

Judicial colloquium on the Application of International Human Rights law at the Domestic Level

Training Workshop for Government Officials Responsible for preparing States Parties Reports

**11 to 13 September 2003
Arusha Conference Center
Arusha, Tanzania**

Aide-Mémoire

A. BACKGROUND INFORMATION

On 18 December 1979, the General Assembly of the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women. As of 16 April 2003, the Convention had been ratified or acceded to by 173 States. The Optional Protocol to the Convention which entitles individuals or groups of individuals to submit claims of violations of the Convention's terms to the Committee, and provides the Committee with the power to inquire into grave or systematic violations of the Convention entered into force in December 2000, and now has 50 States parties.

The Convention provides a definition of discrimination against women, and comprehensively addresses women's right to equality and non-discrimination in the civil, political, economic, social, and cultural fields. It requires States parties to pursue a policy of eliminating discrimination against women, and to take all appropriate measures to eliminate such discrimination, whether committed by public authorities or by any person or organization.

Upon ratification or accession to the Convention, States parties assume specific obligations for the full implementation of the Convention at the national level. The Convention requires States parties to incorporate the principle of equality of women and men in their national constitutions or other appropriate legislation, and ensure, through law and other appropriate means, the practical realization of this principle. States parties are also obliged to adopt legislation prohibiting discrimination, to establish legal protection for women on an equal basis with men, and well as to provide effective remedies against acts of discrimination against women.

The expert body established to monitor implementation of the Convention in the territory of a State party - the Committee on the Elimination of Discrimination against Women (CEDAW) - is particularly concerned with the status of the Convention in domestic legal systems. The Committee has advocated the incorporation of the Convention into national constitutions, as well as the implementation of the various rights in the Convention through legislation.

The Committee has stressed the relevance of the Convention and the jurisprudence of the Committee in domestic litigation. The status of international treaty law in domestic law is resolved differently in different countries, but there is a growing number of cases in which domestic courts and tribunals, from constitutional courts to lower-level courts, have referred directly or indirectly to international human rights law including in cases concerning women and girls. International human rights instruments and the decisions of judicial and quasi-judicial bodies with regard to these instruments are increasingly used by judges and magistrates as tools to attain the objectives of these instruments.

The Convention also obliges States parties to submit to the Secretary-General a report on the legislative, judicial, administrative or other measures that they have adopted to implement the Convention within a year after its entry into force and then at least every four years thereafter or whenever the Committee so requests. These reports, which

may indicate factors and difficulties affecting implementation, are forwarded to the CEDAW for its consideration.

B. JUDICIAL COLLOQUIUM

Objectives

The **judicial colloquium** will provide an overview of relevant international human rights norms and extensive opportunity for participants to discuss cases where international human rights norms have been used to benefit women and girls. It will also provide an opportunity for judicial practitioners from developing countries in Africa to examine how international human rights law can be used at the domestic level to achieve equality for women and girls by:

- assessing how courts in different legal systems utilize international human rights treaty law to ensure that women and girls are guaranteed their rights to equality and non-discrimination;
- exchanging experiences on the use of international human rights treaty law in domestic courts at different levels, taking into account different methods of incorporation of treaty law into domestic law;
- discussing strategies for more creative and widespread use of international human rights norms contained in the Convention at the domestic level, in both common law and civil law systems;
- developing a consensus on the utilization of the international human rights norms contained in the Convention and discussing strategies on how this can be implemented in the resolution of human rights cases at the country level.

Participants

It is expected that approximately 30 senior judges and/or magistrates from the following Member States in the African region: Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Namibia, Nigeria, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe will participate in the three-day colloquium. Judges and magistrates who have themselves drawn on international human rights treaty law in decision-making will be joined by others whose work could provide them with potential uses of treaty law in equality and non-discrimination cases involving women and girls.

The participants may include a small number of academics and representatives of international organizations working in the field of women's human rights.

Format

The colloquium will consist of a series of plenary and working group meetings. Each day will be devoted to a particular theme (see below) that will be introduced by keynote presentations. Keynote presentations will be followed by discussions in working groups, concerning aspects and cases of the theme. A total of three working groups will meet in parallel. Each working group will consist of a case study where international human rights law was successfully used to further equality for women or girls or where use of international human rights law could have resulted in a more favourable outcome for women or girls.

