

Lunchtime Event Report, 6 November 2008

Proposal for a General Recommendation on Older Women: Strengthening the Protection of the Rights of Older Women

Introduction

This lunchtime event examined the case for a new CEDAW General Recommendation on older women. It was the initiative of Ms Ferdous Ara Begum, CEDAW Committee Member, Bangladesh, who moderated the session. Speakers from the CEDAW Committee, the Office of the High Commission for Human Rights and NGOs supported the proposal for a new General Recommendation from different perspectives. The question and answer session enabled participants to give an indication of some of the areas where a General Recommendation would contribute to making a real difference to the lives of older women. Ms. Elizabeth Sclater, Gray Panthers and Older Women's Network, Europe, acted as rapporteur and summarised the key points raised at the end of the meeting.

The event took place on Thursday November 6th, 2008, from 13.30 – 14.30 in Room XVI of the Palais des Nations, Geneva and was attended by around 50 participants made up of CEDAW Committee Members, NGO representatives and diplomats from Bangladesh and Japan. European Committee Members were unable to attend as they had a prior engagement.

Setting the Context – welcome address by Ms Ferdous Ara Begum

In her welcome address Ms. Ferdous Ara Begum emphasised how older women experience ageing differently to men and that the discrimination older women experience is often intersectional, their old age compounding other forms of discrimination based on gender, ethnic origin, disability, levels of poverty or literacy. Ms Begum stressed the importance of each and every article in the Convention to older women and highlighted those that are most relevant: Articles 2, 5, 10, 11, 12 13, 14 15, and 16 (see Annex 1). She drew attention to previous concluding observations that the Committee had made pertaining to older women and urged the Committee to build on this with the creation of a working group to draft a General Recommendation to support States Parties' compliance with their obligations under the Convention towards older women.

Support and key issues raised by CEDAW Committee Members

Strong support and commitment to the initiative taken by Ms. Begum was expressed and the following key issues raised by speakers from the CEDAW Committee: Ms. Yoko Hayashi, Japan; Ms. Silvia Pimentel, Brazil; Ms. Naela Mohamed Garb, Vice-Chairperson, Egypt; Ms. Glenda Simms, Vice-Chairperson, Jamaica. Despite being unable to attend due to a prior engagement, support from Ms Dubravka Simonovic (Chairperson) was also relayed to the participants.

- CEDAW focuses on the intersectional nature of discrimination against women: women tend to live longer than, and experience ageing differently to, men and can be subject to multiple forms of discrimination and for this reason it is important that the Committee focus on older women.
- A General Recommendation on older women would provide a focus around which the Committee could unite. It would be a tool which would help them work efficiently and effectively on intersectional discrimination and strengthen the Committee as an institution.
- Working on a General Recommendation would enable the Committee to focus on specificities and pay attention to details and so ensure they make effective recommendations and guidance to States Parties.
- The issue of ageing is shared by both developing and developed countries. Discrimination is an issue, though in different ways, for all older women, rich and poor.

- The question of how States Parties can meet its commitments and respond to the demands, including that of financial resources, that result remains. Working on a General Recommendation would be an important start in acknowledging this and suggesting solutions.
- Human rights are inalienable and all women have the right to grow old with dignity. Older women must not be viewed as victims but recognised for the contribution that they have made and continue to make to the societies in which they live, the knowledge they possess and the strengths that they have. This approach must be central to the way the Committee approaches drafting a General Recommendation and builds on the UN Principles for Older Persons (1991) and the Madrid Plan of Action on Ageing (2002).

Support from the Office of the High Commissioner for Human Rights

Ms. Jane Connors confirmed the support of Office of the High Commissioner for Human Rights for a General Recommendation on older women and affirmed that it looks forward to assisting the Committee on this. The issue of discrimination against older women is one that is alive and continues to grow in significance.

