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# COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

New Chair elected; reviews of Bangladesh, Belarus, Israel, Kenya, Liechtenstein, South Africa, and Sri Lanka



Photo: Charles Hutchins

The Committee on the Elimination of Discrimination Against Women (the Committee) held its 48<sup>th</sup> session in Geneva from 17 January to 4 February 2011. It considered the reports of seven State parties to the *Convention on the Elimination of All Forms of Discrimination Against Women* (the Convention): Bangladesh, Belarus, Israel, Kenya, Liechtenstein, South Africa, and Sri Lanka. State delegations varied in size, from Israel with five representatives, Bangladesh and Liechtenstein with eight, to South Africa with 16.

In general, the delegations did not stray far from their well-prepared statements and, despite asserting their willingness to cooperate and participate in an open dialogue with the Committee, they tended to respond to questions selectively, avoiding certain topics and issues. Furthermore, the information provided was of varying quality and reliability.<sup>1</sup>

The Committee raised a diverse array of issues but, despite often vague or otherwise inadequate responses by delegations, Committee members did not in general pose follow-up questions (with the exception of the subject of the application of the Convention and other international human rights instruments in the Israeli-occupied Palestinian territories).

Among the most active Committee members were Mr Niklas Bruun, Ms Nicolce Ameline, Ms Ruth Halperin-Kaddari, Ms Dubravka Simonovic, and Ms Meriem Belmihoub-Zerdani. Mr Bruun, Ms Ameline and Ms Halperin-Kaddari made pointed interventions and did not shy away from more controversial topics. This was the first session for five members,<sup>2</sup> all of whom kept a low profile. The Committee also elected a new Chairperson, Ms Silvia Pimentel, who took over from Ms Naéla Gabr.

## NGO PARTICIPATION

Non-governmental organisations (NGOs) submitted between five and ten reports for each State examined<sup>3</sup> and several NGO representatives briefed the Committee during the session. In accordance with the Committee's practice, these briefings took place on the Monday of the week of the relevant review. The Committee appeared receptive to the issues raised and, during the reviews, highlighted many of the key issues raised by NGOs.<sup>4</sup>

Notably, during the review of Belarus the Committee expressed its concern about the issue of reprisals, which had been raised by NGO representatives. Mr Niklas Bruun said organisations attending the review of Belarus should not face any negative consequences once they return home. While the Committee, in its concluding observations, was clear on the need to 'create an enabling environment and ensure adequate funding opportunities for women associations' and recommended

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1 During the review of Belarus, Ms Olinda Bareiro-Bobadilla noted that the information offered by the delegation concerning women's participation in the economic and social sphere was not comprehensive enough. She asked the delegation to, in future, provide this information in the form of percentages.

2 New members: Ms Ayse Feride Acar (Turkey); Ms Olinda Bareiro-Bobadilla (Paraguay); Ms Ismat Jahan (Bangladesh); Ms Maria Helena Lopes de Jesus Pires (Timor Leste); Ms Patricia Schulz (Switzerland).

3 Bangladesh: 6; Belarus: 6; Israel: 9; Kenya: 7; Liechtenstein: 5; Sri Lanka: 8; South Africa: 10.

4 Particularly during the reviews of Belarus, South Africa, and Israel.

the de-criminalisation of ‘participation in activities of unregistered public associations’, it did not issue specific recommendations against reprisals. Other treaty bodies, such as the Committee Against Torture (CAT), have responded more directly to cases of actual or feared reprisals. In the case of Ecuador, for instance, CAT has asked the State to follow up within one year on protection afforded to those combating torture, which presumably includes organisations submitting information to the UN.

## MAIN THEMES

### Integration of the Convention in the domestic legal system

South Africa faced criticism from the Committee for failing to include in its Constitution or relevant legislation a definition of discrimination that is in accordance with the Convention. The delegation responded openly by acknowledging this problem but did not give any commitment to follow it up.

The lack of information on the application of the Convention by national courts, and the unsatisfactory nature of that application where information is available, was raised by the Committee during several reviews. It requested more information from Belarus with respect to this issue. Committee members also questioned whether national legislation was being amended in line with the Convention. The delegation responded that the nature of the legislative process in the country means it will take time for amendments to come into effect. Bangladesh was requested to take steps to ensure the decisions of its courts respect the Convention, particularly with respect to family law.