The themes for the three days are:

Nationality, marriage and family relations

Keynote speakers: (confirmation pending)

Working group topics (indicative):

- women's right to nationality
- right to confer nationality on spouse, on children
- age of marriage, and consent to marriage

- best interests of the girl child
- inheritance rights
- matrimonial property
- illegitimacy of children (girls - discrimination)
- widowhood rights
- freedom of association, of movement

Violence against women, violence against girls

Keynote speakers: (confirmation pending)

Working group topics (indicative):

- domestic violence
- rape, including marital rape;
- traditional practices, for example dowry
- remedies, lack of remedies, against domestic violence
- trafficking in women and girls
- abuse of, violence against, women in custody

Work and work-related rights

Keynote speakers: (confirmation pending)

Working group topics (indicative):

- temporary special measures under article 4.1 of the Convention on the Elimination of All Forms of Discrimination against Women (positive discrimination; affirmative action)
- sexual harassment
- migrant labour
- abuses and exploitation of women and girl workers

Outcomes

It is proposed that the colloquium will issue a communiqué (or statement) on principles and strategies on how judges can, or should, use international human rights treaty law pertaining to women's and girls' human rights in the resolution of cases. A small drafting group will prepare the draft, which will be discussed and adopted by the plenary.

The colloquium will also result in a publication bringing together all plenary and working group presentations, and short summaries of the discussions in the working groups.

The communiqué will be widely distributed amongst judges at the national level and to international human rights bodies and mechanisms.

C. TRAINING WORKSHOP

Objectives

The training workshop will be conducted for government officials of African countries responsible for reporting under article 18 of the Convention.

The primary objective of the training workshop will be to enhance the capacity of government officials to prepare States parties' reports. This will lead to enhanced understanding of the legal obligations established in the Convention and thereby increase opportunities for implementation of the Convention at the national level.

Participants

It is expected that approximately 30 government officials from the following Member States in the African region: Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Namibia, Nigeria, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe will participate in the three-day training workshop. The participants will include middle and upper level government officials.

Participants may also include observers from relevant parts of the United Nations system and may include observers from NGOs where appropriate.

Format

The training workshop will include an overview of international human rights law; the place of the Convention in international human rights law; ratification of the Convention (where appropriate); the Convention and its provisions; reservations to the Convention; reporting requirements, including the reporting guidelines of the Committee and its general recommendations; techniques of reporting; practical exercises with regard to reporting; the role of civil society in the preparation of the report; the Committee and the reporting process; the results of the reporting process and its impact at national level; the implementation of the Committee's concluding comments; the follow-up process.

The workshop will be facilitated by recognized experts, including treaty body experts.

Outcomes

The outcome of the training workshop will be the enhanced capacity of government officials to prepare States parties' reports and an increase in understanding by States parties' officials of the legal obligations established in the Convention which, in turn, should assist implementation of the Convention at the national level.

D. TIMING, DURATION AND VENUE

The colloquium and the training workshop will be held consecutively for three days each in Arusha, Tanzania. The colloquium will take place from 9-11 September and the training workshop from 11-13 September 2003.

E. WORKING LANGUAGE

The working language of the colloquium will be English and interpretation will not be provided.

F. INPUTS BY COLLABORATING BODIES

The **Division for the Advancement of Women (DAW)** will be responsible for:

- Provision of three professional officers to provide support and coordination for the judicial colloquium and training workshop (including travel and DSA);
- provision of two resource persons to facilitate the colloquium and workshop;
- programme preparation;
- identification and selection of participants;
- provision of travel expenses and DSA for 60 participants from the following countries: Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Namibia, Nigeria, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe
- preparation of background document(s);
- preparation of guidelines for presentations for selected speakers;
- drafting and sending of invitation letters;
- consolidating advanced copies of presentations' papers to be prepared by the selected participants;

- drafting, finalization and distribution of outcome documents (communiqué, reports, publications, etc);
- preparation and transportation of training materials;

The **Government of Tanzania** will be responsible for all other organizational arrangements including the following services and facilities:

- administrative and support personnel including secretarial assistance;
- office supplies, stationery (including writing pads, pens and pencils for participants)
- office and reproduction equipment including at least one dedicated personal computer and printer, typewriters and duplicating machines;
- access to telephone (local and international), telefax, telex and internet services;
- two conference rooms for approximately 30 people each, smaller meeting facilities such as breakout and secretariat rooms (at least one of each);
- audio-visual aids relevant to the meeting, such as LCD projector, overhead projector, flip charts, etc.
- assistance in arranging hotel accommodation, and changes or confirmations of return flight reservations for participants.
- provision of two coffee breaks per day for the duration of the two activities.