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Status of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1998

VALERIE A. DORMADY*

I. Introduction

1998 was an active year for the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW or Convention), marked by the addition of two states parties, reporting actions by sixteen states, revisions to the optional protocol, and a push for ratification in the United States. One hundred sixty-three states are now party to CEDAW.¹ Many states parties continued to implement CEDAW's objectives domestically in 1998, but many violations of its provisions were apparent throughout the world. While slow progress on women's human rights appeared to be taking place, Angela King, Special Advisor to the Secretary-General of the United Nations on Gender Issues and Advancement of Women, noted that ratification of the treaty had not translated into compliance through legislative and policy changes by many states parties.² Echoing comments made by states reporting to the Committee on the Elimination of Discrimination Against Women (Committee), she also noted that legislative changes by other states parties had not made inroads into discriminatory traditions and cultural patterns in many countries.³

II. Actions by the Committee on the Elimination of Discrimination Against Women

The states parties to CEDAW met in February 1998 and elected twelve experts to serve four-year terms on the Committee, commencing January 1, 1999. The newly elected members of the Committee were from the states of China, Egypt, Sri Lanka, Saint Kitts and Nevis, the

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1. See *Convention on the Elimination of All Forms of Discrimination Against Women* (visited Feb. 3, 1999) <http://www.un.org.Depts/Treaty/final/ts2/newfiles/part_boo/iv_boo/iv_8.html>.

2. See *Universal Ratification of Women's Anti-discrimination Convention by 2,000 is Achievable Goal*, M2 PRESSWIRE, Jan. 21, 1998, available in LEXIS, News Library, Curnws File.

3. See *id.*

Philippines, South Africa, Argentina, and Japan; reelected members were from Ghana, Tunisia, Italy, and Israel.⁴ In a speech to the delegates of the states parties to CEDAW on February 18, 1998, Ms. King noted that the Convention was the most broadly ratified human rights treaty after the Convention on the Rights of the Child. Ms. King also noted that the Committee was strengthening and expanding its relationship with non-governmental organizations (NGOs) and other agencies of the United Nations, and she reported that "some progress" had been made in reducing the substantial number of reservations to the treaty.⁵

The Committee met twice in 1998 and heard reports by sixteen states. At its eighteenth session, held from January 19, to February 6, 1998, the Committee made certain administrative and procedural changes revising pre-session working group procedures and invited additional information from other branches of the United Nations and NGOs regarding states with reports before the Committee.⁶

The nineteenth session of the Committee was held from June 22, to July 10, 1998. At the nineteenth session, the Committee noted the negative impact of the many reservations to the Convention, asserting that the existence of the reservations "limited the Convention's mandate and potentially affected the entire human rights regime."⁷ As of July 1, 1998, fifty-four states had entered reservations to at least one article of the Convention.⁸ Some countries have entered reservations to article 2 of the Convention, which requires states parties to take action to adopt and incorporate the convention into domestic policy. The head of the Committee, Salma Kahn of Bangladesh, noted her concern about such reservations in 1998, stating that, "when you enter a reservation on article 2, you are violating and nullifying the whole concept and sense of the Convention."⁹ The United Nations High Commissioner for Human Rights, Mary Robinson, stated that the elimination of substantive reservations by states parties would be one of her priorities in 1998. Additionally, a spokesman for the European Union stated in 1998 that it "remains seriously concerned" regarding the substantial number of reservations to CEDAW and suggested that reservations that are "incompatible with . . . [the] object and purpose" of the Convention "should be withdrawn."¹⁰ As of August 1, 1998, 203 reports were overdue for submission to the Committee. Sixty of these overdue reports were initial reports.¹¹

III. Compliance and Failure to Comply by States Parties to the Convention

States reporting at the eighteenth session of the Committee included Korea, New Zealand, Peru, Nigeria, Tanzania, Panama, South Africa, and Slovakia. States reporting to the nineteenth

4. *See States Parties to Convention on Elimination of Discrimination Against Women Elect Monitoring Body*, M2 PRESSWIRE, Feb. 18, 1998, available in LEXIS, News Library, Curnws File.

