

THE FIRST CEDAW IMPACT STUDY

FINAL REPORT

Released during the Twenty-Third Session of
the CEDAW Committee, New York, June 2000

Marilou McPhedran
Susan Bazilli
Moana Erickson
Andrew Byrnes

With an Introduction by
Andrew Byrnes and Jane Connors



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Tel.: (416) 736-5915, Fax: (416) 736-5416
Email: iwrp@yorku.ca
Web site: www.yorku.ca/iwrp

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Our deepest appreciation is extended to all the members of the International Advisory Committee for their guidance and support:

- Anne Bayefsky is a legal expert specializing in International Human Rights Law with an emphasis on reform of the United Nations treaty system to achieve more effective implementation and monitoring. Professor Bayefsky was the director of the York University Centre for Refugee Studies from 1996–1999.

- Andrew Byrnes is an Associate Professor in the Faculty of Law of the University of Hong Kong and the Director of the Centre for Comparative and Public Law. He has published extensively on human rights, the Hong Kong Bill of Rights, gender and human rights, and the domestic implementation of international human rights standards. He has worked for the Australian Attorney-General's Department in the field of human rights, as well as for the Australian Human Rights Commission, and he has served as a consultant to the Australian federal Sex Discrimination Commissioner, the Commonwealth Secretariat and the United Nations on human rights issues. He has been an active member of Hong Kong and international human rights organizations and has represented NGOs at meetings of a number of United Nations human rights bodies.

- Jane Connors has been the Chief of the Women's Rights Unit of the United Nations

Division for the Advancement of Women (UNDAW) since 1995. Her legal academic career in Australia and the United Kingdom has spanned some 20 years; most recently Dr. Connors was Senior Lecturer in Law at the University of London with an emphasis on African countries.

•Shanthi Dairiam was originally trained as an educator. She then became involved in activism to promote women's rights through law and policy reform and the development of ways to identify and rectify discrimination against women. Shanthi founded the International Women's Rights Action Watch (IWRAW) Asia Pacific as an independent non-governmental organisation.

•Ilana Landsberg-Lewis is the Human Rights Programme Specialist responsible for CEDAW at UNIFEM. Combining her legal training with extensive work in the non-profit sector, Ilana acted as a consultant to UNICEF before being appointed to her current position at UNIFEM. Ilana is the editor of *Bringing Equality Home—Implementing the Convention on the Elimination of All Forms of Discrimination Against Women*, 1998.

•Sapana Pradhan Malla received her Bachelor of Law in 1987 from Tribhuvan University in Kathmandu, Nepal and her Master of Law from Delhi University, India, in 1989. Since 1992, she has been a Senior Partner with Development Law Associates located in Kathmandu with an extensive background in legal, economic, and social rights of women, including working as a local partner to IWRAW-Asia Pacific to monitor CEDAW. Recently, Sapana was a consultant to UN-DAW to analyze the impact of the *Strategies on Violence Against Women*, and was an author of the NGO shadow report when Nepal reported to the CEDAW committee in 1999.

•Jessica Neuwirth left her successful law private law practice to help found "Equality Now," a leading NGO in the fields of international advocacy and litigation to further the human rights of women. To advance evidence-based advocacy connected to the "Beijing +5" special sessions of the UN, Equality Now, under Jessica's direction, prepared a review of laws discriminating against women in member countries of the UN.

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To our loved ones, who did without while we worked to prove this Study could be done, we extend a special thank you.

—Marilou McPhedran,
Director, CEDAW Impact Study, on behalf of
the International Women's Rights Project
Team, York University, Toronto, Canada.

FOREWORD

MARILOU MCPHEDRAN

Doing something for the first time has its rewards and its challenges. A moment of clarity on purpose came for me when I was bemoaning our lack of adequate resources to finish this Study (what women’s rights effort ever has “adequate resources”?) and Jane Connors said: “it is what it is—a grass roots impact study of the CEDAW *Convention*—something that hasn’t been done before and we’re going to begin the process.” So we have. We offer to you this collection of ten country papers and an overview of what we have learned. But it is just the beginning.

The *Convention on the Elimination of all Forms of Discrimination Against Women* has been ours to use for only 20 years. The CEDAW *Convention* formally acknowledges that “extensive discrimination against women continues to exist,” declaring that discrimination violates “the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of the sexes and human, national, and global development.” The *Convention* outlines measures to guarantee equality before the law. It establishes standards for equality for women regardless of their marital status in social, political, economic, and cultural life. It also provides grounds for affirmative actions and develops standards for equality and non-discrimination of women in private as well as public life. It is the legal foundation for 25 years of forward looking strategies including the 1995 Beijing Platform for Action.

