

Negotiation Kit for Beijing + 10

Human Rights of Women

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OVERARCHING CONCERN

Since 1995 the broader political, economic and social environment had increasingly circumscribed the positive construction and promotion of women's human rights in the Asia Pacific region. As a result, human rights activism is increasingly being criminalized and human rights defenders are being persecuted. Women human rights defenders—because they break traditional prescriptions for women and because they are relentless in challenging undemocratic power systems, are particularly vulnerable.

GAINS

- Since 2000, Timor Leste in South East Asia, Democratic People's Republic of Korea in East Asia and Solomon Islands and Kiribati in the Pacific have become parties to the Convention of All Forms of Discrimination Against Women (CEDAW), the cornerstone for achieving women's human rights.
- Formal institutions have made some contributions in addressing the need to promote and protect women's human rights. Much more work however, is required to institutionalize a gender perspective in existing human rights mechanisms.
- The Statute of the International Criminal Court, adopted in July 1998, provides for the establishment of a permanent International Criminal Court with jurisdiction over genocide, war crimes and other crimes against humanity, in both international and non-international conflicts.

GAPS

- One Asian country and four Pacific countries have not yet ratified CEDAW. A number of other countries have maintained substantive reservations to it. Governments have also failed to adopt or failed to adopt legislation giving effect to the provisions of CEDAW in domestic settings. Accountability mechanisms to ensure implementation of such legislation is absent in many cases. Additionally, the Optional Protocol to CEDAW is yet to be ratified by many countries.
- Actions by Governments and civil society have resulted in practices which infringe on their obligations under international human rights law. Examples include trafficking for purposes of prostitution (in contravention of CEDAW) and lapses in the implementation of labor laws in export processing zones (in contravention of ILO agreements).
- Many women experience human rights violations as a result of the interaction of varying forms of oppression. For example, the race and gender combine to create discriminatory practices against indigenous women such as the refusal to recognize sacred women's sites and

land rights. The intersection of religion and gender is seen in discriminatory practices which restrict women's inheritance rights.

- There are specific groups of women and men whose human rights remain inadequately addressed in the BPFA. Not enough inter-linkages exist among various sections of the Platform to provide a more comprehensive understanding of and response to human rights. These include the following:
 - o Women with disabilities [identified in the context of health care needs - Strategic Objective C.1 Action 106c; and human rights in Strategic Objective I.2 Action 232p]
 - o Indigenous women [indigenous issues raised only in the context of the Draft Declaration of Indigenous Peoples - Strategic Objective 1.1 Action 2300]; and health care needs identified in Strategic Objective C.1 Action 106c]
 - o Migrant women including migrant women workers [raised in VAW context - Strategic Objective D.1 Actions 125b and c]; raised in legal literacy context [Strategic Objective I.3 Action 233i]; recognized in Paragraph 225]
 - o Discrimination on the basis of sexuality [sexuality issues raised in the context of health concerns: Paragraph 96 and Strategic Objective I.2 Action 232f]
 - o Internally displaced persons and refugees [covered in Critical Area of Concern E]
 - o Marginalized women (ie Dalit women) [not recognized]; minority women (ie religious and ethnic groups) [recognized in Paragraph 225, no Strategic Objective reference]

EMERGING ISSUES

- Since the adoption of the BPFA, the region has seen a resurgence of conservative forces that increasingly deny women's rights in the name of culture, religion or other identity-based constructs. Honor killings, abandonment and even killing of girl- children and similar sex selective practices continue to occur. Discrimination on the basis of religion, ethnic identity and sexuality is becoming more widespread among those severely affected by rapid changes linked to neo-liberal policies and new security measures.
- New threats to women human rights defenders have arisen. Increasing state militarization, terrorism and neo-liberal globalization have silenced many rights defenders, placed them at risk, and severely impacted on their freedom of expression. Perceived tensions and lack of cohesion within the women's movement have further weakened women's human rights.
- Displacement of women and girls due to rising levels of conflict has led to increasing levels of violence, including sexual violence, against women by both state and non-state actors. There is a continuing failure of the legal and justice systems to protect the rights of women. This failure to address women's needs and women's dependence on the state for health and security service are twin factors that marginalize and disempower women. A general lack of knowledge of Human Rights further impedes women's human rights advocacy.

