



10TH INFORMAL ASIA-EUROPE MEETING (ASEM) SEMINAR ON HUMAN RIGHTS

"Human Rights and Gender Equality"

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SEMINAR REPORT

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EXECUTIVE SUMMARY¹

Asia-Europe dialogue on the subject of Gender Equality comes at the creation of “UN Women”, the UN entity for gender equality and empowerment for women. The 10th Informal ASEM Seminar on Human rights was held on 7th to 9th July 2010, aptly hosted by the Philippines in Manila at the same moment as the launch of the Implementing Rules and Regulations of the Philippine Magna Carta for Women. About 100 Asian and European participants included official representatives from ASEM partners—among them human rights diplomats, also top officials from national gender equality agencies and human rights institutions—as well as civil society participants from the academe, NGOs focused on women’s rights and gender discrimination, research institutes, and other relevant groups. The discussion at the Seminar focused on four themes under the broad heading of Human Rights and Gender Equality. They were: political rights and political empowerment; civil status and economic empowerment; cultural practices and social empowerment; and, gender-related violence. The thematic discussions addressed both cross-cutting issues as common to all themes and addressed issues specific to the four themes. The summary given below consolidates these discussions.

Legal Framework

- Gender equality and women’s rights are universal human rights upheld by the Convention on the Elimination of Discrimination against Women (CEDAW) and other international legal instruments on human rights and gender equality. Cultural diversity, which is often cited to justify non-compliance, does not change the universality of equal rights, though there is diversity among women and also among cultures.
- At the regional level, participants indicate that the CEDAW is not fully utilised by governments and gender equality advocates in the EU. EU treaties and directives on equality are limited in their applicability as they focus on employment and social protection or trafficking. In Asia, the CEDAW is more highly relied upon but there are several reservations on key articles. Reservations reflect prevailing social values and are an expression of power structures in society. In the Association of Southeast Asian Nations (ASEAN), there is no regional framework on human rights although there is a newly-formed ASEAN Inter-governmental Commission on Human Rights and a Commission on Women and Children. At the national level, enforcement of laws remains weak due to weak institutions, lack of political will and inadequate technical competence.

Gender Inequality

- While globalization brings many benefits, global economic distress is an impeding factor to gender equality. There remain high barriers to women - especially the poor - to employ legal remedies for resolution of discrimination cases. Among these impediments are the

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The views expressed in this report are strictly those of the authors, and do not necessarily reflect those of the Asia-Europe Foundation, the Raoul Wallenberg Institute, the French Ministry of Foreign Affairs, the Philippine Department of Foreign Affairs, the Center for Human Rights of the Ateneo de Manila University nor its sponsors including the European Commission.

related costs as well as social stigma. Though progress has been made, the persisting ideology of “men-as-bread-winner” and gender stereotyping are the key causes of slow progress in achieving gender equality in the world of work in many countries.

- Gender inequality persists in varying degrees - for example, in pay gaps, occupational segregation, part-time work, precariousness or informality - despite legal equality in all countries. In many cases, women’s civil status and having children negatively impacts on women’s employability and ability to reconcile work-family balance. There persists widespread inequality of women’s access to social security benefits due to women’s disadvantaged position in the labour market and, in many instances, due to women’s civil status. The extent of maternity, paternity and parental leave coverage and practice differs widely across countries - there is a need for increased participation of men in “unpaid care work”.
- Gender mainstreaming was a process used in many countries and gender equality laws have been adopted in many countries in Asia and Europe. In terms of political participation, temporary special measures (also known as positive action) such as quotas are in place to increase the representation of women in parliaments and other bodies. However, a debate persists: there was no full consensus on whether this should be on a voluntary basis and left to political parties or whether this should be legislated. Furthermore, there is an objection that positive action goes against the principle of non-discrimination although the principle of temporary special measures is included in CEDAW and the EU treaties as a right and essential to achieving *de facto* equality.

Vulnerable Groups

- The situation of marginalized women such as rural poor, irregular workers indigenous women, the disabled and LGBTs ²(lesbians, gays, bisexuals, transsexuals) need special attention. The human rights of LGBTs are violated because of the similar gender-based discrimination women face. There is no adequate legal framework for protection against discrimination based on sexual orientation.

Gender-related Violence

- Gender-related violence includes violence perpetrated against women because of their gender and because of their sexual orientation. Laws on violence against women must be based on human rights principles of the universality and inalienability of all human rights.
- Cultural practices, prejudices, a patriarchal value system and a culture of silence perpetuate violence against women. Societal attitudes prevent the adoption of good laws, the enforcement of existing laws and the claiming of rights by women. Violence against women and impunity for such violence are, together, the greatest impediment to equality.
- Honour killings and other forms of harmful practices such as child marriage exist in Asia and among migrant communities in Europe. Governments may be hesitant to take strong action and feel the need to be culturally-sensitive.
- Laws to protect women against violence especially domestic violence had been implemented in many countries. Some countries have laws against marital rape.

² Note: the term “LGBT” is used in the report as a common term, which does not exclude “Intersex” category included in the definition of the term “LGBTI”

Nevertheless, formal legal remedies are cumbersome and access to justice for women is a challenge. Women may be prevented from going to court due to societal attitudes. In this context, informal dispute resolution may not be the answer as these mechanisms are arguably patriarchal. Furthermore, women are still not adequately protected against marital rape and proof of sexual violence requires evidence of force, which may not always be the case.

- No country in conflict is coherently implementing UN Security Council Resolution 1325, which adopts a gender perspective that includes the special needs of women and girls in situations of armed conflict.

The following recommendations were made on: developing legal/conceptual frameworks; putting in place programmatic measures; addressing culture, ethics and prejudicial mindsets; and, monitoring and benchmarking.

Legal/conceptual framework

1. A multi-faceted approach is necessary to achieve equal rights. There should be full compliance to CEDAW and other international standards on equal rights and the use of relevant international monitoring systems to push for change/progress, including the use of the Optional Protocol and withdrawal of reservations to CEDAW. Many participants emphasized the continued need for national legislative reforms and specific gender equality policy, including affirmative action and setting a target number of women in both the public and private sectors.
2. Laws on violence against women must be based on two principles, accountability of the perpetrator and protection for the women. There must be a more nuanced understanding of gender-related violence to include violence against LGBTs. Sexual violence laws must require evidence of lack of consent and not lack of force. Anti-sexual harassment clauses must be included in all public and civil service directives. The scope of protection under incitement of hatred laws should include grounds such as women and LGBTs.
3. Institutions could be created or enhanced, for example a competent complaints mechanism such as Ombudsman office, as some Asian and European countries have adopted, could be considered.
4. There was no consensus on whether a separate LGBT human rights framework (separate from CEDAW) or the incorporation of LGBT rights in the existing frameworks against discrimination is needed. In addition, authorities and societies were encouraged to accept transgender children and consider creating a third gender category. Such measures could allow children to decide themselves about their gender later as adults and should be accompanied by awareness-raising at all levels.

Programmatic measures

1. Relevant actors must effectively apply corporate social responsibility and promote social dialogue. For those who are outside formal employment and vulnerable, equal access to training/skills development and credit for women should be ensured, including learning new technologies. Women must organize and participate in trade unions to increase their voice and representation.

2. Formal education should focus on mainstreaming Human Rights through various subjects rather than having a single class on Human Rights.
3. There is a need to build capacity of those who are dealing with the LGBT asylum seekers and to use a human rights approach.
4. Gender mainstreaming must continue to take root in public and private institutions. There should be compulsory gender sensitizing training for public officials.

Culture, ethics and changing mind sets

1. Diversity need not be divisive: other cultures can help to broaden perspectives. Greater mutual understanding can be promoted by working within cultures based on interests common to all groups, e.g. well-being of children.
2. Women's roles in religious practices should be promoted and facilitated.
3. Mutual reinforcement of law and ethics can be enabled; for example, de-criminalisation of homosexuality and preventing the criminalisation of homosexuality.
4. Men must be involved in all aspects of gender issues, e.g. reproductive health and family planning. More space for dialogue between men and women must be created to discuss common issues and come jointly to decisions.
5. Civil society groups can launch media campaigns and lobby efforts to help the media challenge or change discriminatory mind-sets regarding gender roles in society.

