

Celebration: Twenty-five Years of the Work of the CEDAW Committee
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The twenty-fifth Anniversary of the CEDAW Committee's work is a cause for celebration. I feel deeply honored to be given the opportunity to speak today as the currently most senior member of the Committee. Although I have not been on the Committee for twenty-five years, I have been a member since 1989 and have thus seen many positive changes and developments with respect to the recognition, visibility, status, resources, working methods, output and impact of the Committee.

When the CEDAW Committee – then, as today, consisting of twenty-two women and one man – met for the first time in Vienna in October 1982, expectations among members, the secretariat, States Parties and academic observers were mixed. In no way was the success story of the Committee – as I would call it today – foreseen. Various obstacles of a conceptual, political, organizational and technical nature were looming to impede its work and, in fact, did so for quite some time. Today, most of them have been overcome and the Committee is no longer seen as the “poor relative” among the human rights treaty bodies. Nevertheless, in order to fully appreciate the Committee's status and achievements in 2007, it is worthwhile to consider some of the impediments that it needed to overcome.

In 1982, many States, States Parties and academic commentators viewed the Convention on the Elimination of All Forms of Discrimination against Women more as a development than a human rights instrument. In this context many States Parties believed that their obligations under the Convention, namely to eliminate direct and indirect discrimination against women in all areas of their lives and to achieve their equality with men in the exercise and enjoyment of their human rights, needed only to be progressively implemented rather than “without delay” as Article 2 of the Convention calls for. Two factors may have contributed to this misunderstanding. First, the Committee monitors States Parties' efforts towards eliminating discrimination against women not only in the civil and political but also in the economic, social and cultural spheres. The International Covenant on Economic, Social and Cultural Rights, which guarantees these rights to both women and men, allows for their progressive implementation, which also depends on the availability of financial resources. Second, the goal of Article 5 (a) of the CEDAW Convention, which calls for the modification and abolishment of culturally based stereotypes, clearly cannot be achieved immediately. The physical and organizational separation of the Committee from the other then existing treaty bodies may also have contributed to this misinterpretation.

In reviewing States Parties' reports, however, the Committee has pointed out again and again, that lack of resources or any other difficult circumstances do not allow a State to discriminate against women. And while it may take time to ultimately alter attitudes, behaviour, political, economic and social structures and institutions based on or affected by discriminatory sex-role stereotypes, efforts to eliminate them have to begin “without delay” from the moment when the Convention enters into force in the territory of the respective State Party!

This misperception of the Convention and of its monitoring Committee as a development instrument and mechanism was finally laid to rest through the outcome document of the UN Conference on Human Rights in Vienna in 1993 – a conference at which, as I remember clearly, the then CEDAW Committee Chairperson was first seated among

NGO representatives rather than with the Chairpersons of the other UN treaty bodies! This document reaffirmed that “women’s rights are human rights” and thus finally gave the Committee its rightful place among the other human rights treaty bodies. I well remember the first Action Plan to come out of what then had become the Office of the High Commissioner for Human Rights (OHCHR) and the aim of this Plan to mainstream a human rights approach into all activities of the United Nations. Committee members, including myself, worked hard to include a gender perspective into that Plan. Upon reaffirmation of this concept by the Beijing Conference in 1995 the Division for the Advancement of Women (DAW), which has been servicing the Committee since its inception first in Vienna and then in New York, was given an additional staff post of a human rights chief to support the Committee!

Since 1982, 110 members have been serving on the Committee. They have come from a variety of countries of all regions of the world representing “different forms of civilization as well as the principal legal systems.” Committee sessions thus are experiments in intercultural learning and understanding, which in the early years were not free from ideological strife. Members of these early years indicate in their reminiscences how politically induced differences of opinion and evaluation, reflective of the Cold War, also colored the Committee’s discussions concerning its mandate, the evaluation of States Parties’ reports as well as the formulation of the Committee’s own lengthy final reports. However, despite such difficulties, consensus was always found since all members were driven by the first and foremost goal: to improve women’s exercise and enjoyment of their human rights world-wide.

Nobody had expected rapid ratification of the Convention. However, this, in fact, did happen and resulted in the Convention’s entry into force already on September 3, 1981, e.g., a little more than twenty months after its adoption in December 1979, and a little more than eighteen months after the Secretary-General had opened the Convention for signature, ratification or accession on March 1, 1980. The special ceremony for signing, ratifying or acceding to the Convention at the Second UN World Conference on Women in Copenhagen on July 17, 1980 had also contributed to this fact. As a consequence, however, and particularly in the early years, the Committee experienced a lack of financial resources with respect to its being serviced by the DAW in general and to budgetary means allowing for activities of Chairpersons outside the Committee’s session. These could only gradually be overcome, also thanks to States Parties’ support over the years for budgetary growth! In addition, the Committee’s work would have been less efficient had it not been for the support by international NGOs, UN entities, academic institutions as well as by some States Parties that, since the early 1990s, have provided the Committee with informal meetings either in New York or elsewhere. Contributions to world conferences, development of working methods, or new general recommendations would not have happened without this generosity.

