

REGIONAL SHARING AND LEARNING

Panel Discussion on Engendering the Census Process in South Asia
 Chaired by H.E. Ms. Anuradha Koirala, Minister of State, Department of Women,
 Children and Social Welfare, Nepal
 Presentation on 'Engendering the National Population and Housing Census 2001 in
 Nepal by Ms. Shavitri Singh, Gender Consultant
 Presentation on the Role of NGOs in Engendering the Census Process in Pakistan
 by Ms. Rukshanda Naz of Aurat Foundation, Pakistan

Engendering the National Population and Housing Census 2001 in Nepal by Ms. Shavitri Singh, Gender Consultant



Nepal recognizes the importance of adequate and improved statistics and indicators on women and men to monitor the situation to assess the effectiveness of policies and programmes designed to address priority gender issues Ms. Shavitri Singh stated. Providing information on the statistical system in Nepal, she informed that it is decentralized as in many developing countries. Though data collecting agencies collect a substantial quantity of data concerning the situation of women and men, these are not compiled in one place and nor is it disaggregated by sex at other levels apart from the national level. Besides, individual data collecting agencies or individual censuses/surveys use their own particular concept, definitions of statistical terms and classifications, which result in incomparable data. Ms. Singh emphasized that the production of quality gender statistics is possible only when the whole statistical system is aware of gender issues, launching their activities to reflect gender issues in a coordinated way.

In Nepal the decennial population census is the most comprehensive and widely used data collection programme at the national level. She asserted that if this was fully gender sensitized, it would not only obtain gender responsive census results, but would also have a cascading effect in the integration of the gender component into subsequent censuses, surveys and studies. She focused on UNIFEM's support to the "2001 Population and Housing Census" at all phases from planning to publication of data with a gender perspective, providing information on the UN interagency Group, which had been formed to make the census more gender responsive. Other members of the Group included UNDP, UNFPA, UNICEF and EU. Engendering the census exercise involved, sensitizing the census personnel and respondents, the inclusion of an optimum number of gender sensitive questions in census schedules, adopting gender responsive census manuals, undertaking a publicity campaign and publishing gender specific census results in separate volumes.

Providing an overview of engendering the 2001 census process, Ms. Singh informed

that for the first time in the history of the census exercise in Nepal, the 2001 census chief was a woman, and a female district census officer as well. The proportion of female enumerators was increased from 2% to 21% with the census activities being undertaken in three phases:

(I) Pre-enumeration this involved cartographic work, establishment of committees, designing of questionnaires and instruction manuals, conduction of pilot tests, printing census materials, preparing a tabulation plan, establishing field offices, recruiting field staff and undertaking a publicity campaign. The UN inter-agency group kept in constant touch with the CBS (Central Bureau of Statistics) personnel who were trained and sensitized, through study observation tours to Pakistan, India and Thailand and Gender Orientation Workshops. All stakeholders, particularly respondents were sensitized through a Brainstorming Session on Media Campaigning. In addition to the Population Census Technical Committee, other committees were set up to address the questionnaire and manual preparation, to engage the media, to manage the project and to classify occupation and industry. The UN interagency group also organized interactive sessions with a wider circle in order to arrive at a consensus with regard to the gender aspects of the census. The Questionnaire and Manual Preparation Committee reviewed the CBS census schedules, instruction manuals to make them gender responsive. Some prominent gender issues addressed in the census schedules related to female ownership of house/land, livestock, work and work burden and female headed households.

Realizing the literacy level of the general respondents and the complexity of the new and improved concepts, gender integration and sampling scheme, a comprehensive communication strategy was worked out. User friendly publicity materials, like a telefilm and poster were developed with appropriate messages. Capacities were built of all field personnel, specially the enumerators, and gender experts were identified and trained in census concepts and methods. The census officials and the trained gender experts worked together and developed gender training modules and materials for field level personnel, to ensure the integration of gender at all tiers of training.

(ii) Enumeration: The actual enumeration of the census was carried out in two stages viz. the household listing and census enumeration. A female district census officer launched the census and 21% female enumerators were mobilized. A Publicity Campaign was undertaken and involved the development of additional materials portraying the gender specific concept of different terminologies used in the census. These were disseminated through the print and electronic media at all levels, playing a catalytic role in sensitizing the respondents both women and men.

(iii) Post Enumeration: The post enumeration activities undertaken included the post enumeration survey (PES), data processing and dissemination of census results.

Gender concerns are included in the general census tabulation and statistical tables

designed for general census tabulation plan have been disaggregated by sex, wherever possible. This provided enough room to bring out census results in line with the new concepts of the 1993 SNA and ILO standard of economic activity and work participation of women and men, supplemented by additional tables, comparable to previous censuses. However, the actual census results differed considerably from the planned census tabulation plan. Some tables were not disaggregated by sex and some were not directly comparable to previous census tables nor were they comparable to international standard tables. However, the CBS has assured users that they will bring out sex disaggregated comparable tables in subsequent releases.

The application of newly constructed NSCO and NSIC at 4 digit level, in bringing out the census results, assisted in showing the detailed breakdown of women and men in dignified and undignified occupations and industry. Though the census results have come out at only 1 digit level, it allows room to potential users to look into its further details. The whole essence of gender integration in the census process is reflected in the final output of the census results. Specific gender issues have been brought out through the generation and publication of statistical tables. UNIFEM is supporting CBS to bring out "gender specific census results" in separate volumes.

Limitations of the Census: The census was limited by Maoist and other disturbances, as well as by concepts, definitions and classifications adopted in some general statistical tables and gender specific statistical tables, which were not consistent with each other. The occupation and industry of the employed population up to the 4 digit level could not be brought out by the CBS and there may be some confusion for data users as the CBS ignored discrepancies in different statistical tables within general census tables and in gender specific tables.

Some of the key gender issues highlighted by the Census are as follows:

Households and Population: The sex ratio is 100.2, which is exactly consistent to the ratio computed from population figures including the estimates from unremunerated areas of the census. The sex ratio of population in urban Nepal is much lower (93.9%) as compared to that in rural Nepal (101.3%). This means more females are deprived of better opportunities in urban areas in terms of quality education and employment.

Female-headed Households: Only 14.9 percent of total households in 2001 are headed by females. The corresponding figure in 1991 was 13.2 percent. The smaller proportion of female heads implies that fewer women are free to form households on their own and have autonomy over societal resources.

The proportion of female headed households in urban Nepal is much larger (17.0%) as against the proportion (14.5%) in rural Nepal. This indicates that more females living in urban areas have achieved autonomy over resources as compared to their rural sisters.

The average household size of female headed households are comparatively smaller (4.0) compared to that (5.7) of male headed households. The sex ratio of female headed households is 159.4 whereas the same of male headed households is 94.7, indicating that the composition of female headed household is more female. More females in female headed households may lead to the double disadvantage of the households.

Education and Media Exposure

The literacy rate of both females and males aged 6 years and above has been rising over the years but the gender gap had been widening up to 1991. The positive impact is observed in the 1991-2001 decade, with a narrowing of the gender gap. However, more female children in 2001 are out of school as compared to male children.

One of the most important elements of women's empowerment is the access to and use of information. The 2001 census indicates that 55.1 percent of female headed households possess either a radio or TV or both, indicating that they are exposed to media.

Work and Work Burden: The labour force participation rates of females are higher by 9.2 percentage points when including extended economic activity, as against excluding it. The corresponding increase in males is only 4.5 percentage points. Since the bulk of the Nepalese population live below the poverty line, they are bound to perform economic as well as non-economic activities but the burden of work is noticed to be more on females than on men.

Migration: The independent life time migration rate for females is noted to be 9.4% as against 13.3% for males. It is also noticed that the dependent life time migration rate for females is 8.4%.

The publications of NSCO and NSIC provide an ample opportunity to produce a detailed breakdown of population by occupation/industry and also serve as a resource for forthcoming censuses and surveys. The sample data available for further gender analysis and the production of sample frame with gender specific information will be very useful for all users, including policy makers. The entire exercise provides a directive for improving the statistical system, by removing the deficiencies in generating gender responsive statistics in forthcoming statistical censuses/surveys.

The Role of NGOs in Engendering the Census Process in Pakistan
by Ms. Rukshanda Naz, Aurat Publication and Information Service Foundation

In her presentation, Ms. Rukshanda Naz focused on how the Aurat Publication and Information Service Foundation (AF) utilized their network, their experiences of partnership with the Government of Pakistan (GoP), as well as shared information dissemination material. She informed that in order to ensure that women and their work were counted in the Fifth National Population and Household Census of Pakistan in 1998, Aurat Publication and Information Service Foundation ran a campaign on “When women are counted, let their work be counted”.

To set the context, Ms. Naz gave a brief historical overview of census activities in Pakistan. She informed that the Fifth National Population and Household Census was conducted by the Government of Pakistan (GoP) in 1998, after a gap of 17 years. Earlier censuses had not been able to elicit correct information about women and their economic activities because of problems of definitions. As a result the 1981 Census showed only 2.14% of females above age 10 in the labour force with 1.76% in agriculture. In 1998, the GoP designed the Census questionnaire to specifically find out the work women did, other than household work. Initially, Aurat Foundation provided training sessions on awareness of women's work to master enumerators selected by GoP. It was also asked to develop relevant material for enumerators and for public awareness on how to fill the form. Accordingly, AF extended its Campaign to include mass meetings for awareness on definitions of women's work and on how to answer the related questions. In Pakistan, this was the first example of NGO participation in a national Census activity. Another NGO, Bedari, was also asked to undertake some training of enumerators, with both UNIFEM and UNFPA supporting the Campaign.

The aim of the Campaign was to enhance women's social and economic status in society through the recognition of their contribution to the household and the national economy. It also sought to provide correct information of women's labour force participation rates to enable better economic planning and resource allocation in order to increase their productivity and development. It aimed to motivate the public to correctly enter women's work in the Census and make visible women's labour in unpaid household economic activities. For example the work of many women who helped their husbands went unrecorded. It sought to create awareness about the correct registration of women who are heads of their households and create awareness on the importance of women registering correctly in the 'unemployed' category. Efforts were made to sensitize master trainers of enumerators on the invisibility of women's unpaid labour in household economic activities and lack of awareness of home-based own-account work.



Ms. Rukshanda Naz

Publicity materials were developed and prepared for the Campaign to highlight the importance of the Census and statistics on women. The Population Census Organization, the offices of the local Census commissioners, communication support networks and local organizations were used to disseminate materials and information. Local and national media were used to reinforce the Campaign and sensitization meetings were held at provincial and district levels. Master trainers were trained to sensitize enumerators to record women's economic activities accurately in the Census.

200 master trainers and AF staff in all AF offices were sensitized to different types of women's work and its significance in relevant categories of the Census form. The objectives of the Campaign and the different concepts were made clear. District-wise Campaign strategies were devised and district level awareness meetings held. 182 meetings throughout Pakistan, both with community and activists were held, covering 84 districts and 4 agencies. There were 8,332 participants (4,759 women and 3,573 men) and various methodologies were used (dialogue, role-play, skits) to impart the message. AF's networks were used to organize the meetings, local languages were used and local interpreters hired where necessary. Though tribal areas are considered sensitive, AF covered four of them. TV spots were aired on all the three channels at that time, with AF providing inputs in every TV and radio programme about the census, and where there was no radio, mobile units were sent. Some documentaries were made. District and assistant commissioners helped in facilitation through local media. The experience gave AF an opportunity to enhance their advocacy skills, which were used for campaigning for the 33% reservation. It also led to a linkage with the Government.