In my own country, Canada, the *Conven-*

tion inspired the wording of the women’s equality guarantees in our Constitution. This Report presents many examples of how women activists used the *Convention* to ensure their governments’ accountability in upholding women’s basic human rights.

When we began this study we had no way of predicting or controlling the collaborative process and the number of effective, mutually beneficial partnerships that were formed along the way. To give just one example, the Ukraine/Canada Women’s NGO Partnership now exists and with the help of UNIFEM, there is a “sistering” project connecting a new generation of young women activists with mentors to bring intergenerational women’s leadership to democratisation in Ukraine. Other examples include the involvement of National Correspondents in CEDAW training workshops, which are conducted by the International Women’s Rights Action Watch (IWRAP)—Minnesota, and IWRAP—Asia Pacific, generating excellent “Shadow Reports” when countries report to the CEDAW Committee.

The International Women’s Rights Project (IWRP or “the project”) was founded in 1998 to strengthen the capacity of women’s NGOs to influence the implementation of international human rights standards, to the benefit of women, through research and activism. This CEDAW Impact Study has been an integral part of the International Women’s Rights Project and has enhanced not only activist work in Canada, but strengthened international networks of support for the protection of women’s human rights around the world. My colleagues and I at York University have welcomed this opportunity to contribute to qualitative research which supports women’s activism.

CEDAW Impact Study



From left to right, Kelly Mannix, author and Heather Northcott, editor, *Busy Woman's Guide to the Internet*



From left to right, Savitri Gooneskere, Sri Lanka; Marilou McPhedran, Canada; Mavivi Myakayaka-Manzini, South Africa; Felice Gaer, U.S.A.; Andrew Byrnes, Hong Kong, China; Shanthi Dairiam, Kuala Lumpur, Malaysia. CEDAW Impact Seminar, January 1999, New York.

The 1999 United Nations Human Development Report points to the elitist nature of our global internet society, with the major “faultlines” being gender, income, education, and geography.

Based on the experiences of the National Correspondents and members of our International Advisory Committee, we grew to appreciate the relatively low-cost opportunities for on-line activism and research. We have published as a companion piece to this study, *The Busy Woman's Guide to the Internet*, authored by Kelly Mannix and edited by Heather Northcott, to support efficient and inexpensive use of current Internet technology for feminist research and activism. For more information on the *Guide* visit our “sister site” at www.web.net/WomensHRights. Visit our homepage at www.yorku.ca/iwrp to access our annotated directory of web sites, entitled “Women's Human Rights on the Internet” and our “Annotated CEDAW Bibliography.”

We are delighted to have had the support of the Centre for Feminist Research, York University, in producing the colourful Overview poster as a convenient summary of the highlights from each of the ten countries in this pilot study.

Please take this knowledge, use it, and figure out how we can do more and better evidence-based advocacy to further women's human rights for generations to come.

INTRODUCTION

ANDREW BYRNES AND JANE CONNORS

The beginning of the third millennium is an appropriate time to review some of the ways in which we have assessed the progress of the global project to achieve women's equality and the fulfillment of our human rights. We have used stories, research, statistics, reports, local, regional and world conferences, and a myriad of indicators to assist in this critical task. A multidimensional, multifaceted approach is needed—as diverse as the lives and experiences of women. This *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW) Impact Study is grounded in the ongoing project of this evaluative process.

The 50th anniversaries of the founding of the United Nations (1945) and of the adoption of the Universal Declaration of Human Rights (1948), together with the arrival of the year 2000, have given rise once again to intensive and critical assessments of the capacity of the United Nations human rights system to move from the protection of rights on paper to their enjoyment in reality. For much of the past 50 years, the primary focus of the United Nations (UN) human rights efforts has been on drafting standards, although the last 20 years have seen an increasing emphasis on the development and operation of many different types of implementation procedures.

In addition to the plethora of thematic, country and other mechanisms that have been developed within the framework of the UN Commission on Human Rights, there are now six major United Nations human rights treaties in force under which States' performance of their obligations is to be monitored by the committee of independent experts established by the treaty. Common to all these treaties is

the obligation of States parties to report regularly on the steps they have taken to give effect to the treaty. We have now nearly 30 years of experience under the first of these procedures to commence operation, the reporting procedure under the *International Convention on the Elimination of All Forms of Racial Discrimination*, which entered into force in 1969. Since that time we have also had extensive experience under each of the other treaties, not limited to their reporting procedures, but including also the development of jurisprudence of each treaty in the form of general comments or general recommendations, and their decisions under individual complaints or inquiry procedures.

