

United Nations  Nations Unies

Commission on the Status of Women

Forty-seventh session

New York, 3 - 14 March 2003

PANEL II

**Women's human rights
and elimination of all forms of violence against women and girls
as defined in the Beijing Platform for Action
and the outcome documents of the twenty-third special session
of the General Assembly**

Written statement submitted by

Feride Acar

[English only]

**Recent Key Trends and Issues
in the
Implementation of CEDAW**

by

Feride Acar

Chairperson

Committee on the Elimination of Discrimination Against Women

discrimination does not happen and punish those who do discriminate against women. Bearing in mind that discrimination against women often takes place in places and in contexts that are not formally 'state controlled' and/or by people who are not official agents of the state, this is indeed a sine quo non for full implementation of women's human rights.

The Convention and the Beijing Platform for Action

Provisions of the Convention as set out in its 16 substantive articles and the 12 critical areas of the Beijing Platform for Action (BPA) are closely connected. In fact women's human rights as enshrined under the Convention form the legal framework for and are central to the Platform.

Furthermore, the Convention's monitoring process enables the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) to look for states' compliance with the Platform as well as the Convention itself. While it is the Commission of the Status of Women (CSW) that has the primary mandate for monitoring the implementation of the BPA, the CEDAW Committee also has a salient role in this respect. The Platform specifically asks States parties to the Convention to include information on measures taken to implement it when reporting for CEDAW and the Committee is tasked to take the Platform into account when considering these reports. This is a responsibility the CEDAW Committee takes very seriously and has been systematically carrying out through its review of state party reports, since the Fourth World Conference on Women. Since that time the CEDAW Committee in its Concluding Comments has also routinely included a recommendation to the reporting state party to widely disseminate the BPA. In its review of state reports the Committee has also often highlighted the commitments made by state parties at Beijing and in its Concluding Comments, noted if and where states have failed to address the BPA in their reports. The Committee has often requested adoption of overall plans for implementation of the BPA within a clear time frame and in its "constructive dialogue" with the states representatives; it always inquires into the results of implementation of the Platform. Those issues and areas addressed more specifically by Beijing+5 process, such as marital rape, crimes of honor and crimes of passion and racially motivated violence against women have also increasingly found their way into the Committee's review agenda in the years since 2000. Thus, the CEDAW Committee is accorded a unique opportunity to systematically observe and evaluate what is happening around the world with respect to human rights of women.

Some Observations on Key Issues and Trends in Women's Human Rights

Looking through the vantage point of CEDAW one is, first and foremost, struck by the fact that despite significant progress, universal ratification of CEDAW -- which was targeted for 2000 -- has not been achieved, and there are still a large number of reservations to this Convention. In fact, CEDAW has the largest number of reservations of any human rights treaty. To me this shows that while most states may be willing to recognize human rights of women on a general plane, many are still not ready to commit themselves to abide by these rights fully. It is also a fact that a good number of these reservations are entered on Articles 2 and 16 of CEDAW and some, unfortunately, are stated in very broad, sweeping terms. Since Articles 2 and 16 delineate the spirit and essence of effective implementation of women's human rights the CEDAW Committee considers the presence of, particularly very broad-based reservations to Articles 2 and 16, as highly problematic and fact, incompatible with the Convention itself.

There are those who see ratification with such serious reservations to substantive articles as merely political ploy by states who may want to jump on the band-wagon of international 'political correctness' without necessarily having a genuine political will to implement women's human rights. Perhaps, some of the reservations to the Women's Convention give justification to these views. It is a fact that some states, contrary to

international law, have placed reservations that are not only extensive in scope but also undermine the “meaning and purpose” of the Convention. The Committee as well as some other state parties and international women’s voices (particularly BPA & B+5) have expressed, time and again serious concern over such reservations. I am pleased to say that in the recent years there have been a few withdrawals of such incompatible reservations and/or limitation of their scope. Yet, many such reservations still remain and some new ones are added.

What is more, some states continue to indicate that they have no intention of withdrawing incompatible and sweeping reservations that seriously impede the implementation of the Convention. This is a true dilemma not only for the Committee but also for all defenders of women’s human rights around the world.

One is left at the highly uncomfortable position of having to decide which is less damaging. Ratification with reservations that may be contrary to the “meaning and purpose” of the Convention which seriously renders the instrument ineffective in terms of impact on women in that country or no-ratification which means no reporting obligation and consequent absence of any international monitoring or scrutiny of women’s human rights in that state? While the Committee’s attitude has been to support the first option and hope to use the reporting process and the “constructive dialogue” opportunity with the state party, in patient and determined manner, to encourage and pressure for removal or trimming of such incompatible reservations; it is essential that the international community systematically press for change of attitude on the part of state parties on this matter.

