

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

DATES : 17-19 May 2004

**Caribbean Training Workshop for Government Officials
Responsible for preparing States Parties' Reports**

DATES: 19-21 May 2004

Venue: Wyndham Nassau Resort, Cable Beach, The Bahamas

AIDE MEMOIRE

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 March 2004, the Convention had been ratified or acceded to by 175 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 60 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 in domestic litigation. The status of international treaty law in domestic law is resolved differently in different countries, but there are 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 treaty-making bodies with regard to these instruments are increasingly used by judges and magistrates as tools to attain the objectives of these instruments. However, it is also the case that judicial officers in many countries are often not fully aware of international human rights norms and the jurisprudence which has developed through these norms. This limits their usefulness and potential impact, as well as the capacity for judges to foster increased respect for human rights.

The Convention 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 often lacking in appropriate content or significantly overdue.

The Division has identified capacity-building of judicial officers and government officials as priority activities. As part of the Division's technical co-operation efforts, a back-to-back colloquium for judicial officers and training workshop for government officials is being planned for the Caribbean region.

B. JUDICIAL COLLOQUIUM

Background and Objectives

All countries in the Caribbean are parties to the Convention. The Judicial Colloquium aims to illustrate the ways in which the Convention can be used to protect the rights and interests of women and girls in domestic courts, as well as how it can be used to bolster and interpret national constitutional and legislative protections for women. Many countries in the region have recently adopted a host of laws designed to give effect to women's rights, including laws on domestic violence, family and child protection, maintenance, sexual assault and equal opportunities in both the public and private sphere. In addition, model legislation in all these areas has been proposed by the Caribbean Community (CARICOM).

The main objective of the judicial colloquium is to show how international human rights norms, particularly those contained in the Convention, can be incorporated into every-day judicial decision-making and the interpretation of laws at the domestic level in order to achieve equality for women and girls. It will provide an overview of relevant international human rights norms and an extensive opportunity for participants to discuss cases where international human rights norms have been used to benefit women and girls. In particular it will:

- illustrate how international law norms can be used to give effect to the underlying purpose of domestic law that aims to protect and enhance women's rights;
- assess 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;

- facilitate the exchange of experiences and best practices on the use of international human rights treaty law in domestic courts at different levels; and
- discuss strategies for more creative and widespread use of international human rights norms contained in the Convention at the domestic level.

Participants

It is expected that approximately 28 senior judges and/or magistrates from the following Member States in the Caribbean region will participate in the three-day colloquium: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St Lucia, St Kitts and Nevis, St Vincent and the Grenadines, Suriname and Trinidad and Tobago. 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 as observers a small number of academics and representatives of international organizations working in the field of women's human rights.

Format and Content

The colloquium will consist of a series of plenary and working group meetings. In the plenary sessions on the first day, general concepts relating to the use of international human rights law in domestic litigation, as well as the provisions of the Convention and its understanding of equality, will be examined. Illustrative case studies and group exercises will be discussed. Using these concepts as a backdrop, the colloquium will then examine two specific themes on the second and third days. Each theme will be introduced by a keynote presentation, which will be followed by discussions in smaller working groups which concern different aspects of the theme. The themes and small group discussion topics have been selected because of the prevalence of these issues in the Caribbean, the need for more effective application of laws designed to address them, and the applicability and use of international human rights law in these areas in other parts of the world.

A total of three working groups on each theme will meet in parallel. Participants will have the opportunity to make short presentations, which they would have been invited to prepare in advance, relating to the application of international human rights in their courts, focusing on one of the two themes. Each working group will consider a number of questions as well as case studies 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. Participants will also have an opportunity in the working groups to share experiences and best practices relating to the application of international human rights in their courts.

Theme 1: Violence Against Women

This session will examine violence against women both in the public and private spheres. It will include a discussion of the underlying gender dimensions in domestic violence and sexual offences. In the context of the battered women's syndrome and the cycle of violence, this session will also examine the extent to which the law reflects women's experiences, and the relevance of social context to judicial decision-making. How courts balance gender equality considerations with other rights which may come into conflict with it will also arise in this session. Rules of

evidence and procedure, particularly in rape and sexual assault cases, will be considered in the light of gender equality and international human rights. While the topics in the working groups will be largely determined by the interests of the participants, suggested areas for discussion include domestic violence, rape, sexual offences, sexual harassment and the battered women's syndrome.