Kenya was condemned for its slow implementation of laws for the promotion of the rights of women in line with the Convention. The delegation responded defensively, repeatedly claiming that women’s rights are protected under the new 2010 Constitution, which touches on all areas of the Convention.

The withdrawal of reservations to the Convention was an important issue in many reviews. Several members of the Committee asked that Bangladesh consider removing its reservations on articles 2<sup>5</sup> and 16(1)(c).<sup>6</sup> The delegation responded by stating its commitment to the full implementation of the Convention but reiterated there may be difficulties with the withdrawal of the reservation on this article. Israel

was criticised for reservations on articles 16 and 7(b)<sup>7</sup> of the Convention. The Committee asserted that these reservations, in particular on article 16, one of the core articles of the Convention, block the full implementation of the Convention. The delegation responded that the State has no intention of removing these reservations, and rejected the Committee’s recommendation to ratify the Optional Protocol (allowing for individual complaints to the Committee).

### Violence against women

The issue of the stereotyping of women and its contribution to violence and lack of access to justice was raised in the reviews of several countries. In Belarus, stereotyping was said by the Committee to contribute to most ‘minor’ crimes being committed against women. The delegation did not provide a direct response, instead claiming that for serious crimes such as murder, women form a minority of victims.<sup>8</sup> The delegation blamed the high rate of alcoholism in the male population for the high level of domestic violence against women. The Committee did not follow up on this statement.

For South Africa, the Committee pointed to tradition as the root of many stereotypes, particularly in rural areas, where women are considered exclusively responsible for child-care, and are seen as objects for curing diseases such as AIDS (resulting in many cases of rape). It also highlighted the significant levels of violence against women, including sexual harassment of girls on their way to school. The Committee cited a recent survey in South Africa that revealed the need for public education around violence against women, as many college students believed that sexually violent conduct with someone you know does not constitute rape.

Problems identified by the Committee in relation to Bangladesh included acid attacks on women, the wide acceptance of marital beating, and the lack of recognition in law of marital rape. The delegation responded that the rate of acid attacks had decreased since the introduction of the Acid Control Act in 2002. The Committee pointed out, however, that only a fraction of cases are reported. Responding to the Committee’s claim that the rate of violence against women had increased overall, the delegation suggested this may be due to better reporting of cases, and the fact that women no longer remain at home and are therefore more exposed to violence. They reaffirmed the Government’s zero-tolerance policy on violence against women. Despite the unhelpful nature of this response, the Committee failed to question further.

Finally, for Sri Lanka, the Committee identified the need for better implementation of legal provisions on domestic violence, including the Domestic Violence Act of 2005. It also pointed to information received on the lack of government

5 Article 2 is a core article of the Convention requiring States to take measures to end discrimination against women. Bangladesh issued a reservation on the account that article 2 conflicts with Sharia law. Several other State parties objected to this reservation as being against the object and purpose of the treaty. See <http://bit.ly/h787cs> for more information on these reservations and <http://bit.ly/f4j4pE> on core obligations under article 2.

6 Article 16 aims at eliminating discrimination against women in relation to marriage and the family, and paragraph (1)(c) emphasises the equality of women and men with regards to their rights and responsibilities during, and at the dissolution of, marriage.

7 Article 7(b) deals with the participation in political and public life.

8 According to statistics from the Government of Belarus, 57 of 199 reported murder cases in 2010 were of women.

shelters for victims of domestic violence, which it seemed to see as a way of giving better effect to existing legal provisions.

### Questions across the board in relation to healthcare

The impact of traditional stereotypes on women's health in South Africa, including the persistence of forced virginity tests, inadequate measures to address domestic and sexual violence, lack of abortion facilities, and female genital mutilation (FGM), was of concern to the Committee. The delegation argued that FGM was practiced only by immigrants, but gave no information as to how it intended to address the problem.