The progress in the world, in the area of recognition and implementation of women’s human rights is obvious. New legislation, growing awareness and sensitivity, strengthening of machineries at both state and civil society levels are universal phenomena. Yet there is also sufficient evidence to imply that the international community is still far from having reached a shared notion of women’s human rights as contained in CEDAW; formulated into policy

ownership and employment frequently lag behind.

At the national level, with regard to mechanisms, some countries have instituted specific gender ombuds (notably Nordic countries and some Eastern European states) and others have a deputy ombuds and/or a women's rights commissioner in the Human Rights Commission to specifically respond to women's human rights issues. In most countries, however, women's human rights continue to be "lost" in ombuds or law commission structures and suffer from lack of sufficient attention at the national level.

It is noteworthy that in several Muslim countries law reform measures, implementing the Convention and the Beijing Platform for Action, have included the revision of personal status laws, establishment of family courts, and the adoption of family code and reform of citizenship laws. However, much more needs to be done in this area in order to make women's human rights as they are depicted in CEDAW 'real' for women at home in these countries.

A relatively new area of law where women's human rights are increasingly being taken into consideration is migration and refugee legislation. Several states have recognized gender-based persecution in their refugee laws; provisions in immigration legislation to protect the human rights of

even encourages such action. But even more seriously, both de facto and de jure violations of women's rights –in areas such as family law, nationality, bodily integrity, freedom of expression, freedom of reproductive choice and liberty of movement are also often overlooked, if not justified, by governments on the basis of respect for tradition, culture, or religion. These are almost 'tolerated' due to a misguided notion of "cultural relativism". This not only obscures violations of the rights of women, but creates a dilemma and inhibits firm response to such acts from the international community. It is, therefore, a serious challenge both the national governments and the international human rights community must be prepared to confront in the future.

We must all operate with the baseline assumption that all traditions are not good, and are not to be protected. Discriminatory traditions that violate women's human rights need to be changed.

Human rights are universal; women's human rights are also universal which means they are the same everywhere and for every woman.

Our work in the CEDAW Committee bears witness to the rather disturbing and disappointing persistence of stereotypical attitudes towards the gender roles of women and men as a critical challenge to women's human rights worldwide. Prevalence of such attitudes is responsible for a whole range of violations in widely different contexts around the world. They form the social-psychological breeding ground of traditional practices and customs prejudicial to women, such as violence against women, polygamy, forced marriage, son-preference and "honor" killings. In many countries stereotypes attitudes also create a pervasive climate of discrimination, incorporating rigid social codes that entrench traditional role of women in the family and limit their participation in public life. In almost all regions of the world notions of appropriate work for women which are often internalized by women themselves, discourage women from entering public life and seeking non-traditional employment and seriously limit women's freedom to make choices about their individual roles.

Last but not least, let me also point to a most relevant emerging issue. There is a growing recognition, in the international arena, that discrimination is multifaceted and complex, and that few individuals are affected by only one form of discrimination. The rise to prominence of women's issues had a significant role in drawing attention to multiple discrimination, at the international level. The multiple forms of discrimination that women may experience, indicating that cross-cutting factors such as age, disability, socio-economic position or belonging to a particular ethnic or racial group could combine with discrimination on the basis of sex and create specific barriers for women gave visibility to the phenomenon and made clear that women so affected would experience multiple disadvantages.

The BPA emerges as a landmark document in that respect. The impact of multiple forms of discrimination in education and training, participation in decision-making, enjoyment of economic benefits and human rights, including in times of armed conflict, as well as with regard to the right to be free from violence was addressed in a number of the BPA's critical areas of concern.

In this context CEDAW has observed that while discrimination on the basis of sex has been slowly eroding much more needs to be done with respect to elimination of multiple and intersecting discrimination women around the world face. Recognizing such need there is a growing tendency in CEDAW, in the recent years, to specifically inquire about and make recommendations to state parties with regard to women who are not only denied equality on the basis of their sex, but because of factors such as age, race and ethnicity. Other human rights treaty bodies are following suit with the Human Rights Committee and the Social, Economic and Cultural Rights Committee increasingly integrating gender into their work.

Over the years, through its consideration of states parties' reports, the CEDAW Committee has also seen that various types of discrimination do not always affect women and

men in the same way. The Committee has observed that gender discrimination may be intensified and may occur concurrently with other forms of discrimination, such as racial, ethnic or religious discrimination. Women who are particularly affected by the multiple impact of discrimination are women belonging to minority groups in terms of race, ethnicity, nationality or caste, as well as migrant workers, women asylum seekers, refugees, displaced women and indigenous women.

The Committee has seen that discrimination against women of different ethnic and racial origins is often manifested in the most extreme and horrific forms of gender-based violence.