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## Women, Law and Democracy in Nepal: An interview with Sapana Pradhan-Malla

Gérard Toffin and Shova Shakya\*

Sapana Pradhan-Malla was born in November 1963. As a practising lawyer before the Supreme Court, she has been an advocate for the rights of Nepali women in several landmark cases. She is a founding member of the Forum for Women, Law & Development (FWLD) (*Mahila, Kanun तथा Bikas Manch*), Legal Aid Consultancy Centre (LACC), Lalitpur, and of the Public Interest Litigation Forum (Pro Public), non-government organisations. She has published extensively on the legal status of women in Nepal. Since 2008, she has been a member of Nepal's Constituent Assembly. She has been awarded the 2008 Gruber Foundation Women's Rights Prize alongside two other activists from other countries for advancing gender activities.<sup>1</sup>

### **'I can speak Bhojpuri more fluently than Newari.'**

*GÉRARD: Sapana, would you first tell me about your childhood?*

SAPANA: I was born and brought up in Nawalparasi. Although I'm Newar by birth, four or five generations of my family have lived there, so we are more like locals and I've adopted the Terai culture.

*GÉRARD: Was Newari spoken at home?*

SAPANA: My grandparents used to speak it fluently. All their daughters-in-law come from Kathmandu and they send their daughters to Kathmandu. As a consequence my mother speaks Newari fluently but not my father. I can speak Bhojpuri more fluently than Newari. When I reached class five, I decided to come to Kathmandu because all the members of my family used to study there. I was the youngest and my parents wanted me to stay with

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\* Gérard Toffin is Director of Research at CNRS (Paris). He has been conducting research in Nepal since 1970 and he is currently working on women's legal issues in the Kathmandu Valley. Shova Shakya is a Harka Gurung Research Fellow (SIRF, Lalitpur). At present she is focusing her research on Newar single women. This paper is part of a larger research project, 'Justice and Governance in India and South Asia', co-ordinated by Daniela Berti, CNRS.

1 This interview was recorded on 18 August 2010 at FWLD, Thapathali, Kathmandu.

them. As a result, I fell behind in my studies. I only started studying the alphabet in class three. The standard of education was poor in Nawalparasi, so there was no option for me but to come to Kathmandu.

### **University and first professional experience**

*GÉRARD: You got your Masters degree from the University of Delhi in India?*

SAPANA: My first degree is from Tribhuvan University in Kathmandu where I graduated in law in 1987. At that time no Master's degree existed in Nepal. India was the nearest and most affordable, so I decided to pursue my studies there. I did my Masters in law at Delhi University in 1990. That's where I could really focus on my studies and learn how to survive in a competitive environment. After that, I went to Italy to learn skills such as arguing a case and the art of writing. An education in law is not enough until you learn the appropriate skills.

*GÉRARD: Did you stay there a long time?*

SAPANA: I went there twice. Once for a development lawyers' course where you learn to draft contracts to launch joint ventures and how to advise clients. That was for three months. The second time it was for an investment and enterprise lawyers' course.

I specialised in corporate management in India. On returning to Nepal after completing my university education, I started my law practice and focused on company law. I was a corporate lawyer and I took on a lot of work in foreign investments, joint ventures. Later on, I also focused on industrial relations. That was right after the first democracy movement (1990) and there was a lot of agitation and industrial unrest in the country. So I started practising labour law as well. I was doing rather well in that field until I suddenly realised that I wanted to help the women who came to me asking for help. At that time I wasn't able to. It wasn't only socio-cultural prejudices that existed in society; even the law was influenced by socio-cultural values. So I gradually started examining their cases. However, I wasn't able to help them because the law itself was a barrier to justice for women. Then I decided to work on improving the law and reforming discriminatory law. That's how I started my journey towards gender equality.

