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American Bar Association Section of International Law and Practice and the Standing Committee on World Order under Law Reports to the House of Delegates - Implementation of Platform for Action

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ABA support in principle for the development of an optional protocol is important, for different reasons. It is important that a country's ratification or accession to a treaty represent more than a hollow promise. An individual right of petition would ensure that individuals have a means to seek redress of their governments' failure to implement their treaty commitments. The ABA should endorse efforts to make treaties effective and to ensure that individuals can enforce their rights.²²

The proposed resolution concerning the optional protocol is to support its development in principle, i.e., recognizing the salutary function that such an instrument could have. Once the protocol has been developed, it will need to be reviewed by the ABA and a policy position taken as to its specific provisions. The ABA should form a working group to monitor this effort and make recommendations concerning the U.S. position on adoption of the optional protocol, once developed.

CONCLUSION

It is appropriate for the ABA, as the world's largest legal NGO, to give its strong support to the implementation of the Platform for Action, especially those aspects which are law-related. Reaffirmation of past ABA support for U.S. ratification of the Women's Convention is important at this time, in light of the Platform's call for universal ratification of the Convention by the year 2000. Support for development of an optional protocol to the Convention signals ABA endorsement of the need to explore ways to make human rights treaties more effective.

Respectfully submitted,
Michael D. Sandler
Chairman

November 17, 1995

III. Implementation of Platform for Action

RECOMMENDATION

BE IT RESOLVED, that the American Bar Association, in light of the Platform for Action's call to governments, non-governmental organizations, and international organizations to implement the Platform's action items by the year 2000:

22. To our knowledge, there is only one other international human rights treaty (the International Covenant on Civil and Political Rights) which has such an optional protocol. Although the ABA supported U.S. ratification of this treaty, the ABA took no position on its protocol. The U.S. has not adopted the Protocol to the Covenant; for that reason, U.S. ratification of an Optional Protocol to the Women's Convention could be construed as a change in U.S. policy. This issue should be reviewed when a protocol has been developed and the ABA is considering whether to support its adoption.

- (a) urges the United Nations and other international organizations to implement, as soon as possible but in any event by the year 2000, the relevant commitments/action items in the Platform for Action; and
- (b) calls upon the United Nations to take prompt steps to facilitate cooperative follow-up work by non-governmental organizations, governments and international organizations.

REPORT

I. Introduction and Background

This Report is part of a series developed as a result of the American Bar Association's participation in the Fourth World Conference on Women ("4WCW") in Beijing, China. This Report is also meant to complement former ABA reports and recommendations on improving the effectiveness of the United Nations and its specialized agencies.

A. THE UNITED NATIONS FOURTH WORLD CONFERENCE ON WOMEN

The United Nations Fourth World Conference on Women (the "Conference" or the "4WCW") took place in Beijing, China from September 4-15, 1995. At the conclusion to the Conference, the delegates from the 187 attending governments issued a Declaration¹ (the "Beijing Declaration" or "Declaration") and committed themselves to the implementation of a Platform for Action (the "Platform" or "PfA") that identifies strategies and concrete steps to eliminate barriers to the full participation of women in twelve critical areas of concern described below.² The Declaration and the Platform represented the culmination of work over 20 years to secure the equality of women, beginning with the First World Conference on Women in Mexico City in 1975, and continuing through the Third World Conference on Women in Nairobi, Kenya in 1985.³

This Report, the third in a series of three reports and recommendations arising from the Conference,⁴ begins with an overview of the Platform for Action, a description of the ABA's role in the Conference, and a summary of the Platform's provisions concerning international organizations. Part II then reviews these pro-

1. *Beijing Declaration of the Fourth World Conference on Women*, adopted September 15, 1995 [hereinafter "Declaration"].

2. Platform for Action, adopted September 15, 1995 [hereinafter "PfA"].

3. *The Nairobi Forward-Looking Strategies for the Advancement of Women*, adopted by the World Conference to Review and Appraise the Achievements of the U.N. Decade for Women: Equality, Development and Peace (Nairobi, Kenya, July 15-26, 1985), G.A. Res. 40/108 (December 13, 1985), U.N. Series No. E. 85, IV.10.