Discussions/Deliberations

The deliberations highlighted examples of different case studies in the engendering of census exercises, with one being Government-led and the other, NGO-led.

Ms. Chandni Joshi, Regional Programme Director, UNIFEM, noted that the Census presentations promoted regional learning. She gave the examples of the Indian experience, which was taken to Nepal through the jingles and posters developed for the Indian Census, and the Media Campaign of Pakistan.

Dr. Meena Acharya clarified that the process in Nepal was a joint effort that involved all three sectors, the Government, NGOs and the Private Sector. She informed that she herself had been involved in engendering the Manual. This was endorsed by Ms. Shavitri Singh, who informed that she was involved from the NGO sector to engender the process. The NGOs helped in redrafting the manual five times and in training the Central Bureau of Statistics (CBS).

Ms. Neten Zangmo, Cabinet Secretary, Bhutan raised pertinent questions on the census exercises since Bhutan was preparing for the national census. Her questions related to ownership of the end result of the exercises, particularly in cases where both governments and NGOs were involved. She also sought information on how this information was articulated in the policies and programmes.

Ms. Naz of Aurat Foundation responded by saying that what is important is the use of the information, not the information in itself. Giving the example of Aurat Foundation, she said it found likeminded people in the Government and conducted joint trainings with it. With regard to ownership, she said, that lies with the Government as it is published by it. However, an impact could be made because it was a Government-NGO partnership,

Dr. R.V. Ayyar, Secretary, DWCD, Government of India, stated that the accuracy of results depended very much on the quality and reliability of data.

Dr. Neelam Gorhe, SAK, India commented on the proactive role played by the Registrar General of India, especially on the issue of a declining sex ratio. Training, she said, plays a key role in the census process, as was evident in the 2001 Census process in India, where after training, the difference in the approach of enumerators was apparent. One of the major lessons, she said was that when there is gender sensitization at the top, it is reflected at various levels.

Panel Discussion on Regional Learning Gender Analysis of Budgets
Chaired by Ms. Neten Zangmo, Cabinet Secretary, Bhutan

Presentation on 'Gender Analysis of Budgets in South Asia' by Dr. Meena Acharya
Presentation on 'The Sri Lanka Experience' by Ms. Lalitha Dissanayake
Presentation on 'The Indian Experience' by Dr. Amaresh Bagchi

“Gender auditing and budgeting is important as it reveals the human face of the economy and is a tool for empowerment, particularly so for women. Good policies without resources amount to only paying lip service.”

Ms. Neten Zangmo, Cabinet Secretary, Royal Government of Bhutan

Presentation on 'Gender Analysis of Budgets in South Asia' by Dr. Meena Acharya

Dr. Meena Acharya began her presentation by outlining the need for gender budgeting as an effective tool of mainstreaming gender, and for actualizing commitments into reality. The Beijing Conference had revealed that despite promises, policies are often not translated into programmes and when translated adequate funding is not available. While major sector level programmes ignore gender aspects during implementation, women's programmes lack adequate resources and are often marginalized.

She emphasized the need to analyze allocation, expenditure, taxation policies and sources of revenue, as well as institutionalize review mechanisms as a regular exercise. It is crucial to engender the whole budget formulation, allocation and resource mobilization policies and processes, since Finance Ministries generally ignore gender aspects in their policies and strategies. In addition liberalization and globalization policies tend to increase gender inequalities and budgetary policies and processes rarely recognize the relevance of gender related issues to macro economic policies.

Explaining the process of gender budgeting, she said, it includes the gender auditing of the budgetary goals and objectives, policies and strategies; an analysis of allocations, expenditures, taxation policies and sources of revenue and its differential impact on women and men; a review of the policy making, implementation and monitoring mechanisms with a gender perspective; and making recommendations for incorporating a regular gender auditing mechanism within budgetary and other policies.

Stating that a budget is the primary instrument, through which a government implements all its macro and micro economic policies, allocates and raises all its resources, Dr. Acharya presented a conceptual frame-work. In order to engender the process of integration in the global economy, the following tentative criteria could be used: Weighing the over all gender sensitivity of the budget at all stages of budget formulation, implementation, monitoring and impact analysis, as well as the gender sensitivity of the institutions involved; using ratio analysis as well as looking at the adequacy of the budget to address the programme targets and whether it was participatory or not, reflecting women's needs and their involvement in the whole budget processes. It also involves looking at efficiency in relation to the problems being addressed and an analysis of impact. Gender disaggregated impact analysis, she said is crucial.

For expenditure analysis, she elaborated, the budgetary programmes could be classified in several ways. One way of categorization is into 1) *exclusively women focused*, 2) *pro-women* and 3) *other programmes*. Many of these could have both positive and/or negative impact on gender relations. Only those programmes, which fulfilled both women's strategic and basic needs, could be classified as gender sensitive. Women only programmes have positive implications for the social mobilization of women and the fulfillment of their basic needs, which is a necessary condition for further development.

The criteria for pro-women programmes is more complicated. Detailing the criteria laid down for the Nepal study, she said it included women's involvement; employment opportunities for women and whether these were promoted; whether such programs impacted positively on overall gender-relations; their impact on women's workload; their impact on women's social and household decision making roles; and whether

there were direct benefits from the activities in terms of income, health, education, and access to resources. Dr. Acharya said that the classification suggested by Prof. Banerjee from India, viz. 1) *relief*, 2) *gender reinforcing* and 3) *equality promoting programs* is also very relevant for gender analysis.

Dr. Acharya presented a comparative analysis of gender budgeting exercises in the region, focusing on India and Nepal, which have completed detailed gender budgeting exercises and Sri Lanka, which is in the process of such an exercise. Highlighting the different approaches used by the three countries, she informed that Nepal has tried to make the review as comprehensive as possible and concentrated on engendering the internal processes of budget formulation, implementation, monitoring and evaluations in its recommendations. India, on the other hand has concentrated on impact analysis of selected taxation and subsidy policies, allocation pattern of expenditure and expenditure tracking of selected items through various stages of responsibility and resource transfer to the grass roots level. In addition, the Indian exercise of collecting time use data provides a base line for future impact analysis of budgetary policies on the care economy. Sri Lanka was the first country in South Asia to start the gender budgeting exercise supported by the Commonwealth Secretariat. This study however, was not followed up upon, as it did not involve other stakeholders, such as civil society or the women's machinery.

The process of gender analysis of the budget in Sri Lanka was revived in 2002, at the initiative of the Ministry of Women's Affairs with support from UNIFEM. The exercise is focusing on expenditure analysis in the Women's Affairs, Social Welfare, Tertiary Education, Labor and Employment and Poverty Alleviation. In Pakistan the process has just begun with a proposal for a gender budgeting exercise and training being moved by the Ministry of Women and Child Development for consideration by a high powered committee. Budgets here have already incorporated provisions requiring ministries to evaluate whether women get an appropriate share in the planned expenditure.

In India, the exercise reviewed expenditure allocations as per the classification of the expenditure items into women-only, pro-women and general, including in its purview, the Central Government and selected states. The findings showed that besides general statements in the budget and plans, Women's Component of the Plan specifies that not less than 30 % of funds and benefits must flow to women from government financed developmental activities. The Economic Survey, 2000-01 and 2001-02 devoted an entire section to gender equality. Allocations to women and girls remain at less than one percent, with deviation between allocations and actual expenditure. It also shows that the share of pro-women programmes is declining and that females derive consistently lower benefits from the educational budget. Though the social sector is still the most important part of the state budgets, its spending has been declining in all states. At the grassroots level Elected Women Representatives (EWR) do not look

upon budgeting as their task.

Nepal's exercise involved a review of budgetary objectives, policies and strategies, of revenue generation, taxation and subsidy policies, as well as an analysis of overall budget allocations and central expenditure patterns. Giving an overview of the budget formulation process in Nepal, Dr. Acharya informed that it is centralized in the Ministry of Finance (MoF), which considers all macro-economic policies and tax measures gender neutral. Gender, however is beginning to be recognized as an important factor in expenditure allocation decisions, as noted in the 2000/2001 guidelines of the Ministries of agriculture, labor, education and population and environment, who are required to state the effect of the programme on women and poverty reduction. She informed that these guidelines are yet to become operational and are not applicable to other ministries. So far gender considerations enter the process only at the NPC and line ministry programme level, not percolating to the implementation level at the line ministry district offices. The involvement of EWRs is minimal, in spite of the decentralized planning system. The centralized management of the programmes and the budget precludes the effective participation of local women and men, in the budgeting process. The planning process of the District Development Committees (DDC) and Village Development Committees (VDC) is still very rudimentary and generally women are paid little attention in the whole process.

Some of the recommendations included the setting up of a gender auditing section and a mechanism with indicators at the MoF for evaluating the impact of its macro economic policies and programmes on women, along with poverty. It was also suggested that information on advancement towards gender equity and mainstreaming be incorporated in the Annual Economic Survey; that MoF\NPC guidelines to all ministries, programmes, projects and districts include a requirement for a gender and poverty impact analysis in the formulation of their budget demands; that training programmes incorporate gender concerns; that gender-auditing units be set up in all ministries for a set period of time with MoF support; that monitoring and evaluation structures and mechanisms find resources for incorporating gender aspects in their regular work; and that MoF find resources for overall gender-auditing unit at the district level.

With regard to development priorities and budget allocations, the findings showed that the size of public expenditure at less than 20% of the GDP has remained low even by the LDC standards. The expenditure on social services (education, health, drinking water, local development and other social services) increased continuously from 18.3% of total expenditure in 1991 to 31.3% in 2000. The social sector expenditure per person also increased during the nineties, but the social sector allocation ratio was still below the required ratio of 40%. The human development expenditure was only 15.9% of total expenditure and 3% of GNP in 2000 against a required norm of 5%. The budgetary allocation to women-only programs was not even 1% of the total budget.

Allocation for pro-women programs of 13-14% was limited to a few ministries and efficient service delivery was marred by centralized and non-participatory management of the system. Privatization of such services has increased gender disparity in access to such services

The recommendations included increasing the size of development budget allocations, improving absorptive capacity in the social sectors and more extensive public sector in both education and health. It was suggested that allocations to women targeted and pro-women programmes be increased in absolute terms, with mainstream programmes paying more attention to women specific needs.

With regard to gender in the DDC and VDC budgetary processes, it was found that generally the hill districts are more open to gender issues and women's participation than those in the Terai areas. It was found that VDC budgets devoted only marginal attention to women's needs in general and that programme allocations were often based on gender stereotypes, particularly in the Terai.

It was recommended that the process of fiscal decentralization and devolution needed to be speeded up and accompanied by capacity building programs for EWR. This included gender sensitization of male members and strict enforcement of regulations on participation of women and the poor. NGOs working at the grass roots level needed to particularly educate women in budgetary aspects in programme planning exercises.

With regard to privatization and changes in the tax structure, it was found that the impact of the marked shift in budgetary policies since mid 1980s towards a more open economy and a minimalist state has not been gender friendly in general. The tax system has become more regressive with reduction in both direct taxes at higher levels and tariff in general. Though women have benefited as workers in certain sectors and as consumers in urban areas from the lower rate of inflation, the withdrawal of price subsidy on food and fertilizer has crippled the food security system. It has exposed households in the remote and other food deficit areas to hunger and malnutrition.