*GÉRARD: I'm impressed by the interviews I've been able to hold with young lawyers*

*of your generation here in Nepal. Many lawyers are women. Am I wrong or are there a large number of women lawyers in the country?*

SAPANA: It is encouraging to see the numbers but in actual fact there are not that many. If you look at the statistics, how many women are lawyers and license holders in Nepal? Five or six percent. Of those how many come to the profession? And how many of those continue to practise when they're married? Even if they do remain in practice, how many are able to compete in the profession? Now that's a multi-tiered question you've just raised. The legal profession is not easy. It's a demanding profession requiring a lot of time and reading. You find yourself forever having to study. In our culture there is no sharing of responsibilities, so women are still expected to do everything at home. Because of that women are not able to find a balance in their professional lives, compete with male lawyers and find a balance in their own personal lives.

### **'Equality is the key to democracy'**

*GÉRARD: What other factors led you to fight for women? Of course there was the political change after 1990. Democracy must have played a major role.*

SAPANA: I've always said that democracy is very important in order to respect, protect and promote rights. Because of the democratic environment, we were able to express our frustrations and demands. Although at the time it was a new democratic environment and changes were slow coming. I would say that our voice was respected, not least because of the freedom of expression. In terms of changing the law, the 1990 constitution provided new provisions for public interest litigation (PIL). Now if a group's rights are violated, anyone can go and file a case. This provided a large avenue for us to challenge the law and to make the State accountable for outlawing any discrimination and for ensuring equality.

*GÉRARD: Over the last two decades you have been involved in many confrontations. You were involved in the Kumari controversy, at least as it was traditionally practised under the king's rule. You have also been involved in gay and lesbian's rights, abortion and so on. Now that you are a Member of Parliament, what would you say is the common link behind all these struggles?*

SAPANA: It goes back to my childhood. I always wanted to challenge issues such as discrimination, exclusion, restrictions and how minorities are treated. Whether it is women or children's issues, gay and lesbian rights,

all these people are a minority. As for women in particular, they are a majority, yet they are marginalised. All these groups find themselves in an unbalanced power relationship; they don't have any access or control over resources and they are deprived of equal opportunities. Consequently, they are excluded from the decision-making process. So, the common thread is to establish some form of equality. Equality is the key to democracy, the key to the rule of law.

*GÉRARD: Nevertheless, you live in a country where hierarchy is the basis of all social links, not only in the villages but also in the urban environment.*

SAPANA: Yes, there use to be a class and caste hierarchy and the country was under the heavy influence of religion. However, we have been able to challenge that. Religion is definitely a sensitive issue. Immediately after the second revolution (2006), the attack was aimed at religion. I am a Hindu, born and brought up as a Hindu...

**‘Religion is just an individual belief.’**

*GÉRARD: You are wearing a necklace bearing a figure of Ganesh.*

SAPANA: Yes, I'm wearing Ganesh. It's just for fashion, and my mother gave it to me. I like my culture. I believe religion is merely an individual belief. Unless you can challenge those things you cannot change the structure that has been created through history. Without challenging caste hierarchy how can you introduce equality? Without challenging patriarchal hierarchy how can you introduce equality for women? Without challenging traditional notions how can you talk about gay and lesbian rights? You simply cannot. Without challenging religion and culture, how can you talk about legalising abortion or criminalising marital rape or ensuring equal inheritance rights?

We adopted quite a strategic approach in the process. Instead of openly declaring war on religion, we challenged those cultures, those values which discriminate [against] certain groups, whether it be women, Dalits or Janajatis. We started with discrimination and violence; that was our point of entry. As far as gay and lesbian rights are concerned, I was committed to them because these minorities used to be tortured by the police. How can the police who are supposed to protect and create a secure environment abuse them? We fought against abuse, discrimination, violence, and that really helped us to become politically stronger in striving for equality.

### Legal changes

*GÉRARD: Women's legislative and judicial status has changed tremendously from legal and legislative points of view over the last two decades. A number of provisions in favour of women regarding equality between the sexes have been adopted, not to mention the abortion rights obtained in 2002 and the equal rights for daughters and brothers regarding parents' property. As for marriage between people of the same sex, just this morning I was reading an article in a Nepali newspaper about a priest who married two homosexuals in Pachali temple in Teku and who said: 'I don't know if it's a good thing or not but I did it and we have to adapt to change.'*

SAPANA: Yes, I received an email about that.

