

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

35th Session (New York, 15 May to 2 June 2006)

Reports of States

Bosnia and Herzegovina (Combined initial, 2nd and 3rd periodic report¹)

Information submitted to the committee

Information provided by the government

The Government of Bosnia and Herzegovina presented a lengthy combined initial, 2nd and 3rd periodic report outlining successes and gaps in implementing CEDAW since its entry into force on 1 October 1993. The opening statement provided a systematic article-by-article run through of the Convention indicating action being taken in each area. Ms. Samra Filipovic-Hadziabdic, Director of the Agency for the Gender Equality of Bosnia and Herzegovina (the Agency), was frank in her opening statement², and also open about her excitement at having the opportunity to discuss her country's accomplishments and challenges with respect to gender equality. The report outlined the nation's complex structure, consisting of a federal government, as well as two entities (the Federation of Bosnia and Herzegovina, which is divided into 10 cantons, and the Republika Srpska, which consists of 63 municipalities), she explained that because of this structure, mainstreaming of gender through institutions at all levels is particularly important. She indicated that the report's compilation had been a collaborative effort involving upwards of 200 people from non-governmental organisations (NGOs), and State and entity institutions. The report indicated that the country is still dealing with the aftermath of the war, stating that no census had been carried out since 1991 and that the country had experienced considerable emigration, exile, and internal migration since that time. Nonetheless, Ms. Filipovic-Hadziabdic explained that the country had taken strides towards the legal enshrinement of gender equality, including the September 2002 ratification of the Optional Protocol, a broad Constitutional non-discrimination provision and a Gender Equality Law requiring gender equality programmes and strategies in most areas of life. As Ms. Filipovic-Hadziabdic stated, "we have come a long way, but still much remains to be done."³ The country has no reservations.

Information provided by non-governmental organisations

Representatives from Global Rights: Partners for Justice, and the Women's Therapy Centre presented comments to the Committee on 16 May 2006. An alternative report was also prepared by Global Rights: Partners for Justice⁴ and presented to the Committee. Global Rights: Partners for Justice, highlighted the gap between law and policy noting unequal representation in elected bodies, and unequal social power. They also noted the need for harmonisation between different pieces of legislation including the new election law and others, which did not incorporate provisions in the Gender Equality Law. The recognition of violence against women as a criminal offence was lauded, however, in Republika Srpska it is still classified as a minor offence leading to differential treatment depending on where in the country the offence occurs. Global Rights: Partners for Justice called for the Government to ensure that all laws complied with the Gender Equality Law.

The representative from the Women's Therapy Centre explained that during the war, for the first time, systematic rape was declared to be a crime against humanity. This important declaration, however, did not prompt the State to include rape in Bosnia and Herzegovina's laws recognising war crimes. She called upon the Government to recognise survivors of war rape as victims of war

¹ <http://daccessdds.un.org/doc/UNDOC/GEN/N05/315/63/PDF/N0531563.pdf?OpenElement>

Questions: <http://daccessdds.un.org/doc/UNDOC/GEN/N06/242/27/PDF/N0624227.pdf?OpenElement>

Responses: <http://daccessdds.un.org/doc/UNDOC/GEN/N06/286/68/PDF/N0628668.pdf?OpenElement>

² http://www.un.org/womenwatch/daw/cedaw/cedaw35/statements/BiH_Introduction_CEDAW.pdf

³ http://www.un.org/womenwatch/daw/cedaw/cedaw35/statements/BiH_Introduction_CEDAW.pdf

⁴ http://www.iwraw-ap.org/resources/pdf/Bosnia&Herzegovina_SR.pdf

to enable them to access services, and to establish a committee to develop and monitor national rehabilitation programs, and to harmonise the laws of the two entities. Trafficking of women and girls was also highlighted as a serious problem and it was emphasised that planning and budgeting must take gender into account at all levels.

Themes and Issues

Harmonisation

A great deal of the Committee's attention focused on issues concerning inconsistencies between statutes and the Gender Equality Law and between law in the two entities, with the Committee calling upon the Government to "speed up" the harmonisation process in its Concluding Comments⁵. Ms. Schopp-Schilling asked how the Government intended to review draft laws and amendments to ensure that they were consistent with gender equality provisions. The Government delegate indicated that the Agency was stressing that the "obligation towards gender equality rests with all Government bodies" but admitted that she felt the Agency's comments were only being considered about 30 percent of the time. She added that criminal laws seem to take precedent over equality laws. In light of the country's recent past, several questions were raised with respect to the position of gender equality in comparison with ethnic equality. The delegate agreed with several committee members who had noted that gender equality seems to be "overshadowed" by ethnic equality.

National Mechanism

Although no questions were raised with regard to the dedication and sincerity of the Gender Equality Agency, a variety of questions and concerns were voiced with respect to whether the Government had expressed its commitment to equality by providing this structure with adequate means to carry out its work. In response to questions from the Committee, the delegate noted that the agency needed strengthening both in terms of finances and human resources, indicating that the organisation had only three staff members and had once been unable to pay its employees for a period of one year. It was suggested, and reinforced in the Committee's Concluding Comments, that it would be more appropriate for the Agency to fall under the Council of Ministers so as to have direct access to all Ministers.