4. The others in this series are: (1) a Report and Recommendation reaffirming ABA support for U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women ("Report No. 2"); and (2) a Report and Recommendation on implementation of the Platform, focusing on its law-related aspects ("Report No. 1").

visions in detail, and addresses additional steps needed to assure effective followup to the Conference.

B. PURPOSE, FOCUS AND STRUCTURE OF THE PLATFORM FOR ACTION

The Platform for Action—a 200-plus page document—is the principal product of the Conference. Although agreed upon by governments, it is not a binding legal treaty in the normal sense of the term. Rather, it is an action document. By signing it, a government makes a political commitment to implement the action items in the Platform that are relevant to it. This commitment is reaffirmed by the express language of the accompanying Declaration.⁵

To understand the recommendations of this Report and Recommendations and its two companion Reports and Recommendations, it is important to understand how the Platform is structured.

The Platform for Action is comprised of six chapters: I. Mission Statement; II. Global Framework; III. The Critical Areas of Concern; IV. Strategic Objectives and Actions; V. Institutional Arrangements; and VI. Financial Arrangements.

As set forth in the Mission Statement, the Platform for Action “aims at accelerating the implementation of the Nairobi Forward-Looking Strategies for the Advancement of Women and at removing all the obstacles to women’s active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making.”⁶ Twelve areas are identified in the Platform for particular focus as the “critical areas of concern”:

- The persistent and increasing burden of poverty on women
- Inequalities and inadequacies in and unequal access to education and training
- Inequalities and inadequacies in and unequal access to health care and related services
- Violence against women
- The effects of armed or other kinds of conflict on women, including those living under foreign occupation
- Inequality in economic structures and policies, in all forms of productive activities and in access to resources
- Inequality between men and women in the sharing of power and decision-making at all levels
- Insufficient mechanisms at all levels to promote the advancement of women

5. In the Declaration, the participating governments state: “We hereby adopt and commit ourselves as Governments to implement the following Platform for Action, ensuring that a gender perspective is reflected in all our policies and programs. We urge the United Nations system, regional and international financial institutions, other relevant regional and international institutions and all women and men, as well as non-governmental organizations, with full respect for their autonomy, and all sectors of civil society, in cooperation with Governments, to fully commit themselves and contribute to the implementation of this Platform for Action.” Declaration, ¶ 38.

6. PFA Ch. I, ¶ 1.

- Lack of respect for and inadequate promotion and protection of the human rights of women
- Stereotyping of women and inequality in women's access to and participation in all communications systems, especially in the media
- Gender inequalities in the management of natural resources and in the safeguarding of the environment
- Persistent discrimination against and violation of the rights of the girl child⁷

With respect to each of those twelve areas, Chapter IV of the Platform identifies a number of strategic objectives. (For a list of these objectives, see Report No. 1, Appendix A.) It then goes on to identify action items under each strategic objective. Some of the action items are directed towards governments, some towards international organizations, some towards non-governmental organizations ("NGOs"), and others toward some combination of the three.

C. THE ABA'S ROLE IN THE CONFERENCE

Pursuant to a resolution adopted last fall,⁸ the ABA participated actively in the Conference and the Conference preparations. Focusing on the legal issues of human rights, violence against women, law reform to promote equality, and legal literacy, the ABA, as a co-chair of the Working Group on the Human Rights of Women, developed a legal framework for the Platform,⁹ participated in the Preparatory Conference in New York City in March 1995, sponsored several workshops on law-related topics at the NGO Forum (the parallel event to the Conference for non-government organizations and individuals), and attended the Conference as an accredited NGO to work on the Platform issues that the ABA delegation had identified as its priority issues. In particular, the ABA delegates focused on provisions in the draft Platform that would, if adopted, have under-

