



GENEVA ADVOCACY NOTES



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Special issue on Gender Integration in the Human Rights Council

HUMAN RIGHTS COUNCIL CLOSES FIRST YEAR WITH ADOPTION OF RESOLUTION ON INSTITUTION BUILDING PROCESSES

EDITOR'S FOREWORD

A positive step on gender mainstreaming and women's human rights has made headway in the institution-building process of the Human Rights Council. The resolution A5/1 on Institution Building has clearly specified that the Universal Periodic Review (UPR) and the Programme of Work of the Council should have a gender perspective including a gender balance in special procedures, complaints mechanisms and the expert advisory body that will replace the Sub-Commission on the Protection and Promotion of Human Rights (See July 2006 Edition of the GAN). The integration of a gender perspective as an essential criterion for mandates of special procedures and a gender balance concerning mandate holders is a fundamental guarantee and impartial enforcement of international instruments. What we need now is the goodwill and accountability of all member states to make this happen in reality.

In the erstwhile Commission on Human Rights, not only was gender mainstreaming neglected but if addressed, women's human rights were concentrated on welfare aspects. It ignored women's active role as catalysts and agents in transforming patriarchy to a gender balanced society based on non-discrimination and free of violence. The Council must now ensure that mandate holders will be mainstreaming a gender equality perspective; governments must exercise vigilance and show goodwill in implementing their commitments to international principles and instruments on gender equality and translated in national policies and practises; NGOs should provide the Council with concrete examples from the ground of best practises as well as address specific violations that need immediate remedial action. A year ago, the High Commissioner created a Gender Unit and appointed a Senior Gender Official. This Unit should ensure that the High Commissioner's updated reports highlight progress on gender equality on the one hand and on the other hand, identify protection gaps in women's human rights. It especially should assist in institutionalising the universality, indivisibility, interdependence and inter-relatedness of gender-equal civil and political rights and economic, social and cultural rights, including the right to development. All these would be balanced and transparent. These steps include

technical co-operation and expert advice to help in awareness raising and sensitivity to gender violations, as well as through human rights education. However, without political goodwill and accountability, mainstreaming and integrating gender equality in the UN will not achieve a cruising speed, worse still, will continue to remain mere paperwork.

WHY HIGHLIGHT WOMEN'S RIGHTS IN THE HUMAN RIGHTS COUNCIL MECHANISMS?

Integration of women's rights is not a new concept in the agenda of the UN Human Rights Council. Its history goes back to the establishment of the Commission on the Status of Women in 1947/48 when this terminology was used to denote discussions and debates on the condition of women in society and economy in contradistinction to men. It took more than four decades of transformation of international legal and economic norms for the term *integration of women* to be replaced by *gender integration* in the UN system in the 1990s. The meaning and definition have changed in policy statements and legislation, as well as in the substance and methods of its implementation and enforcement. More recently as the process and procedure of transformation from the Human Rights Commission to the Council continue, its usage by the governments has expanded its meaning to include gender mainstreaming in international law on human rights. It has also been the subject of several resolutions listing women's concerns in the mechanisms and mandates of the Commission and the Council. In each session of the Council, since April 2006, during the discussions of the program of work and agenda integration of women was considered as a specific issue on which a resolution was adopted. Several countries have made statements in favor of gender equality during the High Level Segment at the 4th session of the Human Rights Council (12 to 13 March). For example, out of the 47 membership of the Council, 18 countries made reference to women or gender equality supporting non-discrimination clauses in CEDAW or the Optional Protocol particularly on the representation of women in national assemblies. Fifty-seven countries co-sponsored a statement with Argentina –

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A GENDER PERSPECTIVE IN THE UNIVERSAL PERIODIC REVIEW AND THE FRAMEWORK PRINCIPLES OF ITS PROGRAMME OF WORK