Monitoring and benchmarking

1. Gender mainstreaming and laws to (a) protect women must be implemented through plans for evaluation with process indicators to monitor implementation; as well as (b) indicators of achievement to assess success. Such indicators must be both quantitative and qualitative.
2. Relevant authorities are encouraged to cooperate with statistical agencies and academia to measure progress through data gathering, analysis and setting of indicators for benchmarking.
3. Constant research, knowledge enhancement and capacity building are necessary to influence the implementation of effective monitoring and benchmarking, and to promote good practices.

II Seminar Report

A. Overview

The timing of the Seminar matched the major international developments in the women's rights protection system: establishment of the new UN entity "UN Women", as a result of the UN effort to set up more responsive UN gender architecture and recent legislative developments in Asia in this field – including the launch of the implementing Rules and Regulations of the Philippine Magna Carta for Women. Furthermore, the recent and revolutionary developments in representation of the rights of the LGBT groups in the international forum made discussion of gender identity and related to it rights of the LGBT groups particularly well-timed.³

The overarching objective of the seminar was to discuss ways to protect women's rights and a right to self-defined gender identity in the two regions – Europe and Asia - to share experiences and practices on women's rights protection in ASEM while emphasizing the important role attributed to the international legal framework, including the CEDAW, in protecting and promoting universal human rights of women across the two regional constituencies.

The seminar specifically aimed to:

- Identify challenges and foster exchange of promising practices in ASEM relating to protection and promotion of women's rights in all spheres of life, including political, economic, social and cultural spheres;
- Underline areas of cooperation to eliminate gender-based discrimination and gender-related violence through strengthening gender equality machinery at the national, regional and international level;
- Formulate recommendations for relevant institutions at the national, regional, inter-regional and international level, particularly in light of strengthening of the international gender machinery.

Participants were divided into four working groups, composed of participants from two regions, as well as a mix between officials and civil society, to discuss the following themes: political rights and political empowerment; civil status and economic empowerment; cultural practices and social empowerment; and gender – related violence. The thematic discussions addressed both cross-cutting issues and issues specific to the four themes.

The summary given below consolidates the discussions which took place in the Working Group I–IV.

³ On 19 July 2010 United Nations Economic and Social Council voted in favour of a US-led Resolution granting the [International Gay and Lesbian Human Rights Commission](#) (IGLHRC) consultative status at the United Nations.

B. Working Group 1: Political Rights and Political Empowerment

The group reviewed and agreed upon two sets of questions: first, cross-cutting issues focusing on general (legal and policy) frameworks for women's empowerment and gender equality; second, a specific set of questions aimed at promoting women's empowerment and achieving gender equality and equity in political participation. The aim of a dialogue was not inevitably to reach agreement, but rather to hear different views and share experiences that can contribute to better understanding between Europe and Asia, as well as build bridges for fruitful cooperation in the area of human rights and specifically women's empowerment and gender equality.

The following is a summary of the discussion related to the cross-cutting issues:

I Relevant legal frameworks on all aspects of women's rights and gender equality. What are the examples of good practices in promoting gender equality?

European participants mentioned the existence of European Union (EU) Treaty and Directives (primary and secondary EU legislation) which set certain HR standards, but do not cover all areas of women's human rights nor gender equality. In addition application of these standards is frequently a subject of different interpretation by national authorities.

Principle of non-discrimination is the most highlighted principle in the EU. It is also reflected at all levels of national anti-discrimination law. However, areas to which EU Directive does not apply directly are left to be subject for interpretation. Political quotas discussed in this context were identified as one of the examples of such areas. Although an opinion was expressed that existence of quotas could be a *prima facie* violation of the non-discrimination principle, other participants argued that the EU Treaty (primary EU legislation), as well as CEDAW (binding for all EU member states), allowed "positive actions" as temporary measures to achieve *de facto* gender equality, including in the area of political participation. Concerns were expressed about setbacks in the implementation of human rights in Europe, which can be observed in areas such as employment or trafficking in human beings (especially women and children).

Asian participants shared mostly their national experiences in implementation of international human rights (including such countries as Cambodia, China, Japan, India and the Philippines, among others), underlining the non-existence of a special regional human rights framework at the ASEAN level in Southeast Asia. Partially, it was attributed to a great cultural, religious and language diversity in Asia. Yet, significant regional developments have been highlighted, where the ASEAN Commission on the Promotion and Protection of the Rights and Women and Girls and the ASEAN Declaration on Ending Violence Against Women guided by CEDAW have been noted as important steps in support of women's human rights at the regional level.

In addition, the important role of CEDAW in Asia as compared to Europe has been noted. It was, however emphasized that while CEDAW is yet generally underutilized by both duty bearers (governments, justice system, prosecution, etc.) as well as rights holders, it remains an important tool for implementation of women's human rights in Asia and Europe.

II Reinforcement of the relevant human rights treaties including the CEDAW Convention through removal of the original reservations.

Most of the discussion around this question concentrated on reservations that the governments have made against CEDAW articles and how to overcome or remove these reservations. The causes named behind the reservation included the following: prevailing social and cultural values; economic and social development of a particular country; limited capacity of some governments (human and financial) to implement CEDAW in full, among others.

It was generally agreed that state parties have the right to express reservations, provided those are not in contravention of the very nature of CEDAW and are of a temporary character. It was emphasized that any reservations should be accompanied by a concrete plan formulated by the state party to ensure the temporary nature of reservations. Examples of justifiable reservations have been also provided. Reservations to the CEDAW Convention made by Belgium in the instance of the conflict of certain provisions of CEDAW with the Belgium Constitution have been mentioned as one of the examples of justifiable reservations. However, it was noted that any conflict of the Convention with national legislation shall serve as a positive impulse to adjust national legal frameworks to align it with international human rights standards.

It was also pointed out that in some cases the interpretation of “objective” causes for reservations is not strongly rooted in reality and justification is very weak. Reservations can be a sign of unwillingness to implement international commitments to uphold international women’s human rights and an expression of resisting patriarchal power structures in a particular society.

All participants agreed that while overcoming state parties’ reservations against CEDAW articles, the most important mechanism is a continuous dialogue (includes CEDAW Concluding Comments) among relevant parties, and, at a national level, a dialogue between NGOs and government.

III Judicial remedies available to promote and protect gender equality and the role of national human rights institutions in promoting and protecting gender equality

Here the participants mainly shared their experiences related to national mechanisms in place to protect and promote gender equality. The group discussed existence and non-existence of sufficient and appropriate mechanisms (including sanctions) in ASEM countries.

The role of ombudspersons in protecting and promoting human rights was highlighted. It was noted that this institution does not exist in all countries; moreover, its powers and coverage varies from country to country. European examples underlined the importance of this structure for the most excluded and marginalized groups of women with the limited access to justice. Also the European participants underlined the importance of regular Ombudsperson’s Office reports (shared with general public) which play a critical role in raising awareness on gender issues and in advocating for gender equality and women’s rights.

Several participants (especially from Asia) discussed the role of women’s organisations in monitoring the implementation of human rights and serving as “watch dog” mechanisms. Some also said that serving as effective monitoring bodies, women’s NGOs need to build capacity in human rights areas. At the same time it was acknowledged that capacity development is needed also for judges, prosecutors, police and other “duty bearers”, as only a very limited number of court decisions have been made based on the UN CEDAW Convention.