*GÉRARD: Even if some issues have not yet totally been recognised by the Supreme Court, as you said, the mindset has changed tremendously. From a legal point of view, in some sectors Nepal is even more progressive than India. Can you comment on these marriages between people of the same sexes, on Nepal being more progressive than in India and on the incredible series of reforms within just two decades of legislation? You're probably going to say that there is still a lot to do, but we have indeed already witnessed major waves of reform.*

SAPANA: Again I think it's because we are still focusing on transforming democratic values within the state structure. The opportunity has been created because of the momentum. In matters of development, Indians are still ahead. Yet, in terms of reforming law and expanding rights, we may have gone further. I think it's all down to the political context. Here, the insurgency, which challenged inequality and unbalanced development, played a great role in the overall process.

Lots of changes have indeed taken place but that's not due to the political parties. Major advances in women's rights have come about thanks to us, women lawyers, who started challenging the law through research, advocacy and public interest litigations. There's been a huge contribution from NGOs, such as Forum for Women, Law and Development (FWLD), Legal Aid Consultancy Service (LACC) and Pro-Public. These are the three main organisations that have taken a leading role in challenging the law. As a result, property rights have been reformed, abortion legalised, and a new human trafficking law enacted. We now have a new domestic violence act, and an anti-sexual harassment bill is being examined by Parliament. Even in the forthcoming Interim Constitution, many women's rights are now protected.

### Gay and lesbian rights

SAPANA: In terms of gay and lesbian rights, a publicly self-declared gay is now a Member of Parliament, which itself is a symbol of change in the country. It's not only because the Supreme Court says that the gay identity has to be respected. Their existence has to be recognised by the State and as a result, the upcoming constitution states that there shall be no discrimination on the basis of sexual orientation or of different genders. We have had this adopted in the upcoming constitution on which we are working, but at least the manner in which it has been drafted has already been acknowledged.

Those are the major changes that have taken place so far. Same-sex marriage has not in fact been recognised. In the same decision the Supreme Court stated that they've asked the government to look into the possibility of same sex marriage because marriage laws, as they stand at present, specify that marriage must be between a man and a woman. So, regarding the social event between people of the same sexes that took place and was publicised on different TV channels, the government did not interfere because it's a private matter. However, there is a marriage chapter in Muluki Ain that says that, if any rights are violated you can file a case; such as in cases of child marriage or forced marriage.

A problem arises if they wish to register a same-sex marriage in court. Declaring themselves spouses is not a contentious issue. However, legal recognition of their marriage in the eyes of the law is problematical if they wish to be recognised as a married couple. For this reason, when the domestic violence law was enacted, Sunil Babu Pant<sup>2</sup>, Binda Pandey, Arju Deuba sought to recognise family relations, the relations between any persons living together. We tried to address their concerns but we failed. The alternate language I proposed to the committee was to include the word 'dependent family', so that it would recognise any person living together within a family relationship, including the helpers at home. However, a majority of parliamentarians refused to recognise this. We failed to understand their position. If there's violence inside the home, it has to be recognised by the State, and the victims have to be guaranteed the necessary protection and justice. Unfortunately, a majority of Members of Parliament were against it.

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2 Sunil Babu Pant is the founder and director of the Blue Diamond Society (an organisation fighting for the rights of lesbians, gays, bisexuals and the transgendered (LGBT). He is presently a member of the Constituent Assembly.

### **Religious and civil marriage**

*GÉRARD: Let us compare France and Nepal. In France we have two types of marriage: the optional religious marriage and the compulsory legal marriage which is celebrated before the mayor at the town hall...*

SAPANA: Here too we have both types. A religious marriage can be registered but only if it is between a man and a woman. Through a religious ceremony, one can be recognised as a couple but if problems arise during the marriage, no particular help is provided.