The Human Rights Council (HRC) institution-building process drew to a close on 18 June 2007 with a negotiated text that included gender perspective in the framework principles of its Programme of Work, as well as in the Universal Periodic Review mechanism (UPR). The latter is a peer process whereby all states parties will take turns in having their human rights situation reviewed on a regular basis. In the agreed text, gender equality and women's human rights have been included. It is however not a standing item in the agenda. Accordingly, a joint statement delivered by the Representative of the International Federation of University Women (IFUW) underscored two basic reasons why these issues should be integrated in every session of the HRC. Foremost is the fact that there are two genders in the world's population, one-half of which is at present unequal to the other in rights and power, secondly, this asymmetry has been acknowledged in numerous UN principles, norms and standards, as well as in world summit declarations and platforms for action and voluntary pledges. To name just the very basic ones: The Universal Declaration of Human Rights (1948), Convention on the Elimination of All Forms of Discrimination Against Women (1979), Vienna Declaration on Human Rights (1993), Beijing Declaration and Platform for Action on Women (1995), ECOSOC Decision on Gender Mainstreaming (1997), Declaration of the Fundamental Rights at Work of the International Labour Conventions (1998), notably the non-discrimination Conventions 100 on equal pay and 111 on equal occupations and employment, Millennium Development Goals (2000); GA Millennium Summit Outcome (2005), and the latest one is the GA Resolution on Violence Against Women (2006). In the ECOSOC 2006 and at the General Assembly in 2007, gender equality and women's empowerment were in their main agenda. (Full texts of the documents can be found on the United Nations website (www.un.org)).

FIRST STEPS IN BUILDING THE MECHANISMS

On 26 September 2007, HRC *President Doru Costea*, briefed the NGOs on the process of review, rationalisation and improvement of mandates, which started with the case of the Independent expert on Haiti. On the whole, it was positive and constructive with many concrete suggestions. He also said that the UPR preliminary process was successfully completed on the selection of governments to be reviewed in the first, second and third sessions. He reiterated his intention to continue with the review, rationalisation and improvement process the way it was going, which showed that the Council took the process seriously. The presence of VIPS taking the floor to justify why there was a need for renewal of mandates, such as the presence of the Ministers of Human Rights of Haiti, Congo and Burundi, showed that countries coming from the South were committed to approaching seriously human rights situations in their societies and expressed goodwill and trust in the Council's work.

The President also announced that the formal panel on Gender Integration was such a success with so many delegates

wanting to take the floor. Between cutting short the interventions and following strictly the calendar, he chose to extend discussion of substance. This meant however that he had to change the order of the day a few times to give a chance to NGOs to make their statements. He assured that he will try to involve NGOs more and more to the largest extent possible. As to speaking time and involvement in the debate, this first panel was a good lesson in terms of planning and time management. He warned that March 2008 session would be more difficult and so will the June session in terms of workload due to the novelty of issues. Hence, adjustments in time allocation simply would not be possible to gain more. He will see to it however that the involvement of NGOs will not be diminished..

A PANEL ON GENDER INTEGRATION ORGANISED WITHIN THE FORMAL CALENDAR OF THE HUMAN RIGHTS COUNCIL

A panel was held within the formal calendar of the Human Rights Council on 20 September chaired by Ambassador Maria Nzomo, permanent representative of Kenya to the United Nations. Panellists included Kyung-wha Kang, Deputy High Commissioner for Human Rights, Rhadika Coomaraswamy, Special Representative of the UN Secretary General Ban Ki Moon for Children and Armed Conflict, Miloon Kothari, Special Rapporteur on the right to adequate housing and Charlotte Bunch Executive Director and Founder of the Centre for Women's Global Leadership as civil society representative. The panel was followed by an interactive debate in which thirty-three governments and ten NGOs took the floor. Two joint statements were delivered on behalf of 20 international NGO members of the Geneva NGO Committee on the Status of Women. A joint statement was also delivered by a regional NGO representative in the name of the Asia Forum for Human Rights and Development and the Asia Pacific Forum on Women, Law and Development and one joint national statement was made and six individual NGOs. Full texts of all oral statements can be found in the Human Rights Council Extranet of 20-21 September 2007.

The conclusions highlighted the following::

- ❖ It is the fundamental core of work of the Council to focus on gender as being a social relation between women and men, girls and boys within all of humanity. Roles are acquired and vary differently from one culture to another, but evolve over time;
- ❖ Gender violence is directly related to the unequal enjoyment between women and men of rights, opportunities, resources and rewards.
- ❖ The Council needs to incorporate a gender analysis that promotes and strengthens legal frameworks, vocally prescribing gender equality and guard against ostracizing gender integration as a matter belonging to the women's domain.
- ❖ The General Assembly Summit Outcome (Sept. 2005) calls on the Council to integrate gender perspectives in all issues in its agenda, including its methods of work.
- ❖ The gender perspective is a key priority in the work of the Office of the High Commissioner for Human Rights: It should promote the adoption of gender

equality legislation and should ensure their implementation;