7. PfA Ch. III, ¶ 46.

8. In November 1994, the ABA adopted a resolution endorsing "international and domestic efforts to promote and protect women's human rights through the adoption and enforcement of legal provisions for equality and equal protection of the law", and recommending that the U.S. Government and NGOs participating in the Conference "actively support the inclusion in the Platform for Action of effective measures to accelerate the removal of the remaining obstacles to the realization of women's basic rights". American Bar Association Section of International Law and Practice Report to the Board of Governors, *Recommendation*, November, 1994, at 1. In addition to this resolution, numerous other ABA resolutions provide policy support for the ABA's activities at the Conference and NGO Forum and for the followup outlined here. These are set forth in Appendix C. The ABA has thus supported virtually all the human rights treaties including those which apply specifically to women and children, domestic legislation granting equal status under the law, equal protection of the law, and equality of opportunity and access to government benefits to women. It was one of the earliest groups to support effective measures to combat violence against women, including domestic violence, among other things.

9. Working Group on the Human Rights of Women (WGHRW), *Human Rights Framework for the Platform of Action of the Fourth World Conference on Women: Action for Equality, Development and Peace* [hereinafter "WGHRW Framework"]. The Working Group is a national network of approximately 35 international human rights organizations.

mined the universality of human rights. The extent to which traditional practices or cultural behavior could qualify human rights norms, was, as suggested earlier, a major issue in the Conference negotiations. The Platform, as finally agreed to, does not permit such qualification; following the conceptual approach suggested by the ABA, the Platform language makes clear that human rights norms are not to be so qualified, but without making culture or tradition completely irrelevant to how countries implement the Platform.¹⁰

ABA follow-up to the Conference, in addition to this series of reports and recommendations and actions taken to implement them, will include (1) study and development of model domestic violence legislation for use abroad; and (2) technical legal assistance to a domestic microenterprise initiative announced by the U.S. government at the Conference to promote self-sufficiency and combat poverty and welfare dependence.¹¹ These projects require no special policy action by the ABA beyond what is set forth here. Other projects may be identified at a future date.

D. INTERNATIONAL ORGANIZATIONS AND THE PLATFORM FOR ACTION

The Platform for Action calls on international organizations to implement reforms in at least five areas: reform and revitalization of U.N. mechanisms concerned with the advancement of women; to remedy the underrepresentation of women in their governing bodies; to revitalize their internal structures to deal more effectively with the critical areas of concern for women and girls; to integrate a gender perspective into the programs of these organizations, including international financial institutions; and to coordinate and facilitate follow-up efforts.

While non-governmental organizations play an important and growing role in implementing the Platform, follow-through by governments on their commitments is critical to achieving the Platform's goals. Follow-through by international organizations is also important, for a variety of reasons. Section II of this Report describes these issues in more detail, as well as recommending some steps that should be taken by the United Nations to ensure maximum effectiveness of follow-up efforts by NGOs, governments and international organizations. The ABA should support these follow-on efforts, in keeping with our longstanding interest in improving the effectiveness of the U.N. system.

II. Analysis of the Issues

A. IMPLEMENTATION OF THE PLATFORM BY THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

Although implementation of the Platform is primarily the responsibility of governments, the Platform also states that its implementation is dependent on a

10. See discussion in II.A.

11. See discussion in II.E.

wide range of other institutions, including international organizations. It identifies ways in which the U.N. system should implement the Platform.

First, it calls upon the United Nations to renew, reform, and revitalize the U.N. mechanisms primarily concerned with the advancement of women.¹² This effort is particularly important with respect to the Commission on the Status of Women, the U.N. intergovernmental body chiefly responsible for issues concerning women. Although in recent years the Commission has had some important achievements, such as drafting the Declaration on the Elimination of All Forms of Violence Against Women and serving as the preparatory body for the 4WCW, it has often received far less attention and support from U.N. members than other U.N. functional commissions, such as the Human Rights Commission. Strengthening the Commission on the Status of Women is crucial to ensuring that the United Nations fulfills its responsibilities under the Platform.