Rural households in general and women farmers in particular have suffered because of the low prices for their products on the one hand and increasing farm input prices on the other. Rural labor in general and women in particular have not benefited much from investment in large scale manufacturing induced by reduction in direct taxes - due to lack of education and skill needed but lost jobs in traditional small industries due to their closing down. Privatization of public enterprises has resulted in huge price increases of their products, a drastic reduction in employment, and their closing down.

It was recommended that privatization of public enterprises needed to ensure equal opportunity for re-training and re-employment of the retrenched women, and social security benefits in the private sector. The agreement on employment needed to be enforced and the externalities involved evaluated before privatizing specific public utilities.

In the case of taxes and the incentive structures, Dr. Acharya stated, that gender should be taken as an important factor in the formulation of general fiscal and taxation policies and each tax, subsidy and transfer policies evaluated for their impact on gender and made more responsive to the issues of gender equity. The direct tax base and its compliance needs to be enhanced and the VAT system simplified, exempting essential items from the tax net, with a higher threshold transaction for starting women entrepreneurs in VAT. Longer-term or higher rebate on income tax to women entrepreneurs needs to be instituted and tax rebates to manufacturing units, exporters or to business establishments related to employment generated for women and men.

Presentation on 'The Sri Lanka Experience' by Ms. Lalitha Dissanayake,
Secretary, Ministry of Women's Affairs, Government of Sri Lanka

Ms. Dissanayake informed that historically, Sri Lanka began its gender budgeting exercise in 1998 with support from the Commonwealth Secretariat. This was on a pilot basis involving five ministries, the National Planning Commission and the Ministry of Finance. This however was not followed through and the impact was short lived. Nevertheless, the process built the capacity of some officials in the Ministries in analyzing budgets, whose expertise could be used in the future. With support from UNIFEM, the Ministry of Women's Affairs has tried to revive interest in it. The Ministry could not ask for more allocations, as Sri Lanka's economy has been under pressure with many demands on its budgetary allocations.

Presenting an overview of current efforts, she shared that there was interaction with other South Asian countries in December 2002. Dr. Lekha Chakraborty of the National Institute of Public Finance and Policy (NIPFP), India, worked for a week with the Ministry to track the expenditure of the new budget, examining budgetary provisions and what the policy statement implied. Though there was a statement that there would be windows of opportunity for women through all the programmes, she informed that there have been no opportunities, especially economic opportunities for women. Privatization seemed to be on the cards and there is a concern that gender disparities would widen.



Ms. Lalitha Dissanayake

In order to reduce gender inequities, she emphasized the need to work with other ministries with regard to resources and to sensitize policymakers. This would take time, she said and resources are a problem. UNIFEM supported a training programme with Professor Diane Elson, which facilitated understanding of the principles of gender budgeting, leading to the development of basic understanding among key persons.

Current efforts are concentrating on budgetary provisions at the grassroots level, involving women's groups through a pilot. It analyzes the budget from

a gender perspective, and increases their capacity to understand the issue and negotiate with concerned persons. In Sri Lanka, she informed, there are many programmes that relate to the development of women but the Ministry is in the process of negotiating with relevant ministries on how they could improve their delivery systems, which are usually geared to family units. This is a challenge that needs to be overcome. Though the health and education indicators are very good, economic indicators and rights discrepancies are widening and there is a need for greater sensitivity.

Presentation on 'The Indian Experience' by Dr. Amaresh Bagchi, Emeritus Professor, National Institute of Public Finance and Policy (NIPFP), New Delhi and Member Prime Minister's Economic Council



Focusing on the Study conducted by the National Institute of Public Finance and Policy (NIPFP), Dr. Bagchi informed that it was attentive to the following three aspects:

- Gender Diagnosis, involving the status of women in India in education, health, nutrition, education and other areas
- Women in Economy, involving valuation of women's contribution to the 'market' and 'care' economy
- Preparing a gender-sensitive budget, which involves viewing the budget through a gender lens and gender disaggregated public expenditure benefit incidence

Showing the level of development of women in the region, Dr. Bagchi juxtaposed the Gender Development Index (GDI) of developing countries with those of developed countries. For example, Norway and Austria showed a value of 0.937 and 0.935 respectively, with Sri Lanka showing a value of 0.732, India a value of 0.553, Pakistan a value of 0.466 and Bangladesh 0.459. The gender diagnoses, he said revealed the missing women in India, reflected an adverse sex ratio (972 per 1000 males in 1901 to

933 per 1000 males in 2001) with sex ratio at birth (0-6) being 927 per 1000 males, according to the 2001 Census. With regard to the time spent on the care economy, a combination of six states (Haryana, Madhya Pradesh, Gujarat, Orissa, Tamil Nadu and Meghalaya) showed 34.63 hours per week for females as against 3.65 hours per week for males. Countries with experience in preparing a gender budget are Australia (1984) and the Commonwealth Initiative in South Africa, Sri Lanka, Barbados, St. Kitts and Nevis and Fiji.

Enumerating specific actions taken by the Government, Dr. Bagchi said these included the special reference made in the in the Budget Speech, 2000, pertaining to the "access of women to national resources"; the adoption of "Empowerment of Women" as a specific objective of the Ninth Five-year Plan in 1999 by the National Development Council; the 'Women's Component Plan', which ensures that not less than 30 % of funds and benefits flow to women from developmental sectors; and the recognition of gender equality in the Indian Constitution. Informing that the Economic Survey, 2000-01 & 2001-02 included a section on gender equality, he presented the highlights of the Union Budget 2002-03. These included an increase in the plan allocation of the Department of Women and Child Development (DWCD) by 33 per cent to Rs 2200 crores; the National Nutrition Mission to release food grains at subsidized rates to adolescent girls and expectant mothers in below the poverty line (BPL) families; the provision of 100 scholarships per year by the Department of Science & Technology to women scientists.

A gender sensitive budget, Dr. Bagchi said, is not a separate budget for women but rather a budgetary resource allocation through a gender lens. A gender sensitive budget calls for a dissection of the budget to establish its gender-specific impacts and a gendered incidence of budgetary policies for the effective targeting of public spending. It stresses re-prioritization rather an overall increase in public spending and is a thrust to ensure greater visibility to the care economy.

Presenting the Government of India (GoI) perspective and initiatives on gender budgeting in the DWCD, he listed Gender Diagnosis in India (incorporated in Economic Survey, 2000-01: NIPFP Interim Report); Gender Analysis of Union Budget, 2001-02 and 2002-03 (NIPFP study); and Gender Analysis of State Budgets: (in NIPFP Methodology) in major states (coordinated by NIPCCD). With regard to specifically targeted expenditure for women in India, Dr. Bagchi said that this is illustrated in direct allocations specially targeted to women and girls under various Ministries, which in the Union Budget 2003-04, amounted to Rs. 3665 crores; 0.84 per cent of total expenditure of 2003-04; and a significant deviation of revised estimates from the budget estimates [Rs 3370 crores in BE 2002-03 and Rs 2835.93 in RE 2002-03]

Specifically targeted expenditure is categorized under different services.

- Protective and Welfare Services attend to prevent atrocities, such as domestic violence, kidnapping, rape, and dowry deaths;
- Social Services promote issues such as education, health, and nutrition;
- Economic Services include self employment and training programmes;
- Regulatory Services & Awareness Generation Programmes, which includes the National Women's Commission

Certain public expenditure have pro-women allocations, though they are not exclusively targeted for women. These include poverty alleviation and employment generation schemes; provision for drinking water, fuel, housing, and improved energy resources among others. He shared information with regard to public expenditure and its calculation for pro-women allocations, in both gender-intensive ministries and in ministries with few gender-intensive schemes.

The gender analysis of State Budgets, calls for some priority actions, which include:

- Strengthening the gender disaggregated database within Departments/Ministries;
- Segregating the provisions for women in the composite schemes;
- Consolidation of schemes with provisions of Rs. 10 crore or less as there are too many programmes with too little money;
- Expenditure management, which includes: monitoring the implementation of the scheme; and a significant deviation between Budget Estimates and Revised Estimates.

Dr. Bagchi concluded that Government expenditures affect societies, and with the social sector expenditure being mainly by the State, state wise analysis is appropriate. However, he said, there is a need to have a gender equal framework and data from the Census and the National Sample Survey (NSS) to execute priority actions. Measuring the gender component of taxation is difficult, he said. Though globalization, privatization and public health collapse are important issues, he advised caution in coming to conclusions on the impact of globalization.

Discussions/Deliberations

Dr. Ayyar pointed out that in countries like India, analysis at the state level was very important and that it was not so much the expenditure but the nature of expenditure that was important. With regard to gender budgeting, methodological issues needed to be discussed by various stakeholders, which included policymakers, economists, financial experts and the women's movement.

Ms. Yasmin Zaidi informed that in Pakistan, efforts were being made to devolve the budget to the provincial level district but there was a lack of capacity. She asked whether it made sense to have the process ongoing at the state/provincial level, even if

there was no impact at the centre.

Dr. Bagchi responded by saying that it was best to follow the beginnings that had been made but to use it with caution. Another issue that needed to be kept in mind was a realistic judgment of the next budget and the priorities that needed to be focused upon. Mr. Suhail Safdar, Additional Secretary, Ministry of Women Development, Social Welfare and Special Education of Pakistan commented that gender budgeting was a means for poverty alleviation, with most of the poor being women. At the national level, he said, there was a system of classification, and that engendering the budget at that level, called for adequate disaggregated data and its analysis, which was a challenge. The ideal of gender budgeting was going beyond what had already been done. He mentioned a pilot undertaken by the World Bank, wherein the accounting system at all levels had been analyzed. He informed that the Federal Ministry of Finance had engendered some initiatives because it had a deep association with poverty reduction.

Ms. Kunzang Chungyalpa pointed out that UNIFEM was supporting gender analysis of budgets in 20 countries and hoped that an adjustment to instruments could be found. It was undertaking not just expenditure analysis but also revenue analysis and that this should not be abandoned half way.

Dr. Meena Acharya stressed that it was important to emphasize the process rather than just focus on the allocation, looking at it holistically. In Nepal, she said, a gender analysis of the budget had served as an eye-opener to the Finance Ministry, whereby it was possible to convince central bankers that Government policies impacted women and men differently and that this needed to be taken into consideration.

Dr. Neelam Gorhe commented that gender budgeting did not mean a bigger budget for women.

Panel Discussion on Knowledge-based Advocacy on CEDAW Chair: Ms. Nilofer Bakhtiar, Advisor to the Prime Minister, Pakistan

Presentation on 'Analysis of the Concluding Comments received by the South Asian countries and the role of Governments in implementing the recommendations made by the CEDAW Committee' by Ms. Salma Khan, Expert CEDAW Committee Member from Bangladesh

Presentation on 'Analysis of the Implementation of the Concluding Comments on Nepal's Initial Report and Indicators for Monitoring CEDAW in the region' by Ms. Sapana Malla Pradhan, Forum for Women Law and Development

Presentation on 'The Interplay between CEDAW, National Laws and Customary Practices in Pakistan' by Ms. Yasmin Zaidi

Presentation on "The Process of Implementing and Monitoring of the Convention

in Nepal' by Mr. Pratap Pathak, Joint Secretary, Ministry of Labour, His Majesty's Government of Nepal

Ms. Nilofar Bakhtiar stated that CEDAW is the bible for women all over the world, and that women in South Asia share many common realities, which enable them to better understand each other.

