



I. What's at stake?

Women's rights instruments and conflict potential

Ten years have passed since the majority of countries acceded to the Beijing Platform for Action at the UN World Conference on Women in 1995. Another international instrument for the empowerment of women, which nearly all countries have ratified, is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) held in 1979.

The normative structure of human rights makes it possible to denounce the exclusion and discrimination of women because of their gender as a violation of human rights. When a rights-based approach is adopted, the interaction within a country's female population shifts from a position of need to a position of holding rights. The mere idea that women possess rights can, in some contexts, have an empowering effect.

Many women's movements and human rights organisations are in favour of adopting this strategy - not least because in this way the „Millennium Development Goals“ can be considered in the context of human rights, undergo gender mainstreaming and ultimately be realised. The „Millennium Declaration“ itself also recognises the necessity of realising the objectives of CEDAW.

It is the aim of this newsletter to show how women's empowerment instruments such as CEDAW and the Beijing Platform for Action are incorporated into International Cooperation (IC) principles, and how these instruments can promote gender- and conflict-sensitive IC and politics, as well as firmly establishing them within the context of human rights.

Explanation of expressions used: Human / women's rights

It is not possible to make a clear division between these two expressions, because human rights are at the same time women's rights. When people speak of *human rights* they are usually referring to the 1948 Human Rights Convention. These rights are indivisible and apply equally to men and women. Nevertheless, the majority of the many instruments available in the field of human rights are „gender-blind“, so that violations of women's rights are often not recognised as such in patriarchal societies. This is why specific women's rights instruments have been created. *Women's human rights* and the women-specific application of human rights (e.g. women's reproductive rights as a specific area in the right of access to health care) are summarised under the expression *women's rights*.

Editorial

Dear Reader

The 4th World Conference on Women held ten years ago saw the adoption of the Beijing Platform for Action, which represented a significant step forward in the movement to protect women's rights during armed conflicts. It contains a separate chapter on armed conflicts, which is one of the reasons it has become a major source of reference for those engaged in gender- and conflict-sensitive International Cooperation.

On one hand, peace cannot be achieved without the implementation of women's rights. On the other hand, when the pursuit of women's rights challenges the power relationships in force, there is a real danger that existing conflicts may be intensified or new (violent) conflicts may arise. When women adopt a rights-based approach and demand rights that have hitherto been denied them, the powers-that-be may feel threatened and react with violence and repression against women. How, therefore, can we use the instruments on women's rights, based on the principle of „Do no harm“, and reinforce the emancipation potential of implementing women's rights without unintentionally bringing about a deterioration in women's status?

This edition of „Focus“ will show ways of handling conflicts connected with the implementation of women's rights in the context of International Cooperation.

Patricia Barandun u. Yvonne Joos

The Women's Rights Convention CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), or – in short – the Women's Rights Convention – was adopted by the UN General Assembly in 1979. It embraces the principles of substantive equal rights and freedom from discrimination (direct or indirect discrimination, i.e. anything with discriminative consequences).

CEDAW is a legal instrument. It does not supply contextual details or concrete

proposals on how to proceed, but it does supply a sound basis (equal rights and freedom from discrimination) and it also contains some fundamental obligations.

All countries that ratified the Women's Rights Convention have undertaken to submit reports to the CEDAW Committee at the UN. These reports must give details of compliance with the Convention, i.e. they must submit an analysis of the current situation in all areas handled by CEDAW. In many countries, women's organisations draw up a

„shadow report“ parallel to the official government report. These unofficial reports tend to appraise the situation somewhat more critically than is done by the governments. The CEDAW Committee draws on these „shadow reports“ when replying and making recommendations to the governments concerned. Although CEDAW is a legally binding document, the CEDAW Committee can only issue recommendations. It cannot impose sanctions on governments.

CEDAW

Matters handled:

- Temporary special measures (e.g. „affirmative action“, quotas) for the equality of men and women (Art. 4)
- Social and cultural patterns of conduct, gender images and roles (Art. 5)
- Trafficking of women, prostitution of women (Art. 6)
- Participation of women in political and public life (Art. 7 and 8)
- Nationality of women and children (Art. 9)
- Equal rights in education and employment (Art. 10 and 11)
- Women's rights in the field of health care, including family planning (Art. 12)
- Women's rights in economic and social contexts (Art. 13)
- Women's rights in rural areas (Art. 14)
- Women's status before the law (Art. 15)
- Conjugal and family matters (Art. 16)

The principal legacy of CEDAW:

- CEDAW caters for all types of women's rights: citizens'/political rights and economic/social/cultural rights.
- It is recognised that temporary special measures may be necessary in order to achieve equality (Art. 4).
- Countries acceding to the Convention undertake to institute appropriate measures to modify existing gender images and roles and work-sharing within the family and home (Art. 5).