5. *Id.*

6. *See Recognition of Rape and Sexual Violence As War Crimes Has Begun to Reverse Climate of Impunity*, M2 PRESSWIRE, Oct. 15, 1998, available in LEXIS, News Library, Curnws File [hereinafter *Rape and Sexual Violence As War Crimes*.]

7. *Committee on Elimination of Discrimination Against Women Concludes Nineteenth Session at Headquarters, 22 June-10 July*, (visited Feb. 4, 1999) <<http://www.un.org/News/Press/docs/1998/19980710.wom1073.html>>.

8. *See Rape and Sexual Violence As War Crimes*, *supra* note 6.

9. Thalif Deen, *Women: Reservations Grow Over U.N. Women's Treaty*, INTER PRESS SERVICE, Mar. 15, 1998, available in LEXIS, News Library, Curnws File.

10. *Id.*

11. *See Rape and Sexual Violence As War Crimes*, *supra* note 6.

session of the Committee included Bulgaria, Zimbabwe, the Dominican Republic, Mexico, Indonesia, the Czech Republic, Croatia, and Azerbaijan. Many states that reported legislative initiatives, public awareness campaigns, or other efforts to implement the provisions of CEDAW also emphasized the difficulties inherent in attempting to secure women's rights domestically. In particular, many states' delegations reported difficulty in changing entrenched traditional attitudes regarding women. Many states also noted the difficulty in securing funds for programs to promote women's equality in the face of limited domestic economic resources, especially in developing countries. Some states stressed the difficulty of implementation in countries where sections of the country were fighting either civil wars or defending against wars of aggression by neighboring states.¹²

The Republic of Korea reported that the ongoing crisis in its economy had the potential to erode progress made on women's rights in that country, particularly in securing women's economic equality. The delegation from Korea listed numerous legislative changes that had been made to protect women's interests, including a new employment law which was to become effective in 1999. The government of Korea was struggling to diminish the effects of entrenched discriminatory attitudes.¹³ New Zealand reported that it had embarked upon initiatives to promote women's involvement in non-traditional fields of study and employment, and to promote women's health, including the introduction of a Domestic Violence Act in 1995. Among other funding initiatives, New Zealand reported increased funding for child care and programs to prevent domestic violence.¹⁴

Peru reported that, since its last report to the Committee, the Peruvian Constitution, which establishes gender equality, had entered into force in December 1993. In July 1993, the new Code of Civil Procedure in Peru abolished earlier provisions that had restricted the commercial activity of married women. Also in 1993, Peru adopted a Domestic Violence Act with the purpose of diminishing domestic violence through public awareness campaigns and legal remedies for victims. The Peruvian delegation reported that chronic poverty remains a problem in the country and affects women in particular. Women in Peru also have suffered from the impact of terroristic violence in the country.¹⁵

Nigeria reported to the Committee that, although its constitution guarantees equality, additional domestic legislation is needed to implement the Convention. Nigeria reported that a National Committee on Women and Children has submitted draft legislation on women's rights to the Nigerian Government in an attempt to remedy this problem. The government also reported that it had established a National Committee on Sexual Harassment to make recommendations to the government on that issue. Nigeria reported additional programs and campaigns to implement its obligations under CEDAW, but Committee experts noted that Nigerian culture, which supports many traditional practices harmful to women, obstructed

12. Such countries included Mexico and Azerbaijan. See generally *Progress Made in Advancement of Mexican Women, But Changes Not Yet "Radical,"* M2 PRESSWIRE, Feb. 3, 1998, available in LEXIS, News Library, Cumwms File [hereinafter *Progress Made*]; *Peaceful Resolution of Nagorno Karabakh Conflict is Required,* M2 PRESSWIRE, Jan. 22, 1998, available in LEXIS, News Library, Cumwms File.

13. See *Anti-Discrimination Committee Told of Adverse Effects of Economic Crisis on Situation of Women in Republic of Korea* (visited Feb. 4, 1999) <<http://www.un.org/News/Press/docs/1998/19980707.wom1069.html>>.

14. See *Anti-Discrimination Committee Hears of New Zealand's Efforts to Widen Opportunities for Women,* M2 PRESSWIRE, July 9, 1998, available in LEXIS, News Library, Cumwms File.