Presentation on 'Analysis of the Concluding Comments received by the South Asian countries and the role of Governments in implementing the recommendations made by the CEDAW Committee' by Ms. Salma Khan, Expert CEDAW Committee Member from Bangladesh

Ms. Salma Khan, Expert CEDAW Committee Member from Bangladesh began her presentation by giving a snapshot of the Committee, which acts as a monitoring



CEDAW Session in Progress

mechanism for CEDAW. The CEDAW Committee has devised a framework for Concluding Comments, and these work as a tool to:

- Help state parties to focus on issues;
- Clarify the kind of obligation they have; and
- Assist state parties in ascertaining what needs to be done.

The Committee works as a partner with state parties to see how to best to implement the Convention, focusing on what countries should do to bridge the gaps. The Committee's Comments are derived from country reports and from reviewing reports of other countries in similar situations.

In South Asia, four of the seven SAARC countries, had not entered any reservations. The Committee noted that the region shared similar concerns and issues, and also found inconsistencies in the Constitution of those countries, presenting a case of equal rights and unequal personal laws. De facto and de jure inequalities existed in all countries.

Elaborating on this, she informed that though Nepal and Sri Lanka have ratified the Convention without any reservation, they have not incorporated the provisions of the Convention in national law. As a result of this, in cases of inconsistency, national law supersedes the provisions of the Convention, leaving room for discrimination against women. All five countries share common concerns of gender based violence, gaps in legal framework, lack of systematic data, and existence of strong patriarchal values.

Very high maternal mortality and low female literacy rate are critical problems to all countries except Sri Lanka. All five countries suffer from weak enforcement of law and lack of effective monitoring and evaluation systems related to implementation of the Convention. Though the Constitution of all countries (except Maldives) give equal rights to women, there is a contradiction between the constitutional guarantee of fundamental rights and existence of personal laws/family laws that discriminate against women, providing a case of equal rights and unequal personal laws.

Of the five countries, only Sri Lanka & Bangladesh have presented initial and subsequent reports. However, the Committee has found that most of the concerns and observations listed in the Concluding Comments (CC) of the initial reports have not been addressed, indicating that the CC have not been taken seriously. For example, in Bangladesh the common concerns identified in the initial report of 1987, remained areas of concern in the second periodic report of 1993, and the same was the case with Sri Lanka.

The common positive elements in the countries include: a strong Government commitment to empower women and establish gender equality; a National Machinery and a National Council on Women's Development or National Commission on Women at the highest policy making level; National Action Plans on women in each country; a very strong NGO movement (except in Maldives); and collaboration between Government and NGO's on women's development.

Listing actions that could be taken by governments to implement the recommendations made by the Committee, Ms. Khan said policy level interventions need to be introduced and reservations/declarations withdrawn from the Convention. The Committee advises that States address discrimination by not entering reservation on Article 2. For example, the Government of Maldives needs to amend the Constitution by repealing legislation limiting women's political participation at the highest level. Bangladesh, India and Sri Lanka need to withdraw from the government "policy of non-interference" in dealing with personal laws relating to minority communities, and establish a Uniform Family Code to fulfill the constitutional guarantee of non-discrimination on the basis of caste, sex, and religion. Bangladesh had taken steps in this regard with the Mohila Parishad having prepared and distributed a draft Uniform Family Code, to create public opinion in its favour.

Since violence against women is on the rise in the region and protective laws have been ineffective in addressing it, existing laws need to be reviewed to identify gaps and to ensure their proper enforcement. Governments need to facilitate the process of monitoring and following up on the implementation of the Convention, with the close involvement of the following bodies: The National Human Rights Commission (India), Permanent Law Commission (Bangladesh), National Council for Women's Development (Bangladesh), National Commission for Women (India and Nepal),

National Security System (Maldives), National Commission on Women (Sri Lanka). The Ministry of Women's Affairs in Bangladesh and Maldives need to set up special committees, comprising of legal experts, academicians, and NGO activists conversant with Muslim jurisprudence to give a proper interpretation of Islamic laws and practices compatible with their constitutions and the Convention.

Each country in the region has adopted a National Action Plan for Women (vision 20/20 by Maldives) and gender mainstreaming development policies. However, none has been successful in generating efficient gender desegregated data on labor force participation, which forms the basis of gender mainstreaming policy. Ms. Khan emphasized the need for a review of all Five-year Plans, and an engendering of the ADP (annual development programme), which is the primary tool of public expenditure. Budgets need to be engendered and all development programmes need to adopt a rights-based approach. She informed that the Ministry of Women's Affairs of Bangladesh has undertaken two studies on Women's Issues in the National Five-year Plans and eleven out of twenty-four recommendations on engendering the budget have been accepted for immediate implementation. Sri Lanka has also taken measures to engender the budget. Existing affirmative action policies need to be reviewed and all countries including Sri Lanka and Maldives need to introduce affirmative action policies to ensure substantive equality rather than formal equality. The system of gender desegregated data generation needs to be improved in all areas, particularly health, education, employment and gender based violence.

At the programme level, all government programmes need to emphasize the implementation of Article 14 of the Convention with a time bound programme to achieve a balance between urban-rural facilities, as the majority of the female population lives in rural areas. One of the major indicators of women's disadvantaged status is manifested in their lower health status. Except Sri Lanka all other countries have an unacceptably high rate of maternal and child mortality rate and adverse sex ratio. The health status of women needs to be visibly improved by 2005 (Beijing+ 10). Governments need to review their health policies and programmes and develop mechanisms for an annual review of maternal and child mortality rate, working in closer collaboration with WHO and UNICEF. Despite affirmative policies, the female literacy rate in all countries, except Sri Lanka and the Maldives is low. To improve this, the budgetary allocation for education in general and for girl's education in particular needs to be raised to meet the commitments in the BPFA. To remove gender stereotyped social attitudes and adverse customary practices against women committees need to be established to engender the system. To ensure the projection of positive images of women in the media, a gender sensitive policy needs to be formulated and enforced.

Ms. Khan concluded by informing that State Parties have a four-year gap between reporting to make differences. To do so, the Concluding Comments need to be widely

disseminated within a two-month period by governments and NGOs, the role of the latter being critical. The biennial meetings organized by UNIFEM should be regular so that countries have an opportunity to review CEDAW implementation. If CEDAW is implemented well, there would be no need to review the implementation of the BPFA, as CEDAW covers all the areas mentioned in the BPFA, and is unlike the BPFA, a legal and binding instrument.

Presentation on 'Analysis of the Implementation of the Concluding Comments on Nepal's Initial Report and Indicators for Monitoring CEDAW in the region' by Ms. Sapana Malla Pradhan, Forum for Women Law and Development

Ms. Sapna Malla Pradhan of the Forum for Women Law and Development, Nepal, began her presentation by stating that Nepal has Minister who is a women's human rights activist, which reflects the Government's commitment to gender issues. Nepal's Initial Report on CEDAW reached the CEDAW Committee only in 1998, though it was due in 1992. It presented the Initial Report with an addendum to the CC in 1999. In addition to the Government Report, a Shadow Report was prepared and submitted by FWLD in collaboration with various NGOs to the Committee. Based on the Initial Report, Shadow Report and information provided by delegates, the Committee gave its recommendations to the Government in July 2000.

These focused mainly on eleven areas, viz. access to reproductive health for women, free education for the girl child, trafficking and sexual exploitation of women, temporary special measures for women's participation in decision-making, income generation programmes and special measures to increase employment opportunities for women, judicial role in amendment of discriminatory laws, equality before law and in civil matters, gender desegregated data, gender sensitization, dissemination of Concluding Comments and information on rural women. Since receiving the Concluding Comments, various significant initiatives have been taken to implement the recommendations made by the Committee.

The partnership that has developed between the Government and NGOs at the national level on CEDAW has led to many significant changes. These include legalization of abortion in certain circumstances and the formation of an Abortion Task Force to implement the law and ensure women's access to safe and legal abortion. This has also led to a decrease in maternal mortality. In the field of education, various scholarship programmes have been introduced to improve the accessibility and quality of basic education for the girl child. Technical education and vocational training for women is being promoted. To support efforts to combat the crime of trafficking, a National Rapporteur on Trafficking has been appointed and the jurisdiction of the Special Court for trafficking transferred to District Courts. The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

was adopted at the Eleventh SAARC Summit.

Special measures have been taken to increase the participation of women in political and public life and in the employment sector. Various laws have incorporated mandatory provisions of inclusion of at least one woman in different committees. The law is liberal with regard to the maximum age-limit for women for joining the civil service and teaching profession. MWCSW has initiated providing pre-exam training to women candidates for the civil services. The Tenth Plan mentions that 20% women will be in decision making positions. Among the significant achievements is the Eleventh Amendment to the Country Code, which establishes a number of human rights for women, including inheritance right, reproductive health right, equal rights in marriage & divorce and adoption, and increment in punishment for rape and sexual offences. Through this amendment a number of discriminatory laws that violated women's dignity and freedom have been eliminated. Also a High Power Committee has been established to review the discriminatory laws against women and to initiate the process for their amendment. NGOs have been conducting research on discriminatory laws and carrying out pressure programmes for amending them.

Judicial activism has played a crucial role in amending discriminatory laws against women. The recent verdicts of the Supreme Court interpreting marital rape as a crime, declaring the discriminatory rape law provision and discriminatory RNAC Regulation (on the retirement age of airhostesses the Court focused on the treaty provision, stating that the Convention would prevail in cases of inconsistency between national laws and the treaty) *ultra vires*, recognizing the State obligation to take affirmative action in favour of women, are some of the bold steps taken to protect women's rights. The introduction of collecting cross-section geographically desegregated and gender desegregated data on housing and population from the 2001 Census has led to the identification of women's specific contribution, recognizing their contribution in household work by including it in the national income accounting. Gender indicators have also been developed as a monitoring tool for measuring the status of women in development.

The Ministry of Women Children and Social Welfare (MWCSW) and NGOs have been organizing gender sensitization training/workshops on the CEDAW Convention for different stakeholders including policy makers, the judiciary and local bodies. NGOs are also actively involved in translating and disseminating the Convention and Concluding Comments. Bodies like the National CEDAW Committee and CEDAW Monitoring Committee have been formed to implement and monitor the CEDAW Convention in the national context.

Gaps and Challenges: Despite significant initiatives and achievements after receiving the Concluding Comments of the CEDAW Committee, there are various gaps with regard to their comprehensive implementation.

1. Abortion, though legalized in certain circumstances, is still dealt under the homicide law and the procedure for the implementation of the new law has yet to be adopted.
2. Accessibility to health services and family planning services focuses only on women to ensure reproductive health rights to women.
3. In the education sector, the programme on free and compulsory education has not worked and no initiatives have been taken to change the socio-cultural values that hinder women from seeking higher education.
4. The initiatives taken to address trafficking are inadequate. The SAARC Convention is yet to be ratified by the state parties. In addition, the Convention ignores the important role of the country of destination in preventing, monitoring, rescuing, rehabilitating and repatriating trafficked victims and does not define the specific responsibilities of the destination country. It also lacks a rights-based approach in rescue and rehabilitation programmes.
5. In the political and public sphere, women are still limited to the number of reserved seats and are insignificantly represented at the higher level. There is no reservation policy that provides quotas for women in government services, including civil services. Though many discriminatory laws have been amended or repealed through the Eleventh Amendment to the Country Code and through the Court's decision, there are still various laws that discriminate against women. The law still creates barriers to the legal rights of women on the basis of their marital status. Due to a lack of conceptual clarity on the principle of equality, the judiciary promotes a protectionist approach in the name of special measures for women.