- ❖ It is noted that there remains a large number of explicit and implicit discrimination in the law and the Council should envisage the creation of a group of experts who would look into national legislations to identify which laws exist that implement or not implement gender equality and gender justice. In this regard, the intervention of IFUW on behalf of 14 NGOs recommended the appointment of a Special Rapporteur on Gender Justice.
- ❖ The Council should systematically identify and give visibility to concrete issues such as Maternal Mortality and gender based violence as human rights concerns.
- ❖ The Council should include indicators and data disaggregated by sex and age in all monitoring mechanisms to assess progress, consequently, there must be a systemic data gathering and analyses disaggregated by sex and age.
- ❖ Gender mainstreaming as it is presently understood (or misunderstood) should not be limited to achieving gender equality but should be closely linked to the right to all sustainable human development. In this regard, integration of a gender perspective is a strategy of the United Nations to remedy the economic, social, political and cultural disadvantages of women. In practical terms, a two-pronged approach should be adopted: on the one hand, mainstreaming a gender perspective in the whole UN System and on the other hand, specifically addressing the under-represented gender (i.e. women and girls)
- ❖ The Council should focus its action on the law of the land as a first guarantee of human rights
- ❖ The issue of violence against women should not be the only focus in gender integration but should be linked to finding solutions towards the equal enjoyment of economic and social rights of women.
- ❖ Government interventions expressed commitment and support to the integration of gender perspective in the different aspects of the Council's work, notably within the framework of the UPR, in the mandates of Special Procedures (SP) and in the drafting of resolutions by the Council. In this regard, account should be taken of the CEDAW Convention and ensure within the UPR mechanism a gender perspective at all stages of the review.

SOME GOVERNMENT INTERVENTIONS DURING THE INTERACTIVE DIALOGUE:

Slovenia: Wanted to know how can one ensure that a gender perspective be integrated and sustained over a long term in special procedures and in what way would it be possible to do it at the level of national legislation?

New Zealand: Besides integrating a gender perspective in the UPR and SPs, it should also be taken into account in all Council resolutions.

Sweden: The government is ready to extend assistance to accelerate progress notably in the UPR. It is necessary to bring out the gender perspective throughout the year of the Council's work. The speaker wanted to know how the Council could address within this framework, conflict prevention.

Philippines: The Council should ensure that mandate holders have the special competence in the area of gender mainstreaming and to take particular attention to prevention of trafficking of women and feminisation of poverty; what role men and boys could play; and what specific action should the Council take in promoting gender equality. The Council should organize debates on this theme on a regular basis in the Council's programme of work.

Morocco: Gender perspective should be in every resolution of the Council and to ensure equal representation of women in the organs of the United Nations.

Portugal on behalf of the European Union: Gender equality must be systemic in all human rights issues. The organization of the panel debate reinforces a general understanding of the issue and supports an update. Following from the question of the IFUW representative, how can one monitor and update knowledge of progress. How can the Council contribute to reinforcing the proposed gender architecture in the UN Reform process? The Council should encourage special procedures to establish guidelines that would contribute to the effective integration of gender in their work. The panelists were asked to share their views on the expectations expressed by NGOs.

Tunisia: Suggested that the Council should develop a long-term modus operandi. A long-term strategy was practiced by Tunisia and bore its fruit by a significant increase in the representation of women in public organs.

Chile: Expressed hope that the interactive dialogue would lead to new ideas and concretely implement these in the work of the Council. He recalled that the President of Chile, *Michele Bachelet*, made specific reference to the issue of gender equality in her speech delivered to the Council.

Pakistan on behalf of the Organisation of Islamic Conference: Declared that a process of this nature is a long term one. The fact that the institutional text recognizes gender equality, governments should make deliberate effort to present gender balance candidates in the different organs of the Council. Ms. Janjua congratulated the new Gender Unit in the OHCHR and wanted to know if the coming of CEDAW to Geneva would have an impact on its work.