Issues raised by NGO speakers

Ms. Bridget Sleap, HelpAge International and Ms. Helene Sackstein, International Alliance of Women and International Federation on Ageing spoke on behalf of a number of NGOs and NGO networks who support the Committee in this endeavour. They drew attention to the following:

- The role and contribution that older women make to their families and societies often goes unrecognised and undervalued. This is particularly true in terms of the role they play in the responses to the HIV and AIDS epidemic.
- Unprecedented demographic ageing is a success for development but these changes in population structures increase the urgency of addressing discrimination experienced by older women.
- Globalisation, climate change, urbanisation and migration are factors that can compound the vulnerability of many poor older women, particularly those living in rural areas.
- There is a window of opportunity now to strengthen the mechanisms that protect the rights of older women to better respond to the changing circumstances and complex forms of discrimination of the 21st century.
- Older women experience intersectional discrimination in a number of areas of their lives: in the workplace, in lack of access to land ownership, in discriminatory inheritance laws and practices, in access to health services, and in elder abuse.
- Older women from minority, indigenous or other marginalised populations often disproportionately experience discrimination.
- It is important that the experience and guidance of the CEDAW Committee on the rights of older women are included in debates around older people's rights in other parts of the UN system and beyond. For example there is an emerging debate around a new convention on the rights of older people, the African Commission is exploring a new protocol on ageing to the African Charter on Human and People's Rights and the Third Committee recently adopted a resolution (A/C.3/63/L.4) that requested a report from the UN Secretary General which included information on the promotion and protection of older people's rights. A General Recommendation would help guide and ensure these developments effectively address the gendered and intersectional nature of discrimination against older people.

Discussion

Comments from the floor helped to illustrate the wide range of challenges faced by older women today. Contributors highlighted the contribution that they make as carers of adults living with HIV and AIDS and young children. The issue of mis- or over-medication and the

different ways that older women respond to medical treatment to older men and the sometimes harmful effects this can have was raised, as was the need to address end of life issues and the right to die with dignity without pain and with spiritual care. A suggestion was made that NGOs could support the work of the Committee by providing them with research and information on how discrimination in employment and pension systems affects older women. Interest was also expressed in the emerging debate around a new convention on the rights of older people.

Conclusion and next steps

The level of support from contributing Committee Members to work on a General Recommendation on older women was high. Justification and reasons ranged from the pressing need to improve the protection of the rights of older women to the value that this endeavour would bring to the working of the Committee.

Annex 1 – Background paper

Recommendation on the adoption of a General Recommendation on the rights of older women

Introduction: the century of ageing

2008 marks the 60th anniversary of the Universal Declaration of Human Rights (UDHR). Along with the development of the international human rights mechanisms, the last 60 years has seen unprecedented demographic ageing which is set to continue, making the 21st century the century of ageing. As populations age in both developed and developing countries, the number and proportion of older women is increasing.

Yet across the world many women who are also 60 this year will have little cause for celebration as they are marginalised and discriminated against both because they are women and because they are old. To mark and celebrate the 60th anniversary of the UDHR, we urge the Committee to initiate a process that would result in the adoption of a General Recommendation on the rights of older women.

Women and ageing

Whilst global statistics mask the very different contexts in which older women live, they do serve to illustrate the gendered nature of ageing¹. More older women than older men live alone, with 19% of older women compared to 8% of older men living on their own. Whilst for some older women this may be a lifestyle choice, for others it can lead to isolation and be a barrier to accessing support and services. Similarly, 80% of men over 60 are married compared to only 48% of older women. There are more women living into their 80s and beyond, women having a life expectancy at 60 of 21 compared to that of 17 for men, and whilst there are 82 men for every 100 women at the age of 60, there are only 55 for every 100 women at the age of 80.

Older women and discrimination

Men and women experience ageing differently. Both experience discrimination based on old age but, for older women, this can be exacerbated by a lifetime of gender-based discrimination, poverty and of working in poorly paid jobs with little access to formal social security to provide a regular income for them in old age.

The discrimination older women experience is often intersectional, their old age compounding other forms of discrimination based on gender, ethnic origin, disability, levels of poverty or literacy. Often considered no longer economically or reproductively useful, many older women are seen as a burden on their families and communities, are marginalised, isolated and even abandoned.

Many older women lack the necessary identification documentation that would enable them to access the entitlements that are theirs by right. There is not enough data disaggregated by age, especially over 60 years old, and sex that would enable government and non-government interventions to better respond to the needs of older women.