15. See *Committee on Elimination of Discrimination Against Women Takes Up Report of Peru,* M2 PRESSWIRE, July 7, 1998, available in LEXIS, News Library, Cumwms File.

efforts to implement the Convention. Experts suggested "massive awareness campaigns" at both the national and local levels.¹⁶

Panama reported that it had adopted an action plan and legislation to provide opportunities to women and to incorporate the principal of equality into its legislative system. Panama's Family Code, adopted in 1995, established equality in family relations. The government had encountered opposition on some of these initiatives from conservative groups in the country.¹⁷

South Africa reported substantial efforts in promoting women's rights, and reported that "virtually all laws that discriminated against women had been repealed."¹⁸ Women's participation in society was increasing in South Africa, and it was reported that that country's new constitution provided for gender equality. Discrimination and violence, however, were still a national problem, as were entrenched discriminatory traditions and practices.¹⁹

Slovakia's delegation reported positive activity by governmental and non-governmental women's groups as well as changes in its labor laws that benefitted women. Committee members expressed concern, however, regarding certain special benefits provided women in the Slovakian Constitution and in labor laws, which could ultimately perpetuate discrimination. Committee members also expressed concern about the problem of domestic violence in the country.²⁰

The Bulgarian delegation reported to the Committee that Bulgarian society overall was becoming increasingly violent and that domestic violence against women was a problem in the country. The delegation noted that structural reforms were difficult in light of Bulgaria's severe economic problems. The country had made strides in the area of human rights since the end of communist rule, but the government was hobbled by a lack of resources in implementing equality.²¹

The delegation from Zimbabwe reported that an array of protective legislation for women had been adopted in the country, but also reported that women in Zimbabwe had not been educated regarding their rights under the Convention and that discriminatory views toward women persisted, as did regressive traditions and customary laws.²² The delegation from the Dominican Republic reported that it had undertaken health initiatives and political reforms that help women. It also reported that the country had passed a new agrarian law that allows women to inherit land. Committee experts commented with concern about rigid traditional attitudes in the country and the exclusion of unmarried pregnant women and unmarried mothers from social security and health care programs.²³

The Mexican delegation reported problems in the country in the areas of employment discrimination and violence against women. Poverty and the lack of economic opportunity

16. *Women's Anti-Discrimination Committee Takes up Report of Nigeria*, M2 PRESSWIRE, July 3, 1998, available in LEXIS, News Library, Curnws File.

17. See *Women's Anti-Discrimination Committee Takes up Panama's Report*, M2 PRESSWIRE, July 1, 1998, available in LEXIS, News Library, Curnws File.

18. *Women's Anti-Discrimination Committee Begins Consideration of South Africa's Initial Report*, M2 PRESSWIRE, June 25, 1998, available in LEXIS, News Library, Curnws File.

19. See *id.*

20. See *Committee on Elimination of Discrimination Against Women Considers Slovakia's Initial Report*, M2 PRESSWIRE, June 24, 1998, available in LEXIS, News Library, Curnws File.

21. See *Domestic Violence Against Women Serious Problem in Bulgaria, Anti-Discrimination Committee Told*, M2 PRESSWIRE, Feb. 2, 1998, available in LEXIS, News Library, Curnws File.

22. See *Zimbabwe "Most Advanced African Country on Gender Issues,"* AFR. NEWS, Jan. 23, 1998, available in LEXIS, News Library, Curnws File.

23. See *Despite its Achievements in Improving Status of Women, Dominican Republic Must Do More*, M2 PRESSWIRE, Feb. 6, 1998, available in LEXIS, News Library, Curnws File.

negatively impacted women as well.²⁴ The government reported programs and legislation to combat discrimination against women and to promote equality and education;²⁵ however, it was noted that the lack of national legislation regarding violence against women contributed to that problem in the country.²⁶

The report of the government of Indonesia focused on the problems of its female citizens who worked overseas. The Indonesian Government had embraced a number of initiatives aimed at protecting those workers. The delegation noted Indonesia's economic crisis negatively impacted all of its citizens, women included. The government's Office of the Minister of State for the Role of Women had played an active role in reforms to marriage laws and in the protection of female workers overseas, but remained underfunded. The delegation noted the persistence of traditions and cultural norms that give preference to men.²⁷