We therefore encourage people to register under the Personal Incident Act<sup>3</sup> for documentation and statistical purposes. However, one can choose to get married in court, which is the lawful way of marrying.<sup>4</sup> Upon registering the marriage, information is recorded that might come in useful in cases of marital problems. When a relationship is not recognised by law, then you cannot claim any rights.

### **'Having a law is not enough, but having a law is important'**

*GÉRARD: Despite all the progress and changes, the situation of women still seems very far from this ideal, progressive picture. In many places, it rather fits the description given by Lynn Bennett in the case studies she undertook in the early seventies. There are large discrepancies between the urban settlements in the Kathmandu Valley, some district headquarters and rural Nepal. How are the reforms implemented in rural areas?*

SAPANA: Although there have been some improvements, that is not enough. There are many laws and policies that need to be improved upon. Having laws is not enough, yet having laws is important because without laws you cannot make the State and State institutions accountable. Once you have laws, the next step is: how to apply them, whose responsibility is it to promote laws, to create institutions, generate resources and change the mindset? Law and society go hand in hand. Consequently, investments have to be made by the government, donor agencies as well as by civil society.

The challenge right now is to implement the laws we have and we are focusing our efforts on this. We are talking about the de facto, practical

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3 In Nepali this act is called *Byaktigata Ghatana Darta Ain*. In that process, the marriage is recorded at the Municipality Office (*Nagarpalika*), section: *Panjikadhikari Shakha*.

4 Court or legal marriage is called *darta bibaha* in Nepali. In that case the marriage is registered at the CDO (Chief District Office). It merely involves registering both parties, with no civil ceremony.



realisation of rights, for which we all need to work together. In the past, there was the denial of rights through law. Now that laws have been adopted, how do we transpose them into real life? At least, people now have access to justice. But how do we make the legal system function properly? How do we make pro-poor services available, how do we obtain legal aid, how do we set up a programme of legal literacy or economic empowerment?

Having some knowledge of law is not enough. Women need to be educated. As I always say, law is inclusion. Though law can create an external policy framework, empowerment is necessary. We have to develop the inner capacity of women so that they can claim their rights. Inclusion and empowerment go together. On the subject of empowerment, my first priority has always been economic empowerment. Unless you have achieved that, even if you do have rights, you cannot exercise your choice. For example, there are many cases of bigamy and domestic violence, but women have no choice but to live with the family. Either the State has to make alternate arrangements or women have to be economically independent so that they can exercise their choice.

### **Fight for laws, fight with guns**

*GÉRARD: Would you say that building democracy in a country like Nepal is more about fighting for laws than fighting with guns against the State? What will be the role of the judiciary and law in this democratisation process?*

SAPANA: Building a democracy in a country is achieved through the rule of law. When we say rule of law, we definitely do not want to use guns and that is why we have initiated this peace making process. Guns can never bring peace and development to a country. With guns there would be anarchy, which would last forever.

### **The Kumari issue**

*GÉRARD: Now, I'd like to talk about the Living Goddess Kumari. There are burning debates on this topic, mostly in the Kathmandu Valley, between supporters and opponents of the Kumari religious institution. The Kumari goddess was linked to royalty and kingship. Obviously in the present situation this link has had to be severed. What is your position regarding this cult?*

SAPANA: The major criticism we face about advocating the Kumaris' rights is: why talk about the rights of a few girls? Nevertheless, let me just make a few remarks. Firstly, even if a single individual woman's rights are

violated, that case is a concern for human rights activists and the State. The actual number of persons is not the point here. Secondly, we do respect Newar culture and the prestige issue is also involved here. There are many Shakyas who feel that it's their culture and they should be allowed to practise it. We do indeed respect their culture. I respect ancient traditions; it's a personal choice. Yet on the other hand, you also have to consider science, development and technology.

Today, we are in the 21<sup>st</sup> century. Can we still believe that a living goddess can confer political power on the rulers? Is it a credible institution or not? Even if you believe it, and it is a source of pride to the family, what about the child? What about her right to freedom, right to be with her family, right to entertainment? Those rights are recognised by the Child's Rights Convention.

