

Introduction

1. This written statement is respectfully submitted by National Indigenous Women's Federation (NIWF), Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), National Coalition Against Racial Discrimination (NCARD) and Forest Peoples Programme (FPP) to the Commission on the Status of Women (hereinafter the Commission) and relates in part to the 57th Session's priority theme of 'the elimination and prevention of all forms of violence against women and girls'. It seeks to present political and economic context, evidence, current state of practice and gaps and challenges regarding rights of indigenous women and girls, including some recent cases, with reference to the submission made by NIWF, LAHURNIP and FPP to the 56th session of the Commission to reinforce the recommendations made in the submission (adapted from an original Shadow Report for the combined 4th and 5th Periodic Reports of Nepal CEDAW/c/NPL/4-5, July 2011).
2. 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, historical 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

3. Disagreements among traditional political parties particularly on the rights to local autonomy and self-determination for indigenous groups in the new federal structure of Nepal's new constitution led to dissolution of Nepal's Constituent Assembly tasked to write first democratic and inclusive constitution for the country. Indigenous peoples had little to no say in those issues and the overall Constitution drafting process in lack of their participation through their freely chosen male and female representatives in the process, including non-recognition of their right to self-selected collective representation.
4. Only 0.76% 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 observation of Committee on Economic, Social and Cultural Rights (38th session, 30 April – 18 May 2007) that states to "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

5. There is 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 status, the systematic practice of social exclusion of indigenous women is experienced at very different levels to those experienced by non-indigenous women. Different studies show that 96% indigenous lower level of education. The literacy rate among indigenous women is 25% in average. 10% women get access to health services and 90% rely on traditional medicine. For women of indigenous backgrounds, access to and longterm participation in education is made far more difficult by an insistence on Khas Nepali as the language of instruction at all levels.

Linguistic marginalization

6. Further, as Committee on Elimination of all forms of Discrimination Against Women (CEDAW) has also noted, the multilingual nature of a population must be taken into account when developing public communication strategies, particularly communication that is reaching out to women – who are less likely than men in indigenous communities to speak the national

language. The case of a recent recent training on sanitation and health supported by 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 remote Cheskam village of Solukhumbu district in eastern Nepal after it was found all women in the village do not understand Khas Nepali, except for few men and children now attending schools.

Loss of lands

7. Nepalese indigenous women continue to face the appropriation of their customary and traditional lands, resulting in 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 indigenous Bote community in Palpa district of southwestern Nepal that has been affected after Kali Gandaki Hydroelectric Project dried up the river in Yamghaa village. This has left sixteen 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 migration of males for foreign employment and child-marriage of girls. Botes of surrounding villages are also struggling to make a living due to loss of traditional occupations.

Recommendations

In 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 to the 57th Session. We herein recommend the Government of Nepal:

- i. Promote effective participation in the political and public spheres in Nepal to ensure respect for the rights of indigenous women as indigenous women. This must entail full respect for the rights 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.
- ii. 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.
- iii. Ensure that data collected in Nepal is 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 accurate understanding of indigenous peoples' situations and the development of appropriate, gender-sensitive programming.
- iv. Devise quotas or reservation systems to ensure proportional representation, where appropriate, and reflect the need for gender mainstreaming of participation within marginalised groups, thereby addressing both forms of discrimination.
- v. Ensure that indigenous languages are recognised 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. Provision of bilingual education should be paired with specific support from the Ministry of Culture to work with indigenous peoples to design programmes to strengthen their cultures, including their distinct languages.
- vi. 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.
- vii. 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.

- viii. 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 through provision of translation services, legalizing the use of indigenous languages in judicial settings, and provision of transport assistance from remote communities.
- ix. 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
- x. Ensure that reforms on land access and land tenure are carefully designed to ensure that the rights of indigenous women to access and manage their resources and land are not denied, through 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.
- xi. Include legislative measures to ensure land rights are recognised, 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.
- xii. 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.