The collection of gender-desegregated data has not been complemented by analysis and policy formulation. Critical sections like women migrant workers, women in violence and peace and displacement are left out in the collection of desegregated data. The sensitization programmes are limited in number and not able to cover all sectors.

The FWLD Study has also attempted to develop indicators to monitor progress, based on the Concluding Comments of the CEDAW Committee. In addition, it has developed a Plan of Action for the effective implementation of the Concluding Comments. Ms. Pradhan-Malla emphasized that joint efforts by the government and civil society are imperative to their effective implementation. Indicators could provide a different strategy and encourage proactive mechanisms. These, she said should be multi disciplinary, with quantitative indicators focusing on numbers and qualitative focusing on laws and policies. Indicators need to take into account other human rights instruments and their recommendations, she concluded.

Presentation on 'The Interplay between CEDAW, National Laws and Customary Practices in Pakistan' by Ms. Yasmin Zaidi

Drawing from a UNIFEM Western Asia supported study, Ms. Zaidi highlighted the points of conformity and disagreement between the rights of the Muslim women as stipulated in the Islamic Shari'a, and in the CEDAW Convention. The Study served as tool for dialogue on CEDAW and the Shari'a, providing a unique opportunity to support and facilitate the ratification, implementation and removal of reservations in the region and to support governments to create effective mechanisms for implementing the Convention's obligations

Within the web of social relations of gender, class and religion, religion/laws/customary practices collude to restrict women, affecting women's right to life, security, work, and social and political participation. In Pakistan, all aspects of women's lives are influenced by the interpretation of laws. These, she said, are classified into formal laws, which include the Constitution of the Islamic Republic of Pakistan (1973), statutory laws (including Indo-British laws), Sharia laws (introduced under the military dictatorship 1977-1988), laws governing non-Muslims and International Conventions. Informal laws include codified and un-codified customs and practices, such as different schools of Muslim thought and related practices, customary practices, tribal codes of conduct, and cultural norms and traditions. Parallel judicial systems are reflected in the Federal Shariat Court and the Shariat Appellate Bench, Article 2A of the Constitution and the Special Trials Ordinance (1987).

Tracing them historically, Ms. Zaidi shared that the laws of 1980 are extremely discriminatory, and that over the years Islamic laws and practices have become institutionalized. For similar actions there are different consequences for women and men. Men are usually condemned for actions, which affect their role as bread earners, such as drug abuse. Special courts were set-up in the 1980's during the military dictatorship.

The Constitution itself does not discriminate:

- Article 25 specifies that all citizens are equal before the law, that they are entitled to equal protection, with no discrimination on the basis of sex alone. It further states that nothing in this Article would prevent the state from making any special provision for the protection of women and children.
- Article 34 says that steps shall be taken to ensure the full participation of women in all spheres of national life. Several commissions have been formed which are supportive of women, including the National Commission on the Status of Women, which was set up in 2000.

The interplay between formal and informal laws, shows the balance being tilted towards the latter. People earnestly follow the Sharia making women's access to justice very difficult. Illustrating this, she gave the example of the right to property, which though supported by formal laws, is not supported by customary practices - women are either married to the Quran or killed. Islamic law introduced in the 1980's looks at evidence from women as being half that of men. Though social rights and the right to life are supported (Article 15 of the Constitution), customary practices are again, very restrictive. Though there are some protective laws with regard to economic rights and the right to work, they are restrictive. For example, in the North West Frontier Province, the compensation for murder is one woman from the murderer's family if the child is below 7 years of age.

It has been found that though direct and indirect support for women's rights can be found in the Constitution and statutory laws, laws can be further improved, particularly those pertaining to VAW, employment and others. The impact of these laws is negated by parallel judicial systems, discriminatory laws, specifically the Hudood Ordinance, the law of evidence, inadequate enforcement and the attitude of the judiciary, which is governed by the social mindset. The Study found that there are a plethora of customary practices: tribal, ethnic, some intertwined with religion and perceived as 'Islamic'. Customary practice and law take precedence over national law & religion and practices that directly contravene national laws and are not always addressed by state.

Thus with regard to right to life, the Qisas and Diyat law, which amended the PPC in 1997, provide for individuals to forgive the murderer, on behalf of the voiceless victim, in return for cash or based on relationship. The beneficiaries of this are mostly men, and the victims, mostly women. On the other hand, adultery, a private and individual matter, has been converted into a crime against the state and equated to rape, under the Hudood Ordinance with no such loophole for 'forgiveness' and 'repentance' again with the victims being mostly women. Examples of support, however, do exist in the form of judgments/ulema that challenge the dominance of customary practices over laws and the Shari'a.

In the spiritual/ religious sphere (Ibadat), women are equally responsible and accountable as men. In the socio-economic sphere (maumulaat), women are inferior to men in terms of social relations. It was thus possible Ms. Zaidi said, to use equality in the spiritual sphere to make a case for equality in the socio-economic sphere.

Lessons from the change in international human rights instruments provide a non-threatening format to review laws. For instance, International Human rights instruments have undergone a progressive journey through three stages, Protective laws, Corrective laws and Non-discriminatory laws, each representing consensus on women's human rights. This categorization, Ms. Zaidi said, is helpful as an advocacy

tool in understanding laws and customary practices that have outlived their utility and may need to be amended or removed to reflect the current situation.

Concluding with a set of recommendations, Ms. Zaidi said that there is a need to categorize customary practices and understand Shari'a in the same way i.e. protective, corrective and non-discriminatory. The advocacy for women's rights could build on this categorization and use it effectively to move from protective towards non-discriminatory. Hierarchy of laws and religious rights could be used as an advocacy tool, existing laws visibly enforced and good practices (of judiciary, law enforcement agencies and religious leaders) promoted. Gender and social audits of government departments, functionaries and elected representatives could be undertaken and advocacy carried out for impact/effects/results, not only for new laws.

Presentation on "The Process of Implementing and Monitoring of the Convention in Nepal" by Mr. Pratap Pathak, Joint Secretary, Ministry of Labor, His Majesty's Government of Nepal

Mr. Pratap Pathak acknowledged that Nepal recognized the CEDAW Convention as a comprehensive bill of rights for women. Based on the principle of substantive equality between women and men and holding the state accountable, it has been effectively used as an advocacy tool to promote equality and the empowerment of women.

Mr. Pathak said that it was significant that CEDAW implementation was guided by the "Principle of State Obligation", quoting Article 24. Describing the Reporting Obligation to CEDAW implementation, he said it was the Convention's prime implementation and monitoring mechanism. The article bound state parties to submit a report on the legislative, judicial and administrative measures adopted to give effect to the Convention, as well as a statement of obstacles and constraints, within a stipulated period of time in the form of preliminary and periodic reports.

He informed that with regard to the implementation of CEDAW, Section 9 of the Treaty Act of Nepal (1990) provides that any treaty or convention once ratified, acceded to, accepted and approved by the Parliament to which the government is a party, becomes enforceable as national law.

Describing the implementation process as the "creation of a delivery system to reach the end", he mentioned the prerequisites for effective implementation. These included:

- adequate and timely *communication*;
- adequate *human and financial resources*;
- *institutional and managerial capability*;

- effective *monitoring mechanism and instruments*; and
- adequate *political and legal support*.

Nepal has used a multi-pronged approach to implement CEDAW. Using a substantive approach, CEDAW was introduced as the basis for national strategies and policies on gender equality and empowerment of women since the inception of the Eighth Plan (1992-1997). This has been followed through in successive plans, including the Tenth Plan (2002-2007) through strategic policies. The operational implementation focuses on programmes and activities, which are women focused/targeted, promoting equal employment opportunities for women and gender mainstreaming. It includes institutional capacity building; judicial verdicts and interpretations; legislative improvements; and collaboration and coordination with civil society and NGOs. Using a behavioral approach, the emphasis is on training, awareness raising and sensitization on gender and women empowerment at all levels of governance including civil society and the private sector; building exercises for behavior change and readiness development through advocacy and lobbying.

The CEDAW monitoring process is an ongoing one and is critical to achieving its objectives. In Nepal, the Ministry of Women, Children and Social Welfare, as the National Focal Agency on Gender, is the focal point for implementing, monitoring and reporting on CEDAW. The reporting obligation is considered prime and involves the formation of a drafting committee, in-house planning, consultation with line ministries and experts, collection of information on CEDAW implementation status, and consultations with experts from government, civil society and the international development community. The MWCSW coordinates, facilitates, monitors, builds capacity and reports to the CEDAW Committee. HMG has established a high-level committee on CEDAW to monitor progress and expedite the process of coordinated implementation of CEDAW. This includes Task Forces on Anti-trafficking, Gender Focal Points, the National Planning Commission, the National Human Rights Commission, the National Commission on Women, the National Commission on Dalits and the Ministry of Foreign Affairs. There is also close involvement of Civil Society, NGO Networks and Media, as well as the Parliamentary Committees and Women Caucus within the Parliament.

Mr. Pathak informed that the CEDAW Plan of Action, which includes the Executive, Judicial, Civil Society, Government and NGOs, is in progress. Other implementing and monitoring instruments on CEDAW include "Gender Equality and Empowerment of Women" National Plan of Action; National Policy and Plan of Action on Combating Trafficking and legislative instruments, which include:

- Country Code on parental property rights, abortion and other aspects of women's rights

- Amendment in the Human Trafficking (Control) Act
- Enactment of Domestic Violence Control Act
- Local Self Governance Act
- Election Act
- Civil Service Act

In Nepal, the major issues and challenges for the effective implementation of CEDAW, include the institutional capacity of MWCSW and Gender Focal Points, a lack of entrepreneurial institutions and monitoring system. The latter involves issues of responsibility and accountability, resources and procedures, indicators and information system. Effective service delivery and coordination, collaboration and synergic capability need to be strengthened. There is also a lack of conceptual clarity, gender responsiveness and gender sensitivity. Other challenges are resource-led, such as national priority, informational weaknesses and resource allocation/constraints. Socio-cultural challenges are faced in the form of discriminatory practices, the social-value system, and structure and culture. A discriminatory legal system and a lengthy process of amendment add to the constraints. In addition, there are extra-constitutional challenges, such as armed conflicts and the lack of an enabling environment for CEDAW implementation at the grassroots level.

Discussions/Deliberations on CEDAW

Ms. Ayesha Khanam of the Bangladesh Mahila Parishad, agreed with Ms. Salma Khan's point that there was a lack of awareness on the Concluding Comments. She informed that in Bangladesh, the NGOs are planning a workshop on them and that the Bangladesh Mahila Parishad had conducted 40 workshops on CEDAW with trainers, lawyers and judges. She commended Nepal on its experience of amending laws, noting that the de facto situation needs to be improved through domestic law.

Commenting on the number of laws being amended in Nepal, Ms. Salma Ali, Executive Director, (BNWLA), asked if they were being implemented. With Bangladesh having ratified the Optional Protocol, she asked whether, cases that were not getting verdicts could be taken to the CEDAW Committee. Ms. Salma Khan, Expert CEDAW Committee Member from Bangladesh responded that cases could be taken to the CEDAW Committee, in cases where the Optional Protocol had been ratified by the country, after all domestic measures had been exhausted and if the discrimination was grave and systematic.

Ms. Sapna Malla, said that the CEDAW process in Nepal had led to the development of a partnership between the Government and civil society. In response to the dissemination of the Concluding Comments in Nepal, she said that the NGO's had initiated their translation into the local language and now worked in collaboration

with the government to disseminate them. The Study in 2000 showed that many people in the line ministries did not have in-depth knowledge on CEDAW and the Concluding Comments. She emphasized the importance of the translation of CEDAW in other line ministries, as the Ministry of Women's Affairs could not take sole responsibility for its implementation. It was important to link implementation of CEDAW with other human right conventions, she said. Concluding Comments are the beginning and not the end.