Yet despite this, older women continue to contribute to their households and families through continuing employment in both formal and informal sectors, unpaid work in the home, and caring responsibilities. As traditional intergenerational roles become increasingly blurred by demographic ageing, economic migration, the impact of HIV and AIDS and the effects of climate change, the contributions that older women play is vital.

¹ All data is taken from UNDESA, *Population Ageing Chart*, UNDESA 2006, <http://www.un.org/esa/population/publications/ageing/ageing2006table.xls>

Older women's rights under international human rights law

Few legal human rights instruments relate specifically to older women as a distinct category. Instead older women are covered implicitly via the universality of human rights. They can also look to their rights by way of their sex or membership of a particular racial, religious or minority group. Given the increased parental responsibilities of older women as a result for example, of HIV and AIDS, the needs and rights of many older women are also closely associated with the fulfilment of the Convention on the Rights of the Child and related areas of international law which provide for child rights and protection. Nevertheless few treaty bodies, with the exception of the CEDAW Committee, have issued concluding comments and recommendations that deal with discrimination faced by older women.

However, the seriousness of age discrimination is increasing being recognised by the international human rights machinery. Age itself has been explicitly listed as prohibited grounds for discrimination in the more recent conventions. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) lists age as one of grounds on which State Parties must not discriminate against migrant workers or their families (article 7). The Convention on the Rights of Persons with Disabilities (2008) protects the rights of older disabled people, including the right to special protection in old age (article 17) and to social protection (article 28b) and calls for the provision of age sensitive responses throughout. The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador 1988) not only protects older people's right to social security in old age (article 9.1) but also their right to social protection in old age (article 17).

However, the rights of older women have rarely been specifically referred to. The Protocol to the African Charter on Human and People's Rights on the rights of women in Africa² (2003) explicitly prohibits discrimination against older women based on age, states their right to freedom from violence and the right to be treated with dignity (article 22). The Committee on Economic, Social and Cultural Rights' General Comment 6 (1995) states that States parties should pay particular attention to older women who are often in "critical situations" with no entitlement to an old age or widow's pension (paragraph 20).

Older women's rights and the CEDAW reporting process

We applaud and appreciate the attention the CEDAW Committee has given to older women's rights to date. In its Decision 26/III *Ending discrimination against older women through the Convention*, the Committee recognised that the Convention "*is an important tool for addressing the specific issue of the human rights of older women*"³.

In particular the Committee recognised that discrimination against women throughout their lifespan has a severe and compounded impact on women in old age. It recognised the lack of statistical data disaggregated by age and sex, including the incidence of poverty and violence against older women, and the need for improving older women's economic, physical, mental and social well-being as well as their participation in society.

A number of concluding comments have been made by the CEDAW Committee on discrimination against older women on a range of issues, for example, older women's poverty (France 2003), early retirement policies for women (Czech Republic 1998), high illiteracy rates (Romania 2000), lack of identity documentation (Mozambique 2007), changes in the pension system impacting more on older women than older men (Iceland 2002), lack of detailed information on older women, particularly in rural areas (Suriname 2002), and violence against older women (Zambia 2002)⁴.

However, despite the Committee's concern for the situation of older women, in particular poor rural older women, older women's rights are not systematically addressed either in State reports or NGO shadow reports. In the majority of cases, older women and the discrimination that they experience remains invisible.

² Protocol to the African charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003

³ CEDAW, *Ending discrimination against older women through the Convention*, 07/05/02, A/57/38 (Part 1), para 430-436 (Decision)

⁴ www.bayefsky.com visited 14 July 2008

CEDAW and discrimination against older women

The form of discrimination against older women varies from country to country, and between different cultural settings and economic groups. As the world ages, new forms of discrimination based on age and gender may arise. Poor older women are particularly affected by the present rises in food prices and rural older women are increasingly feeling the negative impact of climate change.

Each and every article of the Convention is relevant to older women if interpreted through an ageing perspective, but there are a number where discrimination against older women is more common, systematic and widespread.

