

Text of Taiwan Presentation #1

Mechanisms of the Alternative Report

The opportunity for women to provide information on their government's commitments to women's rights can provide a dynamic cycle of empowerment to those who participate in it.

What distinguishes the Convention for the Elimination of All Forms of Discrimination against Women from other human rights mechanisms that address women's rights is its insistence on substantive equality-equality that goes out beyond what is written on paper and strives to encompass the circumstances of every woman's existence.

To understand how the Convention is affecting every aspect of women's lives in countries that have become States parties to the Convention, the CEDAW Committee has, therefore, invited national and international organizations to provide country-specific information relating to the States parties that it is currently reviewing.

There is a distinction between a "shadow" report and an alternative report. A shadow report is one written where the NGOs have access to the official report submitted to the CEDAW Committee. An alternative report is one written by NGOs when there is no government report available, either because it is late in submission or the government has not written it.

Both the shadow report and the alternative report seek to:

1. Provide information to the Committee on the progress in implementation of rights outlined in the Convention
2. Describe the actual impact of specific measures employed to advance the status of women
3. Highlight gaps in policies
4. Voice concern about particular issues
5. Provide data on the situation of women
6. Make suggestions for improving implementation

However, only the shadow report can compare and contrast the information in the government report to that provided by the NGO, raising controversial issues and verifying or calling into question some points in the government report.

Since CEDAW is recognized by women worldwide as the most comprehensive internationally agreed document for furthering women's rights, it is appropriately used by NGO advocates in any country to identify progress in and challenges remaining to ending gender discrimination and achieving equal rights between women and men. The absence of an official government report to CEDAW and Concluding Comments and recommendations from the Committee, which are a normal part of the CEDAW reporting process does, however, impose more of a burden on NGOs in creating a comprehensive framework for evaluation.

The International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific), which has pioneered the training of NGOs to write and present alternative and shadow reports to the CEDAW Committee, recommends in drafting an alternative report to begin with the examination and commentary on each of the first sixteen articles of the Convention.

In this year, the 60th anniversary of the Universal Declaration of Human Rights, it is important to remind ourselves that the Convention is grounded in the principles on which the United Nations was founded equal dignity and rights for all and the protection of those rights. Human rights must be considered as universal and inalienable- every human being is born with them. States and governments do not bestow rights on their citizens nor can they take them away with impunity.

It is the duty of States to respect, protect and assist its citizens in achieving each individual's human rights. It is in that context and in its efforts to establish a global order to protect universal human rights, the United Nations initiated a treaty system whereby Member States of the United Nations would undertake legal obligations to respect, protect and fulfill the human rights outlined in the UN Charter and the Universal Declaration of Human Rights.

The CEDAW Convention is one of the seven core human rights treaties adopted by the United Nations to more specifically delineate certain human rights. Though there are other core human rights treaties that contain clear statements on women's right to be free from discrimination, it was clearly apparent, as stated in the preamble to the CEDAW Convention, that after more than thirty years since the adoption of the Universal Declaration of Human Rights, "extensive discrimination against women continues to exist", thus the need for a women's rights specific treaty.

The CEDAW Convention focuses on defining what equality is for half of the world's population and how that can be realized. The CEDAW Convention puts forward a plan of action for how countries can proceed to guarantee equal rights in every aspect of women's lives.

In the CEDAW Convention, Article 1, discrimination against women is defined as "any distinction, exclusion or restriction made on the basis of sex... in the political, economic, social, cultural, civil or any other field". It also states specifically that this should be irrespective of a woman's marital status.

As an obvious starting place then, an alternative report might look at whether or to what extent and in which ways the definition given in Article 1 of the CEDAW Convention of discrimination is included in the Constitution of Taiwan and in other laws?

The Additional Articles of the Constitution of Taiwan, adopted in 1994, Article 10 states "The State shall protect the dignity of women, safeguard their personal safety, eliminate sexual discrimination, and further substantive equality between the sexes". I am neither a jurist nor knowledgeable about the subtleties of the Chinese language, but for me, I would be more comfortable with "ensure" rather than "further" as a stronger commitment.

In addition to the Constitution, how do other laws in the country address discrimination-both direct and indirect?