In addition, the Platform calls for:

- establishing a new high-level position to act as the Secretary-General's adviser on gender issues and ensure system-wide coordination in implementing the Platform;
- strengthening the ability of the Committee on the Elimination of Discrimination Against Women to monitor compliance with the Women's Convention, and for States Parties to include in their reports to the Committee information on their implementation of the Platform;
- assessing the functions of the Division for the Advancement of Women, the U.N. Secretariat body responsible for supporting the work of the Commission for the Status of Women and the Women's Convention Committee; the Platform charges the Division, *inter alia*, to maintain a flow of information with national institutions and non-governmental organizations with respect to implementation of the Platform;
- providing that the International Research and Training Institute for the Advancement of Women, whose mandate is to promote research and training concerning women and development, will strengthen national capacities to carry out gender research and develop networks of research institutions for that purpose; and
- strengthening the U.N. Development Fund for Women, whose mandate is to assist developing countries incorporate women into economic and social development.¹³

Second, the Platform calls upon all parts of the U.N. system to incorporate the Platform in their work. *Inter alia*, the Platform calls upon:

- the Secretary-General to ensure that a gender perspective is "mainstreamed" in all U.N. activities;

12. PFA Ch. V, ¶¶ 305-342.

13. PFA Ch. V, ¶¶ 318-329, 335-336.

- the U.N. Department of Public Information to improve its programs on women and to integrate a gender perspective in its general information activities;
- the specialized agencies to set out specific actions they will undertake to meet the Platform's priorities;
- the international financial institutions, such as the World Bank, to ensure that their programs benefit women and thus contribute to sustainable development; and
- the U.N. regional commissions to assist national institutions in implementing the Platform, and to consider establishing mechanisms to ensure its implementation.¹⁴

The Platform particularly emphasizes the importance of removing barriers to the advancement of women within the secretariats of the United Nations and the specialized agencies. It also states that national governments should commit to presenting and promoting more women candidates in international organizations.¹⁵

Third, the Platform states that international non-governmental organizations have an important role to play in implementation of the Platform, and states that consideration should be given to establishing a mechanism for collaboration with them. In particular, U.N. regional commissions should support non-governmental organizations' efforts to disseminate information about the Platform.¹⁶

Fourth, the Platform points out that all parts of the U.N. system should receive the resources and support to carry out follow-up activities.¹⁷

Fifth, the Platform states that the U.N. system should provide technical cooperation and other forms of assistance to developing countries, particularly in Africa and the least developed countries, in implementing the Platform, and should facilitate the efforts of countries with economies in transition to design and implement progress for the advancement of women. International financial institutions should allocate loans and grants to programs for implementing the Platform in developing countries. And U.N. development funds and programs should analyze their progress in light of the Platform, and ensure the adequacy of resources aimed at eliminating disparities between women and men.¹⁸

Sixth, the Platform identifies bodies within the United Nations that should be responsible for reviewing the overall implementation of the Platform:

- the Commission on the Status of Women should monitor and report on the implementation of the Platform;¹⁹

14. PfA Ch. V, ¶¶ 313-342.

15. PfA Ch. V, ¶¶ 299, 308.

16. PfA Ch. V, ¶¶ 298, 304, 345.

17. PfA Ch. V, ¶ 310; Ch. VI, ¶ 354.

18. PfA Ch. VI, ¶¶ 354-362.

19. PfA Ch. V, ¶ 319.

- the Economic and Social Council, which oversees the Commission, should oversee system-wide coordination in implementing the Platform, and should consider dedicating at least one meeting of high-level government officials before the year 2000 to the Platform's implementation;²⁰ and
- the General Assembly should assess progress in 1996, 1998, and 2000.

Following up the Platform for Action at the international level as well as the national level is necessary to ensure its success. In particular, revitalizing the elements of the United Nations that are concerned with the advancement of women, and refocusing the attention of other institutions, such as the World Bank, to better address issues concerning women will help provide leadership in implementing the Platform at all levels.

Supporting these steps accords not only with the ABA's support of the goals of the Conference, but also with the ABA's support of revitalization of the U.N. system. *See* Appendix A for a list of the relevant ABA policies. The ABA has long supported an effective, efficient United Nations. Implementation of the Platform will be an important step in that direction.