Article 2 – discrimination against women in all its forms

A variety of legislation and practice can discriminate against older women and it is imperative that State Parties review and repeal such legislation through both a gender and an age-related perspective.

Article 5 – stereotypes and harmful practices

Stereotypes and traditional practices related to women and old age can result in the subjection of older women to various forms of abuse and violence - physical, psychological, verbal and financial - because they are old and because they are women.

Article 7 – participation in political and public life

Older women are often discriminated against in terms of not being given the opportunity to participate in political processes and decision-making.

Article 10 - education

The illiteracy rates amongst older women are high due to having been unable to access education when they were young. Few poor, illiterate older women, especially in rural areas, have access to vocational adult education or basic literacy and numeracy training. This can severely restrict their full participation in public and political life, the economy and access to a whole range of services, entitlements and recreational activities.

Article 11 – employment & social security

Many older women live in poverty, having worked in low paid jobs or in unpaid work all their lives, unable to accumulate assets. Many lack income security with inadequate or no access to social security and very few older women have access to non-contributory, state provided (social) pensions. Retirement ages may differ between men and women, women being forced to retire earlier sometimes against their will. UN statistics show that, the less developed the country, the more older women continue to remain in the labour force⁵. This is often in low paid and demeaning types of jobs with few, if any, rights.

Article 12 – access to health

Postmenopausal conditions and diseases tend to be neglected in research, academic studies, public policy and service provision. In many countries few health personnel are trained in geriatric medicine and so health care service provision remains inappropriate to older women's physical, functional and mental health needs. Many poor older women with no private health insurance or access to formal social security cannot afford health care, particularly in rural areas where health posts may be long distance from where they live and they cannot afford the transport costs. Abuse and neglect of older women can take place in institutional care homes.

Article 13 – access to finance

Micro-credit and finance schemes can have age limit restrictions which prevent older women from accessing them.

⁵ UNDESA, *Population Ageing Chart*, UNDESA 2006, <http://www.un.org/esa/population/publications/ageing/ageing2006table.xls>

Article 14 – rural women

In many countries the majority of older women live in rural areas where access to services is made more difficult due to their age and poverty levels. Urbanisation and economic migration has left many older rural women in charge of young family dependents and maintain small farms without the support of their adult children.

Article 16 – property and inheritance

In many settings the state of widowhood or being single due to divorce or never having been married profoundly changes older women's status in society and can result in discrimination both in law and in practice, particularly in terms of property and inheritance rights.

Recommendations

1. We therefore recommend that the CEDAW Committee initiate a process that would review the relationship between all the articles in the Convention and ageing. We recommend that this results in the adoption of a General Recommendation on older women's rights which would outline the content of the obligations assumed by States as parties to the Convention from the perspective of ageing and older women's rights. It would include steps to support State Parties' compliance with these obligations as well as provide guidance to both State Parties and NGOs on inclusion of older women's rights in their reporting.

2. We recommend that the Committee explore the possibility of the systematic inclusion of a question on the rights of older women in the Committee's List of Issues to encourage State reporting and compliance with its obligations.

Submitted to the CEDAW Committee in July 2008 by Ms Ferdous Ara Begum

Member, UN CEDAW COMMITTEE

Endorsed, as of 06/11/08, by:

1. Associated Country Women of the World (ACWW)
2. B'nai B'rith International
3. Dutch Speaking Council of Women/Belgium
4. EURAG
5. Global Action on Aging
6. Gray Panthers
7. Franciscans International
8. HelpAge International
9. International Alliance of Women (IAW)
10. International Council of Jewish Women (ICJW)
11. International Council on Social Welfare
12. International Federation of Business and Professional Women (BPW-International)
13. International Federation of University Women
14. International Federation on Ageing
15. International Immigrants Foundation
16. International Network for the Prevention of Elder Abuse
17. International Union of Anthropological and Ethnological Sciences (IUAES)
18. National Association of Negro Business and Professional Women
19. National Council of Women of the USA
20. Older Women's Network, Europe
21. Soroptimist International
22. VIVAT International
23. Women's International Democratic Federation
24. Women's Association for Better Aging Society
25. World Federation of Ukrainian Women's Organizations
26. Worldwide Organization for Women