Violence against Women

The Committee raised concerns voiced by NGOs once again with regards to sexual victims of the war, access to housing and rehabilitation, as well as jurisdictional issues and recognition as civilian victims of war. The Committee was informed that the Ministry of Social Affairs is currently drafting a bill with a definition of civilian victims of war that would include sexual victims and would stipulate the right to legal aid and psychological counselling. Information provided by NGOs, and mentioned by the Committee, indicated that at least 3,000 people are on record as falling within this category. The Committee was very clear in its Concluding Comments that, the State "explicitly recognise and adequately protect" women who were victims of wartime sexual violence including the allocation of financial resources, health insurances, and housing so that "their rights and entitlements are guaranteed in the entire State party at a level comparable to that applicable to military victims of war".

Following up on the concerns raised by Global Rights: Partners for Justice, the Committee asked for concrete action regarding the differential treatment of domestic violence in the two entities in both the constructive dialogue and Concluding Comments. In its reply the Government commented that the Ministries of Social Affairs, Justice, Internal Affairs and Health were currently working together to create by-laws in this area and that the classification of domestic violence as a misdemeanour in Republika Srpska was primarily an administrative procedure that allowed more expedited results in that legal system.

⁵ http://www.un.org/womenwatch/daw/cedaw/cedaw35/cc/BiH_rev.pdf

Human Trafficking

Under Article 6, the Committee requested further information concerning the trafficking of women and girls. Specifically, Ms. Glenda Simms asked why the number of people being charged with trafficking was so small. Although the Government delegate did provide information on trafficking, specific questions were not answered. Ms. Filipovic-Hadziabdic indicated that, in the area of trafficking, the following action had been taken: a law had been enacted targeting prevention, a Provisional Instruction on the Treatment of Victims of Trafficking had been issued, a protocol was signed with respect to NGO cooperation and an action plan had been developed. Worryingly, she added that some high ranking officials and politicians had been involved in trafficking, and that poor children and women who were mentally ill were being targeted. She noted, however, that the situation was improving due in part to the role of the State Coordinator and that there were plans to train prosecutors, police, judges, teachers and health care workers in this area. In its Concluding Comments, the Committee called upon Bosnia and Herzegovina to “intensify its efforts to combat trafficking” and to include more comprehensive data in the next report.

Representation in Government

Calling for measures to increase women’s representation⁶, the Committee noted under Article 7 that women’s representation in elected posts had fallen dramatically when the electoral system changed from voting for a party list to allowing voters to select individual candidates. The Committee also commented that, in contravention of the Convention, minorities were prohibited from participating in the highest levels of government. The Government delegate indicated that the Agency was pushing political parties to include more women on their candidate lists, and for women to have a higher profile in the media, and noted a recent increase in the number of women in the legislative body. With regard to minorities, Ms. Filipovic-Hadziabdic stated that in the Federation of Bosnia and Herzegovina, a Committee on Minority issues, had recently been established to deal with this issue.

Other Issues

Among other issues highlighted were several topics under Article 12 noted in both the constructive dialogue and Concluding Comments, including: the worrying reliance on abortion as a method of birth control and access to health care for women in rural areas. Although the Committee expressed admiration for the work of the Agency with their limited resources, they expressed concern that gender equality was not addressed adequately in the mid-term Development Strategy Plan and that many of the activities being undertaken in the area of gender equality were being funded by foreign donors instead of the government.

Conclusions and Next Steps⁷

The Committee warmly welcomed the delegation, and their interaction can be described as a frank and open constructive dialogue. There was every indication that the chief delegate intended to utilise and implement the Committee’s comments to the extent her Agency had the power to do so. In general, the political will from the Government was less clear and a larger delegation, involving more ministries, would have been useful to situate the Agency’s efforts in a broader context. In its Concluding Comments, the Committee called for a concrete expression of political will in all areas, backed by the requisite finances.

Referring to the Agency as “understaffed and underresourced” and “unable to fully carry out its wide-ranging mandate”, the Committee recommended the granting of “greater authority” and increased financial and human resources. The Committee further stated that the Agency’s position within one Ministry (the Ministry of Human Rights and Refugees) “may impede its effectiveness in working with other Ministries”. The Committee also stressed the need for data in several areas, including domestic violence, trafficking and rural women and requested that the

⁶ http://www.un.org/womenwatch/daw/cedaw/cedaw35/cc/BiH_rev.pdf

⁷ Concluding Comments are available at:

http://www.un.org/womenwatch/daw/cedaw/cedaw35/cc/BiH_rev.pdf

State “prioritise data collection and include comprehensive sex-disaggregated statistical data in its next report” and that penalties under article 18 of the Law on Gender Equality be applied where agencies fail to do so.