



United Nations Nations Unies

DIVISION FOR THE ADVANCEMENT OF WOMEN

DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS

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Judicial colloquium on the Application of International Human Rights law at the Domestic Level

DATES: 25-27 May 2005

Training Workshop for Government Officials Responsible for preparing States Parties' Reports

DATES: 30 May – 1 June 2005

Venue: ECLAC Headquarters, Santiago, Chile

AIDE MEMOIRE

A. BACKGROUND INFORMATION

On 18 December 1979, the General Assembly of the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (the Convention). As of March 2005, the Convention had been ratified or acceded to by 179 States. The Optional Protocol to the Convention which entitles individuals or groups of individuals to submit claims of violations of the Convention's terms to the Committee on the Elimination of Discrimination against Women, the expert body which monitors compliance with the Convention, now has 76 States parties.

The Convention provides a definition of discrimination against women, and comprehensively addresses women's right to equality and non-discrimination in the civil, political, economic, social, and cultural fields. It requires States parties to pursue a policy of eliminating discrimination against women, and to take all appropriate measures to eliminate such discrimination, whether committed by public authorities or by any person or organization.

Upon ratification or accession to the Convention, States parties assume specific obligations for the full implementation of the Convention at the national level. The Convention requires States parties to incorporate the principle of equality of women and men in their national constitutions or other appropriate legislation, and ensure, through law and other appropriate means, the practical realization of this principle. States parties

are also obliged to adopt legislation prohibiting discrimination, to establish legal protection for women on an equal basis with men, and well as to provide effective remedies against acts of discrimination against women.

The Convention obliges States parties to submit to the Secretary-General a report on the legislative, judicial, administrative or other measures that they have adopted to implement the Convention within a year after its entry into force and then at least every four years thereafter or whenever the Committee on the Elimination of Discrimination against Women. These reports, which provide an important opportunity for States to assess implementation of the Convention at the national level, are often lacking in appropriate content or significantly overdue.

The Committee has also stressed the relevance of the Convention in domestic litigation. The status of international treaty law in domestic law is resolved differently in different countries, but there are a growing number of cases in which domestic courts and tribunals, from constitutional courts to lower-level courts, have referred directly or indirectly to international human rights law including in cases concerning women and girls. International human rights instruments and the decisions of treaty-making bodies with regard to these instruments are increasingly used by judges and magistrates as tools to attain the objectives of these instruments. However, it is also the case that judicial officers in many countries are often not fully aware of international human rights norms and the jurisprudence which has developed through these norms. This limits their usefulness and potential impact, as well as the capacity for judges to foster increased respect for human rights.

Because of the specific obligations arising from the Convention for government officials and judicial officers, the Division has identified capacity building and training for these groups as priority activities. As part of the Division's technical co-operation efforts, a colloquium for judicial officers and training workshop for government officials is being planned for the Latin American region. Both events are being planned in collaboration with the Economic Commission for Latin America and the Caribbean (ECLAC), and are scheduled for June 2005, in Santiago, Chile.

B. JUDICIAL COLLOQUIUM

Objectives

The objective of the colloquium is to contribute to the achievement of women's human rights through the enhanced application of international human rights law, and in particular the Convention, by judicial officers in domestic courts. The colloquium aims to show how international human rights norms, particularly those contained in the Convention, can be incorporated into every-day judicial decision-making and the interpretation of laws at the domestic level in order to achieve equality for women and girls. It will provide an overview of relevant international human rights norms and an extensive opportunity for participants to discuss cases where international human rights norms have been used to benefit women and girls.

Participants

It is expected that approximately 22 senior judges and/ or magistrates from the following eleven countries will participate in the colloquium: Argentina, Bolivia, Brazil, Chile, Columbia, Ecuador, Peru, Paraguay, Uruguay, Venezuela and Cuba. All the participating countries are parties to the Convention. The participants may include as observers a small number of academics and representatives of international and/or regional organizations working in the field of women's human rights.

Format and Content

The colloquium will consist of three full days, which will include plenary and working group meetings. Each day will be devoted to a different theme. Two keynote speakers and expert facilitators will be invited to lead discussions at the colloquium. The colloquium will take into account work that has been done in the region in the past, especially by NGOs and academia, to support the emergence of a jurisprudence of gender equality. In particular it will:

- illustrate how international law norms can be used to give effect to the underlying purpose of domestic law that aims to protect and enhance women's rights;
- assess how courts in different legal systems utilize international human rights treaty law to ensure that women and girls are guaranteed their rights to equality and non-discrimination;
- facilitate the exchange of experiences and best practices on the use of international human rights treaty law in domestic courts at different levels; and
- discuss strategies for more creative and widespread use of international human rights norms contained in the Convention at the domestic level.

Expected Accomplishments

The colloquium is expected to lead to increased awareness and understanding of international human rights law, its role in domestic courts, and the ways in which it can be used to achieve substantive equality for women in the courts. Consequently, in the longer term, this will lead to increased use and application of international human rights law in domestic decision-making to achieve substantive equality for women in Latin American courts.

Participants of the colloquium will be invited to consider forming a task force to provide support, share information and case-law, and take further action, including follow-up training, on using international human rights law in judicial decision-making.

Steps will also be taken to facilitate future electronic communication between the participants in the Santiago colloquium with those of colloquia previously organized by DAW, especially those in the Bahamas (May 2004) and Arusha (September 2003).

A report on the proceedings of the colloquium, including keynote and working group presentations will be prepared.

C. TRAINING WORKSHOP

Objectives

The objective of the training workshop is to contribute to the achievement of the human rights of women through increased effectiveness and enhanced implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.

Participants

It is expected that approximately 22 government officials from the following eleven countries will participate in the colloquium: Argentina, Bolivia, Brazil, Chile, Columbia, Ecuador, Peru, Paraguay, Uruguay, Venezuela and Cuba.

Representatives of non-governmental organisations (NGOs) from the region whose work focuses on the Convention and Optional Protocol will also be invited to participate.

NGOs play a critical role in the implementation of the Convention at national level and in monitoring at the international level. The Committee on the Elimination of Discrimination against Women requires State parties to provide specific information on the situation of non-governmental organizations and their participation in the implementation of the Convention. Despite the fact that there is no formal role for NGOs in the consideration of reports, the Committee has encouraged NGO participation by setting aside time for briefings with them and encouraging them to submit alternative or shadow reports, contribute to general discussions or to provide input into the drafting of general recommendations.

Participants may also include observers from relevant parts of the United Nations system.

Format and Content

The workshop will be held over three days, and will comprise plenary presentations on international human rights law and various aspects of the Convention, as well as smaller working groups dealing with practical exercises on preparation of reports, implementation and follow-up to concluding comments. Participants will also have an opportunity in the small groups to identify and analyze challenges to implementation and reporting within their own countries and determine strategies to overcome them. Each of the working group sessions will consider the role of NGOs and civil society in implementation and reporting and will be asked to consider co-ordination and consultation mechanisms for more effective and ongoing collaboration.

The workshop will also illustrate the links between implementation, reporting and follow up to the concluding comments of the Committee and illustrate how the process of preparing and presenting a report to a treaty body enables a State party to monitor and evaluate the extent to which the treaty has been implemented, and identify gaps and challenges, as well as new strategies and opportunities for implementation

Because a large number of States parties being invited to the training workshop are parties to the Optional Protocol, the workshop will also examine the content, procedures

and opportunities provided for enhanced protection and promotion of women's rights by the Optional Protocol to the Convention.

The Optional Protocol to the Convention is an important mechanism for the protection of women's rights at the international level. By ratifying the Optional Protocol, a State recognizes the competence of the Committee to receive and consider complaints from individuals or groups of individuals within its jurisdiction, once certain admissibility criteria are fulfilled, including in particular the exhaustion of domestic remedies.

The workshop will examine the ways in which NGOs and other interest groups may support and bolster use of the protocol for the advancement of women's human rights nationally and internationally.

Other specific topics that will be examined during the plenary sessions include:

- The Convention on the Elimination of All Forms of Discrimination against Women: Context and Background;
- Specific obligations in the Convention;
- General recommendations;
- Reporting requirements and guidelines;
- The role of coordination and collaboration with civil society in the implementation of the Convention, including institutional set-ups.

The workshop will be facilitated by recognized experts, including experts of the Committee.

Expected Accomplishments

The expected accomplishments at the end of the workshop are:

- enhanced capacity of government officials to implement the Convention at the national level, to prepare States parties' reports and to follow-up on the concluding comments of the Committee, including through co-ordination and co-operation mechanisms amongst branches of government and with civil society; and
- greater awareness and understanding of the Optional Protocol and the implications and opportunities provided by it for the advancement of women's rights.

A report on the proceedings of the workshop, including keynote and working group presentations will be prepared.

D. TIMING, DURATION AND VENUE

The colloquium and the training workshop will be held consecutively for three days each in Santiago, Chile. The colloquium will take place from 1 to 3 June 2005, and the workshop from 6-8 June 2005.

E. WORKING LANGUAGE

The colloquium and the workshop will be conducted in Spanish and interpretation from English will be provided as necessary.