In Switzerland, the Federal Council issued a decree - albeit with provisos - undertaking to implement the principles of CEDAW. This decree was ratified in 1997. Switzerland has not yet signed the optional protocol of 1999

making it possible for individuals to bring claims of discrimination against women before the CEDAW committee and to initiate investigations.

Federal decree concerning CEDAW:

<http://www.admin.ch/ch/d/as/1999/1577.pdf>

Information about CEDAW (text of the agreement, reporting mechanism, links):

http://www.humanrights.ch/cms/front_content.php?idcat=39

CEDAW homepage of the UN Division for the Advancement of Women:

<http://www.un.org/womenwatch/daw/cedaw>

The Beijing Platform for Action

At the fourth World Conference on Women held in Beijing in 1995, the Beijing Platform for Action provided a basis for determining the context of gender relationships. The Platform for Action lists strategic aims and measures for attaining the

results demanded by CEDAW. The Platform for Action was a significant step forward in the movement to protect women's rights. The separate chapter on the subject of armed conflicts (Chapter

E) has since become a source of reference for gender- and conflict-sensitive IC.

The Beijing Platform for Action

Items discussed:

- Women and Poverty (Chapter A)
- Education and Training of Women (Chapter B)
- Women and Health (Chapter C)
- Violence against Women (Chapter D)
- Women and Armed Conflict (Chapter E)
- Women and the Economy (Chapter F)
- Women in Power and Decision-making (Chapter G)
- Institutional Mechanism for the Advancement of Women (Chapter H)
- Human Rights of Women (Chapter I)
- Women and the Media (Chapter J)
- Women and the Environment (Chapter K)
- The Girl-child (Chapter L)

The main achievements:

- Recognition of the universality of human rights for women.
- The sexual rights of women are recognised and their reproductive rights are once again emphasised.
- Violence against women - defined as gender-specific physical, sexual or psychological violence - is understood as a violation of human rights.
- Proposed reforms of inheritance laws aim for equal inheritance rights for women/girls and men/boys.
- The Platform for Action represents an official international declaration of intent on gender mainstreaming.

All countries that acceded to the Platform for Action have undertaken to adopt a national plan of action for the implementation of the agreed objectives and to submit reports to the UN, giving details of the progress made (similar reporting methods as for CEDAW). However, the Platform for Action is not legally binding.

UN homepage concerning the Beijing Declaration and Platform for Action: <http://www.un.org/womenwatch/daw/beijing/platform/index.html>

Lines of conflict

On one hand, peace cannot be achieved without the implementation of women's rights. On the other hand, working with the instruments on women's rights and insisting on the full application of CEDAW and the Platform for Action can create or aggravate conflicts between various players and interest groups. Examples of lines of conflict:

- The exploitation of women's rights by international players can intensify conflicts between circles opposed to women's rights and women's rights organisations. One example of this can be found in Afghanistan: by abusing the issue of women's rights as a legitimisation for going to war, the USA and their allies made it easier for conservative, religious fundamentalists in Afghanistan to dismiss women's rights as a ploy designed to further the interests of Western

On the occasion of the tenth anniversary of the Beijing Platform for Action, many women's rights organisations drew up an interim balance of the extent to which it is applied. There is still a long way to go before the ultimate target of complete equality of the sexes is reached. Despite some progress – for example, in many countries legislation and educational facilities for women and girls have markedly improved – what is missing is interdisciplinary political deter-

mination to pursue the issue of women's rights. Violence against women and the „feminisation of poverty“ are on the increase, and women still have very limited access to natural and economic resources. With very few exceptions, women continue to be noticeably underrepresented in politico-economic decision-making structures, as well as in peacemaking processes.

- Conservative politicians and religious fundamentalists constantly put obstacles in the way of campaigners for women's and human rights. Female campaigners for women's rights frequently receive threats from forces loyal to the regime. This means that they are greatly limited in their freedom of movement and of speech and they become dependent on the protection of outsiders, e.g. international human rights observers.
- Women's rights in connection with reproductive health remain a delicate subject in many countries, and this issue can intensify existing conflicts between liberals and conservatives, as well as between secular circles and

religious fundamentalists. Campaigners for women's rights generally belong to liberal or secular groups.