Over the years these procedures have represented the commitment of a significant amount of time and resources by the international community, governments, non-governmental organisations (NGOs). It has been something of an article of faith amongst most of those involved that the ratification of these treaties and the reporting procedures under them are a worthwhile commitment of resources, and that they have made a real difference to advancing the enjoyment of human rights. Some have been more sceptical, and even supporters of the UN human rights treaty body system and its continued operation are keenly aware of its institutional, political and other shortcomings.

Close scrutiny of the UN human rights treaty body system has been carried out for over a decade within and outside the United Nations framework, the emphasis being on ways to make it function more effectively and efficiently (on the assumption that it does make a difference). Yet there has been relatively little by way of systematic appraisal of the im-

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impact of the treaties and the monitoring procedures established under them. While we frequently hear of successful and innovative uses of these treaties at the national level, much of the evidence for their impact comes to us as isolated examples and anecdotal evidence. While there have been occasional case studies of individual countries and anecdotal material compiled in relation to some treaties, there has been little by way of systematic, comprehensive and methodologically satisfying effort to document that impact and the reasons for it. The challenge of developing accurate methodologies for monitoring the impact and evaluating the effectiveness of these treaties and procedures is one that we have so far grappled with only partially.

CEDAW: The *Convention* and the Committee

The Convention on the Elimination of All Forms of Discrimination against Women (the CEDAW *Convention*) was adopted by the General Assembly of the United Nations 20 years ago and, as of early 2000, there were 165 States parties to the *Convention*. The body of independent experts established under the *Convention*, the Committee on the Elimination of Discrimination against Women (the CEDAW Committee), commenced its work in 1982 and since that time has held 22 sessions, at which it has reviewed hundreds of government reports and assessed the extent to which the *Convention* has been implemented at the national level.

The CEDAW *Convention* is the only document to have emerged from the United Nations Decade for Women that legally obliges Governments to eliminate discrimination against women by granting them legal rights as well as equal opportunities. It represents the firm commitment of the international community to this framework, both as a means of

identifying persistent forms of inequality affecting women and discrimination against women as a guide to steps designed to abolish practices and traditions detrimental to the enjoyment of their rights. Its legally binding and internationally accepted character renders the *Convention* the basic legal framework for a strategy to protect and promote the fundamental human rights of women and to eradicate inequality and discrimination.¹ Essentially, the *Convention* is an international bill of rights for women; and it brings together in a single treaty a mixture of non-discriminatory, corrective and protective provisions.

The impact of the CEDAW *Convention* and the record of the CEDAW Committee have, like the other conventions and treaty bodies, been scrutinised as part of the overall inquiry into the effectiveness of these procedures. The 20th anniversaries of the adoption of the *Convention* (1979) and its opening for signature (1980) have provided an additional impetus, especially for women's human rights advocates, to assess the record so far.

Previous case studies of the impact of the *Convention* have shown what can be achieved by using the *Convention* to define norms for constitutional guarantees of women's rights, to interpret laws, to mandate proactive, pro-women policies, and to dismantle discrimination. Major breakthroughs have been made in the past decade for women's advancement, due to women's advocacy worldwide. Yet, as with the other conventions, there have been only very modest efforts to provide a more systematic account of the circumstances under which the *Convention* and reporting procedure were likely to bear fruit at the national level.

Shanthi Dairiam² has noted that as women become convinced of the legitimacy of their rights, demands arise for international and national mechanisms through which women can claim these rights. Since the CEDAW *Convention* is the principal legal instrument addressing women's rights and equality, it takes on even more significance. Its uniqueness lies in its mandate for the achievement of substantive equality for women, which requires not only formal legal equality but also equality of results in real terms. It is the determi-

The CEDAW *Convention* is the only document to have emerged from the United Nations Decade for Women that legally obliges Governments to eliminate discrimination against women by granting them legal rights as well as equal opportunities.

nation of these real results that has been the focus of the work of this Impact Study.

Background to the Impact Study

It was against the background of the need to document and analyse the impact of the *Convention* and the reporting procedure in more depth across a number of countries—that the CEDAW Impact Study originated. The details of the genesis of the Impact Study will be outlined here. We are mindful that the development of methodology for evaluation of international women’s rights work is also about how we structure our projects and research, how we get funding and who funds our work, and what follow-up is able to take place in all forms of activism and advocacy.

