

Report of online discussion

## **Women and Human Rights**

Moderated by the Office of the  
High Commissioner for Human Rights

1 – 26 February, 2010

The discussion on "Women and Human Rights" was part of a series of United Nations online discussions dedicated to the fifteen-year review of the implementation of the Beijing Declaration and Platform for Action (1995) and the outcomes of the twenty-third special session of the General Assembly (2000); and was coordinated by WomenWatch, an inter-agency project of the United Nations Inter-agency Network on Women and Gender Equality and an unique electronic gateway to web-based information on all United Nations entities' work and the outcomes of the United Nations' intergovernmental processes for the promotion of gender equality and women's empowerment. For more information and other "Beijing at 15" online discussions, visit <http://www.un.org/womenwatch/beijing15/>

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*Disclaimer: The views expressed in this report reflect the opinions of participants to the online discussion and not the official views of the United Nations*

# **Report of the Online Discussion on “Women and Human Rights”**

**Moderated by the Office of the High Commissioner for Human Rights**

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## **I. Introduction**

The online discussion on Women and Human Rights, moderated by the Office of the High Commissioner for Human Rights (OHCHR), was part of a series of United Nations online discussions dedicated to the fifteen-year review of the implementation of the Beijing Declaration and Platform for Action (1995) and the outcomes of the twenty-third special session of the General Assembly (2000). The discussion was hosted by WomenWatch, an inter-agency project of the United Nations Inter-Agency Network on Women and Gender Equality (IANWGE). The objective was to draw on the collective experiences since Beijing and to identify what practices and initiatives have and have not worked in terms of improving women’s human rights.

The discussion ran for four weeks (February 1 – February 26, 2010). Close to 300 participants from across the world registered. Participants came from a variety of backgrounds, including academics, non-governmental organizations, researchers, women’s rights advocates, civil servants and international organizations, to name a few.

The topics addressed were as follows:

Week 1 (February 1 – 5): National Legal Frameworks

Week 2 (February 8 – 12): Accountability

Week 3 (February 15 – 19): Access to Justice

Week 4 (February 22-25): Summary, wrap-up and observations

This report will attempt to summarize the major points made during the discussion. Generally speaking, there was a mixed response in terms of the achievements of Governments as well as the interaction between national legal systems and the international legal framework.

## **II. National Legal Frameworks**

Over sixty years ago, the General Assembly adopted the Universal Declaration of Human Rights. The Declaration recognizes the inherent dignity and the equal and inalienable rights of all members of the human family and outlines a set of human rights and fundamental freedoms to which all are entitled without distinction of any kind, such as

race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has recently celebrated its 30th anniversary. One of the nine human rights treaties, the Convention transformed the ideals contained in the Declaration into a legally binding instrument directed at the achievement of women's equality with men. Together with its Optional Protocol, adopted 10 years ago, and the 1993 Declaration on the Elimination of Violence against Women, CEDAW constitutes a bill of rights for women and girls. Accepted by 186 States from all regions of the world, CEDAW is noteworthy in a number of ways. By outlining the steps States must take to eliminate discrimination against women and ensure their equality with men in the civil, political, social, economic and cultural spheres, it is one of the first human rights treaties to incorporate the concepts of universality, indivisibility and interdependence of all human rights. It pioneered the concept of substantive equality for women and girls, making clear that although laws, policies and programmes may not discriminate against them overtly and directly, women and girls will not be equal until they enjoy the same opportunities and privileges as men in reality. And yet, in 1995 the Beijing Platform for Action identified lack of respect for and inadequate promotion and protection of human rights of women as critical obstacles against gender equality and empowerment of women.

In light of the development of the international legal framework, during week 1 of the on-line discussion, participants were asked to discuss the challenges, trends and best practices with regard to the protection of women's human rights by national legal frameworks. The essential question that was posed was to what extent do national legal frameworks respond to international legal developments? What is the effect of international law, if any, on national legal systems and what are some specific examples of legislative reform?