The report of the Czech Republic noted declining political participation by women as well as lower wages and higher unemployment than men. The report also noted that organized prostitution was a substantial problem in the country and provided the largest source of income for organized crime. Additional protective legislation was necessary as well as a national program to promote the advancement of women.²⁸ The delegation from Croatia noted that legislative and judicial mechanisms were in place to protect women's rights. In 1996, the government had established a Commission of the Government of the Republic of Croatia for Equality to help guide national policies from a feminine gender perspective.²⁹

The report of the government of Azerbaijan focused on the severe social problems that were caused by the country's ongoing armed conflict with Armenia. The delegation noted that eighty-five percent of the population of Azerbaijan was living below the poverty line. The Azerbaijani government had initiated a national plan of action in connection with the requirements of the Convention and the constitution of the country guaranteed equality, but the country's severe economic situation as well as the Armenian conflict posed substantial difficulties in implementing domestic policies and programs.³⁰

In addition to the domestic initiatives outlined by the sixteen states reporting to the Committee in 1998, other non-reporting countries made news with pro-equality initiatives as well. The Prime Minister of Bangladesh reported that a national working plan had been adopted in that country to promote women's development and equal rights, which the Prime Minister of that country said reaffirmed Bangladesh's commitment to its CEDAW obligations.³¹ In Pakistan, the government set forth a five-year program, commencing January 9, 1999, which is partially designed to implement its CEDAW obligations.³²

24. See *Progress Made*, *supra* note 12.

25. See *Entrenched Attitude Must be Uprooted for Mexican Women to Advance*, M2 PRESSWIRE, Feb. 3, 1998, available in LEXIS, News Library, Curnws File.

26. See *Progress Made*, *supra* note 12.

27. See *Indonesia Taking Measures to Protect Its Migrant Women Workers Abroad*, M2 PRESSWIRE, Feb. 3, 1998, available in LEXIS, News Library, Curnws File.

28. See *Women's Anti-Discrimination Committee Begins Consideration of Czech Republic's Initial Report*, M2 PRESSWIRE, Jan. 27, 1998, available in LEXIS, News Library, Curnws File.

29. See *Peace and Stability Enable Croatia to Focus on Social Development, Human Rights, Committee Told*, M2 PRESSWIRE, Jan. 22, 1998, available in LEXIS, News Library, Curnws File.

30. See *Peaceful Resolution of Nagorny Karabakh Conflict is Required*, M2 PRESSWIRE, Jan. 22, 1998, available in LEXIS, News Library, Curnws File.

31. See *Working Plan Taken up to Implement Women Uplift Policy*, INDEPENDENT, Dec. 1, 1998, available in LEXIS, News Library, Curnws File.

32. See *Pakistan Govt, UNICEF Finalise Program for Women, Children*, ASIA PULSE, Oct. 19, 1998, available in LEXIS, News Library, Curnws File.

While recognizing the efforts of many countries, the Committee reported this year that "overall global discrimination is worsening."³³ Afghanistan is a signatory to CEDAW, yet the discriminatory practices of the Taliban authorities in that country were widely reported in 1998. Venezuela, which has ratified CEDAW, lacks any legislation criminalizing domestic violence unless the victim is killed.³⁴ Additionally, two weeks after the delegation from Zimbabwe presented its report to the Committee, members of the Zimbabwean Parliament called for the repeal of Zimbabwe's most important women's right legislation, the 1982 Legal Age of Majority Act. The law had the effect in Zimbabwe of giving women the status of adults, rather than minors, with the concomitant legal right to enter into contracts without the consent of a guardian or parent. This legislation also provided women the right to vote, own businesses, have credit, and exercise several other key freedoms. NGOs in Zimbabwe argued strenuously against repeal of the Act, and proposed to translate the text of CEDAW into local languages in order to inform women of their rights under the treaty.³⁵

In Kenya, as the national constitution underwent drafting and reform, Kenyan women's groups proposed to educate Kenyan women as to their rights under CEDAW, with the hope that these rights would be included in the new constitution.³⁶ In 1998, NGOs worldwide continued to use CEDAW to push for domestic legal rights for women.