Up until the age of 10 or 11, she is a goddess, and from then onwards she becomes an ordinary human being. How will she cope with this sudden change from bestowing blessings on her devotees to becoming an ordinary human being? What kind of psychological trauma will she suffer? Indeed, the concern we have been raising over the years is that even if you want to practise this cult as a cultural tradition, the child best's interests should be considered. And that should come first. Does the Kumari have equal opportunities as far as education is concerned, equal opportunities to develop as a normal child in an environment that she needs to evolve in? Other things trouble me. I don't believe, for example, what the Kumari's priests say about menstruation; that she is polluted after reaching this stage in her development, and that she is therefore no longer a goddess. If I am a goddess, I should be a goddess forever. Menstruation is a mere reproductive function.

*SHOVA: It is also said that there should be no wound on the Kumari's body, and that no blood should flow from the goddess's body.*

SAPANA: Traditionally, an ex-Kumari wasn't even supposed to get married. But that was challenged and changed. Now many of them do get married. It was also said that as long as you are a virgin, you are a goddess. Why is there a demarcation line that puts a price on virginity? We also have to challenge the right to sexuality and to equal sexual relations. Because of all these issues, my position has been that this religious institution needs to respect children's and women's rights.

*GÉRARD: It's rather a particularly interesting case. One of the main issues here deals with the separation between religion and civil society, a process that happened in France and Western countries in the 18<sup>th</sup> and 19<sup>th</sup> centuries. This is a very challenging question from a sociological and comparative point of view.*

### **Feminisation of professions**

*GÉRARD: There has been a growing feminisation of professions in urban areas, in the police force, airline companies and law. What is the main impact of this transformation on family life and society at large?*

SAPANA: I would say that it will bring positive changes to the country, to society, to the family....

*GÉRARD: Even if it's more difficult to cope with family life as very often women have to juggle between their job outside and work inside the home...*

SAPANA: When you work at home, the work you do is not recognised. When you work outside, your contribution is recognised economically; your independent existence as a citizen and your identity is recognised. We are also challenging the notion that a woman has to stay at home inside the house and take care of the children, because that responsibility can in fact be shared. So it's also a call for social change, for sharing responsibilities inside the house and taking care of the children. It's what we want to target; the line we have proposed in the constitution is that sharing responsibility and taking care of the children, as well as recognising women's contribution to the household, should be recognised as contributing to the national income. Moreover, the benefit of women working in the police or in the legal profession also challenges the notion that women should only work in service sectors, in traditionally 'feminine' jobs such as airhostess, nurse, teacher, etc.

Consequently, women now make up 33 percent of the CA in Parliament. We are now working in technical fields, in the political realm and in power structures. Although there are not enough of us, our part in the nation-building process is on the rise. If women do not contribute to nation-building, how do you expect the country to change? So what matters is not only having adequate laws, but also citizens who are engaged in the process of change.

### **Citizenship and women**

*SHOVA: How is the issue of taking nagarikata pramanapatra (citizenship certificate) in your mother's name progressing?*

SAPANA: This is a major issue that we will be working on in the upcoming Constituent Assembly. At the moment, a woman is recognised as a legal descendant. Based on blood relationships, she can confer citizenship on her child, but if she's married to a foreigner, she cannot. The child has to be born in Nepal and has to permanently reside in this country. These two conditions have to be fulfilled. Even when this is the case, a child is only entitled to become a citizenship through naturalisation.

The difference between citizenship by descent and naturalisation is that the former is a right whereas in the second case you have to apply for naturalisation and it's up to the State whether to grant it or not. Furthermore, you are not entitled to any public positions if you have obtained naturalisation. You can never become president or prime minister. So, on the one hand, a woman is recognised for her lineal descent in conferring citizenship but in the event where she's married to a foreigner, that right is withheld. This restriction is completely discriminatory.