It is clear that the gap between the existing normative framework at the international level and implementation at the national level needs to be closed. However, one should not underestimate the power of international standards of examination. For instance, in the context of the new Universal Periodic Review established by the Human Rights Council to enable review of the human rights situations in all countries, whether having ratified international human rights treaties or not, several countries with long-standing reservations to CEDAW have explicitly declared their intention to lift such reservations, and some actually have.

In Egypt, for example, the reservation to the equality in transmittal of citizenship to children was removed last year, with the relevant legislation being modified to achieve this. This is of crucial importance since one of the most significant reasons for statelessness in North Africa and the Middle East, remains inequality in transmittal of citizenship, leaving children stateless and deprived of the benefits of being a citizen which include free health care and education, to name a few. Obstacles continue to exist however for those children that have Palestinian fathers.

Morocco has also signaled its intention to remove its reservations to the CEDAW Convention following the introduction of the new Family Code, which allows for greater protection of women's human rights within marriage and divorce in compliance with the CEDAW Convention. To assist in the implementation of the new legislation, Family Courts have also been created. Additionally, the Labour Code (2004) has been amended to introduce the concept of sexual harassment in the workplace, changes to the Penal Code criminalize spousal violence, the Nationality Code (2007) has been changes to give women and men equal rights to transmit nationality to their children as required by Article 9 of the CEDAW Convention's, and changes to the Electoral Code (2002) introduced a "national list" that reserved 30 parliamentary seats for women.

Participants believed that CEDAW has had a positive impact in some African countries, because since ratification many Governments have undertaken legislative, judicial, administrative and other measures to give effect to the provisions of the Convention, and have also made efforts to identify laws that discriminated against women. For example, in Botswana, the definition of the word "discrimination" in its Constitution had been brought in line with the definition of the Convention and a total of 15 laws that had negatively affected women's status had been reviewed, including the Marriage Act, the Marriage Property Act and the Penal Code Act. Similarly, in line with Article 7, Malawi has recently for the first time appointed women in top positions like that of Vice President, Attorney General and Speaker of the National Assembly. Furthermore, Uganda has effectively used Article 4 to institute affirmative action in local and parliamentary elections and university selection.

Participants from Bolivia also indicated their belief that progress was being achieved. During the past 3 years, the role of women in decision-making roles has improved, and notably, a woman ran as a candidate for the last presidential candidate.

However, participants from Ireland expressed concern that the 43 % cut in 2009 to the Equality Authority budget (which works towards curtailing discrimination on several fronts, gender being one of those many factors), is a sign that Governments are not always responsive to international laws and policies.

A recurring theme that emerged from the responses was that the drafting and enacting of laws was only the first step, and that the implementation of those laws was really the most critical concern. Participants underscored the fact that the distinction between *de facto* and *de jure* legislative reform relates directly to how much support the State lends, especially by way of resources, in their commitment to the implementation of human rights principles. In this regard, the role of cultural, political and economic factors that influence Government activity are particularly salient, especially in terms of achieving gender equality.

Participants from Africa used the example of harmful cultural practices such as FGM, wife inheritance and polygamy to illustrate the difficulties of reforming cultural beliefs and behavior, despite legislative change.

Participants stated that activities such as the training of judges and lawyers could assist not only in the implementation of laws, but also in awareness raising of the fundamental principles of gender equality and non-discrimination. Furthermore, the empowerment of women, through the training of women leaders, particularly those with multi-linguistic skill sets, could spur paradigm shifts towards broader women's leadership.

### **III. Accountability**

Ensuring accountability for human rights violations is a core obligation of States under international human rights law. However, the effectiveness of accountability mechanisms at both the domestic and international level relies heavily on the distribution of finances and political power. During past decades, principles to counter impunity and ensure prompt and fair investigations into violations have been refined.

During week 2 of the on-line discussion, participants were asked to comment on whether they believed that usual accountability mechanisms worked for women and whether these mechanisms are adequately equipped to address the specific violations of women's human rights, including violence against women. They were asked to indicate whether there are roles that women themselves can assume in achieving such accountability and what the limitations may be. Whilst identifying the challenges and trends with respect to ensuring accountability for violations of the human rights of women, including violence against women, participants were also asked to specify best practices.