IV Emerging issues pertaining to gender equality and identity

The LBGTI community was an emerging issue in the discussion of the group. The participants have had some knowledge about this issue, but it was obvious that more awareness-raising on needs of LBGTI is required not only among the general public, but also among gender equality advocates both in Europe and Asia. In particular, it concerns realisation of the fundamental human rights. Some participants held the view that mixing gender equality issues (commonly understood as equality between men and women) with LBGTI complicates the situation and advocacy work; LGBT rights should therefore be treated separately. A representative of the LBGTI community suggested that their rights should be understood as an integral part of the existing international human rights frameworks and standards. On the contrary, another discussant contended that mixing, for example, CEDAW with LBGTI rights would be wrong, as CEDAW is known as “women’s rights bill” and suggested a separate human rights bill for LGBTs.

Other emerging issues mentioned included: (1) lack of funds for the implementation of gender equality commitments as a result of the global economic crisis; and, (2) migration and possible negative implications for the human rights of female migrants; among others. Albeit being identified by the group, they were not discussed in great detail.

V Relevant statistics/trends

Some participants shared their knowledge on collecting sex-segregated data in countries such as China and Belgium. In general, the participants agreed that there is general lack of statistics broken down by sex in most areas (apart from, to a certain extent employment and health statistics), which complicates evidence-based advocacy, as well as development of adequate policies and measures aimed at closing gender gaps and addressing specific problems men and women may face. Even though in some countries such data exist (in the EU, for example), they are usually underused for such purposes.

Discussions highlighted the positive role of NGOs in collecting “soft” data in areas where data are difficult to collect, as in the case of violence against women for instance, or do not exist at all. First, such data can help raise awareness on some human rights and gender equality issues; second, such data can prompt regular collection of representative data by relevant state agencies.

As far as “regional” statistics are concerned, in Europe, EUROSTAT collects many sex-segregated data sets from national statistical offices mostly related to employment, social conditions, income, demography, that use the same methodology, so that data are comparable. In ASEAN such comparative data collection is lacking and data available are insufficient or they are lacking and problematic to gather.

The group agreed that more and more reliable sex-segregated data are needed to (1) advocate for gender equality; (2) identify areas where intervention is needed in the area of policy guidance, and; (3) to monitor progress towards achieving gender equality in various areas of life.

VI The integration of a gender perspective in all levels of public and private institutions: Promising practices in effective promotion of gender equality

Several examples of good and promising practices in promoting gender equality were shared among the participants. They ranged from the Gender Equality Laws that set up gender equality structures at all levels (Belgium, Sweden, and China), to creating strong centralized gender equality structures at the highest level (Philippines).

Several participants underlined importance of association of responsibility for the achievement of gender equality at the highest level which will trickle down to lower levels of executive power. Otherwise, the country runs the risk of gender equality laws left without due enforcement. While discussing positive experiences in empowering women in politics, two examples were given of Greece and Norway, where women's ability to run for an office was strengthened through targeted capacity development actions, particularly the "Women Can Do It" initiative to support South East Europe and Talent Banks in Greece.

VII Cultural practices that hinder or facilitate gender equality

The group discussed this issue through the prism of the LGBT rights and perception of the LGBT as a group in society. A representative of LGBT community stressed the importance to avoid exclusion and to treat LGBT group as equal citizens being covered by the existing human rights frameworks, rather than treated as a separate "social group". Whereas historically both LGBT and women's movements faced similar impediments on the way to full enjoyment of rights, including same prejudices, limited access to rights, limited access to participation, et cetera, sharing experiences and support is important to overcome the underlined challenges.

Participants from both Asia and Europe shared their experiences highlighting mainly cultural shifts and changes towards increased gender equality. The shared examples included the following: (1) increase of girls' and women's access to education and employment as seen in Cambodia; (2) diminishing preference in countries like China for male children over female; and, (3) inter-family relations in countries like Poland and the Philippines, among others.

In conclusion, it was reiterated that despite existing cultural differences that sometimes hinder progress towards gender equality: globalisation, economic development and demographic changes are the key driving forces for change of behaviour, including socio-cultural practices and perceptions. Consequently, more attention should be paid to examining the role played by the aforementioned factors in the progress towards the implementation of human rights and achieving gender equality.

VIII Summary of issues explicitly related to women's empowerment and political participation is as follows:

The discussion around political participation did not strictly follow the questions, as outlined in the Seminar Agenda, but was cohesive with the logic of the dialogue.

The group generally agreed on the necessity of quotas as a temporary measure to be applied in order to achieve more equal political participation of men and women. The divergence in the opinions emerged around what type of quotas should be applied and the grounds for such application. Some, mostly European, participants defended constitutional and legal quotas as the most effective measure to ensure better gender balance in political structures and decision making, while many others (Europeans, as well as Asian) were in favour of voluntary party quotas. One European participant challenged measures based on positive action that, in his opinion, violates the key principle of non-discrimination enshrined in all European legislation.

Examples of women's parties in Europe were also discussed as a way to promote women's participation in political life. Implications of the existence of such parties in different countries diverged. For example, in Iceland, a women's party was relatively successful and led to increased number of female candidates on the list of other traditional parties. In other countries such as Sweden and Lithuania, the parties were short-lived.⁴ Yet, there was an indication that women's parties can play an important role as a tool to increase visibility of female candidates, who would have problems to climb a ladder in traditional (men-led) parties. Also, depending on the agenda, they have the potential to highlight the issues that are often perceived as private such as domestic violence, inter-family division of work, child care, et cetera, and bring them to a public arena.

The majority of participants however preferred the idea of strengthening women's position within "mixed" traditional parties and discussed ways to create such enabling environment through general education, party quotas, capacity development for women, among other means.

C. Working Group 2: Civil Status and Economic Empowerment

Summary of Discussion on Key Issues:

I Universality of the right to equality

There was a general consensus among the participants on the universality of gender equality and women's equal rights upheld by the UN Convention on Eliminating All Forms of Discrimination against Women (CEDAW) and other international legal instruments (including the relevant international labour standards) on gender equality, regardless of culture and levels of development, while acknowledging that there was wide diversity among women and cultures. The participants also agreed that the progress in advancing gender equality should be measured by the end results, but not by the equality of treatment of women and men. This was because in some cases "affirmative" action was necessary to redress the inequality resulting from past historical accumulation of discrimination.

It was generally acknowledged that there was a tendency for the States to use the maintenance of culture and tradition as an excuse to tolerate discriminatory practices and persisting gender gaps. The participants also were of a view that the States had an obligation to its citizens, not only to protect but also promote equal rights for women and men. Similarly, the States also have an obligation for protecting the most vulnerable, in particular women, by adopting appropriate social and economic policies. The role of civil society, including NGOs, and other civil society organisations, such as trade unions and employers' organizations, as well as the media was emphasized, playing the role of "watch dog" and for promoting gender equality.

II Persistence of gender inequality

Participants exchanged information and views with regard to the overall slow progress made in advancing gender equality in various countries, with particular focus on equal opportunities in employment. Despite the fact that the principle of gender equality and prohibition of discrimination on the ground of sex (*de jure*) is established in national legislation in all the countries, *de facto* gender equality has not been achieved, as gender gaps continue to persist

⁴ In Sweden the party Feminist Initiative was formed in 2005. It has not been able to secure enough votes to get in the national parliament but is represented in regional and local government

with varying degrees. This includes lower labour force participation rate of women compared to that of men; vertical and horizontal sex segregation of occupations, persisting gender gaps in pay and income; and women's over-representation in part-time and precarious forms of employment and informal and unprotected work, as well as consequential poverty disproportionately affecting more women than men. In some countries, gender parity in education has been achieved, or women have even surpassed the education level of men, including at the tertiary level. This has not been, however, translated into actual gender parity in employment both in quantity and quality.

III Causes of slow progress

A key factor affecting the slow progress in advancing *de facto* gender equality is the persistence of stereotypes on roles of women and men in society. The “men-as-the-breadwinner” paradigm continues to affect women's capacity to access equal employment opportunities and occupations with higher positions in various establishments and better remuneration.