The quickly increasing number of States Parties also led to another problem: the equally rapidly increasing backlog of States Parties’ reports waiting for review. This backlog was not caused by any laziness on the part of the Committee – in fact, I remember clearly the work and the exhaustion caused by it, when the Committee in its thirteenth session in 1994, reviewed fifteen States Parties’ reports in three weeks – although it did not yet formulate concluding comments –, adopted General Recommendation No. 21 (on women’s equality in marriage and family life) and 2 suggestions, and worked on its contributions to three UN World Conferences! The backlog was caused by the unfortunate wording of Article 20 (1) of the Convention, which restricts the Committee’s meeting time to “normally ... a period of not more than two weeks annually.” As some early Committee members indicated, who previously had been engaged in the intergovernmental deliberations on the Convention as diplomats, a different kind of monitoring body had been discussed originally, for which the

restricted meeting might have been acceptable. The idea of a monitoring CEDAW Committee consisting of twenty-three independent experts was promoted and accepted in the very last stage of the intergovernmental negotiations. Unfortunately, due to an oversight, the restricted meeting time was not eliminated. Because of the non-tiring efforts of Committee members, Committee Chairs and of friendly States Parties' support, the Committee's meeting time has been extended over the years. Even an amendment to the Convention was adopted in 1995, which, unfortunately, still awaits the necessary number of acceptances. I would like to express my wish that by the Committee's thirtieth anniversary of its work, this amendment to Article 20 (1) will have been accepted "by a two-thirds majority of States parties" and thus, will finally have become legal.

Rapid ratification of the Convention, unfortunately, was accompanied by a large number of reservations to many of its articles, in particular Articles 2, 5, 9 and 16. Since its inception, the Committee has addressed the issue of reservations in many statements. Reservations to the Convention are permitted under its Article 28 (1), but not when they are "incompatible with the object and purpose of the Convention" (Article 29 (2)). In its various pronouncements the Committee has identified incompatible reservations and has asked States Parties to review, limit and withdraw them. Some of the Committee's statements have influenced the formulation of respective paragraphs in outcome documents of UN World conferences, or, most recently in the new harmonized reporting guidelines for a common core document. The Committee is also represented in the recently established working group on reservations of the OHCHR. But the dilemma of what observers have termed the "paradox of universality vs. integrity" of the CEDAW Convention has not been solved, although a number of reservations were withdrawn over the years. The Committee addresses the issue of reservations, when warranted, in each constructive dialogue with States Parties by inquiring into the reasons for such reservations, States Parties' plans and time frames for withdrawing them as well as into the impact of such reservations on the women living in the respective State Party.

For many years, the foremost mandate of the Committee has been the monitoring of States Parties' implementation efforts through the review of States Parties' reports and the formulation of suggestions and general recommendations, the latter interpreting the Convention. The outcome document of the Fourth UN World conference on women in Beijing in 1995, added another task, e.g., the monitoring of the implementation of the goals of the Beijing Platform for Action. The most important breakthrough in the enhancement of the Committee's mandate and status as a human rights treaty body, however, came in December 1999 with the adoption of an Optional Protocol to the Convention by the General Assembly. I well remember the excitement of the Committee's standing Working Group under the Optional Protocol, which I chaired for some years, when the first communications under the Optional Protocol arrived and the Working Group started preparing views for the Committee. At the same time the Committee also undertook its first inquiry dealing with the gruesome murders of women in Mexico.

Formulating concluding comments after a the review of a State Party's report as well as adopting views under the two procedures of the Optional Protocol enhance the Committee's power to interpret the Convention and the obligations contained therein, although the Committee – like any treaty body – never acts as a court, and its pronouncements are no more than what may be called quasi-jurisprudence. The general recommendations, which the Committee formulates to elucidate articles of the Convention, have also proven an invaluable tool for enhancing States Parties' understanding of their obligations. While it is agreed that these can only be considered as "soft law," I have noted with satisfaction over the

years that these general recommendations have contributed to a deeper understanding of international law in general and of the CEDAW Convention in particular among all stakeholders. Thus, it was the CEDAW Committee that first highlighted genital mutilation of girls and women as a human rights violation in General Recommendation No. 14, even though the formulation it adopted in 1990 only uses the terminology of “female circumcision” due to the then sensitive political discussion of the violation. And in 1992, the Committee again was first in clearly stating in the by now famous General Recommendation No. 19 that violence against women is a form of discrimination and thus not permitted under the Convention. Other important general recommendations preceded and followed those, e.g., on the equal rights of women to participation in the political and public spheres; in marriage and family; in access to health care and on the nature and necessity to apply temporary special measures, if the achievement of de facto equality of women with men is to be accelerated.