- When women empower themselves to demand rights that were hitherto denied them, men may sense a threat to their power and react with violence against women. For example, in Pakistan, young women are prevented by their families from participating in courses on women's rights for fear of reprisals in the form of „honour killings“.
- Global developments and the aggressive hegemony of neo-liberal economic policymakers, together with the militarization of international politics, are often to blame for the emergence of an environment in which it is difficult to implement women's rights. For this reason, the pursuit of women's rights frequently conflicts with the economic interests

of the state or of big companies.

In spite of the legacy of CEDAW and the Platform for Action, and notwithstanding the subsequent networking that

took place between women's rights organisations and institutions for the purpose of drawing up reports, these instruments on women's rights are still used far too seldom in IC. One reason for

this could be that IC workers are insufficiently aware of the existence of these instruments.

II. Where are the problems?

Lessons learnt

When working with instruments on women's rights, IC organisations are faced with a number of problems. Using specific examples and suggesting possible solutions, this chapter tries to show possible ways of handling conflicts related to the implementation of women's rights.

a) Cultural relativism and women's rights

Since the 1980s, political debates on development and human rights have increasingly taken cultural factors into account. However, this change in attitudes towards cultural factors not only brings about emancipation, but also bears considerable potential for conflicts, e.g. the risk of cultural relativism. In the name of tradition, cultural customs and identity, the universality and non-negotiability of women's rights are subjected to cultural relativism. As a result, women's rights get overlooked during peacemaking processes, being considered merely a „national“ concern or else secondary to other major interests, such as economic issues. However, Resolution 1325 of the UN Security Council on „Women, Peace and Security“ provides an instrument that systematically includes women's rights in peacemaking negotiations.

> Lesson Learnt: From a conflict-sensitive perspective, it is often fruitless to hold discussions on women's rights at a juridical-normative level. On the other hand, working with concrete aspects of women's rights – so-called „entry points“ – avoids the hardened, confrontational approach

and instead handles conflicts about women's rights and cultural customs pragmatically. The aim of this approach is to promote women's rights in such a way that the efforts can be supported by members of different cultures and religions. The following points should be borne in mind:

– IC organisations pressing for the respect of women's rights need to work out strategies to avoid laying themselves open to charges of trying to impose cultural imperialism and western ideals in the guise of women's rights.

– Short-term support for women who are denied their rights should lead to long-term commitment to the implementation of women's rights at structural level, e.g. by supporting women's organisations that are lobbying for legal reforms.

– Practical support is generally the best way of bringing about changes at ideational level, e.g. by persistently encouraging girls' education. This may involve a whole range of tasks, such as providing suitable infrastructures like well-equipped schools with sufficient sanitary facilities, teaching male and female teachers about gender issues, or perhaps financing educational material that is free from gender stereotyping or discriminatory gender roles (CEDAW Art. 5).

– IC players need to be aware of and encourage those social attitudes, changes and structures in a particular cultural context that will help to

prevent physical (including sexual) and psychological violence against women. (Platform for Action, Chapter D).

– When planning programs, it is important for IC players to take into account male opposition to any attempts to conscientise and inform people about women's rights.

– When conflicts about women's rights (within families) escalate, it is not unknown for women who demand that their families grant them their rights are subjected to physical violence or even killed („honour killings“). IC organisations can contribute to the non-violent resolution of conflicts related to the implementation of women's rights by specifically discussing these issues with men (conscientisation, non-violent resolution of conflicts) and by including men in women's rights projects.

> Lesson Learnt: When trying to include all the responsible parties in the process of conflict resolution, religious authorities, heads of tribes, guerrilla leaders and military officers tend to receive a prominent role. Firstly, there is an inherent risk of boosting the influence of so-called „traditional“ and cultural customs at the expense of public law, including internationally attested women's rights. Secondly, it is often only possible to bring all the actors to the conference table by ignoring the human rights violations (against men

and women) that were committed during the armed conflict and by issuing an amnesty.

> Example: In Guatemala, violations of women's rights during the decades-long civil war were never systematically dealt with and there were no concrete recommendations for reconciliation or compensation, although two fact-finding missions reported violations of human rights during the war. The UN mission (MINUGUA) responsible for monitoring the respect of human rights during the implementation of the peace agreement reported the violation of women's rights even after the conclusion of the peace negotiations. However, this mission was not granted the competence to reappraise violations of women's rights during the war. At present, several NGOs are making up for this failure. (Source: cfd)

IC players can assist by already supporting independent women's rights organisations during conflict resolution and peace negotiations.

b) Legislative discrimination against women

The fact that most republics foresee equal rights for men and women in their constitutions does not necessarily protect women from legislative discrimination. The law often discriminates against women in family and inheritance matters, and sometimes also in the civil and penal codes. In such cases, discrimination against women is not only legitimised by „tradition“ and „cultural customs“, but also by the law. It is therefore hardly surprising that CEDAW is the international convention that was signed with the most reservations on key provisions.