STATEMENTS ON GENDER EQUALITY PERSPECTIVES AT HRC SESSIONS ON INSTITUTION BUILDING

Members of the NGO CSW Geneva made joint statements to the Council's institution building process (see complete lists in the HRC Extranet): One statement reminded the Council that since the creation of the United Nations and the adoption of the *Universal Declaration of Human Rights* in 1948, women have been struggling for the promotion, protection and enjoyment of their rights. The *Vienna Declaration* (1993) has provided the legal framework that clearly acknowledged women's rights are human rights and should be integrated into the mainstream of United Nations

system-wide activities. It emphasized the elimination of all forms of violence against women in public and private life and the eradication of all forms of discrimination against women, both hidden and overt. The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW 1979) has provided among others that temporary measures to redress a situation are not considered discrimination. The Beijing Platform for Action has enumerated 12 areas of concern for strategic action to empower women and improve their status.

The implementation of these existing international legal instruments is being undermined due to, inter alia, practices of patriarchal cultures, customs and religious fundamentalism. The IFUW speaker noted that social, economic and cultural forces have often determined people's behaviour more than legal regulations, especially for those whose illiteracy denies them access to legal information. Often a woman's right to life is violated because they challenge either political systems or traditional gender-based standards of behaviour in their cultural or religious settings. It is essential that UPR, and other HRC mechanisms' mandates and methods of work, should include a gender equal perspective as a prescriptive concept and to test for gender bias by asking the question 'Does a woman have a choice in a given situation?' Much of the failure to redress gender inequality is in fact primarily due to the absence of systematic sex and age disaggregated national statistics that identify characteristics and practices of human rights violations specific to or primarily directed against women or to which women are particularly vulnerable. In this regard, UPR should include gender-specific sensitivity factors, impact assessment and evaluation measures with time lines.

A statement of the International Federation for Human Rights during the 3rd session of the HRC reminded the Council that this year is the 25th anniversary of CEDAW. 184 states have ratified this, but only 79 have ratified the optional protocol. Many have expressed reservations that override their adoption. It also indicated that certain national legislations are incompatible with CEDAW. It is this contradiction that the FIDH and the Association démocratique des femmes du Maroc launched a campaign for "equality without reservations in all Arab countries." Its objective is to make all states renounce reservations in the CEDAW convention, to harmonise all their legislations with the prescriptions of the convention, and to ratify the optional protocol. Finally, it underscored the necessity to ensure that a specific item on women's rights should be on its agenda so that such questions would systematically be debated in the main organ responsible for the promotion and protection of individual and collective rights of women.

The representative of the International Alliance of Women, addressed *Maternal Mortality*. The following is the unedited statement of Helene Sakstein: "The Special Rapporteur on the Right to the Highest Attainable Standard of Health, Mr. Hunt challenges human rights civil society organizations and health professionals alike to give more attention to economic, social and cultural rights in general and the right to health in particular. One shocking example is

maternal mortality. The report notes that each year there are 500.000 maternal deaths, or one every minute; 95% of these are in Africa and Asia and most could be avoided. There is no single cause of death and disability for men between the ages of 15 and 44 that is close to this magnitude.

Maternal mortality reveals sharp discrepancies between men and women in their enjoyment of sexual and reproductive health rights. Maternal mortality exposes profound and multiple inequalities. It's not just a health issue, argues the report, it is a human rights issue which violates women's rights to life, health, and non-discrimination. Unfortunately, although it represents a massive human rights catastrophe, it has not attracted adequate attention. Fighting maternal mortality could become a powerful vehicle for strengthening health systems accessible to all. It provides an entry to the full implementation of the right to health and all related rights. Such as the right to drinking water, to food, to housing, to privacy, to education, to information, to healthy occupational and environmental conditions, etc. Maternal mortality could also be used as an equally powerful vehicle to better integrate the human rights of women in economic, social, and cultural rights, for all special groups enumerated in the Council's agenda such as minorities, indigenous peoples, children, migrants, etc.

The statement of the Executive Director of the Center for Women's Leadership to the Fourth Session referred to the Study of the UN Secretary General on VAW which called on the Human Rights Council to discuss by 2008, the question of violence against women in relation to their mandates and to set priorities for addressing this issue in their future efforts and work programmes and to identify and address gaps pertaining to VAW. She emphasised, among others, that "The work of achieving human rights for all has always involved "making changes in all of our cultures where they conflict with equality and non-discrimination and working to end violence against women is no exception." She mentioned the report of the Special Rapporteur on VAW Yakin Erturk on the "gun culture" in the United States as a cultural manifestation that is lethal for many victims of domestic violence. She ended by stating that the Council requires that a gender perspective be integrated in all of its work.

