

Human rights of women

I. Global commitments

The Beijing *Platform for Action* sets out three strategic objectives under the critical area of concern I, “human rights of women”:

Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women; and
Ensure equality and non-discrimination under the law and in practice;
Achieve legal literacy.

The main areas of action to be taken by Governments under these strategic objectives include: ratification and implementation of international human rights instruments, development of national action plans and human rights and legal education programmes, and creation of institutional mechanisms; establishment and strengthening of the legal framework for gender equality, including the removal of discriminatory laws and practices, and mechanisms to remedy violations of women’s rights; and introduction of human rights and legal training programmes focusing on women’s human rights.

Since the adoption of the Platform for Action, the international normative framework for the promotion and protection of the human rights of women has been further strengthened through the adoption and accelerated implementation of legal and policy instruments.

The Convention on the Elimination of All Forms of Discrimination against Women remains the central international human rights instrument for the realization of equality between women and men. As of September 2009, 186 States are party to the Convention, which represents an increase of 41 States since the Fourth World Conference on Women in 1995. The Convention is the second most ratified international human rights treaty. The Committee on the Elimination of Discrimination against Women, the human rights treaty body established under the Convention in 1982 to monitor implementation by States parties, has so far examined over 400 reports periodically submitted by States parties, and provided detailed guidance on the steps to be taken by the State party concerned to enhance compliance. The Committee has also adopted 26 general recommendations to clarify particular articles or issues under the Convention.

The Optional Protocol to the Convention entered into force on 22 December 2000 and provides for an individual complaints procedure and an inquiry procedure. As of September 2009, 96 States parties to the Convention have become party to the Optional Protocol. The Committee on the Elimination of Discrimination against Women has decided five individual complaints on the merits and declared five inadmissible. The Committee has also conducted one inquiry in which it issued comprehensive recommendations to the State party concerned. The two procedures under the Optional Protocol complement the reporting procedure and add strength to existing mechanisms that seek to ensure women’s full enjoyment of their rights. They provide an avenue for

redress at the international level and function as an important tool for improving understanding by States and individuals of the obligations imposed by the Convention.

Human rights treaty bodies established under other international human rights treaties¹ continue to address, within their mandates, the human rights of women in their concluding observations and their general comments. The Human Rights Committee adopted general comment No. 28 (2000) on the equality of rights between men and women (article 3) and the Committee on the Elimination of Racial Discrimination adopted general comment XXV (2000) on gender-related dimensions of racial discrimination. The Committee on Economic, Social and Cultural Rights adopted general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3) and the Committee on the Rights of the Child addressed the situation of the girl child in several of its general comments.²

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force on 1 July 2003 and strengthened protection of the rights of migrant women. On 13 December 2006, the General Assembly adopted the Convention on the Rights of Persons with Disabilities, under which States Parties recognize that women and girls with disabilities are subject to multiple discriminations and agree to take measures to ensure the full and equal enjoyment by them of all their human rights and fundamental freedoms (article 6). The Convention entered into force on 3 May 2008. The General Assembly adopted

World Summit Outcome of 2005. The United Nations Declaration on the Rights of Indigenous People, adopted by the General Assembly on 13 September 2007, enhances the protection of the rights of indigenous women.

The Commission on the Status of Women, in the framework of its multi-year programme of work, considered the human rights of women at its forty-second session in 1998, when it adopted agreed conclusions on the theme, and included attention to this area of concern under a number of other priority themes as well as resolutions. The Commission continued its collaboration with the former Commission on Human Rights and since 2006 with the Human Rights Council. The Commission considers an annual joint work plan for the Division for the Advancement of Women and the Office of the United Nations High Commissioner for Human Rights and collaborates through participation of their Chairpersons at sessions. The Commission on Human Rights continued, until its final session in 2006, to address the human rights of women and called for attention to gender perspectives and human rights of women in many of its thematic and country resolutions. The Human Rights Council maintained a focus on the integration of a gender perspective, in particular in its universal periodic review⁵.

A gender-sensitive legal framework that aims to promote and protect women's human rights is crucial to the practical realization of the principle of the equality of women and men, and women's de facto enjoyment of their human rights. Significant steps have been made in strengthening legal frameworks and bringing legislation in line with international human rights standards for the promotion and protection of the rights of women.