Ms. Vasudha Gupta, Deputy Secretary, Department of Women and Child Development, Government of India, said that the CEDAW implementation and monitoring in India has been a vibrant and continuous process. It has a proactive judiciary; measures have been taken to amend laws; there are mechanisms like the National Commission for Women and the National Human Rights Commission, as well as a Standing Committee on the Empowerment of Women, which has taken up the issue of education. For its Second Report, a national consultation had been held and they were moving towards regional consultations.

Ms. Salma Khan reiterated the importance of taking into consideration the comments on earlier reports submitted to the Committee. All SAARC countries upheld equal rights for women and men, but this is only in public life. A major personal area of women's lives is left untouched and this is what the women's movement needs to take up. All the five countries that have reported are complacent and silent about women's private lives, as a result of which, a major area of discrimination remains untouched. Religious laws have been at the root of discrimination and have not been given due consideration. This needs to be brought to the attention of Governments, NGOS, and activists. Perhaps there is the need for a uniform civil code for all citizens. Emphasizing substantive equality, she said that unless women got rights equal to those of men, in both the public and private sphere, they would not enjoy true equality.

Panel Discussion on Trafficking
An Overview from South Asia

Chaired by H.E. Mr. Q.A.M.A. Rahim, Secretary General SAARC
National and International Laws and Legal Instruments Addressing Trafficking:
Opportunities and Bottlenecks by Ms. Sapna Malla Pradhan
Aspects of Rescue and Rehabilitation: The Cross-Border Dimension by Salma Ali,
Executive Director, BNWLA
Situational Analysis of Trafficking in India by Mr. P.M. Nair of the Institute of
Social Sciences (ISS)
Impact of Community Action in combating Trafficking by Dr. Neelam Gorhe of
Stree Aadhar Kendra

A technical session focusing on the trafficking of women and children was organized, as a part of the process of addressing regional priorities.



Session on Trafficking of Women and Children in Progress

Presentation on 'National & International Laws and Legal Instruments Addressing Trafficking: Opportunities and Bottlenecks' by Ms. Sapna Malla Pradhan

Using the framework of National & International laws and legal instruments that have been introduced to address trafficking, Ms. Pradhan traced these historically. Among others, she included the ILO Abolition of Forced Labour Convention No 105 (1959), CEDAW (1979), CRC (1989), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children supplementing the UN Convention against Transnational Organized Crime (2000) and the Optional Protocol to CRC on the Sale of Children, Child Prostitution and Child Pornography (2000). With regard to regional instruments, she mentioned the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002). Declarations included the Declaration on Elimination of VAW (1993), the BPFA (1995) and Further Action and Initiatives to implement the BD and PFA (2000).

Stating that trafficking is a transnational crime, Ms Pradhan said many South Asian countries are countries of origin, as well as destination. These instruments present many opportunities. In South Asia:

- All SAARC countries have signed the CRC and CEDAW
- India and Sri Lanka have signed the Protocol on Trafficking
- Nepal, Pakistan and Sri Lanka have signed the Protocol on Child Pornography and Bangladesh and Maldives have ratified it
- Bangladesh, Nepal Pakistan and Sri Lanka have ratified the Suppression Convention and Bangladesh and Pakistan the SAARC Convention

Ms. Pradhan provided an insight into the Conventions. The ILO Conventions discourage all forms of forced labour, prohibit worst forms of child labour and all forms of slavery. The Protocol to Prevent, Suppress and Punish Trafficking enables victims to participate in the criminal proceedings, provides compensation to the victim and varied assistance, which includes, housing, legal and social counseling, temporary or permanent residency, confidentiality during legal proceedings and voluntary repatriation of the victim. It further provides for information in own language, right to non-discrimination, exchange of documents, border measures and information exchange. It also provides capacity building of law enforcement agencies, cooperation among law enforcers, repatriation of victims of trafficking, training for the law enforcement, immigration and other relevant officials, as well as a dispute settlement mechanism.

The CEDAW Convention calls for all appropriate measures to suppress all forms of trafficking of women and exploitation of the prostitution of women, with general recommendation 19 focusing on addressing the root cause (poverty and unemployment) punitive measures. The SAARC Convention on Trafficking criminalizes trafficking and provides for the creation of proper judicial procedures, regional cooperation, preventive measures, extradition, capacity building of law enforcement and rehabilitation of rescued victims. The Child Right Convention provides for measures to prevent all forms of abduction, sale or trafficking of children and for punishment for the sale of children, child prostitution and child pornography with or without consent. The Suppression of Immoral Trafficking has an extradition obligation. The Declaration on VAW includes trafficking in women and forced prostitution, protection of human rights of the victims, effective suppression of trafficking for the sex trade and tourism. As a priority, it calls for introducing effective legislation to combat trafficking. She informed that the Rapporteur on VAW will be linking the issue internationally and in the UN Human Rights Committee. Some human rights instruments, she said, have a reporting mechanism, which makes the State accountable on combating crime and protecting the human rights of the affected

person.

Identifying the bottlenecks in the international framework, she said that the Protocol to Prevent Suppress and Punish Trafficking only supplements the Convention and is not independent. Its jurisdiction is only on organized crime and not when family members collude to sell. It does not have a reporting or complain mechanism. The Suppression of Immoral Trafficking Convention creates obligations only if ratified by receiving and sending countries. The SAARC Convention on Trafficking needs to broaden the scope of definition. It lacks a treaty monitoring mechanism and is not able to protect victims from criminal liability with no distinctions in treatment between women and children. It does not respect a woman's choice for migration and repatriation and has no provisions for victim compensation.

With regard to the South Asia region, she observed that the Constitutions of the region protect the right against exploitation, the right to equality and non discrimination, the right against sexual exploitation and selling of human beings, forced labor and slavery. With regard to national laws against trafficking, she informed that Bhutan and the Maldives have no laws. In India there is the Immoral Traffic (Prevention) Act 1956; in Bangladesh there is the Suppression of Immoral Traffic Act 1933 and the Suppression of Violence against Women and Children Act 2000; there is draft legislation in both Bhutan and Nepal: Immoral Trafficking Control Act 1999 in Bhutan and Human Trafficking Control Act 2001 in Nepal.

Identifying the gaps in national legislation, she said there is no comprehensive definition of trafficking and there is a moralistic approach focusing on suppression of prostitution. It criminalizes the trafficked person under immigration laws and no confidentiality is maintained in the legal proceedings. It offers victims no protection or support and focuses on combating crime, offering victims no compensation. There is no extradition treaty incorporating trafficking as an extraditable crime and lacks conceptual understanding on migration/trafficking and prostitution.

Presenting recommendations for all levels, she said that at the international level, there is a need for a comprehensive standard that includes all aspects of trafficking. Instruments are needed, which focus on different aspects. For example, for prostitution, aspects such as, being transnational in nature and organized crime, the selling of children and forced labour, need to be covered. There is a need to bring consistency in the entire framework and approach. The politics of different positions need to come to a common understanding (GATW/CATW).

At the Regional level, she said, regional surveys need to be conducted. These include research on statistics on trafficking, regional laws and policies and infrastructure available, including law enforcement mechanisms and other support systems such as homes, legal aid, health, counseling, and income generating programmes. There is also a need to create a regional information resource centre and enter into bilateral/

multilateral agreements for necessary cooperation.

At the National level, she suggested ratification of the Protocol on Trafficking and the SAARC Convention and legislation, which included: extraterritorial jurisdiction, comprehensive definition, strong punishment, and compensation to the victim, victim protection, burden of proof on the accused and rehabilitation home with minimum standards. Other recommendations included, in-camera hearing, rehabilitation and reintegration, bringing the international framework in domestic legislation; entering into bilateral agreements for necessary cooperation; awareness/sensitization programmes; entering into extradition treaties; economic development in areas prone to trafficking; education; border monitoring and monitoring. Reporting, she said is important, and this includes timely reporting under the Convention to the relevant committee through the periodic and alternate reports. Finally, she recommended the establishment of gender friendly institutional mechanisms and the creation of an enabling environment for reporting the cases.

Focusing on benchmarks, she informed that in the Nepal legislation, the burden of proof lies with the accused unless it is near relatives and there is provision for extraterritorial jurisdiction. She quoted the case of the Forum for Women Law and Development (FWLD) vs. His Majesty's Government of Nepal (HMG/N) 2002, with the court declaring *ultra vires* the discriminatory punishment laws on raping prostitute women. The case involved the rape of a prostitute in Pokhara by two men, who were let off with a fine of Rs. 500 only, because the victim was a prostitute. Other benchmarks included the appointment of a National Rapporteur on Trafficking and the establishment of a new Labor Policy in Nepal in 2003, reflected in the lifting of the ban on women's employment to the Gulf Countries in the organized sector.

Presentation on 'Aspects of Rescue and Rehabilitation: The Cross-border Dimension' by Ms. Salma Ali, Executive Director, Bangladesh National Women Lawyers' Association (BNWLA)

Stating that Bangladesh and Nepal are sending countries and India, Pakistan and the Middle East receiving countries, Ms. Salma Ali focused on aspects of rescue. Lack of established standards, she said, make the rescue of cross border victims much more difficult than those trafficked internally. This often leads to victims being re-victimized in the name of rescue. Giving an example of the successful repatriation of a rescued victim, she said, it is critical to have cross-border and cross sectoral linkages among NGOs and human rights commissions, the police, and the border security force and for them to work in concert. A deportation/restoration order by a court of the receiving country is not enough, as the sending country has to verify the victim's information, before accepting the victim back and to prevent other nationals from entering its borders. Without this verification, and without permission from the Ministry of Home

Affairs, victims risk the danger of becoming persona non-grata in their own country and vulnerable to being re-trafficked. The example showed how NGOs within the region are working to repatriate a trafficked victim back to her country of origin. Due to the non-existence of any agreement or treaty between the country of origin and country of destination, the repatriation of hundreds of women and children is delayed.

Presenting a snapshot of the trafficking scenario in South Asia, Ms. Ali informed that throughout the region, women, girls and boys are trafficked within their own countries and across international borders. Though it is difficult give numbers, the Congressional Research Service and the U.S. State Department estimate that each year, between 1 and 2 million people are trafficked worldwide. Of these, the majority originate in Asia (over 150,000 from South Asia and 225,000 from South East Asia).

Recent years have seen a steady increase in the number of women and children who have been objectified and commoditized by both the national and international markets. Women and children within the South Asia region are trafficked for prostitution, pornography, sex tourism, domestic and construction work and industrial work not suitable for them. Children are trafficked for camel jockeying and drug peddling, but women and girls are predominantly trafficked for use in the sex industry within and outside South Asia. Gangs of organized traffickers usually target the poorest and the most disadvantaged. Children and women from Bangladesh and Nepal are trafficked to India, Pakistan and the Middle East for engaging in the above mentioned trades. The victims are abducted / lured by promises of a better life through offers of a lucrative job, marriage or false proposals to visit holy places. Most Bangladeshi women and children victims of cross border trafficking are sold in brothels or forcibly engaged in prostitution in cage brothels in receiving countries like India, Pakistan and different Middle Eastern countries.