So looking at the laws of the land is a good place to start in both assembling information and making your assessment for an alternative report.

This is an opportune time to mention another aspect of process, too. The production of an alternative report that examines a country's total commitment to substantive gender equality can be a very complex and lengthy process. It requires, for example, someone who is a lawyer or judge or professor of law to help guide the process through some of the legal language. Other NGOs who have expertise and experience in violence against women or labor issues will want to be called upon to look at government commitment and progress in those fields. Gathering a broad consortium of NGO groups to work on the report, both to contribute to the research and to discuss information to be included in the final report, is highly advantageous.

Returning to the Convention, Article 2 has several parts which address policy measurements to be undertaken by the government to end discrimination. Here it is essential to look at whether domestic laws have integrated the principles of non-discrimination and substantive equality outlined in the Convention?

On January 5, 2007, Taiwan's Legislative Yuan approved a resolution for Taiwan to become a party to the CEDAW Convention. This letter, as we know, was returned by the Secretary-General. However, Taiwan's willingness to become a party to the CEDAW Convention is an indication of its willingness to undertake the obligations of a signatory party and take measures to realize its objectives, so we shall continue to evaluate the state of women's rights and the advancement of women based on this commitment.

What actions has the State taken to ensure practical achievement of the principles of equality and non-discrimination? CEDAW mandates States "to take all appropriate measures, including legislation, to **modify or abolish existing laws, regulations, customs and practices**" that are discriminatory. Has this been done?

Further, the State is responsible, under the Convention for ensuring that non-State actors, such as individuals, comply with said principles. How is this compliance addressed? Is there meaningful legislation to make discriminatory acts in public and private actionable? What sanctions are established? What is the government doing to make sure that women know about their rights? What legal remedies have been created? Are there specific procedures or institutions established for women to address violations? Are said processes effective?

Turning to the courts, are there cases where any provisions of the CEDAW Convention been mentioned specifically to advance equality for women? Are lawyers and advocates for women's rights able to cite the CEDAW Convention?

Are there any State mechanisms in place for collecting data and monitoring the actual impact of any actions instituted to realize gender equality and non-discrimination? Is their training of public authorities to effectively implement laws and regulations?

Article #3 of the Convention continues stressing not only political but in social, economic and cultural areas, women should be guaranteed **“the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”**.

Formulating a holistic plan to achieve goals for women’s rights and equality necessitated the creation of national machineries, offices or entities within government, whose mandate is to formulate and carry out programs and policies and monitor their results with the goal of mainstreaming gender equality into all aspects of society. These might be, for example, women’s ministries, women’s departments within ministries or presidential offices, or ombudspersons.

Questions that then might be addressed include : What kind of national machineries have been put in place and are they effective in establishing equal access and opportunities for women? Are they adequately financed? Do they coordinate with other institutional machineries of government? How can they be more effective?

National development plans also need to address women’s development to achieve gender equality and empower women. This a good opportunity to mention the importance of gathering statistical information, disaggregated by gender, age, ethnicity and other relevant data. Such data helps to identify obstacles and assess the effectiveness of program and policies directed toward gender equality and the advancement of women. Are there national development plans in place? Are they proportionately directed to the 50% of the population of Taiwan who are women? Has there been an assessment of their impact on women? Have NGOs been involved in any aspect of the planning and implementation? What’s not working or missing?

Article #4 of the Convention encourages States to adopt temporary special measures to accelerate the achievement of equality between men and women. Three points here: 1.) These measures are not meant to establish separate standards for women and men 2.) Any such measures are meant to be discontinued when gender parity is achieved and 3.) Such measures, while in place, will not be construed to be reverse discrimination. A question here would be is there a provision in the Constitution or national legislation for the adoption of temporary special measures?

The adoption of quotas for the percentage of seats for women in national parliaments has been widely employed. The proportion of seats held by women in national parliaments is, as you will recall, one of the indicators for the achievement of Millennium Development Goal #3- promote gender equality and empower women.

UNIFEM in its publication *Progress of the World’s Women*, volume 2, includes a chart showing that there is often a correlation between the highest percentage of women in parliament,, female/male ratio of net secondary school employment, female enrollment in secondary school and female share of paid employment in the non-agricultural sector.