Many States have carried out constitutional and legislative reforms to reinforce provisions that guarantee equality between women and men and/or prohibit discrimination on the basis of sex, such as Belgium, Belize, Colombia, Croatia, Greece, Guyana, Luxembourg and Serbia. In 2006, Luxembourg revised article 11 of its constitution to include the principle of equality between women and men. The new Serbian Constitution of 2006 includes the State's guarantees for equality of women and men. It anticipates the development of an equal opportunities policy (article 15) and the introduction of special measures to achieve full equality (article 21). Greece amended its constitution in 2001, obliging the State to take special positive measures to eliminate discrimination, in particular against women. Colombia and Ecuador added constitutional provisions to protect women against violence. Many countries enacted comprehensive gender equality or equal opportunities acts for women.

Constitutional reform in Guyana

In its concluding comments concerning the second periodic report of Guyana, considered at its twenty-fifth session from 2 to 20 July 2001, the Committee on the Elimination of Discrimination against Women welcomed the constitutional reform process which led to the recognition of nondiscrimination on the basis of sex, gender, marital status and pregnancy as a fundamental human right enshrined in the Constitution. It also welcomed the passage of Bill No. 6 of 2001, which provided for the establishment of constitutional

In 2008, the Rwandan Parliament became the first ever to have a majority of women members (56.25 percent). It is followed by the Parliaments of Sweden (47 percent women), Cuba (43.2 percent women), Finland (41.5 percent women), and Argentina (40 percent women)⁷.

Many countries have amended their penal codes and criminal procedure codes to eliminate provisions that discriminated against women, or to enhance protection for women. Many of these improvements covered different forms of violence against women, including domestic violence; sexual assault and rape, including marital rape; incest; and harmful practices.

Penal and civil code reforms in Turkey

The new Turkish Penal Code of 2004 included more than thirty amendments and constituted a major step towards gender equality, and protection of women's human rights and sexual and bodily autonomy. The Penal Code, inter alia, defined sexual crimes as crimes committed against the individual instead of crimes against morality and society, and increased the sentences for such crimes; criminalized marital rape and sexual harassment in the workplace; and abolished provisions allowing exculpation of perpetrators if they married the victim.⁸ The new Turkish Civil Code of 2001 abolished the supremacy of men in marriage, and ensured women's rights and equality between women and men in marriage and family relations.⁹

Many countries have adopted or revised labour codes, equal employment opportunity acts or similar legislation providing equal opportunities between women and men in employment, prohibition of discrimination on the basis of sex in employment and affirmative action to overcome women's inequality in employment. Countries have increased protection against sexual harassment in the workplace and discrimination related to pregnancy. They have also increased maternity leave for women or created parental leave opportunities for either or both parents. Measures to better reconcile work and family responsibilities for women and men have become more common. For example, Slovakia amended its Labour Code in 2003 to facilitate, Slovakia amended better reTJ -25.194r.6

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code set 18 years as the minimum age of marriage for men and women; eliminated the system of male guardianship over the wife; placed divorce by mutual consent under the control of a judge; and imposed strict legal conditions on polygamy. The family law acts of Barbados, Belize and Costa Rica gave equal rights to women within common-law

asylum claims. Women in prison or detention benefited from additional legal protection when pregnant or caring for young children in Nicaragua, and from rehabilitation services after exposure to violence in Norway. Indigenous, migrant and older women in a number of countries benefited from laws and/or programmes responding to their needs.

Jordan: Advancing the rights of migrant domestic workers

In Jordan, a Ministry of Labor project on empowering migrant domestic workers, supported by UNIFEM, was launched in 2001 with the objectives of:

- Establishing dialogue between source and destination countries;
- Improving recruitment procedures through policies and legislation;
- Sensitizing government recruitment agencies, employers and NGOs about migrant women's rights; and
- Empowering migrant women and improve their access to social services and awareness of their human rights.
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This project established a Steering Committee that included representatives from the Ministry of Labor; Ministry of Interior; Public Security Department, Family Protection

equal opportunities and equal participation in all spheres of life. The 2006-2008 Plan of Measures for Implementing the Strategy covers the political and economic advancement of women, protection of reproductive health, efforts to combat violence against women and children, and the achievement of gender equality in family relations. In its concluding observations concerning the second periodic report of Kazakhstan, considered at its thirty-seventh session from 15 January to 2 February 2007, the Committee on the Elimination of Discrimination against Women commended Kazakhstan on the adoption of the strategy and the plan of measures for its implementation.¹⁹

A wide variety of institutions and mechanisms with responsibility for women's human rights have been established, specifically upholding women's rights or promoting gender equality more generally. Such mechanisms are found at various levels within and outside Government with participation of governmental and nongovernmental stakeholders. Costa Rica, for example, established a national network of municipal women's offices to promote gender equality at the local level. The Republic of Korea set up a special task force of representatives from ministries, academia and NGOs which prepared a bill abolishing the "head of family" system.