The participants noted that women's ability to access to employment and income opportunities was affected particularly when they had children. Where there was insufficiently adequate and affordable social services and child care, it was difficult for working mothers to reconcile the work and family responsibilities in many countries. They therefore suggested that the States should provide/subsidize adequate and affordable child care facilities. In Asia, generally speaking, child care responsibilities remained largely with mothers and their families, often with support of private child care takers i.e. domestic workers.

Economic forces under globalisation have also been one of the factors impeding overall progress, as seen in the aftermath of the 2008 global economic crisis, which has narrowed the fiscal space of many governments for making social provisions. This has been compounded by the increasing economic competition between countries for attracting foreign direct investments, which could pressure wages downwards, for instance.

IV Inadequate public support for maternity protection and care: a hindering factor

Maternity protection, in most countries, is by and large provided for those workers who are in formal and regular employment. As for paternity leave, the provision and lengths widely differed from country to country. The paternity leave provision was much more generous in some of the European countries, though the rate of men actually using it was far lower than ideal. The participants suggested that men should be given a bigger space through the paternity leave provisions and family friendly measures at work allowing them to participate more in unpaid care work in households. Men could be more encouraged to do so through public campaign and other advocacy measures; for instance, using the media to change their mind-set with regard to their paternal role. The participants felt that support measures were needed in addition to legal provisions on maternity and paternity leave.

V Social security

Generally speaking, there are gender gaps in the extent of coverage and levels of social security, given that women typically spend less time in remunerated work during their life time, compared to men. It was also generally noted that many women were currently out of

the formal social security systems, due to the fact women tended to work in a more precarious or informal employment, as compared to men. In some countries, social security only covered those in the public sector, but not those in the private sector. It was suggested that a minimum social pension be provided to ensure that those women who have never been married or engaged in the remunerated (paid) work do not fall into poverty.

VI Vulnerable groups of women

The group also briefly discussed issues of vulnerable categories of women, such as migrant workers, rural women, disabled, indigenous women, impoverished women, and those who were considered of lower socio-economic status, among others. As regards to the measures in place to support those who were disabled, some countries took specific measures, including establishing a quota in education and employment, while many other countries had still a long way to go both in terms of promoting equal opportunities for education and employment, as well as providing the physical infrastructure to ease their mobility, especially for those who had physical disability. As for the poor women and those who are self-employed, credit and training could be provided for their economic empowerment, including the use of new technologies. The issue of lesbians, gays and bi- and trans-sexual (LGBT) was also raised. In cases where LGBT was illegal and socially unacceptable, they face severe discrimination in society in general, and as a consequence could be totally deprived of education and employment opportunities, hence being impoverished.

VII Role of International Legal Instruments

The participants also exchanged the country experiences on the extent of concrete measures taken to implement the principles of CEDAW. While having international standards are useful, at the national level, often the provisions are not fully applied, even though the countries have ratified the Convention. In one country, laws have been revised to make them in line with CEDAW. There are a couple of countries where there is a national mechanism to follow-up on the observations and recommendations of the Committee. Where it exists, the National Human Rights Commission also has a role to play.

In most countries, a National Action Plan for Promoting Gender Equality or Development has been adopted, to follow-up on the Beijing Platform of Action. In some countries, gender budgeting was used to allocate resources for taking necessary action. However, many participants felt that more work could be done to popularize and fully implement CEDAW, including revising laws in line with CEDAW principles. In this respect, the role of the civil society as a watch dog and for advocacy promoting gender equality (the media, in particular) was emphasized.

VIII Remedial measures

As for the legal remedies to redress violations of non-discrimination laws, many participants shared a view that it would take a lot of courage for a single individual woman to take some discrimination cases to the court. This was particularly true for poorer women, due to the related costs involved and the stigma that might be attached to the claimant, in case of legal action. The participants were of a view that taking class action or going to the Ombudsman would be easier for women. Other support measures taken and suggested were promoting social dialogue on equal pay and other gender equality issues, trade union action, and increasing women's membership in the unions. Promoting gender equality as part of corporate social responsibility with a reporting requirement on actual practices was another measure

suggested. However, in countries where finding a job for both women and men was already a major challenge, whether being treated equally or not, taking legal measures would be out of scope for many women workers.

IX Recommendations

The following were proposed:

- The ratifying States should reform the laws to make them fully in line with the principles of CEDAW, where there is room for improvement.
- The States should promote gender equality as a universal human right, regardless of culture and tradition – these cannot be used as an excuse for sex-based discrimination.
- The States should provide for legal services for those who are poor, so that they can seek gender justice.
- In addition to formal legal procedures, various and less formal procedures should also be used to pursue gender equality, such as use of the Ombudsman institution; promoting gender equality through social dialogue and corporate social responsibilities; strengthening the role of trade unions; and, increasing women’s union membership.
- Affirmative action should be taken in cases where some groups are disadvantaged due to the historical accumulation of discrimination to redress the existing inequality.
- The States should be encouraged to also establish a National Action Plan for Promoting Gender Equality or Gender and Development to give force to the principles of CEDAW and to follow-up on the Beijing Platform of Action.
- Civil society should also play a key role not only as a watch dog, but also in disseminating and advocating for the principles of CEDAW and other international legal instruments on gender equality.
- The media should play a positive role in promoting gender equality, rather than enforcing traditional gender stereotypes.
- The States should provide for basic social services and child care to ease the burden of unpaid care work on working mothers and fathers. Men should also be sensitized and more encouraged to take up more unpaid care work.
- The States have an obligation to provide for those who are vulnerable, including establishing a minimum social pension, and providing support to equal access to credit and training opportunities as a part of women’s economic empowerment.

D. Working Group 3: Cultural Practices and Social Empowerment

Summary of the discussion on key issues:

I Good practices in the promotion of gender equality, including on benchmarking progress

Participants noted that the promotion of gender equality usually begins with legislative reforms, which must be combined with effective implementation and regular monitoring. In countries where laws are not well developed, legislative reforms must codify the opinion of citizens and should be drafted in consultation with civil society, including at the local level. In countries, where laws are already advanced, the government should take a leading role to create conditions for public opinion change. Once the legislation is in place, it must be enforceable at all levels. In this context, it is important that the law enforcing authorities, including the judiciary, are adequately trained on gender equality issues.

Participants considered that in order to improve the promotion of gender equality through an effective implementation of legislation and change of social attitudes, it is essential that society is aware of the existing laws, the rights they have under these laws, and mechanisms for enforcing these rights. Therefore, human rights education, including a gender equality curriculum, should be introduced at all levels of education. In countries, where education enrolment rates are low and in areas with limited access to education, specific awareness-raising actions should be conducted at local level, especially among grass-root communities.

The group also discussed the representation of gender equality agenda and noted that diverse persons should act as envoys for gender equality issues. It is important that gender equality is not advocated only by selected groups, such as women or LGBT organisations, but by a broad range of assorted movements to raise the importance of gender equality at the national and international levels.

Finally, the group discussed the need to benchmark progress in the promotion of gender equality. Cooperation between statistical agencies, academia and activists was identified as one example to ensure comprehensive assessment of progress. Such collaboration could be achieved through inviting activists to universities as well as involving academics in civil society work.

Recommendations:

a) Good practices:

- Legislation must be adopted combined with effective implementation and constant monitoring, and accompanied by adequate budgetary resources.
- Gender-sensitising training for judiciary and law enforcement agencies must be implemented.
- Mainstreaming of gender equality throughout education, starting at primary level must take place.
- Targeted interventions at local level to empower communities must be undertaken.
- Donors must focus on all groups, and not only those with capacity to apply for funding.

b) Benchmarking progress:

- Cooperation with statistical agencies and academia to measure progress through data gathering and analysis must be encouraged.

- Constant research, knowledge- and capacity- building to influence the implementation and promotion of good practices must be undertaken.

II. Integration of gender perspectives in all levels of public and private institutions

Participants discussed the integration of gender perspectives in public and private institutions, as well as specifically considered the integration of LGBT issues.