> Lesson Learnt: For IC players committed to the unequivocal implementation of women's human rights it is important to support organisations that are working towards legal reforms in favour of women's rights.

Despite governmental reservations about the Women's Rights Convention, it may help to use lobbying instruments like CEDAW or the Beijing Platform for Action in order to bring about reforms in the national laws.

> Example: Since CEDAW was signed in 1993, various legal reforms in favour of women's rights have taken place in Morocco. Women's rights organisations such as the „Ligue démocratique pour les droits de la femme“ used international instruments on women's rights like CEDAW and the Platform for Action in their campaign for the introduction of new family laws. The new laws have been in force since 2004 and they represent a substantial improvement in the status of women, but have yet to prove themselves in practice. The women's organisations are continuing the struggle because there are still many defects in the national laws. For their lobbying campaigns the women's organisations draw upon sources such as the Women's Rights Convention or other international conventions, and they are still pressing for a coherent plan of action, as foreseen in Beijing. (Source: cfd)

c) Equal rights as a mere formality cannot be accepted

Real equality between men and women cannot be achieved when equal rights are regarded as a mere formality. To strengthen women's position, it is necessary to adopt a comprehensive approach that embraces all levels: individual, household, community, state, regional and national.

CEDAW and the Platform for Action can be useful instruments in achieving real equality of the sexes, because they oblige countries that acceded to the Convention not only to practise equality of the sexes, but also to create equal opportunities through political measures and to abandon discriminatory gender images and roles. They also undertake to work towards the achieve-

ment of equal opportunities and equality between men and women in all aspects of everyday life – whether educational, political, financial or social – as well as in the context of conjugal and family matters, the media, conflict resolution and peacemaking efforts.

> Example: With their „Women's Law and Status Programme“ the women's rights organisation Shirkat Gah uses various strategies to promote the cause of women's rights in Pakistan. On the one hand, the organisation lobbies for legal reforms in favour of women, basing their arguments on CEDAW and the Platform for Action. On the other hand it carries out conscientisation campaigns in cooperation with local grassroots organisations, with the aim of informing both male and female members of the population about the discriminatory aspects of the unwritten laws of Islam and about internationally attested women's rights and their instruments. It is only when women become conscious of their rights that they can demand that these rights be respected. Conscientisation also creates a basis for changes in gender-discriminating ideologies. (Source: SDC)

> Lesson learnt: Apart from the official government reports to the UN foreseen by the Convention, the so-called „shadow reports“ drawn up by NGOs (especially those working for women's rights) provide an important instrument of conscientisation and a basis for lobbying by women's organisations. Thanks to the critical „shadow reports“ of the women's rights organisations, international publicity is given to women's situation in the countries concerned. For example, with regard to the rights of women who are members of a minority in their country, the „shadow reports“ are an important source of information for the CEDAW committee. The committee draws on some of these unofficial reports in its replies to the official government

reports. For example, the committee persistently demands that Israel report back systematically and in full on the situation of Israeli-Arab and Bedouin women. Switzerland has been requested to stop discrimination against migrant women.

IC organisations can make a valuable contribution to critical reporting of the implementation of CEDAW and the Platform for Action by having independent NGOs finance the issuing of „shadow reports“.

d) Violence against women

The Beijing Platform for Action devotes a special chapter to physical (including sexual) and psychological violence against women. However, in the Women's Rights Convention, which is of a more binding nature than the Platform for Action, violence is not explicitly mentioned. It is for this reason that this Convention is rarely used in the campaign against physical and psychological violence inflicted on women, overlooking the fact that gender-specific violence is a form of discrimination. Another frequently ignored fact is that CEDAW expressly obliged the countries acceding to the Convention to eliminate gender-specific discrimination on the part of private individuals, organisations and companies.

> Example: At the end of 2004, „Collectif 95 Maghreb Egalité“, a regional network of women's NGOs

from Morocco, Algeria and Tunisia issued a „shadow report“ on the implementation of CEDAW in Algeria. In this report, the „Collectif“ analysed violence against women in the light of CEDAW - namely Article 5 (gender images and roles) and Article 6 (trafficking of women, prostitution).

However, in what is currently the most comprehensive national study of violence against women in Algeria - drawn up jointly by NGOs and the Algerian government - no reference is made to CEDAW or the Platform for Action. (Source: cfd)

> Lesson Learnt: IC players can increase people's awareness of the usefulness of CEDAW and the Platform for Action as lobbying instruments in campaigns against physical (including sexual) and psychological violence inflicted on women by referring to these documents as often as possible and recommending them to women's rights campaigners, as well as mentioning them when discussing such issues with government officials.

