



**United Nations
Division for the Advancement of Women**

Judicial colloquium on the
application of international human
rights law at the domestic level

**Statement of the
Special Adviser on Gender Issues and
Advancement of Women**

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It is with great pleasure that I declare open this judicial colloquium on the application of international human rights law at the domestic level.

Your excellencies, honourable justices, ladies and gentlemen,

My name is Angela King, Special Adviser to the Secretary-General of the United Nations on Gender Issues and Advancement of Women. It is with great pleasure that I welcome you to this judicial colloquium here at the United Nations Offices in Vienna. I am honoured and delighted that almost ninety judicial officers, including Chief Justices, Justices of Supreme and Appeal Courts and Constitutional Courts, and senior judges and magistrates from almost 70 countries from all legal traditions and regions of the world have decided that the question of the promotion of women and girls through the use of international human right treaties deserves their valuable time and attention. I am also very happy to welcome my friend and former colleague at the United Nations, Ms. Benita Ferrero-Waldner, the Austrian State Secretary for Foreign Affairs to this opening ceremony. Her presence with us this morning is a clear indication of the importance that she and her country attaches to this colloquium.

I would like to express sincere thanks to our colleagues at the United Nations Office in Vienna whose assistance has been crucial to the organization of this meeting. In addition, I wish to thank the wider United Nations family, in particular, UNICEF, UNFPA and UNDP who have supported the attendance of a number of developing country participants. Particular thanks are due to the country officers of those organizations who worked tirelessly with the staff of the United Nations Division for the Advancement of Women so that critical logistical arrangements could be made. Several Governments also deserve our gratitude. Austria is not only hosting us in beautiful Vienna, but has supported the participation of a number of judges from developing countries. Thanks are also due to Belgium,

Canada, Denmark, France, Germany, Ireland, the Netherlands, New Zealand, Norway, Sweden and the United Kingdom whose financial contributions have ensured that judicial officers from all the legal traditions of the world can be with us for these important three days.

Honourable justices,

The Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly twenty years ago this December, has been identified as the "bill of rights for women". This instrument - the most comprehensive international human rights treaty addressing women's equality with men - is now binding on 165 States which have ratified or acceded to it. In the last three weeks, we have been happy to receive two more instruments of accession - those of Tuvalu and Niger. As we welcome these States to those which have accepted the treaty's terms we are even closer to the goal of universal ratification of the Convention by the year 2000 which was agreed by the international community at the Fourth World Conference on Women in 1995.

The Convention on the Rights of the Child is with 191 States parties the most widely accepted human rights treaty. In the ten short years since its adoption by the General Assembly in December 1989, this Convention has become the framework which guides action by Governments, international organizations and NGOs in their efforts to ensure the realization of human rights for children, as well as their protection, well-being and development. The importance of this instrument for the promotion of the rights of girls has become clear through its influence on legislation, and Government policy in all parts of the world.

Together the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child provide a solid basis upon which to create through law, policy and practice, an enabling environment which will allow women and girls to enjoy their civil, political, economic, social and cultural rights without discrimination. Twenty and ten years respectively of the applicability of these instruments in a majority of States bear witness to the centrality of the norms of women's and girls' equality with men and boys and non-discrimination in the enjoyment of human rights and fundamental freedoms. The principles of both Conventions have also inspired Governments to examine closely their domestic framework for the promotion of the rights of women and girls and adjust it to create an environment in which these are enjoyed fully and where legitimate grievances are responded to with the seriousness and speed they deserve.

In response to their adherence to these Conventions, many Governments have introduced new laws, or amended those which discriminate against women and girls. They have adopted policies and programmes to bring them into line with their obligations under these instruments and have sought to harmonize customary principles with the requirements of international law relating to

women's rights and non-discrimination on the basis of sex. They have expanded the opportunities women have for redress both at the domestic and international level. Indeed, just two weeks ago, Governments unanimously adopted an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women which will allow individual women and groups of women to petition the expert Committee established under the Convention in cases where there are violations of its terms. Governments have also spearheaded legal literacy campaigns so that women are aware of their rights and the means available to enforce them.

