

XI. INTEGRATING GENDER INTO THE WORK OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN A COUNTRY SITUATION: WOMEN AND THE RIGHT TO WORK

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A. Introduction

1. The International Covenant on Economic, Social and Cultural Rights affirms and guarantees a wide-ranging set of economic, social and cultural rights for all persons including for women: the right to work, to just and favorable conditions of work, to form and join trade unions, to social security, to protection of and assistance for the family, to an adequate standard of living (including adequate food and housing), to health, to education, to culture and to the benefits of scientific progress.

2. The structural framework of gender integration within the Covenant is firmly rooted in two themes: non-discrimination and equality. Article 2.2 of the Covenant obliges to desist from discriminatory practices and to revise laws and policies which allow discrimination. States are also obliged to prohibit private persons and entities from practising discrimination in any field of public life. Article 3 ensures the equal right of men and women to the enjoyment of all economic, social and cultural rights. This article provides that men and women should possess precisely the same legal entitlements to the rights in the Covenant and provides as well a framework for instigating progressive and immediate measures so that women may enjoy, on an equal footing, rights which have often been denied to them.

B. Women and the right to work

3. The right to work is provided for in the Covenant under a bundle of related rights: article 6, the right to work, article 7, the right to just and favorable conditions of work, and article 8, the right to form and join trade unions. Conceptually and in practice, the right to work as defined under article 6 is necessarily linked to articles 7 and 8, and indeed it is likewise linked to all other rights in the Covenant. The right to work is the basis for the enjoyment of adequate food, housing and clothing. Furthermore, one's working status also affects the enjoyment of the rights to health and education. For the purposes of this case presentation articles 6 and 7 of the Covenant will be operational as constituting the right to work.

C. Country situation

4. It is difficult to pick out just one country situation to illustrate how gender has been integrated into the work of the Committee for three reasons. First, the question of singling out one country is a sensitive matter: why this country and not the other? Second, the details of the situation have to be precise and clear. A total grasp of the situation is called for and in light of so much documentation to go through, it is difficult to be precise and clear one hundred percent of the time.

5. My choice for today's purposes therefore has been limited to only two country situations. In both I was responsible for the State party's report and in both, I visited the country and gathered detailed primary data on particular issues directly related to the Covenant and on the basis of the State party's report scheduled for consideration by the Committee. My visits were unofficial and I visited these countries in my personal capacity under the auspices of some NGOs. From these two country situations I have chosen Hong Kong for the simple reason that the case I will cite illustrates what I could obtain in other countries with similar economic contexts as well. That is, how failure of the State to protect the right to work of women can lead to further violations of their economic, social and cultural rights.

6. Hong Kong was once a leading manufacturing center for garments, toys, electronics and furniture among other things. About seven years prior to the hand-over to China, Hong Kong began a rapid shift to a service economy, pushing its production and manufacturing section to the towns bordering China and into China itself. Almost overnight, workers in the various factories that moved to China found themselves without work because the new sites were too far from their residences in Hong Kong and transportation costs would eat up their income. Factories hired mainland Chinese to take the place of Hong Kong workers at much lower salaries.

7. The large majority of those who lost their jobs were women who were employed in garments, toys and electronics companies. Their unemployment was not even documented because the sector under which they belonged simply ceased to exist. There were even those whose unemployment was invisible, not even part of the statistics because their employment was never recorded officially in the first place, being part of a vast underground employment system of the underpaid "unskilled" work force. These women who numbered by the hundred thousands could not find other jobs because they did not have the skills necessary for employment. Of course this problem also affected men. In their case many of them could follow their jobs to the new locations and come home every other weekend to visit their families, an arrangement that was not possible with women because they had children waiting for them to come home everyday. An alarming number of women turned to prostitution – often with the husband's consent – just to get by.

8. This particular situation was one of the primary concerns that the Committee raised with the Government delegation that presented Hong Kong's report. The Committee engaged the delegation in a detailed and precise fashion, referring to actual locations and numbers. The Government was unaware of what was happening because there was no agency that took care of the needs of women in the work force in particular those who were employed in the manufacturing sector.

9. The Committee's concluding observations reflected the concern that the Covenant's provisions on the right to work was not being fully implemented, particularly in these women's right to work. Because there were no "retraining" programmes offered by government, these women were unable to learn new skills that would otherwise have qualified them for employment in the ever-widening service sector. Hence, this omission on

the part of Government deprived a large sector of the work force of their work. The particular difficulty of women in situations like this led them to prostitution.

D. Incorporating a gender perspective into the Committee's work

10. As early as its fifth session in 1990, the Committee adopted revised general guidelines for reporting by States parties to the Covenant. Under all of the Covenant's provisions, women's rights are given prominence. In particular, the concepts of non-discrimination and equality always inform the line of questioning. Even during dialogues with State representatives, many more concerns are raised from the floor regarding not only the protection but the promotion of women's rights as well.

11. The most positive aspect in integrating the gender perspective in the work of the Committee has been the greater attention to women's rights in its own work. In closed door discussions, concerns about the situation of women's economic, social and cultural rights has become a major concern in considering States' parties performance. Even NGOs have noticed this as evidenced by the increasing number of submissions from NGOs representing women's rights as well as their presence during Committee sessions.

12. The difficulties encountered have been myriad. States simply do not have sufficient data on women where it comes to the informal economy, conditions of work, domestic violence, housing, food, health, education, traditional practices with negative impact on women's rights. Sadly enough, there is a general lack of conceptual comprehension of the human rights of women. The Committee itself needs more technical support on women's issues: reproductive health care rights, how culture can impose hidden restrictions on the rights of women, among other things.

E. Suggestions

- Another call for revising reporting guidelines
- Holding a gender workshop for all members of treaty bodies
- Provision of more material for treaty body members
- Critical analysis of women's human rights in country situations.