It was interesting to note that rather than merely commenting on formal accountability mechanisms themselves, participants also discussed the lack of involvement of women in these mechanisms both as "users" and judges, and attributed the failure of both formal and informal accountability mechanisms to this lack of participation. Without empowering women to participate and act as judges in and bring cases to accountability mechanisms, a general lack of understanding about the challenges and discrimination that women face cannot be properly understood. Therefore, the prevalence of stereotyped gender roles in some countries was considered to reinforce discrimination in law and in practice. While legal reform may occur, and is occurring more steadily in numerous countries through legislative and constitutional reform, a cultural discourse that presents contradictions and ironies regarding women's status may limit the extent to which this is translated into automatic and predictable gains for women's rights, particularly in the context of ensuring accountability of human rights.

Civil society as a means of achieving accountability was particularly encouraged by participants. By utilizing the unique voice of civil society, women can not only push for direct change, but they can also ensure that women are empowered through education, participation and civic education. Such initiatives would assist in removing gender stereotyping with a view to allowing women to play a larger role in accountability mechanisms. Furthermore, civil society should also engage in awareness raising for the general public to be aware of existing accountability mechanisms when violations do occur. It was recognized that unfortunately, international human rights mechanisms, such

as the general reporting requirement under the CEDAW Convention and the individual complaint mechanism under its Optional Protocol, are relatively unknown in many countries. The wide dissemination of the Convention and its translation into local languages, in addition to partnerships forged between NGOs and Government agencies could assist in increasing the use of international accountability mechanisms, as well as those at the national level.

#### **IV. Access to Justice**

Judicial systems and law enforcement mechanisms can be considered effective if accountability for violations is ensured, including violations attributable to the Government affecting women, either through action or omission. It also requires that women have effective access to judicial mechanisms, both formally and in practice, and that the system provides means to ensure equal treatment. But women are often denied access to justice and are unable to bring their claims before legitimate judicial forums. Furthermore, judicial institutions often lack sensitivity to women's experiences and the violence that women have faced. At times, violations of women's rights are treated as a lower priority. In addition to administrative difficulties, many women also fear rejection and stigma from their communities if they bring their cases before judicial institutions.

During week 3 of the on-line discussion, participants were asked to discuss challenges as well as best practices they had encountered in gaining access to justice for women.

One of the major challenges identified by participants was the lack of government funding for public legal aid programs. Without such funding, only a formal guarantee of equality and justice is presented to women, and the realization and enforcement of rights is not achieved in practice. Therefore, although women's access to justice is provided for by law, their ability in practice to exercise this right and to bring cases of discrimination before the courts is limited by factors such as lack of information on their rights, lack of assistance in pursuing their rights, practical difficulties to reach courts and legal costs.

However, there are some positive signs of change. In Malawi, for example, the DanChurchAid works with Centre for Human Rights Resource(CHRR) in a project which aims at ensuring that the marginalized poor, especially rural women, are protected and empowered to exercise their rights to access resources and services. In addition, the Malawi police have undergone some reform including the creation of a new separate department called protection unit to handle cases of abuse. Protection Units, which are located throughout the country, have greatly improved the reporting of violations by women and children because of their gender friendly trained policemen, a good number of which are women themselves.

## **V. Summary, wrap-up and observations**

The critical and analytic perspectives provided by participants during this on-line discussion signifies that when governments commit to the realization of human rights principles, through legal reform as well as practical implementation, discriminatory practices can be curtailed.

However, several challenges still exist in terms of the realization of women's human rights. The implementation of legislation poses difficulties in the face of resource constraints and lack of gender-analysis in distribution and prioritization. Securing women's human rights begins with ensuring that principles of international human rights law are enshrined in domestic law, though the obligation goes further: ensuring that appropriate accountability mechanisms are in place and ensuring access to justice are equally indispensable elements. Equally, the empowerment of women, especially through education and leadership programs was identified by participants as a necessary precursor to the realization of women's rights.