IV. Action on the Optional Protocol

The proposed optional protocol to CEDAW underwent drafting changes in 1998. The optional protocol as proposed would give individual women or groups the right to complain directly to the Committee about failures to comply with CEDAW by their governments. Another proposed provision of the optional protocol would allow the Committee to conduct investigations into serious or systematic violations of the rights contained in the Convention by a state party to the protocol. A working group of the Commission on the Status of Women (CSW) that is drafting the optional protocol met during the forty-second session of the CSW, from March 2, through March 13, 1998. Disagreement among members of the working group arose on the questions of standing requirements and reservations. Some delegations felt that groups, in addition to individuals, should be provided standing to bring complaints before the Committee, while others felt that only individuals should be accorded this right. Several delegations expressed the view that reservations should not be allowed to the protocol, while other delegations argued that states parties to the protocol should be allowed to enter reservations. As these and other conflicts were not resolved, the protocol remained in draft form.³⁷ After the working group's March drafting session, the following articles had been agreed *ad referendum*: Articles 3, 6.2, 7.2, 7.3, 7.5, 13, 15, 17, 21, 22, and 24.³⁸

33. Murtaza Mandli-Yadav, *Rights: U.N.'s Mixed Findings on Progress for Women*, INTER PRESS SERVICE, July 13, 1998, available in LEXIS, News Library, Cumwts File.

34. See Estrella Gutierrez, *Women-Venezuela: Law Against Domestic Violence Key Objective*, INTER PRESS SERVICE, Mar. 7, 1998, available in LEXIS, News Library, Cumwts File.

35. See Netsai Moyo, *Human Rights-Zimbabwe: Women's Rights Threatened by Parliament*, INTER PRESS SERVICE, Feb. 11, 1998, available in LEXIS, News Library, Cumwts File.

36. See Lucy Oriang, *Kenya; Caucus Wants Women's Voice in Review Process*, AFR. NEWS, May 11, 1998, available in LEXIS, News Library, Cumwts File.

37. See *Commission on the Status of Women, Report on the Forty-Second Session* (visited Dec. 31, 1998) <<http://www.un.org/womenwatch/daw/csw/csw97.htm>>.

38. See *History of an Optional Protocol* (visited Dec. 31, 1998) <<http://www.un.org/womenwatch/daw/cedaw/protocol/history.htm>>.

V. Ratification Drive in the United States

In the United States, the drive for Senate ratification of CEDAW was renewed and received impetus from endorsements by President Clinton and First Lady Hillary Rodham Clinton. The United States signed CEDAW in 1980, but the treaty remains stalled in the ratification process in the Senate Foreign Relations Committee. The City of San Francisco, California enacted a city ordinance that is designed to incorporate CEDAW into the functioning of the city by promoting equality in the city's treatment of workers, its use of money, and its provision of services to city inhabitants.³⁹ Members of the U.S. Congress and the United Methodist Women presented 10,000 letters from U.S. women calling upon the Senate to give its advice and consent to ratification of CEDAW.⁴⁰ President Bill Clinton wrote a letter to Senators Lott, Daschle, Helms, and Biden, calling upon them to support ratification of the treaty.⁴¹ Both President Clinton and First Lady Hillary Rodham Clinton spoke, on the occasion of International Women's Day, in favor of ratification.⁴²

39. See Gretchen Sidhu, *San Francisco Law Promotes End to Sex Discrimination*, PLAIN DEALER, Sept. 8, 1998, at 4F, available in LEXIS, News Library, Curnws File.

40. See *Event: News Conference—Reps. Lynn Woolsey, D-CA; Lynn Rivers, D-MI; Diana DeGette, D-CO*, FNS DAYBOOK, Sept. 10, 1998, available in LEXIS, News Library, Curnws File.

41. See *The White House, Text of a Letter to Senators Lott, Daschle, Helms, and Biden*, M2 PRESSWIRE, Mar. 13, 1998, available in LEXIS, News Library, Curnws File.

42. See *Remarks by the President and the First Lady on International Women's Day*, M2 PRESSWIRE, Mar. 13, 1998, available in LEXIS, News Library, Curnws File.