Participants emphasised that data and statistics should be used as an entry point to recognise problems and develop tools for better integration of gender equality issues. In this context, participants gave the example on how statistics influenced the programmes on work and family life balance, which are developed more and more frequently and which integrate gender equality in both public and private institutions. Gender-sensitive budgeting was identified as a key element for integrating gender equality among institutions. Thus, funds should be allocated into professional gender-sensitising training of persons involved in budgeting. In addition, budget support to gender equality initiatives should be guaranteed; for instance, to facilitate divorce procedures. Concerning the private sector, participants saw working with companies as a key element to integrate gender equality. Companies should create their own equality plans to prevent and combat of all kinds of discrimination. However, companies should be supported in such initiatives by human rights specialists, for instance civil society organisations, to provide expertise in the development and implementation of such plans. Finally, participants noted that human rights education and awareness-raising at all levels play an important role in mainstreaming gender equality in public and private institutions.

Participants noted that integration of LGBT perspectives should be strategically adjusted to a specific context, in which it is implemented. In more open environments, the integration should be done in a non-artificial manner and on the same footing with gender equality, as both issues are based on common sources of suppression (religion, culture, tradition). At the same time, however, participants agreed that the LGBT and gender equality require different solutions. In more restrictive contexts, such integration should be gradual, based on a reasoned strategy, not to negatively affect civil society work on women's rights. In such circumstances, the support to LGBT should be less official and more pragmatic.

Recommendations:

a) Integration of all gender perspectives:

- Data/statistics and dissemination of information as an entry point to comprehend the gaps must be developed.
- Funds should be allocated for gender training of those responsible for budgeting.
- Integration of human rights, including gender equality, in education from primary level, as well as dissemination of information and awareness-raising among adults is needed.
- Positive examples should be built upon, including: work-family balance, equality plans in companies, facilitation of obtaining marriage and divorce certificates.

b) Integration of LGBT perspectives:

- Integration must take place in non-discrimination agenda in a non-artificial matter and on the same footing with gender equality issues based on common causes of suppression while ensuring different solutions.
- In more restrictive contexts, a more strategic approach is needed to first open the possibility for dialogue and actions and not to negatively affect work of women rights NGOs.

III. Strengthening of the gender equality machinery through existing policies, institutions and legal frameworks at national, regional and international levels

Participants identified several general actions that must be undertaken to strengthen the existing gender equality machinery. Firstly, gender equality should always be seen as a human right, including individual claims of human rights violations. Secondly, the concept of gender equality should include all gender identities in a broad sense, such as LGBT. Thirdly, reservations to CEDAW should be withdrawn to ensure the full implementation of the Convention.

As regards specific actions, participants underlined again the need for data on gender equality to advocate for adequate response, especially in the labour market. Some examples given by participants included statistics showing that: girls outnumbered boys in university graduation but not in the work force and particularly not at higher management positions; despite increasingly common programmes for paternity leave, still vast majority of mothers stay with children as men earn more. In addition, a “shaming” strategy using data can be used as an immediate strategy. Moreover, participants considered that affirmative actions, such as quotas, are positive as long as they are applied correctly and as temporary measures that lead to change.

Finally, participants discussed actions to be taken at the international level. They agreed that the recently established UN Entity for Gender Equality and the Empowerment of Women should improve the visibility and effectiveness of the individual communication procedure established under Article 2 of the Optional Protocol to CEDAW, ratified by majority of the member state signatories of the Convention. While CEDAW is one of the most internationally-ratified human rights treaties and the Optional Protocol to CEDAW provides an individual complaint mechanism, the number of complaints brought under the Protocol remains rather low. Partially, it can be explained by a low visibility of the individual complaint mechanism. Currently, there is no specific and well-known website; there is little information on the complaint procedure and no relevant contact information. Consequently, in order to be effective it is important to ease the access to the procedure for ordinary people.

Recommendations:

a) General actions:

- There must be a human rights-based approach to gender equality.
- The understanding of the term “gender” must be broadened to include all gender identities.
- Removal of all reservations to provisions of CEDAW must be encouraged.

b) Specific actions:

- Data gathering must be done to identify trends and find solutions.
- Access to labour markets must be facilitated.
- Affirmative actions as temporary measures need to be correctly applied.

c) UN actions:

- The UN Division for Advancement of Women and CEDAW Committee should provide more easily accessible information on the Optional Protocol Communications Procedure.

IV Cultural practices and tradition hindering or facilitating gender equality

Participants emphasized that it is not possible to overcome cultural traditions. Instead, it is important to work within culture based on common interests, such as the rights of the child. In addition, participants noted that within culturally-diverse societies, culture can be used to broaden perspectives by mixing different concepts of various cultures and even to demolish prejudicial and extreme misconceptions.

Participants also discussed the role of women in religion as a tool to endorse gender equality. The group underlined the need to promote and facilitate women's roles in religious practices. Religious rituals and ceremonies are important; once they are opened to women, gender equality becomes more visible.

Furthermore, participants agreed that law and ethics are interrelated. Sometimes it is possible to change ethics, including attitudes, through law, for example de-criminalization of homosexuality or abolishment of polygamy.

Recommendations:

a) Culture:

- Attempt to work within cultures based on interests common to all groups, e.g. well-being of children;
- Use other cultures to broaden perspectives; and,
- Invent new cultural practices that promote gender equality.

b) Other aspects:

- Promote and facilitate women's roles in religious practices.
- Alter ethics through law by e.g. de-criminalisation of homosexuality.

V The role of various actors, media and human rights education in the promotion of gender equality in the context of cultural practices and social empowerment

The group discussed the role that various actors play in the promotion of gender equality. Participants underlined the importance of every individual to have the interest and ability to

make a small change in this respect. As a result of every person acting in his or her own capacity, a substantial change will follow. In the situation when an individual is powerless, there is a need for a leader who will bring the change. Artists play an important role in subverting customs that are prevalent in society and often promoted in media. One example of artists' positive influence on gender equality is when female actors play roles traditionally performed by male actors. Participants also highlighted the role of movements that work to improve the cultural image of women, such as middle-aged women's movements to promote the appreciation of the female form at all ages to overcome stereotypes.

Participants agreed that the media must promote gender equality. They further underlined the need for a holistic approach in working with and through the media. On the one hand, it is essential to cooperate with mainstream media through building one's own networks of contacts, particularly with editors-in-chief, and influencing the media from the inside. Working with people and influencing their preferences on what they wish to watch is likewise required, as the media will ultimately broadcast programmes of high popularity and good ratings. More work needs to be done to promote the use of gender-sensitive language by journalists.

Developing and working through alternatives is equally necessary. In this context, the internet offers various opportunities and serves as an important tool. It is important for women to be more active in making the full use of it, for instance through socio-political blogging. In countries, where internet is blocked or of limited access, local initiatives, including grass-root communities, should be conducted.

Human rights education requires a holistic approach to be applied to both formal and informal education. In formal education, human rights should be taught at all levels, from primary to post-graduate. The majority of participants agreed that human rights should be threaded through various classes to demonstrate the links the human rights have with many different subjects. For example: in more restrictive contexts, human rights could be taught indirectly and linked to for instance classes on reproductive health or biology. Some participants reflected that in more open contexts, human rights could not only be mainstreamed but also taught as a separate class to give a comprehensive approach. In order to effectively conduct human rights education, further efforts are needed to adjust text books and train teachers. In addition, participants underlined the role of the informal education through local information centres that work together with authorities, local police, civil society and ordinary people. Participants considered that informal programmes are a key for work with local communities.