### **Single women**

*SHOVA: There are problems where women are abandoned by their husbands or husbands' families. When a mother has to apply for her child's nationality, she faces difficulties in public administrations.*

SAPANA: Yes, even though the law has changed, there are cases of harassment by public employees.

*SHOVA: On the top of that they ask for extra money. Just last year, a lady paid about 20 thousand rupees to a public employee to obtain a temporary citizenship certificate and passport for her son.*

SAPANA: She should not have accepted. Since you yourself are working on single women's issues, I would like to inform you that two decisions have recently been taken by the Supreme Court. Even though a woman can confer citizenship on her child, any public employee will refer you to your husband's district. However, according to the Supreme Court's decision, you can now go to your mother's place of residence where she acquired her citizenship. It doesn't have to be your father's house. Even if a woman is married, she has a choice of whether to take citizenship in her father's name or in her husband's

name. This is a new decision on the part of the court. Before, if you were married, you were only allowed to take citizenship in your husband's name.

*SHOVA: If she's still single and has a child, then it's a problem for her when applying for her child's nationality.*

SAPANA: She can apply for citizenship through her father's name or after submitting her husband's death certificate and a copy of her husband's nationality.

*GÉRARD: Is this a major problem? Have you come across such cases that have a wider national bearing?*

SAPANA: Single women are really well organised. Single women's associations (Women for Human Rights, Single Women Group, WHR) are very active. Because of their collective voice, their issue is perfectly visible. But there are deeper problems at home and in society. Socio-cultural problems, the kind of stigmatisation they undergo, and the restrictions applied to these women are intolerable. However, in terms of legal problems, all the barriers have been brought down. All old laws which discriminated [against] single women have been amended. Now, a woman has equal rights to property, and even if she remarries, she doesn't have to return the property. These changes have indeed been made. Now what needs to be done is to empower single women, to involve them in income-generating activities and to educate them. The government has allocated an 'earmarked budget' for them. This year the budget provides single women with allowances but only when they reach the age of 60.

*GÉRARD: Is this allowance given irrespective of land ownership?*

SAPANA: It should only be given to socio-economically backward groups and immediately after a woman becomes a widow, not after the age of 60. This is what we are trying to push through parliament. There is a possibility that the forthcoming budget may address this issue.

### **'Politics can change'**

*GÉRARD: You became a member of the Constituent Assembly in 2008, as you were already familiar with political affairs. How has this experience been for you? Did it seem perfectly natural for you to enter politics? To act in civil society is one thing, to deal with different political parties is another.*

SAPANA: It has been a new experience for me. I have always been very vocal and active, and had already started demanding my rights at an early age. Once on the inside, the situation was quite different though rather a strategic one for us. Politics can change things. It can prove to be very good at bringing change to a country. Since all the political parties are open to change, I see this as an opportunity. But the way we used to be active outside is not the same as being inside where you reach a consensus between different political parties. We are not now only working on individual rights, we are involved in different rights groups, and negotiating for rights is not an easy task. At least I feel that as insiders, we can influence different political parties as well as my own political party (United Marxist Leninist, UML). Sometimes we can negotiate directly. We can act as a bridge between political parties and civil society.

### **A country in a transitional phase**

*GÉRARD: The main aim of this assembly is to draft a constitution. Is there a link between this work of reflecting on different topics and the drafting of such a constitution?*

SAPANA: The country is in transition. We are in a conflict transformation process. Establishing non-State actors as a mainstream political party and changing the whole political system from a monarchy to a republic is far from easy. After creating an entire movement within the nation and inculcating certain aspirations in the population, attempting to meet these expectations is a formidable endeavour. A series of promises, a range of goals have been set out, but successfully prioritising these goals in order to achieve them represents a real challenge.

We could have separated the Constituent Assembly and parliament, which isn't what we did. That was one of the mistakes we made. The CA could have just focused on drafting laws. Another mistake is that the Constituent Assembly does not function as an elected institution. If you look at the Interim Constitution and its Preamble, you will note that it was adopted and based on a political agreement. And now we want to make a new law, a new constitution through the Constituent Assembly.