Government action is essential to implement the obligations of international human rights treaties. At the same time, courts and judiciary have critical roles in ensuring that the legal framework is applied fully, justly and evenly, and benefits all individuals equally. Proper application of the legal framework can only be achieved where decision makers are aware of, or sensitive to, the realities of the lives of those who seek the protections and remedies that the law offers. Judicial decisions can take a narrow path and be based upon a restrictive interpretation of the domestic law. However, judges also have the power to approach their important task in an expansive and open manner which takes account of constitutional principles, including those derived from international human rights law.

International human rights law, and particularly the principles of the two Conventions whose anniversaries we mark through this colloquium provides the background for judicial decision-making based on openness, receptiveness and real justice. This body of law allows those responsible for applying and enforcing the law to take into account the often very different needs and experiences of women and girls. It allows us to recognize the allegation of rape of a married woman by her husband, rather than treating it with contempt and disbelief and thereby depriving of her of the equal protection of the law. It allows us to acknowledge sexual harassment in the workplace as a violation of the right to work and equal opportunity in the workplace. It allows us to condemn harmful traditions which allow young girls to be enslaved to redeem past transgressions by family members. It allows the law to be a force for justice for all, men, women, boys and girls.

In planning this colloquium we have been guided by a vision of human rights which incorporates acceptance of equal and inalienable rights for all women and men. We have been inspired by a concept of human rights which encompasses the principle that the rights of women and girls are an integral component of human rights, a concept underpinning all human rights instruments, but particularly the Conventions on the Elimination of All Forms of Discrimination against Women and the Rights of the Child.

International human rights norms can be a powerful guide in your quest to decide right from wrong, to render justice in cases where the human rights of a woman

or girl are at stake. These norms - outlined in human rights treaties - together with the body of jurisprudence that has developed through their application by judges at the national and international levels - are increasingly relied on as a source of inspiration and as benchmarks by judges in courts in countries in all parts of the world. Courts increasingly rely on these norms where domestic law is incomplete, uncertain, or ambiguous. Courts are more and more assessing the validity of domestic legislation against the standards of international human rights treaties. In several cases, enlightened judges have overruled domestic laws where these conflict with treaty obligations. With these developments, international human rights law, and particularly that concerning women, has become the measure against which to assess domestic legislation and the guide for judicial decision-making. It has become the means to transform law into justice for women and girls.

By joining us for the following three days, you judges and magistrates from different legal systems who have gathered here for this colloquium have shown your commitment to the full enjoyment by women and girls of their human rights. By your presence here you have also shown that you recognize the importance of international human rights law and its power to achieve the goal of that full enjoyment. Some of you have reached decisions using human rights law creatively to ensure that treaty obligations are adhered to and that individual women are provided with justice. Others of you have relied on treaty law to highlight the persistent inequalities that women and girls experience as the result of existing legal provisions. Others have struck down legislation because of its inconsistency with international human rights treaty norms.

In many ways, however, you are all pioneers. The last ten years has seen the growing use of international human rights treaties in domestic decision-making, but this still remains limited. Women from many parts of the world also tell us that the right laws are in place, but their application is discriminatory. We are also told that they are reluctant to bring claims to courts because they are afraid of ridicule or that their complaints will be seen as frivolous. We also hear that women would like to see more women hearing their claims.

Let me reiterate how honoured I am that you have accepted our invitation to this gathering of judges and magistrates which will provide a forum to exchange experiences, and to discuss strategies for more widespread and commonplace use of international human rights norms contained in the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. We are particularly fortunate to have judges and magistrates from such a wide range of legal traditions and from civil, as well as common law systems. I am sure that the different strategies used and possibilities for the incorporation of international treaty obligations into domestic law in these different legal traditions will be constant themes in your discussions.

You have three days ahead of you which I am confident will be full of interesting, creative and stimulating discussion. I know this colloquium will not be the end of your consideration of the enjoyment by women and girls of their human rights. I am confident that this colloquium - in bringing you all together - will create a network of judges who are dedicated to the cause of equality for women and girls and to the elimination of all forms of discrimination against them in their enjoyment of human rights. It is my hope that the discussions that ensue at this colloquium will expand the number of enlightened and courageous judges who are prepared to interpret domestic law in the light of the international human rights framework. Pioneers that you are, you will pave the way for others so that they can more easily follow your lead.

I have no doubt that this will be a breakthrough event and I wish you all the best in your deliberations.

I now have much pleasure in turning to Ms. Benita Ferrero-Waldner and inviting her to make her opening remarks.