However, temporary special measures may also be used to create access and overcome in underrepresentation, redistribute power and resources and accelerate institutional change in such areas as civil service, education and employment sectors.

The successful application of temporary special measures would require that they be applied on a voluntary basis by public and private enterprises, organizations and political parties and would entail, in some incidences, negotiations with the public and private employment sector.

Collaboration with civil society groups in the design, implementation and monitoring of temporary special measures is critical to their success.

The role of culture and tradition in restricting women's enjoyment of their rights is an important concern of the Convention. The Convention's preamble states "that a change in the traditional role of men as well as the role of women in society and the family is needed to achieve full equality between men and women." In its General recommendation #25 on article 4, paragraph 1 of the Convention, the CEDAW Committee calls special attention to accelerating "the modification and elimination of cultural practices and stereotypical attitudes and behavior that discriminate against or are disadvantageous to women". It mentions women with multiple discriminations, including rural women. Do you see progress in the elimination of gender stereotyping and can you cite examples? Are the particular issues of migrant women, disabled women, indigenous women, older women, and minority women being adequately addressed and might temporary special measures be invoked on their behalf?

Finally, Article 4, paragraph 2 of the Convention makes particular mention of special measures aimed at protecting maternity. The Convention devotes major attention to women's reproductive rights and again quoting the preamble that the "role of women in procreation shall not be a basis for discrimination". Employment, family law, education, child-care and health issues are all part of leveling the playing field for realizing gender equality. Is progress being made in this area?

What is your interpretation of Article 156 of the Constitution of Taiwan stating, "The State, in order to consolidate the foundation of national existence and development, shall protect motherhood and carry out a policy for the promotion of the welfare of women and children"?

Article 5 of the Convention also addresses the social and cultural patterns of conduct of men and women that might relegate women to an inferior position. It stresses the role of family education in dispelling gender stereotypes and promotes the equal sharing of responsibilities for raising children. What concrete steps has the government taken and what success has been achieved in addressing the challenging issue of gender stereotyping and traditional roles in the family?

I have spent a lot of time on Article 1-5 of the Convention because they set out the major underlying principles of the Convention: equality, non-discrimination and state obligation. Articles 6-16 deal with very specific issues:

- Article 6- Trafficking and prostitution
- Article 7-Public and political life
- Article 8-International participation
- Article 9-Nationality
- Article 10-Equality in education
- Article 11-Employment

- Article 12-Healthcare and family planning
- Article 13-Economic and social benefits
- Article 14-Rural women
- Article 15-Equality before the law
- Article 16- Marriage and family law

The extent to which the rights addressed in each of these articles is a problem in a country will vary, but in preparing an alternative report, each article needs to incorporate fact finding about the existing conditions related to the issue. Are the rights addressed in that article a problem in your society? Listing systemic, historical and immediate factors that contribute to difficulties in ensuring women's rights under this article is important. Presenting information on how lack of implementation is actually affecting women's lives is important information.

On the side of state obligation, some questions that might be asked about what the government doing to address each article are?

- Has it made laws or policies to address the issue?
- Are their institutional arrangements in place to facilitate action?
- Are necessary personnel being trained?
- Have adequate financial resources been allocated?
- How are NGOs or other civil society partners being engaged in solutions?
- Is there a plan for support services?
- Is there a public awareness campaign to address this issue?
- Has its approach been effective?
- What improvements can be suggested for government actions?

Special attention might be directed at situations where a law is gender neutral, but the result of its application is, in fact, discriminatory.

It must be pointed out at this juncture that some alternative reports do not undertake to evaluate extensively the whole of a State's obligations under the Convention to women's rights. Rather, they choose to focus on particular issues of greatest concern. For example, an alternative report on Mauritania gave greatest weight to early forced marriage, excision and force-feeding.

Whether exhaustive or focused, using the CEDAW Convention as a base for creating an alternative report is both a critical tool for advancing the rights of women in every country and an opportunity for each and every one of us to enlarge our understanding of the complex issues in promoting substantive gender equality and non-discrimination.