The Committee welcomed the fact that Israel provided information on Bedouin women, something it had failed to do in previous reviews. However the continuing discrepancy between Arab and Jewish populations in terms of infant mortality and life expectancy was highlighted. The delegation responded that it had taken steps to address infant mortality, such as by making efforts to ensure pregnant women have physical access to healthcare, despite roadblocks for example, but women chose not to access those services.<sup>9</sup>

The delegation of Belarus presented a glowing report of the healthcare situation for women, including an increase in funds allocated from the Government's budget, free condoms and HIV/AIDS tests, longer maternity leave, and a low child mortality rate. NGO alternative reports offered a different picture, according to which many healthcare problems for women worsened during the period 2007-2010.<sup>10</sup> Unfortunately, the Committee did not raise these discrepancies with the delegation.

The Committee criticised Bangladesh for lack of data on the health of women. It called such information 'essential' if the high mortality rate of women is to be tackled, and considered the information provided in the State report 'irrelevant'. Committee members expressed concerns about access to pre-natal health care and asked whether there were plans to increase the healthcare budget. The delegation responded that resources were limited and, unfortunately, the State had to prioritise some areas over others.

Liechtenstein was criticised for retaining penal provisions for abortion, contrary to previous recommendations by the Committee. It was pointed out that there was also a failure to provide free contraception. The Committee regretted that the report did not include specific information on the health of women, and requested data disaggregated by sex.

### Mixed success on education and employment

The Committee expressed concern about the high unemployment rates amongst women, particularly migrant workers, in

Sri Lanka. Women dominate the informal labour market, but there are inadequate protections in this sector, including for disabled women, and a lack of respect for 'equal pay for equal work' (despite the ratification of relevant International Labour Organization (ILO) conventions).

The delegation of Kenya reported that initiatives undertaken by the Government and civil society are producing positive results, for example primary school enrolment has increased to 93 percent for girls, and there has been an increase in university enrolment, although there are still twice as many men at university as women. Women represent 34 percent of Government employees; however, the Committee noted that the majority of women employees in local authorities are low-level.

The Committee expressed concern about the large pay gap between men and women in Israel (despite the ratification of relevant ILO conventions), and gender segregation in the labour market, with women working mostly part-time jobs.

The Committee referenced NGO reports when questioning the delegation of Belarus about high unemployment rates amongst women. The delegation responded that the rate had been reduced from 60 percent five years ago to 20 percent currently. These figures were contradicted by NGOs during the briefing prior to the review. Questioned further, the delegation became even more defensive, claiming there was no unemployment problem and that there were more jobs than people to fill them.

There was criticism of Bangladesh's failure to provide statistical information on employment. The Committee noted that according to ILO reports, the principle of equal wage for equal value is recognised, but the narrow definition of 'wage' was considered problematic and created discrimination.

The Committee referenced Liechtenstein's universal periodic review (UPR) of 2008, when the issue of the rights of female migrant workers was raised. However, the reference to the UPR remained vague and made little attempt to raise specific recommendations or State commitments. The Committee regretted that there was no further information on migrant workers in the State report. The high number of women working part-time jobs was also raised. The delegation claimed this was due to women's desire to reconcile work with family obligations, which the Committee seemed to accept as an adequate explanation. The delegation also stated that the lower level of education that older women tended to have explained why they had a harder time finding either full- or part-time employment.

## OTHER DEVELOPMENTS

During the review of Israel, a recurring concern was the delegation's failure to accept the applicability of the Convention in the occupied Palestinian territories (OPT). The Committee emphasised that the obligations assumed under

<sup>9</sup> See also the OHCHR report on Palestinian women giving birth at Israeli checkpoints, available at <http://bit.ly/f7BbMV>.

<sup>10</sup> Alternative report on Belarus, at <http://bit.ly/ekJU7B>.

the Convention do not cease in times of conflict. As it has argued many times before, Israel said it has no effective control in the OPT and therefore cannot impose its jurisdiction on these territories.