Theme 2: Nationality, Marriage and Family Relations

This session will examine laws relating to nationality and citizenship as they impact on women. It will also examine family law relationships, including the role of women as primary care-givers, and the gender implications of child support and maintenance. Issues related to custody and the best interests of children will also be examined. The focus in this session will also be on the ways in which the Convention can assist in the interpretation and application of these laws. While the topics in the working groups will be largely determined by the interests of the participants, suggested areas for discussion include women's right to nationality and acquisition of citizenship, family responsibility, child support and maintenance, custody, access and the best interests of the girl-child.

Outcomes

The colloquium will result in increased awareness and understanding of international human rights law, and its role in domestic courts, and the ways in which it can be used to achieve substantive equality for women.

It is proposed that the colloquium 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 statement, which will be discussed and adopted by the plenary. The communiqué/statement will be widely distributed amongst judges at the national level and to international human rights bodies and mechanisms.

Participants of the colloquium will be invited to consider forming a task force to provide support, share information and case-law, and take further action, including follow-up training, on using international human rights law in judicial decision-making.

A report on the proceedings of the colloquium, including keynote and working group presentations will be prepared.

C. TRAINING WORKSHOP

Objectives

The training workshop will be conducted for government officials of Caribbean countries responsible for reporting under article 18 of the Convention. The primary objectives of the training workshop are to enhance the capacity of government officials to prepare States parties' reports, and to implement the Convention at the national level. As some countries in the Caribbean have not yet reported, the workshop will provide guidelines and strengthen capacity for the preparation of both initial and periodic reports. Only one country in the Caribbean has thus far signed and ratified the Optional Protocol. The training workshop will also raise

awareness on the procedures and opportunities provided for women by ratification of the Optional Protocol.

Participants

It is expected that approximately 28 government officials from the following Member States in the Caribbean region will participate in the three-day training workshop: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St Lucia, St Kitts and Nevis, St Vincent and the Grenadines, Suriname and Trinidad and Tobago. The participants will include government officials involved in the reporting process. Participants may also include observers from relevant parts of the United Nations system.

Format and Content

The workshop will comprise plenary presentations on international human rights law and various aspects of the Convention, as well as smaller working groups dealing with practical exercises on preparation of reports, implementation and follow-up to concluding comments. Participants will also have an opportunity in the small groups to identify and analyze challenges to reporting within their own countries and determine strategies to overcome them.

The content of the workshop will include an overview of international human rights law, including the place of the Convention in international human rights law. It will examine a number of specific areas including:

- The composition and role of the Committee;
- Individual provisions of the Convention;
- Reservations;
- Reporting requirements, including the reporting process and the reporting guidelines of the Committee;
- General recommendations of the Committee;
- Implementation of the Committee's concluding comments and the follow up process;
- The role of civil society in the implementation of the Convention , including institutional set-ups;
- The content, procedures and opportunities provided for women's rights by the Optional Protocol to the Convention

The workshop will be facilitated by recognized experts, including experts of the Committee.

Outcomes

The outcome of the training workshop will be the enhanced capacity of government officials to prepare States parties' reports, an increase in understanding by States parties' officials of the legal obligations established in the Convention and enhanced implementation of the Convention at the national level. It will also lead to greater awareness and understanding of the Optional Protocol and the implications and opportunities provided by it.

A report on the proceedings of the workshop, including keynote and working group presentations will be prepared.

Participants will receive a full set of training materials, including materials and information on the individual provisions of the Convention, reporting, implementation and follow-up

D. TIMING, DURATION AND VENUE

The colloquium and the training workshop will be held consecutively for three days each in Nassau in The Bahamas. The colloquium will take place from 17 to 19 May 2004, and the workshop from 19-21 May 2004.

E. WORKING LANGUAGE

The working language of both the colloquium and the training workshop will be English.