

@The Human Rights of Women in the United Nations: Developments 1993 - 1994

Introduction

In the Vienna Declaration and Programme of Action, the final document of the 1993 United Nations (UN) World Conference on Human Rights, governments made important commitments to improving women's enjoyment of their human rights. The Declaration stated "[t]he human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights."¹ The Declaration called for the integration of women's rights into the mainstream of UN system-wide activity, stressing "the importance of working towards the elimination of violence against women in public and private life."² In addition, it urged the UN General Assembly to adopt the draft declaration on violence against women and encouraged the UN Commission on Human Rights to appoint a special rapporteur on violence against women.

In accordance with the Vienna Declaration, the General Assembly adopted by consensus the Declaration on the Elimination of Violence against Women on 20 December 1993 (resolution A/48/104). The text of the Declaration is attached.

The Declaration underlines the pervasive and shocking nature of violence against women and is intended to complement the Convention on the Elimination of All Forms of Discrimination against Women, which was adopted by the General Assembly in 1979 and entered into force on 3 September 1981. As of 31 October 1994, 138 States had ratified the Convention.

At its 50th session in 1994, the UN Commission on Human Rights decided to appoint a Special Rapporteur on violence against women. The Special Rapporteur is mandated to examine the causes and consequences of violence against women; recommend measures at all levels to eliminate violence against women; work closely with other UN mechanisms, and report annually to the Commission beginning with the 51st session.

¹ Vienna Declaration and Programme of Action Section I, paragraph 18

² Vienna Declaration and Programme of Action Section IIB3, paragraph 37-38

The Declaration on the Elimination of Violence against Women

On the basis of a recommendation by the Commission on the Status of Women (CSW), the UN Economic and Social Council adopted resolution 1991/18 which, *inter alia*, called for the development of a framework for an international instrument that would explicitly address the issue of violence against women. An expert group meeting was convened in November 1991 to prepare a draft Declaration on the Elimination of Violence against Women, which was subsequently presented to the UN General Assembly for adoption at its 1993 session by the Economic and Social Council.

The Declaration gives direct attention to gender-based violence and contains a wide definition of the term "violence against women" in Article 1. The definition encompasses, although is not limited to, physical, sexual and psychological harm.

While focusing on the obligations of the State, the Declaration encompasses both public and private acts. Thus, Article 4(c) urges States to take all appropriate measures to eliminate violence against women, whether perpetrated by the State or by private persons.

In addition, the Declaration places emphasis on groups of women who are especially vulnerable to violence, such as refugee women, indigenous women and women in situations of armed conflict.

Article 3 lists the rights to which women are already entitled under the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These include the right to life, the right to liberty and security of person, and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Article 4 contains the main substance of the Declaration. It calls for States to pursue a policy of eliminating violence against women and lists ways to attain this objective, including gender-sensitive training of law enforcement officers and other public officials responsible for implementing policies (4(i)). Although investigation and punishment of gender-based violence is essential, Article 4 also stresses the importance of preventive measures of a legal, political, administrative and cultural nature to promote the protection of women against any form of violence (4(f)).

In Article 5, UN organs and agencies are called upon to take various measures to contribute to the recognition and realization of the rights and principles set forth in the Declaration. UN organs and agencies should foster cooperation to define strategies for combating violence, exchanging experiences and financing programmes relating to the

elimination of violence against women. (5(a)) They should also encourage coordination between UN bodies so that the issue of violence against women is incorporated into their programmes. (5(c))

Finally, Article 6 states that nothing in the Declaration shall affect any provision more conducive to the elimination of violence against women that may exist in a state's legislation or in any international instrument in force for a state.

The Declaration on the Elimination of Violence against Women and its relevance to the Convention on the Elimination of All Forms of Discrimination against Women

The Declaration is intended to complement the Convention on the Elimination of All Forms of Discrimination against Women. The Convention is legally binding on all states which have ratified it, and the Committee on the Elimination of Discrimination against Women (CEDAW) monitors state compliance with the Convention.

The Committee's General Recommendation No.19, which deals specifically with the issue of violence against women, influenced the drafting of the Declaration. This states that the Convention definition of discrimination includes gender based violence. Therefore, gender based violence may violate specific provisions of the Convention whether or not the provisions expressly mention violence. As with the Declaration, CEDAW's recommendations cover violence perpetrated by public authorities and say that states may also be responsible for private acts of violence under certain conditions, including if they fail to act with due diligence to prevent their occurrence.

Although the Recommendation illustrates how specific provisions of the Convention relate to gender based violence, states have a comprehensive obligation, under Articles 2 and 3 of the Convention, to eliminate discrimination in all its forms in addition to the specific provisions of Articles 5-16. The Recommendation concludes that the full implementation of the Convention requires States to take positive measures to eliminate all forms of violence against women.

Although not technically a legally binding instrument, the Declaration has been adopted by a consensus of all UN member states in the General Assembly, and therefore has persuasive political and moral force. It should be directly applicable in all member states, whether or not they have ratified the Convention.

Special Rapporteur on violence against women

At its 50th session, the Commission on Human Rights adopted by consensus Resolution 1994/45 which called for the appointment of a Special Rapporteur on violence against

women. In late April 1994, the Chair of the Commission appointed Ms. Radika Coomaraswamy (Sri Lanka) as the Special Rapporteur on violence against women.

The Special Rapporteur's mandate instructs her to "seek and receive" information on the causes and consequences of violence against women and recommend measures for the elimination of violence against women. The Special Rapporteur may obtain information from UN mechanisms, governments and non-governmental organizations. She is encouraged to work closely with the other Special Rapporteurs, Special Representatives, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, UN treaty monitoring bodies and the Commission on the Status of Women.

The Special Rapporteur may ask governments to respond to allegations; undertake missions to countries with severe problems of violence against women, and recommend actions, at the national, regional and international level to eliminate violence against women. She will report her findings and recommendations annually to the Commission beginning at the 51st session in 1995.

The Commission has requested the Secretary-General to provide the Special Rapporteur with the necessary resources to carry out missions, for consultation with the Committee on the Elimination of Discrimination Against Women, and to ensure that the Rapporteur's report is called to the attention of the Commission on the Status of Women.

The Special Rapporteur on violence against women should play an integral role in the forthcoming Fourth UN World Conference on Women to be held in Beijing China, in September 1995. As violence against women is one of the critical areas of concern identified by the UN, the Special Rapporteur should be informed of, and encouraged to participate in preparatory activities, as well as provide practical recommendations for the Platform for Action, the final document to be adopted in Beijing, and the implementation of the Nairobi Forward-Looking Strategies for the Advancement of Women to the Year 2000, the final document of the Third UN World Conference on Women.

As of November 1994, Amnesty International has brought to the attention of the Special Rapporteur the human rights violations against women in Austria, Brazil, China, Columbia, Haiti, Honduras, India, Mexico, Sri Lanka and the United Kingdom. The Special Rapporteur is important in that it is the first mechanism to deal specifically with violations against women. However, AI believes that all UN mechanisms should be urged to address human rights violations against women. Delegations for on-site visits by UN bodies and mechanisms should include members, preferably women, with expertise in women's issues, and use female interpreters in circumstances where women may not feel comfortable speaking to male delegates. Wherever possible, the Special Rapporteur should

undertake joint missions with other thematic and country mechanisms to investigate situations where women are victims of human rights violations.