

13. CEDAW and the Committee: personal reflections

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My first article relating to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was written in the 1980s after my country, Sri Lanka, ratified the Convention in 1981. I recall that I could hardly find informative publications on the Convention, especially in the context of issues relating to women's human rights in the developing countries of Asia and Africa. CEDAW did not feature prominently in the Third World Conference on Women, which I attended in Nairobi in 1985.

Today the CEDAW Convention and its Committee have acquired a clear status and relevance as the global and universal benchmark and norm-setting flag bearer on women's rights and women's issues. The commitment, professionalism and independence of the CEDAW experts and the capacity of the CEDAW Committee to earn the respect of both governments and women's groups has helped the Convention to be ratified by 186 countries, almost reaching the status of universal ratification by member states of the United Nations.

The complaints and inquiry procedure to CEDAW, the Optional Protocol (2000), has been ratified by more than 50 per cent of these state parties. The Committee has pronounced its views on several individual complaints and conducted one inquiry under the Optional Protocol. It has also adopted 26 General Recommendations, which have interpreted the meaning of equality, developing it beyond the traditional meaning of equality before the law and equal protection of the law, incorporating in national constitutional and international human rights jurisprudence influenced by Anglo-American law. This has enabled the Committee to address the complexities and nuances of gender-based discrimination that impacts negatively on women, addressing issues such as gender-based violence, exploitation in migration for employment, and the gender discrimination dimensions of conflict and disaster. All these are aspects not specifically dealt with in the Convention. These developments, in my experience, have made CEDAW norms more relevant to women in non-Western political economic and social systems. They have facilitated new understanding and incorporation of women's human rights in the national constitutions of different countries, as well as the regional human right systems in Europe and Latin America. The most recent Women's Rights Protocol to the African Charter on Human Rights has been inspired by CEDAW.

Part IV: Afterword

The recent proposal for a Regional Asian Convention must build on these instruments, and cannot and should not undermine the global consensus achieved so far through the CEDAW process, in the name of 'Asian Values'. My own experience on the Committee, reviewing reports of state parties for four years, demonstrated the reality that gender-based discrimination is a universal experience, in one form or another, in all countries of the world. Manifestations were both similar and different, posing the always-common problems of integrating CEDAW standards nationally and implementing them, creating effective enforcement mechanisms and resourcing the implementation of women's human rights. The CEDAW Committee's Concluding Comments on State Party Reports highlight the commonalities of the issues, the spaces for change and the importance of peer leanings in implementing CEDAW, especially in the many countries that share a common legal tradition of Islamic law or English Common Law or Civil Law, as part of their colonial history.

My CEDAW experience also demonstrated the rich contribution and enormous dynamism of women's movements and women's scholarship, in our understanding and response to gender-based discrimination in diverse cultures. The CEDAW Committee's willingness to adopt a universalist approach, to rely on scholarships on women's rights and insist on the participation of women's groups in the CEDAW process through the acceptance of shadow reports, has strengthened their own work. This has also helped states parties to the Convention to recognise women as partners in achieving progress on gender equality at the national level, legitimising their participation in an international procedure traditionally considered the exclusive preserve of governments. CEDAW reviews confirm the pioneering and dynamic contribution of feminist scholars and groups and individual activists who have established regional organisations such as International Women's Rights Action Watch (IWRAP) Asia Pacific, the Asia Pacific Forum on Women, Law and Development (APWLD) and Women in Law and Development in Africa (WILDAF). All of them have helped to make gender equality a central pillar of development, and the human rights discourse.

We marked 30 years of CEDAW in December 2009. However, an anniversary is also a time to reflect and take stock of the continuing and common challenges and gaps in implementing CEDAW. It is also important to recognise and respond to forces undermining achievement of many decades. Religious fundamentalism or political agendas that challenge democratic governance based on universal human rights norms, as well as exploitative market forces that only stress economic efficiency, can reinforce the abuse of family and state power that has denied women in all societies equality and life chances.