B. NEED FOR A FOLLOW-UP COORDINATING MECHANISM

The Platform for Action sets forth action items for governments, NGOs and other groups to implement as a means of fulfilling the agreed-upon strategic objectives of the Conference. Because the strategic objectives express common goals, governments and NGOs alike could learn a great deal from each other's successes and failures as they take steps towards implementation. NGOs, in particular, could achieve economies of scale by sharing information and experiences, and collaborating whenever possible. The Platform contains provisions designed to disseminate information about the commitments it contains, but does not address the follow-up step of how to track what followup activities are being done by different organizations. Given the partnership that the Platform envisions between the public and private sectors for implementation, the absence of such a provision can only be seen as an impediment.

We strongly recommend, therefore, that an official U.N. clearinghouse be created to facilitate the dissemination of information regarding activities undertaken by both governments and NGOs to implement the objectives of the Conference. Ideally, this clearinghouse would publish the information in hard copy and in electronic form, and would be accessible worldwide. The United Nations is the logical venue for such a clearinghouse, given its role as the convener of the Conference.

As a preliminary step towards followup, including facilitating communications between NGO and governmental participants in the Conference, we encourage the United Nations to publish a list of groups that attended or were accredited

20. PfA Ch. V, ¶ 314.

to the Conference and the NGO Forum, with contact information for each group, for distribution to all participating NGOs and governments.

CONCLUSION

Given the ABA's role in the creation of the United Nations and its recent work to improve its effectiveness, it is appropriate for the ABA to give its strong support to the implementation of the Platform for Action's provisions calling for institutional reform within the United Nations. It is also important that the ABA support the creation of effective followup mechanisms within the United Nations.

Respectfully submitted,
Michael D. Sandler
Chairman

November 17, 1995

Appendix A

ABA Reports and Recommendations Concerning the United Nations

<i>Date</i>	<i>Description</i>
8/61	Support and favor strengthening of the U.N.
2/84	Favor U.S. government measures leading the General Assembly of the U.N. to adopt the principle that in all the organs and specialized agencies of the U.N., all nations having a population of over 200 million would be automatically entitled to representation on an equal basis with various regional blocs.
2/86	Support efforts of the United States and other nations to bring about specific reforms in the United Nations Educational, Scientific and Cultural Organization (UNESCO), and support U.S. participation in efforts to rehabilitate and improve UNESCO so that the United States will be in a position to consider a return to membership.
6/87	Recommend United States support of recent efforts by the Secretary-General of the United Nations to establish a standing office in the secretariat to monitor, on a worldwide basis, situations that may become a threat to international peace and security, and to give early warning to the Secretary-General about such situations.
8/94	Recommended U.S. declaration regarding compulsory jurisdiction of International Court of Justice.
8/94	Recommendation regarding establishment of an international criminal court.
8/94	Sharing support for U.N. High Commissioner for Human Rights and other matters, including the appointment of women to high U.N. positions.
8/94	Actions concerning the proliferation of weapons of mass destruction including reform of the International Atomic Energy Agency.
8/94	Support for U.N. standby forces for peacemaking and peace enforcement.
8/95	Support the International Monetary Fund undertaking a thorough re-examination of its role vis-à-vis international capital movements and private international capital markets.
8/95	Recommend the United States government continue and enhance its support of the International Atomic Energy Agency.
8/95	Recommend the United States continue to be an active, supportive member of the International Labor Organization.
8/95	Recommend that the Government of the United States continue to give its strong support to the World Health Organization (WHO).

- 8/95 Recommend the United States government encourage the Food and Agriculture Organization (FAO) in its efforts to restructure itself, streamline its operations, and strengthen its transparency and accountability and endorse stronger coordination efforts within the United Nations system which clarify the mandate, roles and tasks, especially at field level, of FAO and the organizations (UN, governmental and nongovernmental) with which it works most closely.
- 8/95 Urge the United States Government to rejoin UNESCO at the earliest possible time, so that it may take part in UNESCO's mandate to promote international cooperation through education, science and culture.