The delegate of *Argentina* made a statement on behalf of 57 co-sponsors on the importance of integrating a gender perspective in the work of the Council. (see full text in Human Rights Council Website and HRC Extranet).

Algeria representative declared that his country, which had ratified on January 1996 the CEDAW convention, the Convention on political rights of women and the international labour conventions, is resolved to modernise and to rehabilitate women's entire human rights and its objective is to reach equal rights of women and men in its process of development such as shown over the recent years. Women have the right to vote, right to be political candidates and in judiciary positions. Women are encouraged to engage in economic activities, in particular in rural zones and distant regions. He said that the worst form of violence against women is poverty.

RESOLUTIONS AND DECISIONS ADOPTED AT THE SIXTH SESSION OF THE HUMAN RIGHTS COUNCIL WITH GENDER, AGE PERSPECTIVES AND WOMEN'S RIGHTS

Out of around 30 resolutions and decisions, only the following six had women's rights and/or a gender perspective. The postponement of discussion on the resolution regarding gender integration in the UN System, has been postponed to the sixth extended session in December this year. It is crucial that there be extra vigilance in following the redrafting exercise of this omnibus resolution. The resolution should emphasize implementation by states parties from a rights-based approach to gender equality and to fill in specific protection and promotion gaps in women's rights. For advocates in the Council, the more controversial issues which have to be tackled are those based on multiple forms of discrimination that intersects with gender, i.e. race, ethnicity, culture, traditions that have led to stereotypes and customary laws, religious beliefs, moral values and intergenerational discrimination based on age.

A/HRC/6/L.5/Rev.1 -Mandate of the Special Rapporteur on the right to food is extended for a period of three years and to continue mainstreaming a gender perspective and take into account an age dimension, considering that women and children are disproportionately affected by hunger, food insecurity and poverty.

A/HRC/6/L.15. Mandate of the Special Rapporteur on freedom of religio or belief for a furthr period of three years. Both in the preambular and operative paragraphs, practices of discrimination against women in situations of violence and religious extremisms that affect women need to be addressed and to ensure appropriate measures are taken to guarantee the freedom of religion or belief of women, persons deprived of their liberty, refugees, children, persons belonging to minorities and migrants, including appropriate education or training provided to public officials, civil servants, enforcement bodies, the military and educators and broader participation of women in strengthening dialogue.

A/HRC/6/L.34 Forum on Minority Issues. Adopted to establish a forum as a platform for dialogue and cooperation, to meet annually for 2 working days with participation of all relevant stakeholders from every region and giving particular attention to the representation of women. The work of the forum will be reviewed after four years.

A/HRC/6/L.26 Indigenous Peoples – Mandate of the Special Rapporteur extended for three years – to pay special attention to the human rights and fundamental freedom of indigenous children and women, and to take into account a gender perspective in the performance of his/her mandate.

A/HRC/6/L.23/REV.1 – Special Rapporteur on contemporary forms of slavery. Decides to appoint for a three-year period a

Special Rapporteur to replace the Working Group.. Will cover other issues as forced prostitution and its human rights dimensions, to include examples of best practi ces and to take account of the gender and age dimensions of contemporary forms of slavery. The SR should cooperate fully and effectively with other existing mechanisms and treaty bodies including trafficking in persons, especially in women and children, SR on the sale of children and child pornographc, , SR on racial discrimination, etc. SR on violence against women, its causes and consequences , Special Representative of the Secretary-General on children in armed conflict, SR on human rights of migrants.

A/HRC/6/L.28 – Situation of human rights in Haiti. Council welcomes the Haitian authorities' plans to pass a series of laws on the status of women and reforms of the civil registry and land registry systems; Council encourages the international community to step up acivities in human rights training and education for the security forces.

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What are the "Geneva Advocacy Notes"?

The newsletter reports on events of importance to women taking place at the United Nations, its specialized agencies and NGOs in Geneva. It is published periodically by the NGO Committee on the Status of Women in Geneva,s to encourage NGOs and women and men everywhere to commit themselves to the implementation of the 1995 Beijing Platform for Action, to the advancement of the status of women and the achievement of gender equality. Reproduction and dissemination to other interested organizations, networks and individuals are encouraged and source acknowledged. Content is the sole responsibility of the Editorial Committee.

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