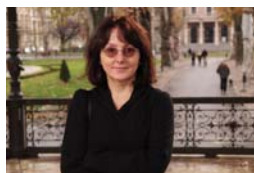


Women Today



CEDAW Committee member
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30 Years of the Women's Convention: Not a Declaration but a Legally Binding and Implementable Women's Human Rights Instrument

The Convention on the Elimination of All Forms of Discrimination against Women, adopted 30 years ago by the United Nations, provides a legally binding international framework that prescribes legal and other measures for the elimination of all forms of discrimination against women. Its ratification and implementation by 186 State Parties is turning its provisions into women's human rights protected at the national level. Ratification by only six States is needed in order for the Convention to achieve its goal of universal ratification and confirmation of the universality of women's human rights in the whole world.

Additionally, 98 State Parties ratified the Optional Protocol to the Convention, now 10 years old, and with it they accepted an individual complaints mechanism and inquiry procedure as a tool for stronger implementation of the Convention at the national level.

The Convention's goal is the recognition and achievement of the *de jure* and *de facto* equality of women and men, which is to be achieved by a policy of elimination of all forms of discrimination against women. A primary requirement for States Parties is to “*embody the principle of equality of men and women in their national constitutions or other appropriate legislation*” and “*to ensure the practical realization of this principle.*” This requirement of practical realization of equality makes clear that the Convention envisages substantive equality between women and men in the enjoyment of all human rights.

In the past 30 years, progress in the implementation of the Convention has been made in many countries but much more needs to be done since *de jure* and *de facto* discrimination and violence against women persist. By ratifying or accepting the Convention, State Parties assume an obligation to incorporate the Convention into their national legal systems or to give full effect to its provisions. This is still a weak point for many State Parties. In some State Parties, the Convention is perceived as a declaration and not as a legally binding and implementable instrument for women's human rights. All State Parties also assume an obligation to harmonize national legislation with the provisions of the Convention, including an obligation to amend or repeal the existing laws and regulations that discriminate against women. This is not yet the case since in many State Parties huge gaps exist between accepted Convention

standards and national laws that discriminate against women. Such gaps should be closed by legislative, administrative or other measures for effective implementation of the Convention.

For example, the Convention provides a broad definition of discrimination that addresses both direct and indirect forms of discrimination against women and makes it a unique instrument in international law for the achievement of genuine (both formal and substantive) equality between men and women. Unfortunately, many State Parties have not yet adopted or prohibited discrimination against women in line with the Convention's definition.

The Convention also provides that temporary special measures aimed at acceleration of *de facto* equality between men and women, such as affirmative action measures or quotas, will not be considered discriminatory. In a unique provision also, States Parties are required to modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women. States Parties are also required to accord women equality before the law, including in relation to civil and contractual capacity, movement, residence and domicile. They are also required to take all appropriate measures to eliminate discrimination against women in marriage and family relations, including in relation to children.

The Convention establishes a treaty body, entitled the Committee on the Elimination of Discrimination against Women (CEDAW), for the purpose of considering progress made in its implementation and protection of women's rights at the national level. Since its establishment, CEDAW has ensured that the Convention is a living instrument both in substance and procedures. It has elaborated 26 General Recommendations which provide authoritative guidance to State Parties on the meaning of the Convention's provisions and themes which underpin it. For example since the Convention does not contain an explicit provision dealing with violence against women as such in its General Recommendation 19 (1992), the Committee made clear that various articles of the Convention require States to protect women from violence including domestic violence. .

Strong cooperation has also been forged with nongovernmental organizations, both country-based and international, which routinely supply the Committee with numerous "*shadow reports*," in which they outline their views on the implementation or nonimplementation of the Convention. The Committee has also expanded the categories of national stakeholders, such as national human rights institutions, and national parliaments that it encourages to be involved in its work.

Like other human rights treaty bodies, the CEDAW considers reports through a constructive dialogue with a high level delegation of a given State Party, deliberating

and adopting concluding observations after the examination in a closed session. These concluding observations are tailor-made recommendations for each State Party, which include two areas for immediate follow-up by the each State Party, with an interim report on progress being required within one or two years.

States that are truly committed to implement their obligations under the Convention are using concluding observations of the CEDAW as a tool for elimination of all remaining forms of discrimination against women. Hopefully Japan will vigorously implement its last concluding observations and consider ratification of the Optional Protocol to the Convention.

Profile of Dr. Dubravka ŠIMONVIĆ

Dr. Šimonović currently heads the Human Rights Department in the Ministry of Foreign Affairs of Croatia. She represented her country at the Fourth World Conference on Women in Beijing, China, in 1995. Dr. Šimonović has worked as an expert on the Committee on the Elimination of Discrimination against Women (CEDAW) since 2003 and was Chairperson from 2007 to 2008. She was Chairperson of the Council of Europe Task Force to combat violence against women, including domestic violence, from 2006 to 2008. Currently, she serves as Co-Chair of the Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO).