

Report

Thematic briefing on 'Women and Armed Conflict' between the CEDAW Committee and NGOs

43rd CEDAW session
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1:30pm – 2:30pm

Jointly organised by
the Women's International League for Peace and Freedom
International Women's Tribune Centre
International Women's Rights Action Watch Asia Pacific
Movement of Indigenous Women Tz'ununija, Guatemala

1. Introduction

In facilitating the participation of women at the international level, particularly in providing alternative information to the CEDAW Committee, it is a concern that available information has a limited focus on gendered experiences of women who are living in conflict affected areas. So far, women's human rights violations including sexual and gender based violence, forced conscription of women, forced displacement, forced detention and disappearances amongst others, have not been addressed comprehensively. Access to justice, redress and reparation for these women is limited. Women are not part of the negotiation of most peace processes and there is a struggle to identify a framework to draw accountability from the state in fulfilling its obligation in guaranteeing non-discrimination and substantive equality, which is integral to the advancement and empowerment of women in conflict affected areas.

Thus, to further the discourse regarding the protection and promotion of women's human rights in situations of conflict, post conflict and in societies in transition, various national and international women's rights organizations have engaged the CEDAW Committee in a process of dialogue in the hope of creating a General Comment regarding the advancement of women's human rights in conflict affected areas. In so doing, it is hoped that this General Comment will act complimentary to and further the existing Security Council Resolutions 1325 and 1820 addressing women affected by conflict.

2.

CEDAW jurisprudence on women and conflict

In order for a country to attain full development, it requires the participation of women on equal terms with men. This statement resonates throughout the preamble of CEDAW and in reference to armed conflict as a key factor impacting upon the realization of such equality, the preamble of CEDAW provides a strong starting point for the Committee to address the issue in its Concluding Observations.

Prior to the adoption of UN Security Council Resolutions 1325 and 1820, the CEDAW Committee had already begun to make recommendations to individual States regarding women affected by conflict as follows:

- [13th session - 1994 – *Yugoslavia*]: The Committee called on Yugoslavian women not to remain passive. The Committee expressed the hope that women would generate the political will needed to bring the conflict to an end; recognizing that the full participation of women in all aspects relating to conflict is absolutely necessary.
- [14th session - 1995 – *Croatia*]: The Committee recommended that it is necessary to break the silence on acts of sexual violence against women and to identify guilty parties and bring them before national and international courts.
- [15th session - 1996 – *Rwanda*]: The Committee requested that training be undertaken to ensure response to sexual assault, mass rape and systematic rape.
- [1998 – *Azerbaijan*]: The Committee regretted that the role of national machinery was not clear enough to ensure the protection and the full involvement of women in the development process of the country.
- [2000-*India*]: The Committee was concerned about the “risk of high levels of violence, rape, sexual harassment, humiliation and torture in areas where there are armed insurrections”, and directed the state party to review terrorism related legislations and the Armed Forces Special Powers Act in consultation with NHRIs, to ensure that the special powers given to security forces does not prevent their prosecution for the violations committed. It also recommended that women’s participation in peace processes be ensured.

3. Case study - Guatemala

The case of Guatemala identifies some of the roles assigned to women in the time of conflict and the impacts, more generally, upon those women affected by the conflict of Guatemala.

During the period of conflict women primarily fulfilled roles as combatants, mostly in the capacity of messengers for guerilla groups; and as representatives for the army where they were hired as 'beauty queens' for army events and as dancers for army personnel.

The main human rights violations suffered by these women during this time included sexual violations, arbitrary executions, torture, forced displacement, death due to displacement, forced disappearance, forced prostitution and as victims of a scorched earth strategy. Eighty-eight per cent of sexual violence victims were women belonging to the indigenous Maya community and were specifically targeted on the basis of their ethnicity and low socio-economic status. Women victims of this sexual violence were targeted in their communities, in displacement, in areas of refuge, in mountains after being captured, in forced marital relations, in collective detentions in religious buildings, during house searches and in other areas with specific military and paramilitary presence. Eighty-nine per cent of perpetrators were reportedly army members. Documentation of this violence has revealed that the acts of sexual violence were systematically planned, complete with the purpose of leaving behind evidence such as weapons as a means of intimidation, and that deliberate cruelty was inflicted on deceased women with the usage of arms as a tool in committing these acts of sexual violence. Following this, victims of sexual violence did not recognize these acts as a violation and expressed such acts in euphemistic terms such as 'being used', or having been 'passed by', similar to those used by perpetrating combatants.

The conflict in Guatemala ended 10 years ago yet still there is no mechanism installed by the state to provide reparation, in particular psycho-social care, for victims. Additionally, there is a lack in holding perpetrators of human rights violations accountable and so impunity continues and women's human rights remain violated and without course for redress.

4. UN Security Council Resolutions 1325 and 1820

CEDAW and the UN Security Council Resolutions (UNSCR) 1325 and 1820 are individually important in recognizing women's human rights, especially where affected by conflict. Despite this, while UNSCR 1325 is potentially strong, it remains broad and vague in certain areas. There currently exists no monitoring mechanism, there are no stipulations regarding timeliness, and it is thus difficult for state parties to implement action plans accordingly. The UNSCR could strengthen its focus on women in conflict by creating a working group on the topic and creating special envoys to focus on women. More specifically however, UNSCR 1325 and 1820 could be used in conjunction with CEDAW to more effectively implement the Resolutions, and to underscore CEDAW's relevance to

women affected by conflict. In this regard, these instruments can be combined and used to leverage women's human rights.

As it presently stands, CEDAW shares a common agenda with both UNSCR 1325 and 1820 on the following points:

- The demand for women's participation in decision making at all levels.
- The rejection of violence against women.
- The equality of women and men through the rule of law.
- The protection of women and girls through the rule of law.
- The demand on security forces and systems to protect women and girls from gender based violence.
- The recognition of the distinctive burden of systematic discrimination.
- The assurance that women's experiences, needs and perspectives are incorporated into the political, legal and social decisions that determine the achievement of just and lasting peace.

5. Elements of the proposed General Comment on Women and Armed Conflict

The greatest challenge to addressing violations suffered by women affected by conflict continues to be a complete absence of a framework within which to make claims, especially when conflict is the most used reason for non-conformity to obligations under Conventions.

The previous work of the CEDAW Committee in its Concluding Observations would provide a key basis for identifying elements for a General Comment. It is important that greater emphasis is given to these recommendations however, ensuring that they are not lost within the overall Concluding Observations of the Committee. Further, the Committee should also build on its earlier work wherein it has expanded the ambit of "conflict", to include internal disturbances and armed insurrections.

At the same time, caution need be taken in drawing attention to women's experiences whereby women are often exposed to talking of their experiences without recourse to justice. Attention also needs to be given to the automatic shift in priorities of the State post-conflict where survival mechanisms are largely prioritized over justice mechanisms. In light of this, a General Comment would do well to provide guidelines to the State advising them on how to use their own machineries and how to ensure the participation of women within the designing and rebuilding processes arising out of conflict situations.

6.

Refugee and Internally Displaced Women

Special awareness is needed for refugee and internally displaced women. These women are insufficiently protected and are even targeted by those officials who should be providing their protection.

It was shared by some of the Committee members present that CEDAW will focus on the situation of refugee and internally displaced women in the next session in New York. Discussions will be held with representatives from the Office of the United Nations High Commissioner for Refugees (UNHCR).

7. Imprisoned women

Women who are held imprisoned in countries affected by conflict are even more vulnerable to victimization. Reports are multifold from ongoing sexual violence, torture and disappearance.

8. Current violence in Gaza

These discussions about women in conflict are made urgent by current events such as the violence in Gaza. The majority of the 1,400 reported dead and 5,000 wounded comprise women and children. The area is a lack of water, food, medicine and shelter and women are reported to be delivering babies without any assistance. This serves to highlight the practical, as well as thematic issues that need be addressed in areas affected by conflict.

The CEDAW Committee could address a statement to the Human Rights Council concerning the special focus on the needs of women as an interim measure in addressing the ongoing violence in Gaza.

9. Moving Forward

UNSCR 1325 and 1820 have been noted as having the potential for providing justice to women affected by armed conflict, but in their current form are too broad in the absence of monitoring mechanisms, benchmarks and timelines. A General Comment by the CEDAW Committee could strengthen the implementation of UNSCR 1325 and 1820.

It was proposed that perhaps a General Statement could be adopted by the Committee, as a precursor to the General Comment; given that much more work needs to be done by the Committee on women in armed conflict. It was countered that while there remains much area for improvement, the CEDAW Committee has done more than any body in the United Nations for the improvement of the situation of women in conflict, especially at the domestic

level and it remains the main treaty body able to draft a legal framework in which the issues facing women affected by conflict can be addressed.

It was noted that NGOs have used different approaches in working on this issue such as lobbying the UN Security Council for a mechanism that monitors the implementation of UNSCR 325 (including the setting up of a Working Group on women and armed conflict) as well as lobbying for the appointment of a Special Representative on Women and Armed Conflict.

However, given the vast ownership that the national groups have of the Convention, Committee and its work, it was essential that the Committee works on the General Comment. This would provide the much needed legal framework and instrument for groups to seek accountability from state parties in their domestic realities.

Whilst the aim remains for the Committee to issue a General Comment on women affected by conflict, the Committee may choose to consider issuing a Statement as an interim step, encouraging the elaboration of UNSCR 1325 and 1820 to include a monitoring mechanism.

Discussion surrounding this proposal of a General Comment relating to women affected by conflict shall continue in the CEDAW-UNHCR Session in New York in July 2009.

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