She pointed out that trafficking is an aspect of migration. Case studies, she said, show that the experience of being trafficked often initiates a migrant career. Lured, deceived, cheated, deprived of freedom and/or income, compelled to engage in work against their will, women who are trafficked painfully learn and acquire survival skills. There is usually no return to a pre-trafficked situation, and very seldom leads to rehabilitation through a rescue process. A recent study, she quoted, showed that most of a large number of women migrants from Bangladesh to different parts of India, Pakistan, Malaysia and the Middle East, have ended up in a trafficked situation. Migration to the Middle East is characterized by its high cost. The money provided by a husband, a father, a moneylender or an NGO creates tremendous pressure on migrant women to accept whatever work is demanded, in most cases sex work, against their will. She shared the findings of another study conducted by a Kolkata based organization, covering most of the Red Light areas in Kolkata. This showed that a large number of women and children are being trafficked there from adjoining districts and from other countries - almost 40% women from Nepal and 30% from Bangladesh, 60%

of these being minor girls. The study also reveals that almost all the victims living in the red light areas are HIV positive or with AIDS.

She drew attention to the magnitude of trafficking, by sharing the findings of the 1998 study conducted by the Bangladesh National Woman Lawyers' Association (BNWLA) in 250 villages. According to it, a total of 7000 women and children become victims of cross border trafficking every year, though the real numbers may be much more. In addition, there is a great deal of internal trafficking, the numbers for which are not known. An estimated 10 million men use prostitutes regularly in the South Asia region. According to government statistics, there are 16 registered brothels in different districts of Bangladesh with around 10,000 girls forced into prostitution, with almost 50% being under 18 years of age. According to a police assessment there are around 15,000 to 20,000 floating sex workers, with about 50% being between 10-20 years of age. Almost all the girls forced into prostitution are sexually abused before entering into sex work. In India, there are over 1200 red light areas (National Commission for India) and an estimated 2.3 million women and girl children in prostitution, a quarter of whom are minors. According to the findings of BNWLA, it is estimated that between 1990 and 2000, 30,000 women and girls were trafficked from Bangladesh to India.

In combating trafficking, BNWLA looks upon the following areas as vital: rescue of victims of cross border and internal trafficking, voluntary repatriation of victims to the country of her/his origin, rehabilitation of the survivors through reintegration into mainstream society and legal aid for survivors. The first step, she stressed, is rescue from exploitation, reiterating that there are more difficulties in the rescue of victims of cross border trafficking. Though some modalities for the repatriation and rehabilitation of trafficked victims are provided in the SAARC Convention on Combating Trafficking, there is no manifestation of modalities in a country of destination. In the South Asia region, some NGOs work in partnership to initiate operations of rescue of trafficked victims, often seeking assistance from the government.

Successful rescue initiatives involve verification of information to check the authenticity of the information received and assistance and cooperation from law enforcement agencies. After rescue, in most cases, magistrates prefer to send the victims to jail in the name of safe custody, thus doubly victimizing the victim. NGOs want to take the victim to a safe shelter for counseling and subsequent reintegration into mainstream society. However, building trust in the survivors towards the rescuers is not easy, and needs constant psychosocial and legal counseling. Repatriation, Ms. Ali emphasized is the most important step in bringing the victims of trafficking out from a foreign land. It is necessary to secure the human rights of the survivors of trafficking, which includes reunion of survivors with their family, re-establishing the victims in their own country and initiating legal action against traffickers. A lack of

state level agreements and/or established modalities of repatriation of trafficked victims make quick repatriation difficult, which is necessary to avoid further victimization.

To ensure speedy and safe repatriation of the trafficked victims, she made the following recommendations:

- Undertake effective measures at State level to ensure quick repatriation of woman or child victims of trafficking to avoid further victimization
- Concerned governments need to develop modalities for repatriating victims of trafficking to the country of origin in the shortest possible time
- There should be a focal point, which includes a representative of the government and NGO/CSO to implement the repatriation process
- NGOs working on the issue of trafficking, particularly in repatriation, should be involved in the process of repatriation at both ends
- Repatriation of trafficked victims should be arranged and performed in the best interest of the victims
- Repatriation of trafficked victims should be done with the voluntary consent of the victims

Post rescue and repatriation, survivors of trafficking need proper rehabilitation support either from the government or from NGOs. Some important aspects are:

- 1) Providing them with temporary safe shelter
- 2) Providing psychological and health care support
- 3) Providing psychosocial counseling by trained and experienced counselors
- 4) Arranging need based education and skill development training for the social and economic empowerment of the survivors
- 5) Ensuring peer environment for survivors at safe shelters
- 6) Providing the family and the community with psychosocial counseling so that they take a non punitive approach towards the survivors when she is reintegrated into the society and
- 7) Ensuring legal support if necessary. In order to ensure this, the caregivers (GO-NGO) needed to have a standard guideline developed on the basis of prevailing cultural norms and values of the concerned society.

To combat trafficking, Ms. Ali informed that BNWLA's various programmes include, repatriation of trafficked victims from different countries, including India, Pakistan and the Middle East. In order to minimize the problems faced in repatriating victims

from India, BNWLA has proposed to the governments of Bangladesh and India to enter into a bi-lateral agreement. It is also lobbying for a multilateral agreement within the South Asian region and beyond, including sending and receiving countries. It has prepared a "Draft Bilateral agreement on Trafficking in Women and Children between the Government of Bangladesh and the Government of India" and shared it at the policy level of the Government of Bangladesh through workshops in Dhaka and Kolkata.

BNWLA also works in the rescue and release of victims of internal trafficking and sexual exploitation from captivity, including the jail (safe custody). It faces hindrances in rescuing/releasing victims due to a lack of birth registration in almost all cases, as well as inadequate sensitization of the people dealing with the issue, including the police and magistrates. In response, BNWLA has undertaken programs in the form of advocacy on the issue of birth registration and training for concerned groups including the police, public prosecutors, judges, lawyers, and journalists.

For BNWLA rehabilitation is one of the most important aspects. It has developed a guideline on the sustainable reintegration of the victims of trafficking and sexual exploitation into society. A manual is being developed, based on the findings gleaned from the implementation of the guideline at the community level. Its reintegration approach involves the whole of a Union Parishad through the constitution of a committee comprising people from all walks of life, taking into consideration the prevention and protection aspects of trafficking during the time of reintegration of the victims. This raises the awareness levels of the community on trafficking and its consequences, creating a bulwark of safeguards at the community level.

With regard to legal support, BNWLA provides it to the survivors of trafficking, sexual exploitation and abuse, identifying survivors who need it. It also provides legal aid to the survivors of cross border trafficking. The organization has its member and panel lawyers in almost every district in the country, providing legal support even at the grassroots level. The legal cell of BNWLA undertakes legal action against the traffickers and perpetrators.

BNWLA networks with different organizations in Bangladesh as well as within the South Asian region. In Bangladesh, BNWLA in collaboration with the ATSEC Bangladesh Chapter is carrying out a national campaign to prevent trafficking in women and children. It has also undertaken regional and cross border initiatives in Bangladesh and is working with its partner organizations in India and Pakistan to combat trafficking and the sexual exploitation of children.

In the capacity of being the Regional Facilitator Focal Point on Sexual Exploitation of Children NGO Group for the Convention on the Rights of the Child, Ms. Ali said she would be sharing information on the issue with counterpart organizations in the region.

Situational Analysis of Trafficking in India by Mr. P.M. Nair of the Institute of Social Sciences (ISS)

Mr. P.M. Nair from the Indian Police Service, currently on deputation to the National Human Rights Commission (NHRC) for carrying out the Action Research on Trafficking on Women and Children presented an overview of the unique initiative, "Trafficking in any Form is a Crime". With multi partners, the initiative, he informed is a combined initiative of the NHRC, the Department of Women and Child Development (DWCD) Government of India (GOI) and UNIFEM, with active involvement of State Governments, NGOs and academia. He identified lack of reliable data as a challenge, observing that available data is often, both contradictory and unreliable.

Sharing the scope of the Study, Mr. Nair informed that the national study area includes fieldwork in 11 states (West Bengal, Andhra Pradesh, U.P. Karnataka, Bihar, Delhi, Maharashtra, Chennai/Pondicherry, North East, Goa and Rajasthan) using a human rights perspective and the UN definition of trafficking.

The Study aims to map trends, dimensions and the process of trafficking, looking at factors and causes, the vulnerability factors as well as the features of demand and supply and the response of government agencies (police/judiciary/departments), NGOs and society. With regional dimensions, it is attentive to metros and local issues, trans-border issues, estimated revenues, the numbers involved, the organized nexus, attitudinal and institutional issues as well as legal systems. It presents a comprehensive Plan of Action, focusing on Prevention, Protection, Prosecution, institutional and attitudinal changes, as well as changes in laws.

The methodology involves a review of literature, field research, questionnaire, survey of missing people, data analysis with stakeholders, case studies and a combination of qualitative and quantitative methods in the 11 states with NGO partners. The monitoring committee consists of NHRC, DWCD, Government of India and Institute of Social Sciences (ISS).

The Institute of Social Sciences (ISS) has a national study team, with experts for specialized jobs. Its responsibilities include coordination, the preparation of tools, and participation in the research. It is also responsible for the orientation of researchers and analyzing data.

The National Human Rights Commission (NHRC), he informed, is a unique statutory body with a gender focal point to deal with the human rights of women, including matters of trafficking. They are the legitimate authority on human rights in India and an ombudsman on human rights promotion/violation. It ensures implementation and accountability of governments and NGOs to the principles of human

rights/Constitution/ and UN and International Protocols. It is empowered to order redressals against state and non-state violators and to lobby and advocate with, not only the executive, but also the legislative and judiciary.

Committed to anti-trafficking, the Department of Women and Child Development (DWCD) GOI has a National Plan of Action to combat trafficking of women and children (1998) with a Central Advisory Committee to monitor. It reviews work by states and has innovative schemes and programmes for rehabilitation, counseling, prevention and empowerment. Detailing the programmes, he mentioned the Swadhar Scheme for women in difficult circumstances, which till March 2003, had 22 programmes with more than 3000 beneficiaries and a sanction of Rs. 712 lakhs. Grant-in-aid to combat trafficking till March 03 had sanctioned 11 schemes, with 450 beneficiaries and a sanction of Rs. 85 lakhs.

UNIFEM is providing financial support for research, for outreach processes, for technical backstopping, for participatory/interactive integration with other schemes, catalyzing an anti-trafficking mass movement.

Trafficking, he said, is seen as a violation of human rights/women's rights, covering all regions of the country. Focusing on the uniqueness of the action research, he noted that this was the first time that the NHRC is spearheading the crusade in partnership with the Government of India (GOI). Features which make it distinctive are its inclusive approach, which includes Government, NGO, Corporate and Community and the use of a participative process in consultation with all stakeholders, giving an importance to the perspective of the trafficked person. There are two main perspectives, that of organized crime and that of a human rights violation, which are not mutually exclusive. Though the issues and persons remained the same, there was a difference in approach.

Delineating the two main perspectives, Mr. Nair observed that transnational organized crime of trafficking from a victim's perspective includes: abduction, criminal confinement, criminal restraint from thought/action, physically and mentally tortured, sold, purchased, outrage of modesty and repeated rape. They are the victims of sexual perversions, servitude, debt bondage, denial of privacy, denial of access to justice with no redressal, criminal conspiracy with multiple abuse and abusers. The human rights perspective of the person trafficked across the borders includes: deprivation of the right to life, to security (physical and economic), to privacy, denial of access to health services, of the right to self determination (resold), of the right to return to their own community (stateless), of the right to representation (statelessness) and the right to be heard before decision making.

