

REFERENCE: CEDAW/js

31 May 2016

Dear Ms Šimonović,

This is in response to your letter dated 15 April 2016 which posed a few questions on the possibility of a new convention on gender based violence against women (GBVAW).

I circulated your letter to all the members of the Committee for consultation; therefore you may consider that my responses below are the reflection of the majority view of the Committee.

Though you posed 5 separate questions, please allow me to write my responses in a consolidated manner (I divided the questions into 2 parts; About the Necessity of a New Convention and Implementation Strategy), as these questions are inter-related.

I. About the necessity of a new convention on VAW

My answer is negative to this question due to the following reasons;

1. Adoption of GR 19 and its subsequent practice

Though the Convention on the Elimination of all forms of Discrimination against Women (the Convention) does not explicitly have a provision on GBVAW, the Committee adopted its General Recommendation No.19 on VAW (GR19), which became a source and inspiration of various international and regional documents including the Declaration on the Elimination of Violence against Women adopted by the General Assembly. As a Committee's authoritative interpretative tool, GR19 defined that VAW constitutes gender based discrimination in the meaning of article 1 of the Convention. Since its adoption in 1992, States parties have not challenged the validity or competence of GR 19 which governs the issues of GBVAW. In both constructive dialogue with states parties and the procedures under the Optional Protocol, GR 19 has been frequently availed by states parties, the Committee members and other stakeholders including civil society organizations.

Ms. Dubravka Šimonović
Special Rapporteur on violence against women,
its causes and consequences
Buzanova 36, Zagreb
Croatia

E-mail: dubravkasimonovic@icloud.com

It should be noted that under GR 19 in conjunction with articles 1,2, and 5 of the Convention, redress for alleged violations has been adequately addressed by the Committee.

Therefore it is the Committee's view that the Convention has a living provision on GBVAW in its present form. Currently a working group in the Committee, which aims to codify the positive developments since the adoption of GR 19, works to update the GR. I envisage that an updated GR will be adopted by the end of this year.

2. Avoidance of fragmentation and States parties' burden

As you are aware, currently the treaty bodies as a whole undergo a process of strengthening as well as reform. We should avoid fragmentation of policies and legislation at the UN level. A new instrument and its new monitoring body would certainly increase the burden of States parties and reinforce the trend of fragmentation. As far as I am concerned, the creation of a new convention is contradictory from a viewpoint of States parties which have urged the Committee to streamline our activities.

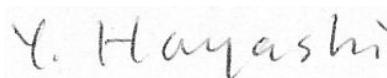
On a positive note, we have seen the mainstreaming of gender in the UN human rights mechanisms especially in other treaty bodies in the decades. Nowadays many of the treaty bodies have their general comments relating to gender, which refer to GBVAW (e.g. General Comment No.28 of the Human Rights Committee). If we have a comprehensive look into the collective jurisprudence, we could conclude that the UN human rights mechanism has been well equipped with the necessary instruments.

I also would like to draw your attention to the current economic atmosphere which negatively impacts many parts of the world. While many States parties are struggling in cost-cutting of social programs/ budgets including those for combatting VAW, it is not an appropriate time to propose a new convention.

II. Implementation Strategy

You questioned about the measures to accelerate prevention and elimination of GBVAW. The Committee will provide a comprehensive answer in our new GR 19 whose first draft will be shortly publicized. Briefly it shall emphasize the importance to collect data and monitor the situation on VAW, adopt laws and policies which reflect development over VAW by increasing women's participation in decision making bodies, and reinforce women's access to justice for substantive redress. These measures should be country specific, and the Committee addresses these issues in its engagement with States parties through its lists of issues, constructive dialogue and in turn makes recommendations on GBVAW in every concluding observation.

Please accept my highest respect to your work as SRVAW. The Committee looks forward to continuing a dialogue with you.



Yoko Hayashi
Chairperson

Committee on the Elimination of Discrimination against Women