The purposes of the Study were twofold: to begin to develop a methodology that would allow for the long-term qualitative study of the impact of the CEDAW *Convention*; and to facilitate activism and support the capacity-building of the various women’s NGOs in each of the countries selected in order to provide them with resources to examine the implementation of the *Convention* in their countries. To that end, it was hoped that participation in the Impact Study would contribute to the ongoing development of a culture of literacy of women’s rights by encouraging the further use of the CEDAW *Convention* at the domestic level. This would also further some of the activist goals of the project itself.

The CEDAW Impact Study was initiated with the goal of seeking to identify the impact of the *Convention* and the reporting procedure, and the factors and circumstances which increase the likelihood that they will have an impact. Based on these findings, the objective was to make more widely known successful uses of the *Convention* and to identify strategies to make effective use of the *Convention*.

The aim of this study was thus to provide some basis for comparative analysis of the conditions which determine the impact of a human rights treaty (CEDAW) on a national system. The work of the Committee on the Elimination of Discrimination Against Women, in particular, has been developed and

enhanced through substantial involvement by NGOs from member states diverse in geography, legal structure, and stages of economic development. Our growing network of keenly interested correspondents and activists was committed to capitalising on the treaty’s potential, and we envisioned the participation in the Impact Study would further that network.

A major goal of the Impact Study was to provide important quantitative and qualitative data reflective of the reality experienced by women. The conclusions have not been drawn in sterile circumstances. The standards of the *Convention* have been interpreted and applied to the scenes where the violations are occurring. The results of this study will be transmitted to the front lines and, we hope, will assist in forming the basis of powerful arguments for transferring resources to the field.

The project targeted a number of specific states for study, on the basis of particular variations and conditions, such as geography, democratic parameters, economic development, NGO involvement. The project followed the impact of the *Convention* from ratification to implementation. The guiding questionnaire probed the process of treaty ratification and the internal examination of a state’s laws and practices, the drafting of a state report, the report’s dissemination, the preparation of NGO alternative submissions, the state-treaty body dialogue, the dissemination of concluding observations, the consequences of concluding observations. All aspects of the project were carried out in close consultation with the UN Division for the Advancement of Women (UNDAW) and UNIFEM, both represented on the International Advisory Committee. The project also worked closely with both national and international NGOs which have at-

It represents the firm commitment of the international community to identifying persistent forms of inequality affecting women and discrimination against women and to steps designed to abolish practices and traditions detrimental to the enjoyment of their rights.

Introduction



From left to right, International Advisory Committee members: Anne Bayesfsy, York University; Jessica Neuworth, Equality Now; Jane Connors, UN-DAW.



Invited discussants, CEDAW Impact Study Seminar, January 1999, New York.



Left to right, Christine Chinkin, England; Shaheen, Pakistan and National Correspondents, Masumi Yoneda, Youngsook Cho, Lesley Ann Foster, Silma Pinilla Díaz; January 1999.

tempted to seek greater protection for women's rights through the *Convention*.

The Impact Study began by establishing an intranet for the International Advisory Committee, for online conferences to develop a questionnaire to guide the National Correspondents. The web site was built³ for the study to provide easy access to our CEDAW bibliography and as an additional means of capturing anecdotal data through the feedback link .

The first stage of the pilot study involved National Correspondents in a small number of countries preparing preliminary reports on the impact of the *Convention* in their respective countries, on the basis of the questionnaire developed by the International Advisory Committee of the project (see Appendix A).

The questionnaire that served as a guide to National Correspondents was designed to follow-up and monitor the results of the assessment of the record of the country in question by the CEDAW Committee. We asked National Correspondents to highlight specific reform recommendations and to cross-reference responses of State parties to these recommendations, wherever possible. As noted above, we do not have many detailed comparative studies of the actual impact of human rights treaties which we can use to test many of the assumptions about the relative usefulness and implementation of the standards. As a result, academic critics and international NGOs privileged to work out of Geneva or New York are often ill-equipped to draw general conclusions about practical strategies for enhancing implementation. Furthermore, governments have not yet been given the opportunity to respond to some of these questions.

In the second half of 1998, National Correspondents who were willing to undertake the task were selected and commenced the preparation of their reports. National Correspondents responded from the following countries: Canada, Germany, Japan, Nepal, Netherlands, Panama, South Africa, South Korea, Turkey and Ukraine. In all cases the National Correspondents needed to undertake original research. In some cases quite extensive research and consultation with lo-

cal groups was undertaken in order to ensure as broad an input as possible.

