



2001

Beyond the Rhetoric: Strategies for Effecting Change in Women's Human Rights'

Follow this and additional works at: <https://digitalcommons.law.yale.edu/yhrdlj>



Part of the [Human Rights Law Commons](#)

Recommended Citation

Beyond the Rhetoric: Strategies for Effecting Change in Women's Human Rights', 4 YALE HUM. RTS. & DEV. L.J. (2001).

Available at: <https://digitalcommons.law.yale.edu/yhrdlj/vol4/iss1/5>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in Yale Human Rights and Development Law Journal by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

Introduction to Practitioners' Notes

Beyond the Rhetoric: Strategies for Effecting Change in Women's Human Rights'

Nearly twenty years have passed since the entry into force of the Convention on the Elimination of All Forms of Discrimination against Women (The Convention).² Heralded as the most progressive international instrument on women's rights, the Convention drew worldwide attention to a long-neglected area within the human rights movement. Parting strategies with previous international instruments of general human rights protection,³ the Convention envisioned a broader notion of equality between the sexes, beyond the norm of anti-differentiation.⁴ It aspired to eliminate the subordination of women in political, economic, legal, and cultural spheres, and obliged states to craft systemic responses to ensure that equality.

The language of women's rights was catching. By March of this year,

1. This volume contains the first publication of Practitioners' Notes (PNs), shorter pieces designed to relay the experiences of activists promoting human rights in the field. It is appropriate that the first PNs concern women's rights, an area at times dominated by scholarship focused narrowly on theory without attention to the practical problems that affect the everyday lives of women.

2. Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Mar. 1, 1980, *entered into force* Sept. 3, 1981, 1249 U.N.T.S. 12. The Convention is often referred to as CEDAW, although this acronym is properly the name of the Committee created to oversee the implementation of the Convention. Accordingly, this introductory note will observe the distinction.

3. See, e.g., International Covenant on Civil and Political Rights (ICCPR), *opened for signature* Dec. 19, 1966, arts. 2 and 26, 999 U.N.T.S. 171 (undertaking to ensure to all within their territory the rights recognized in the Covenant "without distinction of any kind"); *id.* art. 3 (obliging states to "ensure the equal right of men and women" in their enjoyment of the rights set forth); see also Universal Declaration of Human Rights, art. 2, G.A. Res. 217A(111), U.N. Doc. A/810 at 71 (1943) (stating that "everyone" is entitled to the rights declared "without distinction of any kind, such as . . . sex"); *id.* art. 2 (guaranteeing men and women equal rights to marriage and its dissolution).

4. Anti-differentiation refers to the norm that women and men are similarly situated and should be treated the same. Anti-subordination, in contrast, refers to the idea of breaking down status hierarchies between women and men. For discussions of these concepts in United States equal protection doctrine, see generally Owen Fiss, *Groups and the Equal Protection Clause*, 2 PHIL. & PUB. AFF. 5 (Winter 1976).

167 states were parties to the Convention.⁵ Moreover, during the 1990s, twenty-eight states in the Americas ratified a regional treaty against discrimination;⁶ the General Assembly adopted a Declaration on the Elimination of Violence against Women;⁷ the UN Human Rights Commission appointed the first Special Rapporteur on Violence against Women;⁸ and governments developed action plans to promote women's rights at two major intergovernmental conferences, one of which was devoted specifically to the status of women.⁹ Given the increased attention and proliferation of "paper" on improving women's rights, one must ask: Has there been actual change?

The reality is disappointing. Human rights groups document the continued, widespread violation of women's human rights, including physical assault, rape, forced prostitution, sexual harassment, unequal pay, lack of employment, discriminatory laws, and more.¹⁰ Relatively few states have been willing to put bite behind their promises by providing individual victims the right to bring complaints under the Convention.¹¹ In the Inter-American System of Human Rights, the Court has yet to hold any state responsible for a violation of the aforementioned regional convention against discrimination. More disturbing, according to Human Rights Watch, some participants of the world conference on women tried to back out of their prior commitments with the excuse that women's rights, such as sexual autonomy, are not universal.¹² Evidently, the implementation of the Convention and of other instruments espousing women's rights is not top priority for many governments.

International and domestic women's rights NGOs created much of the necessary momentum to pass the Convention and analogous domestic

5. *Status of Ratifications of the Principle Human Rights Treaties as of March 28, 2001* at 9, U.N. High Commissioner for Human Rights (Mar. 28, 2001), at <http://www.unhchr.ch/pdf/report.pdf>.

6. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belém do Pará"), adopted Jun. 9, 1994, 33 I.L.M. 1534. Ratification information at <http://www.cidh.oas.org/B%E1sicos/basic14.htm>.

7. U.N. Doc. A/48/629, reprinted in 33 Int. Leg. Mat. 1050 (1994).

8. UN Economic and Social Council (Decision 1994/254) (1994).

9. *Vienna Declaration and Programme of Action*, UN World Conference on Human Rights, Vienna, 1993 14 HUM. RTS. L.J. 352 (1993); *Beijing Declaration and Platform for Action*, Fourth World Conference on Women, A/CONF. 177/20 (1995) and A/CONF. 177/20/Add. 1 (1995). NGOs also participated these conferences in parallel NGO fora.

10. See generally HUMAN RIGHTS WATCH, VOL. 9, NO. 13, TOO LITTLE TOO LATE: STATE RESPONSE TO VIOLENCE AGAINST WOMEN (Dec. 1997); AMNESTY INTERNATIONAL, BROKEN BODIES, SHATTERED MINDS: TORTURE & ILL-TREATMENT OF WOMEN (Oct. 2000). In addition, both HRW and Amnesty report on continuing violations of women's rights in their annual world reports.

11. The mechanism to bring a complaint was created in accordance with the Optional Protocol on the Elimination of Discrimination against Women, entered into force Dec. 22, 2000 G.A. Res. 54/4, annex, 54 U.N. GAOR Supp. (No. 49) at 5, U.N. Doc. A/54/49 (Vol. I) (2000). As of April 10, 1991, there were 19 parties and 66 signatories to the Optional Protocol. *Signatures to and Ratifications of the Optional Protocol*, at <http://www.un.org/womenwatch/daw/cedaw/sigop.htm>.

12. HUMAN RIGHTS WATCH, WORLD REPORT 2001 (Dec. 2000), Women's Rights: Human Rights Developments, at <http://www.hrw.org/wr2k1/women/index.html>.

legislation around the world. They continue to work to make those promises a reality—by pressuring their governments to implement pro-women policies; educating politicians, judges, law enforcement, health professionals, and civil society about gender issues; and, mobilizing women to demand their rights. As recounted in the Practitioner's Notes below, this struggle is complicated and slow moving.

The following Notes focus on the creative strategies used by human rights activists to bring the reality of women's rights in line with the aspirations of the Convention and its progeny. Written by attorneys drawing from their recent experiences in the field, they describe how to implement these strategies and evaluate their effectiveness. The first two pieces, *Women's Rights in Russia: Training Non-Lawyers to Represent Victims of Domestic Violence* and *Working with the "Enemy": Collaborating in the Implementation of Women's Human Rights* address one of the most grave and widespread violations of women's human rights: domestic violence. Violence against women, in the home and generally, manifests the historical imbalance of power between the sexes, and plays a crucial role in subordinating women. Dianne Post paints an alarming picture of marginalized victims of domestic violence in Russia who are unable to access necessary legal and health services. She describes how law enforcement, health professionals, and even lawyers fail to help because of the common view that domestic violence is a private or family affair in which the state should not get involved. To dispel these myths and alleviate the immediate legal needs of victims of domestic violence, Post trained non-lawyers to counsel and represent these women in court, as well as to educate their communities about violence against women.

Deanna Matzanke employed a perhaps riskier strategy to combat domestic violence in the Dominican Republic (D.R.) and Kenya. Working with local NGOs in each country, this Canadian attorney sought out the governments' collaboration in projects aimed to educate society and enact legislation on violence against women. Matzanke details the dangers and potential benefits involved in collaborating with a party traditionally averse to women's rights. She then delineates the necessary steps to produce a successful project, including suggestions on how to confront common barriers such as stereotyped gender roles of the family and women's lack of political power.

The third piece, *Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses*, relates the methods activists used to promote women's right to co-own land in Uganda. Jacqueline Asimwe describes how the denial of women's land rights in Uganda is interlinked with other forms of discrimination against women, including polygamy, bride-price, violence against women, women's poverty, and lack of political power. In the face of these obstacles, the Ugandan women's movement pushed for the co-ownership of land by spouses—a strategy of compromise. Asimwe evaluates the defeat of the initial campaign to enact co-ownership legislation, and hypothesizes about future efforts.

The struggle for the materialization of women's human rights is still in

its formative stages. Around the world, women's rights groups face substantial challenges to their work, and it spurs them to develop creative methods of advocacy to attain their goals. The following three Practitioner's Notes present examples of such innovative advocacy. It is the hope of this Journal that practitioners will draw upon these experiences as they design future projects to promote the fulfillment of human rights.