

As written

Role of the Convention on the Elimination of All Forms of
Discrimination Against Women (CEDAW)
in
Realization of Women's Reproductive Health,
Sexual Health and Reproductive Rights

Salma Khan
Expert
UN Committee on the Elimination of
Discrimination Against Women.

The Hague Forum
The Hague, The Netherlands
8-12 February 1999

I. **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Women's right to health.**

Among the international human rights treaties, the Convention on the Elimination of Discrimination against Women (CEDAW) takes an important place in bringing the female half of humanity into the focus of human rights concerns. The Convention which is the basic international legal framework for human rights of women was adopted 20 years ago on 18 December 1979, is acceded or succeeded to or ratified by 163 States parties and signed by others.

The Convention sets legally binding obligations to the States parties and sets the international standard for what is meant by equality between men and women. The Convention explicitly acknowledges in the first two articles that extensive discrimination against women continues to exist which violates the principles of equality and requires that States parties take all appropriate measures, including legislation to ensure the full development and advancement of women. The agenda for equality is specified in fourteen subsequent articles. Article 12 of the Convention obligates the States parties to take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to healthcare services, including those related to family planning services, pregnancy, confinement and the post-partum period. In addition women must enjoy right to freely determine the timing and the number of children - regardless of marital status.

The Committee on the Elimination of Discrimination against Women (the Committee) is responsible for reviewing States parties reports on the measures adopted to give effect to the Convention on the Elimination of All Forms of Discrimination against Women and on the progress. In addition, the Committee has the power to formulate general recommendations and make suggestions through the Economic and Social Council to the General Assembly.

II. **CEDAW Committees role in the implementation of the ICPD programme of action and the Bejiina Platform for Action.**

The ICPD Programme of Action emphasizes the incorporation of gender perspective in the development of population programme and considers empowerment of women as the central issue of sustainable development which was also the key principle of PFA. With the shift of focus of the population and family planning programmes from demographic targets to a comprehensive human development process, a direct link

between the Convention on the Elimination of All Forms of Discrimination against women and ICPD and the Beijing PFA was established. As the treaty monitoring body for the CEDAW Convention, the Committee is now in a stronger position to require that the government implement ICPD and the Platform for Action in the areas that directly relate to the Convention.

- * The Convention's role in this respect is more collaborative because unlike previous international instruments, the Convention allows for temporary special measures of affirmative actions and binds States parties to seek to modify cultural patterns of behaviors and attitudes regarding the sexes and attempts to impose standards of equality and non-discrimination in private as well as public life which are critically important to create an enabling environment for sustainable development.
- * Women's health is frequently determined by the social traditions, customs and cultural practices and while examining country reports, the Committee pays particular attention to the measures taken by governments to eliminate prejudices and encourages them to modify the discriminatory practices that are rooted in the idea of inferiority of women and in turn are directly related to their socio-economic status and relationship of their human rights and sexual and reproductive health.
- * On the basis of the examination of reports, the Committee draws-up concluding comments aimed at guiding the States party to further steps required to implement the Convention including in the areas of health and reproductive rights.
- * The General Recommendation of the Committee as a treaty monitoring body carry significant weight for States parties and the committee takes the opportunity to suggest the States parties to make use of those to give effect to the provisions of the Convention.
- * To overcome the shortcoming of the Convention with respect to breach of its provision, and adoption of the optional protocol to the CEDAW Convention which is in process will strengthen the monitoring roles of the Committee: It is going to be a very important mechanism in holding governments accountable for discrimination against women in realization of their human rights.

IV. How CEDAWs Mandate fits with ICPD

The ICPD Programme of Action focuses on:

- Gender equality, Equality and Empowerment of Women
- Family and its roles, rights, composition and structure
- Rights in relation to sexual and reproductive health of women

- health, morbidity and mortality

- * The Convention obligates government to “condemn discrimination against women in all its forms” and “agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” which fully correspond to ICPD objectives. In addition, numerous articles of CEDAW directly relate to the issues of ICPD and substantive means of rights and obligations of the government to address those:

- Article 2 - Policy measures to be taken to eliminate discrimination
- Article 3- National machinery to address the discrimination practices
- Article 5- Sex roles and stereotypes
- Article 6- Suppression of all forms of traffic in women and exploitation of women
- Article 10- Education
- Article 11- Employment and labour rights and economic empowerment
- Article 12- Equality in access to health care
- Article 14- Rights of rural women
- Article 16- Equality in marriage and family law

Out of 16 substantive articles of the Convention, nine articles have direct bearing on health issue of women.

- * In its work the committee emphasises on the need to identifying the impact of structural adjustment programme and consequent social and economic policies of the government which may have adverse impact on the overall health services of the country. Thus, it helps to monitor the ICPD goals and its progress.