RECOMMENDED LANGUAGE

Overall

By Governments, the UN system and Civil Society:

- Accelerate implementation of the BPFA strategic objectives
- Develop a more comprehensive understanding of women's human rights issues to address the wide range of discrimination and forms of oppression faced by women, (race, language, ethnicity, culture, religion, socio-economic status, disability, sexuality, status as refugees, internally displaced peoples, indigenous people or people living in rural areas). Ensure that this understanding is integrated into all human rights policies and practices.
- Support efforts to establish the International Criminal Court at the earliest possible date. Ensure the Court is provided with adequate resources and that all States and parties cooperate fully and promptly. Further ensure that a gender perspective is fully incorporated into the rules and operation of the International Criminal Court

Reference BPFA Document I, paragraph 228

By Governments:

- Accelerate and support the implementation of BPFA strategic objectives, particularly, those pertaining to women human rights defenders (WHRDs);
- End all forms of repression against human rights defenders, particularly women defenders, and give due recognition to all aspects of their work.
- Fully commit to democratic processes that create spaces for women's equal access to positions of responsibility, training and other resources.
- Create enabling conditions, including enactment of laws and development of appropriate legal and other redress mechanisms in accordance with human rights standards, repeal anti-terrorism measures so WHRDs can defend human rights and address the wider economic, social and political contexts that inhibit.
- Ensure the implementation of the UN Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998.
- Bring perpetrators of violence to the International Criminal Court and adopt a gender sensitive perspective in all areas.
- Systematically monitor and address women's human rights violations for displaced people.
- Educate displaced women on human rights.
- Develop programs for the empowerment of displaced women.
- Ensure that sufficient health and legal help is available to all, including victims of sexual or gender based violence.

By the UN System:

- Hold states accountable for denial and violation of women's human rights and compel them to fill gaps in ensuring the protection of women human rights defenders.
- The UN Special Rapporteur on Human Rights to visit countries where women's human rights are being violated.
- Prosecute the perpetrators of rape and sexual torture through international processes, including the International Criminal Court.

By Civil Society:

- Engage in the documentation of violations of human rights of women defenders, perpetrated by both states and non-state actors; develop information networks to highlight specific threats faced by Women Human rights Defenders (WHRDs).
- Ensure recognition and visibility of women's significant contributions to human rights work;
- Engender social movements by sensitizing them to the gender dimensions of human rights work, especially on issues such as reproductive and sexuality rights and by responding to the specific threats and vulnerabilities faced by WHRDs.
- Initiate the development of guidelines for holding non-state actors accountable for human rights violations, particularly on those committed against WHRDs.
- Build and consolidate alliances among social movements on WHRDs to include in their agenda the concerns of women.
- Use human rights frameworks to inform policy and service provision.
- Monitor human rights abuses among displaced women and girls.

Reference BPFA Document

Strategic Objective I.1 Actions 230a, b, c, g, k

Strategic Objective I.2 Actions 232a, b, c, d, i

By Governments:

- Ratify and ensure the implementation of CEDAW. Universal ratification must be achieved by 2010.
- Reaffirm the commitment made in the BPFA to fully implement CEDAW at a domestic level. Adopt and amend domestic legislation to enable compliance with the obligations set out in CEDAW.
- Withdraw reservations contrary to the objectives and purpose of CEDAW, particularly those pertaining to culture.
- Ratify the Optional Protocol to CEDAW.
- Enable the Committee on the Elimination of Discrimination Against Women to discharge fully its responsibilities under the mandate of the Optional Protocol to CEDAW by allocating adequate meeting time and additional resources.

Reference BPFA Document

Strategic Objective I.1 Action 231

Strategic Objective I.1 Action 230 d, e

By Governments:

- Ensure 50% representation of women in machineries and mechanisms for human rights at the local, national, regional and international level through the adoption of affirmative action legislation and policies; the provision of training programs for women including mentoring programs; and the development of career paths for women in these fields.
- Member states of the Commission on the Status of Women and the Commission on Human Rights must develop independent national human rights machineries, improve accountability mechanisms for existing machineries and strategies, and establish national targets for the achievement of these objectives.

By the UN system:

- Develop an effective UN mechanism for reviewing the achievement of these targets for use by the CSW and HCR.

**Reference BPFA Document
Strategic Objective I.2 Action 232.1**

By Governments:

- Give priority to promoting and protecting the full and equal enjoyment by women of all human rights and fundamental freedoms without distinction as to race, color, sexuality, language, religion, political or other opinions, national or social origins, property, birth or other status.
- Establish effective mechanisms for investigating violations of the human rights of women perpetrated by any state or non-state actor and implement punitive legal measures in accordance with national laws and international legal standards.
- Repeal legislation which acts to discriminate on the basis of gender, religion, ethnic identity and sexuality
- Introduce legislation to ensure the protection of human rights irrespective of gender, religion, ethnic identity and sexuality

By Governments, the UN System, and Civil Society:

- Eliminate discrimination on the basis of gender, religion, ethnic identity and sexuality
- Develop and implement campaigns to change discriminatory community attitudes and practices based on gender, religion, ethnic identity and sexuality

Thematic Focal Point for Human Rights of Women
Asia Pacific Forum on Women, Law and Development
(APWLD)