The CEDAW Committee, more than other treaty bodies, has enjoyed a special relationship with UN World Conferences. The four UN World Conferences on Women – Mexico in 1995, Copenhagen in 1980, Nairobi in 1985, Beijing, in 1995 – contributed, each in a specific way, to the creation of the Convention, its ratification, its status and its additional mandates. The Committee contributed relevant statements to the conferences in Nairobi and Beijing as well as to the other UN World conferences of the 1990s, thus supporting and enhancing the progress made at these meetings with respect to a deepened understanding of the nature of human rights violations against women and of the efforts necessary to eliminate them. The conferences strengthened the Committee’s status. They also highlighted the need for gender mainstreaming of all UN activities, and they created a new in-depth understanding of the nature of intersectional discrimination against women.

The Convention allows for the contributions of UN Specialized agencies, programs and funds to the work of the Committee (Article 22). Over the years, I have seen the growth of the Committee’s very valuable interaction with these entities as well as their commitment to and engagement in promoting the Convention, the Committee’s concluding comments and through it the human rights of women.

I have been lucky to experience the increase in quality in the Committee’s work and its impact when the Committee started to receive so-called alternative or shadow reports in the early 1990s. I still remember – and this was the time before the internet! – how difficult it was for me and other Committee members in the early years to research women’s human rights situation in a country beyond the information given in a State Party’s report. With the arrival of alternative reports, this task became much easier. Committee members now receive this additional information that usually becomes a basis for questions to a respective State Party. International Women’s Right Action Watch (IWRAW), founded by international activists shortly after the Nairobi conference, has been extremely helpful in this respect as have been many other international NGOs over the years. A new dimension entered the Committee’s work in the mid-nineties, when representatives of national NGOs began to write their alternative reports themselves rather than delivering their pertinent information to international organizations, and even more so, when they began to attend the Committee’s meetings, in which the report of their State Party was discussed. Listening to the constructive dialogue enables them to assist and lobby their respective government to implement the Committee’s concluding comments. International Women’s Rights Action Watch Asia Pacific (IWRAW Asia Pacific) has been instrumental in facilitating this “circle of empowerment” from “global to local” levels.

I have always found it difficult to measure the precise impact of the Committee's work with respect to the improvement of women's exercise and enjoyment of their human rights since the Committee has been only one player among many. However, it has been a great satisfaction for Committee members when the impact as shown in legislative reform, court verdicts, programs and other endeavors could be directly traced to the Committee's constructive dialogue, its concluding comments or, most recently, to its views and decisions under the Optional Protocol. Formulating concluding comments rather than a general report on the constructive dialogue, which the Committee started doing in the second half of the 1990s, proved to be a new and rather difficult task, the improvement of which occupies the Committee on an ongoing basis. The Committee sometimes spent hours in plenary on the formulations of a specific paragraph, while today this work squarely falls into members' time before, after or between Committee meetings, adding another burden to the already rather full working schedule of members during a session. Yet, the Committee's concluding comments instigate further improvement of women's enjoyment of their human rights, and thus, are of greatest importance. I envision making these concluding comments even more concrete and precise to increase their relevance to States Parties and the Committee's impact.

Beginning in 2008, the Committee will be located in Geneva for two of its hopefully three annual sessions and will be serviced by the OHCHR. While this is a development that the Committee had already requested in 1994, parting from the DAW is not without regret and sadness, and certainly with deep gratitude to all its staff, since the servicing provided has become excellent after the Division and the Committee moved to New York. The links to the efforts of the Commission on the Status of Women and with the overall United Nations system is of great value to the Committee's work. Thus, the Committee must maintain links with whatever new gender-structure will be emerging in the United Nations. At the same time, being located in Geneva and serviced – together with all other human rights treaty bodies – by the OHCHR will offer a great opportunity for harmonizing and integrating the human rights treaty bodies into a system, which will be recognized as one and will act in a harmonious manner without being unified into a single body, or a reduced number of treaty bodies or being confronted with a single unified report.

In the many years I had the honor to serve on the CEDAW Committee, I, unfortunately, had to recognize the world-wide persistence of discrimination against women. While women undoubtedly are making progress in the exercise and enjoyment of their human rights, such progress, nevertheless, is slow and new challenges emerge, which threaten the gains that have been achieved. It is, therefore, necessary, that the work of this Committee, which has proven to be so successful over the past twenty-five years, will continue with the same or even greater support by the secretariat; UN specialized agencies, programs and funds; States Parties; NGOs and – a recently emerged phenomenon – national human rights institutions.

I hope to be speaking for the Committee when expressing the following wishes to be realized in the near future, such as universal ratification of the Convention and the Optional Protocol; review and withdrawal of reservations; regular reporting by States Parties and increased follow-up by the Committee on its concluding comments, views and decisions; additional support activities by UN entities, NGOs and NHRIs; and an increase in cooperation with other human rights treaty bodies in the framework of moving towards a harmonized and integrated system. The past twenty-five years have proven and underlined the need for the Convention and its Committee. Thus, any treaty body reform must preserve and uphold the specificity of this Committee's work, a specificity, which is directly related to the

specific nature of discrimination against women. Women comprise half of humanity, and I look forward to the day when they will be able to exercise and enjoy their human rights on an equal basis with men. The Committee's endeavors undoubtedly will continue to contribute to this goal!

Thank you!