIV among young women remain high. The Committee notes that under Section 146 of the Penal Code (Amendment) Act, 2011, abortion is permissible only if it is procured in good faith for the purpose of saving the life of the mother or when the pregnancy is a result of rape or incest. The Committee is, however, concerned that the procurement of termination of pregnancy continues to be criminalised despite that it is classified as a misdemeanour that attracts a maximum penalty of 3 years imprisonment. It is also concerned at the incidence of suicide in the State party, which is partly attributable to substance abuse and lack of economic opportunities.

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

- (a) Intensify the provision of sexual and reproductive health information and services to women, including modern methods of contraception, including to rural women and girls;**
- (b) Legalize the termination of pregnancies including in the case of risk for the health of the woman and of severe impairment of the foetus and de-criminalize it in all other cases; and ensure that medically safe modern methods of abortion are available and accessible, in line with general recommendation No. 24 on women and health; and**
- (c) Take appropriate measures to address economic barriers and substance abuse in order to reduce suicide rates among women and girls.**



### **Economic and social benefits**

30. The Committee notes the State party's efforts to implement strategies aimed at increasing economic growth such as implementing the Gross National Happiness policy. It is, however, concerned at the lack of information on the full range of social protection programmes in the State party, particularly those targeting disadvantaged groups of women such as older women, women with disabilities and female headed households. The Committee notes that the National Social Protection Policy has not been adopted.

**31. The Committee recommends that the State party provide information in its next periodic report on the existing social protection programmes targeting older women, women with disabilities and female headed households and the impact that they have had in eradicating poverty. It also recommends that the State party adopt the National Social Protection Policy.**

### **Rural women**

32. The Committee notes the State party's efforts towards poverty eradication in rural areas, including the implementation of the Rural Economy Advancement Programme (REAP). However, it is concerned at reports that rural women have limited access to safe water, transport and markets for their products. The Committee is also concerned that the modernisation process that the State party is undergoing might increase societal burdens on women in rural areas.

**33. The Committee recommends that the State party provide information in its next periodic report on the overall situation of rural women focusing on access to safe water, transport and markets for their products as well as on the impact of the national modernisation process on rural women.**

### **Disaster risk reduction and climate change**

34. The Committee commends the State party's leadership in the area of climate change such that the State party is classified as a carbon neutral country. It further commends the State party for the successful implementation of its National Adaptation Programme of Action (NAPA) to reduce climate change-induced risks and vulnerabilities from glacial lake outburst floods in the Punakha-Wangdi and Chamkhar valleys and the adoption of NAPA II. However, the Committee is concerned at the lack of information on the participation of women in the development of policies and strategies on disaster risk reduction and climate change adaptation.

**35. The Committee recommends that the State party provide information in the next periodic report on the participation of women in the development of policies and strategies on disaster risk reduction and climate change adaptation as well as their implementation. It also recommends that the State party ensure that the development and implementation of policies and programmes on disaster risk reduction and climate change, in addition to other emergencies, are based on a comprehensive gender analysis, and that such programmes also take into account the needs of disadvantaged but productive groups of women, such as rural women.**

### **Marriage and family relations**

36. The Committee recalls its previous concluding observations (CEDAW/C/BTN/CO/7 paras. 33 and 34) and notes that the State party's legislation still provides that custody of children under the age of 9 is automatically granted to the mother unless the courts decided otherwise, which reinforces gender stereotypes. The Committee is also concerned at the operation of traditional systems of inheritance alongside the Inheritance Act of 1980, as well as the persistence of early and forced marriages, particularly in the eastern region.

37. The Committee reiterates its previous recommendation that the State party amend its legislation to ensure that child custody decisions are made based on the principle of the best interests of the child. It also recommends that the State party:

- (a) Undertake a study aimed at understanding how the various practices on inheritance law, both formal and informal, discriminate against women and girls;
- (b) Enforce the Marriage Act 1980, which sets the minimum of marriage at 18 for women and men; and
- (c) Intensify efforts aimed at raising awareness in order to curb early and child marriages, particularly in rural areas.

#### **Optional Protocol to the Convention**

38. 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**

39. 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.

#### **2030 Agenda for Sustainable Development**

40. The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.

#### **Dissemination**

41. The Committee requests the State party to ensure the timely dissemination of the present 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.

#### **Ratification of other treaties**

42. The Committee notes that the adherence of the State party to the nine major international human rights instruments would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other core human rights treaties that it has not ratified.

#### **Technical Assistance**

43. The Committee recommends that the State party seek international assistance and cooperation and availing 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.

**Follow-up to concluding observations**

44. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 19 (e) (f) and 29 (b) (c) above.

**Preparation of the next report**

45. The Committee invites the State party to submit its tenth periodic report in November 2020. In case of delay, the report should cover the entire period until the time of its submission.

46. 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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