Spotlighting the exceptional nature of the action research, Mr. Nair informed that nodal officers on trafficking have been appointed in all states with one representative of the police and one of other departments. He reported that the first Nodal Officers

Conference has been held and there is recognition of the human rights perspective by all states. This, he said, is the first level of sensitization. In addition, there is also a national platform for a coordinated approach with prospects beyond and post-project.

Research partners (NGOs) are involved in training to increase mutuality of functioning of the Police and NGOs and removing distrust among voluntary and statutory partners in law enforcement. The basic human rights approach involves everybody but does not condemn any institution. It builds faith and trust, providing an opportunity to learn, understand, introspect, improve and change.

Other spin-offs have included the strengthening of referral and institutional linkages, the formation of a network of linkages and the adoption of an approach that is guided and determined in the best interest of the trafficked person. It has brought about advocacy with the judiciary, interface with the media, policy advocacy involving DWCD and state governments, and the promotion of government schemes, such as the Swadhar Scheme for women in difficult circumstances and the pilot project to combat trafficking. It has led to crimes getting registered and a change of strategy in law enforcement, which includes a paradigm shift, a change in mind-set and a focus on the rescue of trafficked persons.

Traffickers are beginning to be arrested and convicted. Moreover, it has facilitated rescue, rehabilitation and re-integration, involving Panchayati Raj Institutions (PRI) as well in anti trafficking. Hoteliers and the tourism industry are being sensitized on sex tourism and trafficking and Public Interest Litigations are beginning to appear in the Supreme Court and High Courts. The government response reflects a growing awareness and the initiation of multi disciplinary action programmes across the country. It has also led to NGOs assertion in a participatory role and ensuring human rights, as well as catalyzing public debate on various aspects of prevention, protection and prosecution, leading to a national awakening and momentum.

Concluding, Mr. Nair stressed the need for recognizing trafficking as a transnational organized crime and a crime against humanity. He put forth some key suggestions, which included:

- Undertaking action research at other places too, as well as mapping all trans-border trafficking routes, source, transit and destination points.
- Concerted efforts in profiling traffickers, sharing intelligence, financial tracing and in the confiscation of illegal assets.
- the need for: an immediate “working” arrangement for the repatriation/rehabilitation of trans-border trafficked persons
- the establishment of a taskforce
- recognition/institutionalization of an ad hoc committee, comprising NGOs and

local officials;

- training of border law enforcement officials and NGO partners on a bilateral basis, which would include sensitization and capacity building;
- Building up of bilateral functional systems; and providing facilities for effective functioning.

Presentation on the 'Impact of Community Action in Combating Trafficking' by Dr. Neelam Gorhe of Stree Aadhar Kendra (SAK), Maharashtra, India

Dr. Neelam Gorhe began her presentation by stating that the issue of trafficking is dominated by the politics of silence. She said there is a need to strengthen the community, where the caste system plays an inherent part. During the planning process of the Ninth Plan, she recalled, that the police had been criticized by the women's movement for not treating the women properly. Stree Aadhar Kendra (SAK), she informed, tried to raise legal awareness of women and men through the mahila mohalla committees, which are at the grassroots level. Every day letters were sent to the police to take action and now in the last two years, she said, there has been no need to do so. When the time comes for giving credit, she said, constables are given credit, and this has acted as an incentive to the policemen. This has been sustained despite the transfers.

Giving an overview of the strengths of SAK, Dr. Gorhe informed that for the last two decades, it has had a grassroots presence with acceptance from the community, as well as from NGOs and policy makers. The methods used by SAK for its anti trafficking programme have been developed from its successful interventions dealing with VAW, and are linked closely with its zero-violence-zones programme and its work in counseling and legal aid. Using policy advocacy for women at the state and at the centre, SAK has been involved in the formulation of the policy for women in the state in 1994 and in the State Action Plan for women in 1998. The Chairperson of SAK headed the Maharashtra State Women's Development Finance Corporation in 1999-2000 and is a UNIFEM Think Tank member and also a Member of the Legislative Council of the Government of Maharashtra. SAK has a close collaboration with the State and National Commission for Women and excellent relations with the media.

Focusing on the achievements of its anti-trafficking programme, Dr. Gorhe informed that the issue has become visible due to good media coverage, with a hundred lives being saved through prompt intervention in the first fifteen months. The issue has been mainstreamed and linked with domestic violence and economic rights and the police machinery has become proactive and responsive. Through an outreach programme, the intervention is extending to areas outside Mumbai and Pune.

Elaborating on ways to intervene, Dr. Gorhe listed the following:

1. At the community level with the vulnerable women; in hospitals with the survivors; at railway stations and bus stands with the vulnerable; at remand homes for girls with the survivors; and in red-light areas with those already trafficked.
2. Other effective ways of intervening were by using Flying Squads as an immediate response to reported atrocities; by interacting closely with the media to raise public awareness and consciousness; and by raising questions and promoting discussions in legislative houses.

Challenges listed by her included: instability in relations with government officers due to transfers; silence on the issue on the part of the development sector, including NGOs; sensationalization of the issue by the media rather than a focus on the gender aspects; insensitivity of the remand home staff and poor services; and a strong nexus among anti social elements, who are better placed to take advantage of the loop-holes in the law.

Drawing on SAK's experience, Dr. Gorhe said the identification of vulnerable girls is a challenge. Stressing on the need for training for interacting with trafficked girls, she informed that activists who have been trained in law and counseling mix with travelers in order to identify them. The girls, she said, are from Nepal, Karnataka, West Bengal, and Maharashtra, who list various reasons for leaving home. They range from being attracted to the film industry, falling in love with the "trafficker", loss of love at home, or being overly burdened, as in cases of a drought, the burden inevitably falls on girl children. The fact that no remand home is ready to take in rescued girls, poses another challenge. She shared the landmark judgment, where a couple using children in blue films were punished for a term of four years of rigorous imprisonment. Though rape was not proved they were put behind the bars on the ground of cheating.

She listed the following as future areas of focus:

- Establishing a resource centre for NGOs, peoples' representatives and the media;
- Working with the communities and vulnerable women;
- Focusing on communities tending to migrate; strengthening legal remedies and punishment mechanisms;
- Developing support structures for vulnerable families; and sensitizing the community, involving the legislative assembly, the bureaucracy, and the law enforcement machinery, remand homes, the railway police and the Home Ministry, raising awareness amongst the public and creating public pressure.

Deliberations on Trafficking

Ensuing discussions on the presentations led to suggestions on the way forward as well as highlighted specific areas of concern.

The Way Forward

India: Dr. Ayyar observed that trafficking has many regional dimensions and political realities, which cannot be ignored. A regional plan of action, he said would be more realistic than a bilateral framework. The SAARC Secretariat could do much in cooperation with governments, such as networking with Interpol; setting up a regional mechanism for prosecution and judicial process, which is particularly difficult in cross-border cases; and focusing on rescue and rehabilitation, counseling and best practices.

Bhutan: Ms. Neten Zangmo suggested that treaties at the national and regional level need to be action/report oriented in order to be effective. She commented that though there are many of these, they have been relegated to non-action.

Bangladesh: Ms. Salma Ali noted that bilateral cooperation is important between sending and receiving countries in order to facilitate extradition and repatriation and the provision of support services to assist reintegration. She said Bangladesh would like bilateral agreements with Pakistan and India.

India: Mr. P.M. Nair of ISS said a regional initiative is needed. He informed that a request has been submitted to the SAARC Secretary General with regard to the political and financial tracing and profiling of traffickers. He said there is a need for mechanisms at the grassroots to assist reintegration, such as rural committees.

India: Dr. Neelam Gorhe stated that there is a nexus between anti-social elements and traffickers. Pilot good cases, she said need to be shared and a Regional Committee set up to share best practices and promote learning in the region, including the railway police. The government's support is required, as this information is needed in the local language and at the level of the local bureaucracy. She suggested that migration mapping could also be useful, particularly in tracking traffickers.

Issues of concern

Bangladesh: Ms. Ayesha Khanam mentioned the position of victims as illegal immigrants in the receiving country. This she felt could initially be worked out through bilateral discussions, and followed up later by regional discussions.

Pakistan: Ms. Rukshanda Naz identified trafficking in war affected areas, as well as the customary practices on bride price cases in the Gulf areas. She stressed the importance of organized documentation of marriages.

Responding to the discussions, H.E. Mr. Q.A.M.A. Rahim, SAARC Secretary General, who chaired the panel, suggested that the mechanism deployed by the Convention on Terrorism for collecting and analyzing information and its dissemination could be replicated for trafficking. Linking SAARC and the issue of trafficking, he commented that the presentations had highlighted poverty as one of the root causes of trafficking and poverty alleviation is an overarching goal of SAARC.

Sharing from the 47th Session of the CSW & WSIS on “The participation and access of women to media” by Ms. Bandana Rana, Chairperson of Sancharika Samuha, Nepal

Ms. Bandana Rana's presentation focused on the fact that the general perception is that ICT is technology and has nothing to do with women. It sought to present ICT as tools for Social Action and Change. She shared experiences of the 47th Session of the CSW, in particular relation to the importance of media and the potential of ICT in securing gender equality and empowering women. The session reiterated the objectives and actions of the BPFA and the Outcome Document on the potential of the media and the ICT to contribute to the advancement and empowerment of women. Therefore, it welcomed the convening of WSIS (World Summit of the Information Society) and urged the integration of gender perspectives in every facet of the Summit. It encouraged high participation of women in the Summit and called for the participation of gender equality experts and women ICT experts as members of national delegations and civil society and business organizations.

Ms. Rana recalled the Maldives Forward Moving Strategies, where the sharing of information and information technology had emerged as an area of key importance, especially in the sharing of best practices on self-help, globalization, positive reporting on violence against women and other issues. Though negative portrayal of women continues in the media, it is now beginning to include positive images, as well as important issues such as trafficking, migration, economy, and trade. Giving an insider's view of the media profession, Ms. Rana said that men are still given preference, when it comes to reporting on so-called 'important' issues. Constraints still exist for women to rise in the media, including sexual harassment.

At the CSW, many women worked on information sharing and the draft included many gender issues. She shared information on the forthcoming World Summit of the Information Society (WSIS), scheduled for December 2003 in Geneva. A joint initiative of civil society, Government, UN and the Private Sector, the WSIS sought to put gender on the agenda of information and ICT.

Sharing information on the Preparatory Process, she informed that Prep Com 1 had

focused on e-learning, e-government, e-inclusion and ICTs and Network Security Issues. Prep Com 2 focused on human rights as being a key for WSIS, people-centric, bridging divides and deploying opportunities to address gender perspectives in all aspects of the agenda, in accordance with the Millennium Declaration, the CEDAW, the BPFA and other instruments adopted by the UN. She reported that at the February 2003 Prep Com, it was found that the final drafts of documents did not contain a single reference to gender equity, gender issues and/or gender concerns. This was brought to the attention of the President informally, who assured them that the situation would be re-dressed. Ms. Rana informed that there was still time to influence these processes as the next event was the Intersession Working Group in July and Prep Com 3, which was scheduled in September 2003 in Geneva. She shared that the WSIS Multi-stakeholder Gender Caucus, (includes women and men from national governments, civil society organizations, NGOs, the Private Sector and the UN System) and the NGO Gender Strategies Working Group, which is a formation of women's information and communications organizations, were working in partnership to get gender on the WSIS agenda. She emphasized that it was important to ensure that women are not excluded from ICT.