- * While considering country reports, the Committee is consistently trying to identify the impact of a globalization and structural adjustment programme on

the quality of health services and its accessibility to women, thus making States parties to the Convention more aware of the impending difficulties faced by women and need for developing new strategies for the health sector in order to improve women's health. Through this process, CEDAW has proved to be an important voice in encouraging government to abide by its obligations in consistently changed circumstances.

VI. **How CEDAW interfaces with government in implementation of ICPD and Beijing PFA**

- * The importance of article 12 to gender equality and the empowerment of women was reaffirmed in 1994 by the ICPD, its Programme of Action underscoring the importance of reproductive rights, sexual and reproductive health and family planning for individual, national and international welfare.
- * CEDAW being legally binding on the governments who ratify the convention, is in a better position to request government to include information about implementation of ICPD and Beijing PFA by the States parties. As a matter of fact, the Committee has modified its reporting guidelines to meet the requirement and elicit information in this regard which also includes health sectors. Furthermore, during the constructive dialogue that shapes the Concluding Comments on country reports which are also the formal record of conclusions and recommendations made by the Committee with regard to particular States party, it is an important tool to monitor progress made under obligations of CEDAW, ICPD and Beijing PFA.
- * The General Recommendations of the Committee which are formalized on the basis of examination of country reports and information received from States parties are regarded as practical guidelines to the States parties to comply with its obligation. The governments can refer to CEDAW's General Recommendations for guidelines on how to comply with ICPD related issues.
- * With the realization that women's right to health, including reproductive health, is at the heart of their struggle for gender equality and the failure of States parties to fulfil their obligations in relation to women's health and reproductive rights constitute discrimination against women, the Committee at its twentieth session has adopted its General Recommendation number 24 on article 12 of the convention which relates to the equal right of women to health.

* The scope and application of article 12 has been the focus of a number of CEDAW's General Recommendations. The Committee had earlier made several General Recommendations having particular relevance to health of women:

- a) General Recommendation numbers 12 and 19 on violence against women;
- b) General Recommendation number 14 on female circumcision;
- c) General Recommendation number 15 on avoidance of discrimination against women in national strategies for the prevention and control of AIDS;
- d) General Recommendation number 21 on equality in marriage and family relations;
- e) General Recommendation number 24 on health.

* The General recommendation number 24 on health has a much broader perspective and addresses both the States parties and those who have a particular interest in and concern with the issues surrounding women's health and seeks to elaborate the Committee's understanding of article 12 in order to realize women's right to the highest attainable standard of health.

* The key elements of General Recommendations on article 12 include among other things, the responsibility of the States parties to report on data on incidence and severity of diseases and gender disaggregated data on the health status of women, conditions hazardous to women's health, availability of cost-effective health services, health conditions at the workplace, psycho-social factors including post-partum depression etc., and inform on how their understanding of the field of health care addresses the health needs of women from the perspective of women's needs and interests. Furthermore, reporting should address biological, socio-economic and psycho-social factors, all of which vary between women and men. States parties must ensure, on the basis of equality, access to health care services, information and education, The obligations of States parties also include ensuring legislative, executive or judicial action, and policy compliance with these obligations, gender-based violence, need for training health care workers to detect and manage health consequences of gender-based violence. The

General recommendation also advises States parties to include relevant materials demonstrating their compliance with other articles in the Convention which have importance bearing on women's health.

- * The States parties should also ensure health care protocols and hospital services procedures addressing violence against women. The States parties should allocate adequate budgetary, human and administrative resources and take a holistic approach to women's health and to ensure that women's right to enjoy sexual and reproductive health free of coercion, discrimination and violence constitute an important part of their human rights.

VII. **The role of UN agencies and NGOs in supplementing information from governments**

- * The Committee relies upon UN agencies particularly on WHO, UNFPA and UNICEF and NGOs to supplement information from government related to women's right to health and the reality on the ground. This information is vital for moving from the rhetoric of the rights to health to addressing the reality of women's health.
- * For realization of the goals of ICPD and Beijing PFA, the Committee's review procedure, its concluding Comments and the General Recommendations have proven to be important tools for those seeking to establish an effective legal framework for the protection of the human rights of women by modification and elimination of discriminatory laws and practices.

References

1. convention on the elimination of All Forms of Discrimination against Women.
2. General Recommendations on Articles of the Convention on the elimination of All forms of Discrimination Against Women.
3. Traditional or customary practices affecting the health of women. Report of the Secretary-general, UN, 10 September 1998.
4. Assessing the Status of Women: A Guide to Reporting under the convention on the Elimination of All Forms of Discrimination Against Women. IWRAW and Commonwealth Secretariat.