With respect to Belarus, the Committee noted that the right to freedom of assembly is limited through national legislation and regulations.<sup>11</sup> Indicative of this was the 'liquidation' of Belarus's only women's political party 'Nadzieja' in 2007. The Committee emphasised that this contravenes international human rights obligations. The head of the Belarusian delegation, Ms Shchotkina responded that 'there can be no problem with political parties in Belarus, it is simply not possible'. Ms Shchotkina went on to explain that if a political party, NGO, or NHRI breaks the law, then it would have to be liquidated in order for the rule of law to be maintained.<sup>12</sup>

The Committee noted that the criminalisation of same-sex relations in Sri Lanka, and the lack of protection against violence (in particular, corrective rape) for lesbians in South Africa (despite constitutional provisions against discrimination on the basis of sexual orientation) are not in line with the Convention. Neither delegation offered a response to these points.

### Draft General Recommendations

The Committee continued its work on the joint general recommendation on harmful traditional practices<sup>13</sup> with the Committee on the Rights of the Child and met with that committee and its working group during the session. The recommendation will highlight harmful practices including FGM, forced marriage, and child marriage with a view towards eliminating these problems. The joint nature of this recommendation is in line with efforts to intensify coordination between treaty bodies. While some other treaty bodies have displayed resistance towards joint general comments (as they are referred to in other treaty bodies) the Committee has made particular efforts to seek out opportunities for collaboration.

The Committee also further elaborated its draft general recommendation on the economic consequences of marriage and its dissolution.<sup>14</sup> It hopes to adopt this recommendation by the end of 2011.

11 According to the civil society report by Belarus's *Women's Independent Democratic Movement*, at least three women are being detained as political prisoners in Belarus.

12 The head of the delegation said the liquidation of 'Nadzieja' was based on specific information and clear proof after issuing multiple warnings to the party and 'there has been no interference or distortion of any kind and if anyone has suggested that this was the case then that is unethical and wrong'.

13 General recommendations elaborate the Committee's interpretation of articles or themes in the Convention. They are often developed by the Committee to direct States' attention to issues of pressing concern. The Committee decided to work on a joint general recommendation on harmful traditional practices at its 47<sup>th</sup> session, in October 2010.

14 The Committee began work on this draft general recommendation at its 42<sup>nd</sup> session in October 2008.

Members were appointed by the Committee to a working group that will draft a general recommendation on women in situations of armed conflict. The Committee made the decision to develop this new general recommendation at its 47<sup>th</sup> session in October 2010. It will focus on the disproportionate and unique impact of armed conflict on women, in particular the gender-based violence that often accompanies armed conflicts. The general recommendation will highlight the need for women to play an active role in the promotion of peace, security, and reconstruction. As an initial stage, and in order to gather ideas for inclusion in the general recommendation, the Committee will hold a half-day general discussion and exchange of views on women in armed conflict and post-conflict situations in an open meeting at its 49<sup>th</sup> session in New York.

The Committee also decided to elaborate a draft general recommendation on access to justice. The decision reflects the fact that women face difficulties in accessing justice and protecting their rights through national courts or tribunals, or other public institutions. The Committee's view is that access to justice, in terms of appropriate and effective legal remedies, is a first and fundamental step towards addressing discriminatory acts against women.

During an address to the Commission on the Status of Women,<sup>15</sup> on the outcomes of the Committee's 46<sup>th</sup>, 47<sup>th</sup>, and 48<sup>th</sup> sessions, the newly elected Chair, Ms Pimental, further highlighted the Committee's collaborative intentions. She noted that Committee members intend to work with UN Women on two draft general recommendations, and emphasised the Committee's desire to work closely with this new UN body. Ms Pimental also drew attention to meetings held between the Committee and relevant special rapporteurs, including the Special Rapporteur on violence against women, the Independent Expert in the field of cultural rights, and the Special Rapporteur on the human rights of internally displaced persons.

At the previous session of the Committee, members expressed some concern about the creation of a new working group on discrimination against women in law and practice<sup>16</sup> (one of the Human Rights Council's special procedures). There were particular worries this would lead to duplication and undermine the credibility of the Committee. The members of this working group were appointed at the 16<sup>th</sup> session of the Human Rights Council. It remains to be seen whether the Committee will continue its efforts to work collaboratively with this new body. ■

15 CEDAW Committee Outcomes Statement: <http://bit.ly/dS8Tf9>.

16 A/HRC/RES/15/23. See also ISHR's news piece at <http://bit.ly/i7FK9m>.