On 24 January 1999, in New York, the International Women's Rights Project organised the CEDAW Impact Seminar at which the National Correspondents presented their preliminary findings in working papers to members of the International Advisory Committee, some members of the CEDAW Committee, and invited discussants. The purpose of the meeting was to provide the National Correspondents with the opportunity to present the findings of their investigations to date, to discuss the insights to which the various case studies gave rise, and to discuss the future development of the Study (for details of the programme and a list of participants, see Appendix B).

The preliminary report on the Impact Study was delivered in New York in January 2000 to the International Women's Rights Action Watch (IWRAW) Consultation, "The CEDAW Convention and the Beijing Platform for Action/Reinforcing the Promise of the Rights Framework," where important links between CEDAW and the Beijing Platform for Action were identified.

Over the next few months, National Correspondents and members of the International Advisory Committee reviewed the preliminary report with the Overview paper as the Final Report was completed. The complete country papers, as submitted by the National Correspondents, are contained in this Final Report.

International law and policy are often directed to understanding and using United Nations treaties, but as the work of the past 50 years is scrutinised, both as a function of the UN's 50th anniversary and at the millennium, there are some significant tasks not yet done. Recommendations made to declare a "decade of implementation" to move human rights from *de iure* to *de facto* guarantees, indicate that inadequate analysis and lack of organised data limit our capacity for implementation. The CEDAW Impact Study, with its network, attempted to assist in developing and organising information needed before effective implementation strategies can be actualised. The pace of globalization in trade

and commerce exceeds that of nations and international governing bodies. The growing acknowledgment and appreciation among the staff and some member states of the UN, and other such bodies, of the value added to their processes by NGOs is *not* matched by an adequate flow of knowledge and other resources to this sector.

The CEDAW Impact Study was designed and activated in full partnership with key women's NGOs. It is continuing to build on the "Global to Local" initiative in order to develop tools useful to governments, NGOs and media in the more effective implementation of human rights. As well, these tools can be used to improve our ability to assess whether the expenditure and direction of resources are optimal for reaching implementation goals.

Implementation is hampered by continuing inattention to human rights at the national level. Human rights principles, particularly the *Convention*, are frequently not incorporated into domestic law. There is also a lack of knowledge of human and legal rights, and limited human rights or legal literacy education.⁴ The women whose work is reflected in this study are bringing about change. Their experience and needs form the basis of the link between the local to the global and the global to the local. In so doing, women are transforming the *Convention* into a truly living instrument through being active in this work.

Conclusion

We believe that the results of the CEDAW Impact Study will add to the body of understanding about the ways in which women's human rights advocates can draw on international standards and procedures in advancing their work, as well as making a contribution to our understanding about the interaction between the international and national in the field of human rights more generally. Despite the significant work that has resulted from this Study, much more needs to be done to continue to document successful strategies and tactics and to share these among (women's) human rights advocates so that we can all benefit from each others' experiences.

CEDAW Impact Study



Invited discussants, CEDAW Impact Study, Seminar, Jan. 199, New York



Left to right, Sapana Pradhan Malla, Nepal; Olexandra Rudneva, Ukraine; Lara Karainan and Ayesha Shamim, Canada, CEDAW Impact Study–Evaluation Session, Jan. 1999.



Left to right, Youngsook Cho, South Korea; Lee Waldorf, Canada, Evaluation Session.

This Study would not have been brought to completion were it not for the energetic commitment of Marilou McPhedran whose contributions to the conceptualisation and conduct of the Study have been critical. We offer our sincere thanks to her, to all the National Correspondents who contributed their experience, time and expertise to the Study, to Susan Bazilli and Moana Erickson who contributed so much to the Overview section of the Study and to the many others, mentioned on the cover and in the Acknowledgements, who ensured that the project reached its conclusion. As individuals we greatly appreciated the opportunity to participate in the Study and trust that its results will contribute to ensuring women's human rights through better implementation of the CEDAW Convention.

Endnotes

¹*Progress Achieved in the Implementation of the CEDAW Convention*, Report by the CEDAW Committee, Beijing, 21 June 1995 A/CONF.177/7, p.3.

²*Bringing Equality Home, Implementing CEDAW*, Ilana Landsberg-Lewis, Ed., UNIFEM, 1998. Taken from Introduction by Shanthi Dairiam, Director, International Women's Rights Action Watch (IWRAP)–Asia Pacific. The IWRAP Asia Pacific is a collaborative programme to facilitate and monitor the implementation of the CEDAW Convention in 13 countries in Asia.

³www.yorku.ca/iwrp

⁴Report of the CEDAW Committee. 19 February 1999. E/CN.6/1999/PC/4.