Recommendations:

a) Actors – apart from traditional actors

- Artists must be utilised as “subverters” of stereotypes.
- Movements that change gender images – e.g. promotion of image of middle-age women – must be encouraged.

b) Media

- Work with mainstream media – building own contacts combined with influencing the public opinion on what media should show;

- Work through alternatives – internet (including socio-political blogging of women) or local media; and,
- Promote use of gender-sensitive language by media.

c) Human Rights education

- Formal education should focus on mainstreaming human rights through various subjects rather than having a single class on human rights and should cover all rights.
- Informal education should build on good practices, e.g. local information centres, games and work undertaken with children

VI Forced marriages and discrimination based on marital status

Participants emphasised that the prevention of phenomenon of forced marriages requires an intervention of the State. It is an obligation of the states to ensure that forced marriage in any form is forbidden by law. At the same time, the law must guarantee equal rights for men and women during marriage. States must also provide security for women so economic and political inequalities would not lead women to perceive marriage as an occupation or a way to migrate cross-border.

Legal guarantees must be accompanied by efforts to change social attitudes and practices. Some examples given by participants in this context included: marriages for one night (temporary marriage based on a contract for payment), which are an entry point for sex work; young girls, who get pregnant are forced to marry to “safe face” based on religious rationale.

Participants gave a special attention to child marriages, particularly common in rural areas. Children are one of the most vulnerable and disadvantaged groups as they depend on adults and in many societies are seen as a property of parents. All instances of child marriages should be prosecuted with no delay and the penalties should be adequately severe. This must be accompanied by awareness-raising campaigns, especially at the local community level.

Recommendations:

- Adopt and implement laws that prevent forced marriages in all forms; put wife and husband on equal footing in all aspects, combined with the change of social attitudes.
- Particular attention must be given to children as the most vulnerable group, sometimes treated as property of parents

VII Equal sharing of family responsibilities

Participants noted that men need to be integrated in all gender issues, such as reproductive health and family planning. A space for dialogue between women and men should be created to facilitate the discussion and joint-decision making.

The group specifically focused on the issue of parental care. In Europe, paternal care is progressively introduced in an increasing number of states. Still, not many fathers do take paternity leave. Due to differences in wages between women and men, maternal leave continues to make more economic sense for families. In order to encourage men to take

paternity leave, it is important to start with the basics and to ensure equal employment rights, including wages.

Participants underlined the need for education and awareness-raising among men to change stereotypes.

Some good practices discussed included draft Swedish legislation on six-month' leave for *mothers*, six months' leave for *fathers* (that cannot be transferred to the mother) and an additional six months' leave for *either parent*.

Recommendations:

- Involvement of men in all aspects of gender issues, e.g. reproductive health and family planning must be facilitated.
- Space must be created for dialogue between men and women to discuss common issues and make decisions jointly.
- Substitution of maternal leave with parental leave, combined with awareness-raising among men, should be promoted in addition to the promotion of mandatory maternal leave (e.g. 6+6+6 Swedish draft).⁵

VII Traditional practices such as female genital mutilation

Participants noted that traditional practices, such as female genital mutilation, should be addressed not only as a human right, but also as a health concern. Placing such sensitive issues in the discourse around public health would facilitate the discussion.

Awareness-raising via e.g. internet and media but also at community levels is essential among all stakeholders and not only those directly affected. There must also be leaders to start bringing about such change.

Finally, participants noted that acceptance of transgender children should be widespread and that the child shall be allowed to decide on their gender when reaching majority age. In addition, participants considered many practical obstacles faced by parents of transgender children, for instance the obligation to mark the gender while registering for health care and schooling. Thus, there is a need to create a separate category for third gender, which called "neutral".

Recommendations:

- Address issues such as genital mutilation not only as a human right, but also in the context of public health to open the discussion about it.
- Raise awareness among all stakeholders using all possible channels of communication (including among local communities) with leaders who break barriers of silence.

⁵6+6+6 is not a draft legislation yet, however the issue at hand which has been discussed implies that each parent gets 6 months each and then it is for to the parents to decide on the remaining 6- month period.

- Accept transgender children by creating a third gender category and allowing children to decide themselves about their gender later as adults. Such measures should be accompanied by awareness-raising at all levels.

E. Working Group 4: Gender Related Violence

The group identified the following expectations from the discussion:

- a) Issues and challenges with reference to gender related violence
- b) How different countries try to address these issues
- c) Networking to better foster partnership and enhance knowledge (from a comprehensive gender perspective: including women, men, LGBT, etc.)
- d) New paradigm on how to solve gender related violence

I General Issues

The group started with a broad discussion on relevant issues.

Violence against women is a hurdle to achieving gender equality. It is a universal phenomenon. There is no particular region or civilization that is exclusively affected. The culture of undervaluing of women exists and continues to exist everywhere, but socioeconomic conditions can mitigate the consequences and the effects of such violence. It was emphasized that there is a need to focus on the roots of prejudice related to family, tradition, and culture. We must be aware of prejudices as they influence mindset. The division between the private and public spheres is artificial and there is a continuum from private to public.

The sexual exploitation of women in the media influences societal attitudes towards women and perpetuates gender-based violence. The media capitalizes on what sells and young people's exposure to sexuality through the media. The stereotypical views and perceptions of the gender roles in the society need to be altered and there has not been change as of yet. Even though the percentage of girls attending educational institutions has increased women are persistently perceived as being weak. The State must play a bigger role in bringing about change in this area. Some participants noted that the "West" does not recognize the perverse effects of culture but only links inequality with ethnicity. There are also urban-rural differences in the nature of violence against women. The group also pointed out to the difference between gender-related vs. gender-based forms of violence.

- a) Gender-based includes violence relating to woman vs. man
- b) Gender-related includes violence against LGBT persons

The focus of the discussion was on gender-based violence without excluding violence against LGBT persons.

Gender-based violence law shall ensure that perpetrator is held accountable and safety of the victim is protected. Participants noted that in some countries laws on violence against woman is more developed and provide more progressive

protection/prevention measures than in the others, including use of pre-emptive detention to prevent instances of immediate violence. For example, if a woman lodges a complaint that a man is dangerous and exhibiting signs of violence, pre-emptive detention may be used to diffuse the situation.

General responses against violence:

- a) Structural violence must be addressed in terms of – violence against women vis-à-vis the State. In spite of the fact that there are laws for the protection of women, there is a gap in implementation and low intensity discrimination is prevalent.
- b) Laws do not self-fulfil and much effort is needed. Frameworks, benchmarks and indicators of implementation are needed for government to implement the laws effectively, in addition to creating new anti-discrimination laws or laws on gender equality.

Women must be supported in their recourse to law. In Bulgaria, there is an Anti-Discrimination law with 19 different grounds, which provisions provide a wider scope of protection against gender-based violence than it is provided in other European countries. In practices, however, very few cases have come to court and none have been successful as the burden of proof is on the victim. Many women choose not to pursue cases 1) they feel ashamed and do not want to publically come forward; 2) feel guilty, as if they provoked the behaviour; 3) fear of losing the case; 4) lack of legal precedent; 5) fear of losing job and income, especially when there are few alternatives; 6) even if they win, then what?, 7) want to avoid backlash, 8) relatives and family may not be supportive; 9) belief in self-help alternatives; 10) mediation procedures tend to be more common way of protecting privacy and getting compensation and reform in companies.

II Institutional responses and their efficacy

There are many government agencies with specific focus on gender-based violence. The main concern remains with regard to the access of women to the assistance they may provide. The most dependent women who are the most vulnerable have limited access to these institutions and to the laws. Even good structures, systems, and laws operate within a patriarchal system. One of barrier to adequate responses to gender-based violence is the biased attitude of law-enforcement officials, including police and judges. Those who are called upon to enforce the law and to protect women from all forms of violence, such as the police do not take instances of the domestic violence perpetrated against women with the necessary degree of seriousness. State agencies are more focused on upholding the family institution and the best interest of the child rather than striving to combat gender-based violence. Often women are blamed instead of the perpetrators.

Aside from weak implementation, indicators of good implementation need to be identified. A broad range of programmatic measures must be implemented (i.e. public awareness, sensitivity training of law enforcers, monitoring function/mechanisms, etc.) These programs are not part of law itself, but left to the discretion of the executive. However, now there is a trend in some countries to include these programs and budgetary allocations into the law itself to make them compulsory.