> Lesson Learnt: However, when considering the issue of violence against women, the legal approach may produce conflicting results. More and more frequently, conservative and fundamentalist movements are themselves adopting a legal

approach to combat violence against women. They draw up corresponding laws, but their intentions are governed by protectionist ideas about the honour of women and the family. These laws are not based on an emancipated understanding of women's rights. This strategy is used, for example, by the nationalist Hindu Party in India, and sometimes also by Islamic parties in the Arab world.

Even in international cooperation there is a tendency, in combating violence against women, to increase the victimisation of women, thus undermining the legal approach. When drawing up measures and actions to curb violence against women, we must keep asking ourselves exactly what message is being issued, by whom, and what impact this message will actually have on women's everyday lives.

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- Kälin, Walter / Müller, Lars / Wyttenbach, Judith (eds.): Das Bild der Menschenrechte. Baden 2004.
- Würth, Anna (Deutsches Institut für Menschenrechte): Dialog mit dem Islam als Konfliktprävention? Zur Menschenrechtspolitik gegenüber islamisch geprägten Staaten. Deutsches Institut für Menschenrechte 2003.

Links **Women's rights, general information**

- Universal Declaration of Human Rights
<http://www1.umn.edu/humanrts/instree/b1udhr.htm>
- AWID study «Where is the Money for Women's Rights?»
http://www.awid.org/publications/money_report_2005_en.pdf

CEDAW

- Information about CEDAW: http://www.humanrights.ch/cms/front_content.php?idcat=39
- CEDAW homepage of the UN-Division for the Advancement of Women: <http://www.un.org/womenwatch/daw/cedaw>
- Reply of the CEDAW committee to the report from Switzerland: <http://www.equality-office.ch/d2/dokumente/cedaw-ausschuss-e.pdf>

Beijing Platform for Action / Beijing +10

- UN homepage concerning the Beijing Declaration and Platform for Action:
<http://www.un.org/womenwatch/daw/beijing/platform/index.html>
- NGO-Koordination post-Beijing: Aktionsplan zur Gleichstellung von Frauen und Männern in der Schweiz:
http://www.postbeijing.ch/aktionsplan/index_akpl.html
- Women's Environment and Development Organization (WEDO): Beijing Betrayed:
<http://www.wedo.org/library.aspx?ResourceID=31>
- WOMNET: Frauenrechte 10 Jahre nach Peking: <http://www.womnet.de/content/peking/index-peking.html>
- Deutscher Frauenrat für das Bündnis Peking +10: Schon abgehakt? Zehn Jahre 4. Weltfrauenkonferenz – zehn Jahre Pekinger Aktionsplattform. Aktionshandbuch: http://www.glow-boell.de/media/de/txt_rubrik_2/Aktionshandbuch.pdf
- West African NGOs report on the implementation of the Beijing Platform for Action
http://www.wildaf-ao.org/eng/IMG/pdf/SyntheseAO_ONG_ENG-3.pdf
- WiLDAF/FeDDAF – Afrique de l'ouest : African women on the way to Beijing +10 :
http://www.wildaf-ao.org/eng/article.php3?id_article=147

Women's rights instruments and „Millennium Development Goals“

- Shanthi Dairiam: The relevance of the links between human rights, the Beijing Platform for Action and the Millennium Development Goals: http://www.iwraw-ap.org/aboutus/sd_bpfa_mdg_cedaw.pdf
- GTZ/UNIFEM: Pathway to Gender Equality. CEDAW, Beijing and the MDGs:
<http://www.gtz.de/de/dokumente/en-pathway-to-gender-equality.pdf>
- Ending Poverty, Promoting Development: MADRE Critiques the UN Millennium Development Goals:
<http://www.madre.org/articles/int/mdgcritique.html>

Organisations

- AWID (Association for Women's Rights in Development): <http://www.awid.org>
- BAOBAB for Women's Human Rights: <http://www.baobabwomen.org/index.htm>
- Center for Reproductive Rights: <http://www.reproductiverights.org> (eng.)
 Centro de derechos reproductivos: http://www.reproductiverights.org/esp_about.html (esp.)
- IWRAW (International Women's Rights Action Watch) Asia Pacific: <http://www.iwraw-ap.org>
- MADRE: <http://www.madre.org> (eng.), <http://www.madre.org/index-sp.html> (esp.)
- Terre des Femmes: <http://www.terre-des-femmes.de>
- WLUML (Women living under muslim laws): <http://www.wluml.org/english/index.shtml>