In some countries, the mandates of national human rights institutions or commissions include a focus on women's human rights. The human rights and equal opportunity commission of Australia has among its members a sex discrimination commissioner. In some countries, the ombudsperson's office is mandated to deal with discrimination complaints and equality issues, including sex-based discrimination. In Gambia, the office of the ombudsperson raised women's awareness of their rights and provided redress for injustices in the workplace. The national observatory on women's human rights and parity in Gabon, a nongovernmental entity, carries out studies and advises on new initiatives on gender equality.

Parliamentary committees on human rights or on gender equality in a number of countries supported passage of specific gender equality legislation and monitored the application of gender equality principles in legislation, as in Australia, Bolivia, India and Ireland. In Israel, the Knesset (Parliament) committee on the status of women has played a crucial role within Parliament and beyond by building networks and alliances for gender equality and social change.

It is critical to ensure that those involved with implementation of laws, plans and policies regarding women's human rights have the capacity to do so in an appropriate and effective manner. Capacity-building efforts have been strengthened in many countries, in particular through training of public officials. Governments often supported or partnered with national and international NGOs to carry out such training activities. For example, El Salvador's Institute for the Advancement of Women developed and implemented a training programme on human rights and women's rights for government officials and NGOs throughout the country. The national commission on the role of Filipino women and the University of the Philippines integrated women's human rights into training

modules for the police and the military, teachers and supervisors, jail wardens and employees and prisoners.

Educational programmes and public awareness-raising campaigns are critical to increasing general awareness of women's human rights and women's legal literacy and understanding of their rights as well as for strengthening societal condemnation of discriminatory attitudes. Many States have carried out such programmes and campaigns. States have integrated human rights education into school and university curricula and

empowerment to claim their rights, as well as the cost of such mechanisms and delays in the administration of justice, have also been obstacles.

In a number of countries, national action plans, policies and programmes do not reflect the full scope of the Convention on the Elimination of All Forms of Discrimination against Women and its concept of substantive equality or the Beijing *Platform for Action*, nor do they provide appropriate implementation or monitoring mechanisms. National action plans are rarely costed and their implementation is inadequately funded. Lack of sex-disaggregated data and research related to women has been an impediment for the development and evaluation of evidence-based legislation, policies and programmes of action. Insufficient political will to bring about gender equality and limited financial, human and technical resources are also barriers to implementation.

Even where laws are in place, gaps between women's de jure and de facto equality persist. Women continue to experience discrimination and disadvantage, including in employment and public and political life, especially at decision-making levels, and lack access to health care, economic resources, and social benefits and services. Discriminatory practices and customs, and persistent social and cultural attitudes emphasizing traditional roles and stereotypes of women and the subordinate position of women in society and the family, continue to constitute major impediments to ily, co0 Tc 0j e

implement the Convention and other international human rights treaties, as well as the concluding observations of the respective Committees. Those States that are not yet party to the Convention should ratify it, and States that have entered reservations should continue to review them with a view to withdrawing them. Adequate and timely reporting by States under treaties is critical to their effective implementation at the national level. Efforts are needed to increase the number of States parties to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and all States should widely publicize this redress mechanism.

States should continue to review and revise national legal frameworks on an ongoing basis to ensure compliance with their international obligations. Legal frameworks should also adequately respond to global policy directives and take advantage of good practice developed in particular areas. States should conduct gender-impact analysis of all new legislation. Efforts should be taken to ensure that national law enshrines equality between women and men and prohibits discrimination in line with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. Legislation should also provide for temporary special measures in accordance with article 4, paragraph 1, of the Convention, to accelerate de facto equality between women and men. Effective, affordable and accessible means of recourse and redress for violations of women's rights must be available, including gender-sensitive courts and tribunals. All laws on gender equality and women's rights should include an adequate budget for their implementation and such budgetary allocation should be based on a full analysis of funding required to implement all measures contained therein.

Concerted efforts are necessary to amend or repeal discriminatory laws, including personal status, penal, labour, employment and commercial laws, and laws governing marriage, family relations and nationality. It is necessary to close the gaps that remain in the protection of women against discrimination by private as well as public sector actors. It should be ensured that provisions of multiple legal systems, where they exist, comply on.ector a.0011 T

Commitment and political will to realize the full enjoyment by women of all their human rights is critical. Political backing and support at the highest levels is necessary to ensure the protection and promotion of the human rights of women remains a priority.