It was reported that in some countries, NGOs advocates, shelters, and organizations that facilitate access to justice. However, there is a phenomenon of women leaving abusive relationships, going to organizations, and then returning back to abusive households. This is due to the personal weakness of women, who cannot break up with these men. More psychological support is needed to give them the strength to do so. It was also expressed that the law must protect the women regardless of their choice. Sometimes women cannot afford to divorce so they feel pressured to return to abusive relationships.

In some situations, cases brought against offenders are not handled well. The media can play a role in demanding justice is done and public opinion is important. The group also discussed the effectiveness of national gender equality machineries. Many felt that these institutions had low capacity and their scope is limited and in the cases when they have a high profile, they still function within patriarchal norms.

III Sharing of country's specific examples and promising practices in relation to violence against women

In Korea, there are many programmes for victims, including counselling and assistance (i.e. legal and medical) centers. The government provides victims temporary homes/emergency shelters/special protection facilities, including for migrant women. There is a 24-hour hotline for women. Legal provisions exist for women and child victims of abuse – basic human rights protection from violence.

In Greece, there is good legislation for trafficking and domestic violence. Over the last five years, new laws have been passed. However there is lack of financial support to effectively apply the laws. There is insufficient monitoring and implementing, and very little data collection especially on trafficking.

In the Philippines, there is an independent constitutional body – multiple commissions, inter-agency committees and bodies specifically dedicated to women – which serve policy making and implementation functions. Anti-trafficking and anti-violence are concerns which are being tackled. The Magna Carta for Women has been enacted. However, due to lack of gender-segregated data, it is impossible to track cases separately and efficiently.

In China, more laws are being adopted, but more review is needed from a human rights perspective. There is a need for clearer definitions for the rules to make sure they are achieving their purported goals and that all those affected are having their concerns addressed. To stop the violence, more resources (human and budgetary) are needed. Also follow-up care and action is needed; moreover, capacity building of civil society is crucial. There are limits to a legal approach and all perspectives should be considered.

In Myanmar, there is a Working Group on Violence against Women, which carries out activities to prevent violence and protect women. The organization has an overall committee (state-level), then sub-committees all the way down to village/community level. There are counselling centres, as well as processes and follow-up to address any shortfalls. The aim is to support victims as best as possible.

In Pakistan, a new bill for domestic violence has been passed by the national assembly and currently held up at the senate. The objective is to bring about new methods of implementation to address violence against women in a most effective way. Under new law to get a redress, women do not necessarily have to go through the court system but use local level processes and mediation systems (jirgas) which tend to be male-dominated. Consequently, the most common outcome of both local level mediation process and more formal legal proceedings when a case goes through the judicial system, is a “send her home, reconcile” decision. These “conciliatory” decisions do not always address underlying issues, including psychological violence. Without a sustainable call for justice, this can ultimately result in the complainant becoming more vulnerable and even shamed through public exposure.

The media plays a major role – often shows women’s stories to highlight the sadness of the tale and demanding justice but there is no follow up. . This can ultimately make her more vulnerable by showing her experience and shaming her without sustained calls for justice.

There is a problem with being dependent on foreign funding. CIDA (Canadian International Development Agency) closed its women’s programs; USAID is trying to be more culturally deferential and prioritise war-settlement as its primary target.. Peace negotiations are excluding women, and accordingly new local mechanisms of resolutions are not reflecting women’s concerns. The international donors have “larger problems” than women’s issues, and hardly make any effort to ensure meaningfully involvement of women in rebuilding process. In Indonesia, children who do not conform to gender norms can be persecuted, even by their own parents.

In Thailand, victims must participate in investigation and prosecution. This is a problem and can exclude trafficked women. There is also a question of objectivity of gender monitoring bodies, since appointments could be a political patronage, rather than through demonstrated commitment to the issues.

In Singapore, there is no specific law pertaining to domestic violence act but there is a Women’s Charter. There was a problem of making domestic violence a crime because women were reluctant for their spouses to serve a prison term. Informal mechanisms, such as mediation/reconciliation/counselling are considered to be intermediary steps. Protection orders are not unusual. If the spouse is a repeat offender, the punishment is doubled. Since enforcement is so strong, deterrence is effective. Women can even bring husbands to court for verbal abuse. There is also a one-stop family court with medical, legal and other forms of comprehensive assistance all in one place. However, legislation to address trafficking is lacking and awareness-raising is still needed.

IV Issues pertaining to mainstreaming

In Malaysia, the Ministry of Women, Community and Family Development is responsible to ensure mainstreaming. They train gender focal points in all ministries and there is an inter-ministerial committee in charge of reporting to CEDAW Committee. However, political will is weak and lack of understanding of gender issues are impediments to gender mainstreaming in national policies and programmes. Many bureaucrats have other areas of expertise (trade, economics, etc.) than women’s issues or understand how to incorporate gender into their area of work. While the Prime Minister sets “Key Performance Targets” in the public sector, it is not always evident

that gender links are sufficient, or that these links work well with realities of how ministries operate their departments.

In the Philippines, gender-sensitivity training has been administered all across the country at all levels of government. However, impact of gender sensitisation at all levels has been uneven. Still the power of example can make a big difference. If a high level official speaks about gender, it can create a trickle-down effect. Gender budgeting has to be institutionally implemented by everyone. But there are several challenges. It is unclear what programs gender budgeting will support and there were problems with monitoring to ensure cost-effectiveness and direct benefit for women. A newly implemented audit system has been acknowledged as successful at ensuring that earmarked finances are better used, for fear that the money will be withdrawn. Moreover, every institution must have a Policy on Decorum, which must include sexual harassment provisions. All government sectors must have executive trainings on sexual harassment. There are some problems in private sector, though some have strict policies (e.g the newspaper The Philippine Daily Inquirer). There is the recognition of success stories – The Inquirer gives media attention to positive trends as part of their corporate social responsibility. For example, if a company gives a public statement against abuse, then the Inquirer will publish a story praising them.

In Bulgaria, national commissions, departments, action plans, are in place with no substantial practical impact. There are problems with persistent change of gender mainstreaming plans brought about by new governments every four years.

In Indonesia, LGBT issues and broader gender concerns have been mainstreamed in particular sectors.

V The responsibility of the private sector

The group discussed the role of the private sector in promoting gender equality was discussed. It was considered that private sector is very important because of the increased privatisation of the economy.

In Norway, (even though they are not in attendance as part of this group): it was reported that the participation of women in private sector is obligatory and companies must have 40 % of female representation on their governing boards.

In Spain, the law says that no gender shall have more than 60% participation on company boards.

In Sweden, companies were asked to implement a quota for women; if not, the state made clear that it was prepared to legislate such quotas. The result is that, while not mandatory, women number 50% on company boards today despite that this was not a trend 20 years ago. In Malaysia, indigenous groups have been excluded in some development initiatives, As a consequence, women are negatively impacted by private companies and government has relinquished its responsibilities onto these companies since there is minimal government presence in the isolated rural mountainous areas where indigenous people live.

In Pakistan, the privatization of the public sector is a problem. Whereas the “soft” private sector (medical, educational) can be more female dominated, corporate sectors remain male-dominated.

VI Specific issues regarding violence against women

LGBT issues

The group identified the need to link LGBT issues to women’s protection. In Indonesia LGBT and feminist movements are interrelated. Violence has been perpetrated against “lady-boys” because they are “like” women. One can escape physical persecution if behaves in accordance to the accepted gender norms.

In Pakistan, a few years ago, there was a transgender marriage where a female-to-male married a woman. The couple was arrested and given a jail sentence. Not because they broke a law, or an Islamic law, but they were tried for perjury for false testimonies about physiognomy under oath. The case now is pending before the Supreme Court. While the Court has recognised that transgender people have legal rights, the law is silent on issue of transgender marriage. The common attitude, however, is of pity “poor things, born like this”) But the same rights are not given (or silent) on issue of male to female. The court made a recent judgment that two women could live together, because someone has to witness penetration to make it a crime.