The Assembly is focusing more on political negotiations rather than on the people's needs and expectations. More consensuses are being reached within the political parties, which are again another diversion in the Assembly, at least that's the way I see it. We could have separated

the power-sharing and the constitution-making processes. But when you give the political parties all the power to draw up a constitution, the whole process happens to be dominated by politics.

*GÉRARD: It's also a very interesting process. Due to its population's fabric, its own problems, Nepal is inventing and negotiating a new republican model. It will not be on the same lines as the Republic of India since traditions are different.*

### **Uniform code of law, personal law and law for minorities**

*GÉRARD: In addition to judicial differences between Nepal and India comes the question of a uniform code and personal laws. As you know, in India Hindus, Muslims, Christians and Parsis have had their own traditions recognised in matters of family marriage and so on. In Nepal, as far as I know, a uniform code of law prevails. Are you in favour of modifying this uniform code in response to the demands put forward by Janajatis and other minority groups? What is your position on personal laws and a distinct code for minorities?*

SAPANA: We have already agreed to respect pluralism. Pluralism is a precondition for democracy. When you recognise the concept of pluralism, you also recognise the principal of legal pluralism. Nepal is now recognised as a multi-national and secular state. Diversity therefore has to be considered in terms of caste, class, religion, ethnicity and language. In that context, yes, we have to respect legal pluralism. We have to observe the customs and traditions of the different ethnic groups and religions. It is our duty to respect personal beliefs.

Some Muslim groups are asking for their own personal law to be an integral part of the code. As a human rights activist, I cannot say no and not respect their choice. Yet this cannot run counter to the constitutional values that promote non-discrimination and equality. We cannot compromise on the values that have been promoted by the constitution. For this reason, we have proposed a language in the constitutional framework that says: any culture, any tradition, and any religion, if discriminatory, will be recognised as a form of exploitation. We have thus tried to create such mechanisms to deal with possible threats. Another aspect is that yes, we have one unified code but that code was based on Hinduism. We want to depart from this.

*GÉRARD: Nepal is now a secular country.*

SAPANA: We want to have a unified code, respecting human rights norms and values, prohibiting discrimination and respecting equality; a code

which doesn't treat anyone differently because of their religion or culture. If this has a negative outcome, it will not be tolerated.

### **Parity**

*GÉRARD: My last question is about parity. India is on the point of adopting such a measure for its political assembly.*

SAPANA: This hasn't been finalised in India. Their objective is quite different. They introduced this policy for a year, for one term, and only in parliament. There are some reservations at local government level. But here in Nepal, women already hold 33 percent of the seats in parliament. We are still not satisfied with that figure. Why only 33 percent, why not 50 percent? Why only in parliament? We want parity in all state structures.

So, we are targeting 50 percent in our negotiations, not only in parliament but in the overall structure. The language we have proposed in the forthcoming constitution is that if the President is a man, then the Vice-President should be a woman; if the Speaker is a man, then the Vice-Speaker should be a woman. That measure has been accepted, but since then we have submitted an amendment proposing a term of office for each, one term for a man and one term for a woman. We are trying to negotiate this proposal. In ensuring women's political involvement, we have moved much further than India.

*GÉRARD: In France, some feminists contest this reservation system for women, saying that it's not democratic, i.e. it goes against equality. There is also a debate about introducing reservations for other categories of people in several Western countries.*

SAPANA: If you look at different instruments of human rights, including the European Convention, affirmative action doesn't mean forever. It's a compensatory system of justice. Until minorities/marginalised groups reach that level, it's a special, temporary measure. Reservation is not permanent. It doesn't have to be for a quota or a seat, it can be in any other environment, any other socio-economic system. I don't think it should be seen as a challenge to democratic values. It should be seen as a means to ensure democracy because democracy means equality.

*GÉRARD: You rightly pointed out that it is temporary. That is a very good point. Thank you very much for granting us this interview.*



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