In Malaysia, one cannot change one’s gender identity on official documents. Two men or two women suspected to be in intimate relationship can be penalized There is a growing public awareness of a transgender person but it has not been translated into law. There are indecency/sodomy laws in the penal code. There is moral policing, and the Sharia can be used to prosecute. At present, civil society is actively mobilizing around the right to sexual independence. In Bulgaria, the right to choose sexual orientation is covered under the law and there is a legal basis for changing identity cards. The gay pride parade held in the country this year, received full political support.

Women in armed conflict

The situation of women in armed conflict continues to be a problem. During a time of conflict, women remain the most vulnerable and are particularly susceptible to physical and sexual violence. Raped women can be disowned by family and are often recruited into the sexual services market. The UN Security Council has passed a number of resolutions to combat the violence against women, but implementation remains weak. It was reported that no country engaged in war has a plan for the implementation of Security Council Resolution 1325, which emphasizes the need for women to be involved in reconstruction, leadership, and peace-building and peace-maintenance processes. This is critical due to particular vulnerability of women during the war and the post-conflict reconstruction: women do not get refugee status or identity card on their own; they are appendages of their family and they largely do not have skills or mobility to network. Positive examples of the participation of women being built into the peace and reconstruction processes are Nepal and Rwanda. Participants were reminded that Security Council Resolution 1325 celebrates its 10th

anniversary on the 30th of October 2010. The group also pointed out that the dynamics of violence against women in peace and war situations must be addressed.

Sexual harassment

The issue of sexual harassment was discussed. In Malaysia, there is a code of practice in the workplace for public sector. The private sector was asked to adopt it as well; however, less than 3% actually adopted it. The move toward having a bill on sexual harassment was shot down due to active lobbying on the side of the employers. The group also agreed that there is a problem in the context of harassment – the majority of employment is not in a formal corporate structure. Even those who should be champions of worker's rights (trade union leaders) may maltreat women.

Prostitution and trafficking

The group agreed that the human rights violations of trafficked persons and the exploitation of women through prostitution caused by poverty need to be addressed in the context of gender-based violence.

The participants discussed promising practices with regard to prostitution and trafficking. In Spain, legislation and an action plan on trafficking has been passed. In Germany, prostitution is now legalized: women have recognized rights to provide sex services for a charge and shall pay taxes on income received.

Trafficking is a serious trans-boundary crime and cross-border cooperation to combat trafficking is crucial. It was pointed out that the relationship between ASEAN and EU countries is important to combat the problem of sexual exploitation of women.

Women do not report sexual assault due to a fear of being deported should they lodge any complaint. In this context protection of victims, including safeguards in immigration law are critical. It is important to criminalize those who buy sex services to deter the organized sex market. On the other hand, victims face procedural challenges (i.e. proof of trafficking) in accessing asylum.

Another aspect is to operationalize rights across borders and distinguish between those who have agency vs. those who are trafficked.

Information technologies are important tools for recruitment of trafficking – this is an under-legislated area. It was pointed out that special police task forces are needed to monitor illegal activities on the internet, rather than through censorship. Monitoring online (or ICT) activities can be challenging.

The group agreed that labour trafficking is also an issue, not just sex work. Further, concerns were raised about victims' treatment in "protection" centers. In this regard, participants referred to 10 Point of Action on Refugee Protection Plan under UNHCR as a good policy direction.

Forced marriages and honour killings

Participants agreed that there was a need to have a law on forced marriage and other harmful/criminal practices such as honour killing. In many of these cases women are

viewed as property, there is a desire to control women's sexuality/virginity and because of heteronormativity. There was no agreement on the need for a specialized law (*lex specialis*). Laws on murder should be used if there is a killing.

Underage marriage is recognized in religious forums, even if formally not recognized by the government. In Malaysia, civil society groups, including Muslim women's groups, hope to transform cultural practices. These are dynamics which are not inevitable and can be changed regardless of religion. Thus, in the event that young girls in migrant communities are taken to "home" countries for marriage, embassies should intervene. Girls are isolated in these migrant communities and this is a widespread practice. A more proactive stance is needed to intervene to extend protection.

States refrain from interfering in minority groups' practices. Governments have no structured policies to address harmful cultural practices (including "forced genital mutilation") which should be looked upon as inflicting torture and damage to health. In France, debate on religious symbols in the classroom presents a complex issue of social inclusion of migrants. There is no intention to exclude young girls who wear the headscarf for religious reasons, for example, from public education, but to maintain secular values.

Recommendations

Gender Equality in General:

Governments are encouraged to work with civil society, so they have NGO input
Laws should be implemented effectively. There is a need to:

- a) Benchmark progress – develop good indicators to mark results of laws and policies
- b) Develop a checklist of factors needed quantitative and qualitative for effective implementation

It is recommended that:

- a) Gender mainstreaming be used in the formulation of policies, and indicators developed to do auditing and follow-ups to monitor these policies
- b) Strategic plans for capacity-building be developed
- c) Sexual harassment clauses be included in parliamentary and civil service sectors
- d) Trainings for gender sensitivity and mainstreaming be made compulsory
- e) Governments integrate international obligations into policies and practices
- f) Countries engaged in war adopt and effectively implement SC Resolution 1325
- g) The 10th anniversary of SC Resolution 1325 and the role of women in peace processes and reconstruction be highlighted

- h) A human rights approach be taken for domestic violence laws ensuring accountability of perpetrators and protection of victims
- i) Defences on the basis of morality in criminal law be abolished and reconciliation not be made mandatory
- j) Data collection (prevalence, response in criminal justice) be strengthened
- k) The interconnection be strengthened between research and practice
- l) Close cooperation between countries of origin, transit, and destination in tackling trafficking is established
- m) State enforcers be more proactive in gathering evidence
- n) Assistance to victims should not be conditional
- o) Honour killings be treated as murder and not under parallel laws
- p) Content of laws include procedural and implementation provisions (allocation of budget, training, etc.) so it is not left to the discretion of the executive

To civil society to strengthen the advocacy, it is recommended that

- a) Sustained and concerted change to societal attitudes be made complementary to any legal reform through public education / awareness campaigns
- b) Rights of LGBTs are incorporated into gender frameworks explicitly acknowledging that LGBT is sex discrimination subsumed within marginalization that women face
- c) A more nuanced understanding of gender related violence is developed
- d) Law reform advocacy be undertaken to decriminalize homosexuality
- e) The scope of protection under incitement of hatred laws should include grounds of women/gender and LGBTs

F. Concluding Observations

The seminar addressed a wide range of issues pertaining to gender equality and women's rights. While discussion was specifically focused on the international human rights of women, questions relating to gender-identity have been raised; including rights of a wider scope of right-holders, in particular LGBTs. The themes and cross-cutting issues discussed demonstrated the universality of approach to international women's rights and common understanding of the nature of rights both by the European and Asian participants.

Further, there has not been a divergence in relation to the substance of rights, as stipulated in the UN Convention on the Elimination of all Forms of Discrimination against Women. It was emphasized that a broad-spectrum policy measures at the national, regional, inter-regional and

international level are required to tackle all manifestations of inequality; the core of gender-equality policy includes an effective legal framework and functional gender equality institutions/mechanisms; change of traditional attitudes towards gender and perceptions embodied in culture, religion and social practice frequently used as justification of gender-related violence and discrimination.

The work of the thematic groups and the final plenary session demonstrated the commitment of all the participants to the constructive dialogue. The rapporteurs have been attentive to all views and individual opinions expressed during the discussion and provided accurate summary of the discussions presented to all the participants during the final plenary session.

Common understanding of the fundamental importance of international women's rights, as well as willingness to share experiences and practices in the spirit of constructive dialogue demonstrated strong commitment of ASEM governments to gender equality and related policies.