

women are addressed or acknowledged within the mainstream human rights mechanisms, but also by the nature of the inclusion within the mainstream.

There are two comments which can be made about the nature of the inclusion of the human rights of women within the mainstream of the human rights programme. First, and not surprisingly because of the lobbying surrounding the elaboration of the Declaration on the Elimination of Violence Against Women and the establishment of the Special Rapporteur on Violence, mainstream mechanisms have shown themselves to be amenable to the view that gender-based violence is an issue of the human rights of women and, accordingly, have been willing to address forms of violence against women and girl-children as questions of human rights. So far, however, these mechanisms have not begun to employ gendered analysis of human rights norms in a pro-active manner to promote pro-woman policies and practices.

Second, inclusion of the human rights of women by these mechanisms has not had an apparent analytical basis, but has, rather, taken the form of considering whether women are an affected group – an approach which can be described as ‘just add women’. There has been little analysis of why women do or do not feature in the work of the relevant mechanism and no real examination of the economic and social characteristics which might explain the presence or absence of women. A notable exception in this context is the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions who has twice reflected on why the victims he deals with during the course of his work are disproportionately male. As he points out women continue to play a small role in the political and economic life of many countries. The under-representation of women in positions of influence, for example in political parties or trade unions, or in professions such as law or journalism, means that they are also less exposed to acts of violence at the hands of governments that may perceive them as a threat. On the other hand, in areas where women are actively participating in public life, they do not seem to be in a different position from their male counterparts.²⁴⁴ This reflection is interesting in that it represents a high level of gender awareness in a mainstream mechanism, thereby testifying to success in attempts to mainstream the human rights of women. It is also interesting in that it reveals the limits of these attempts at mainstreaming, indicating that the vulnerability of women to ‘execution’, which is extrajudicial, summary or arbitrary outside the traditional public sphere has not been encompassed within the mandate of the rapporteur, either at an official level or by the rapporteur personally.

Efforts to mainstream the human rights of women within the United Nations Programme of Human Rights have not been confined to human rights mechanisms, but have extended into the secretariat of the Human Rights Centre and into its work. In 1994, a focal point on women’s issues was established in the office of the Secretary-General for Human Rights to deal with matters relating to the human rights of women within the Centre for Human Rights as well as system-wide. The focal point also advises the Assistant Secretary-General for Human Rights and the High Commissioner for Human Rights on measures to be taken to integrate gender concerns within human rights activities. The Centre has amended its Plan of Activities for the Implementation of the Vienna Declaration and Programme of Action to incorporate activities related to the human rights of women and in 1995, prepared, with the Division for the Advancement of

244 UN Doc E/CN4/1997/7, para 716; UN Doc E/CN4/1995/61, para 415.

Women, a joint workplan relating to the human rights of women.²⁴⁵ In 1995, the Centre, in collaboration with the United Nations Development Fund for Women (UNIFEM), organised an expert-group meeting to develop guidelines to incorporate gender perspectives into the work of the United Nations human rights system.

There is some evidence of the introduction of gender within the Centre for Human Rights programme of advisory services and technical assistance in the field of human rights,²⁴⁶ which takes the form of advisory services of experts, human rights seminars, training courses and workshops and fellowships and scholarships. Women have been recruited to implement human rights technical assistance projects in some countries and a roster of women experts in the field of human rights is being developed. Some attempt has also been made to integrate gender in the Centre's public information activities. Number 22 in the Human Rights Fact Sheet series, which are translated into the six official languages of the United Nations and distributed worldwide free of charge, published in 1995, concerned the Convention on the Elimination of All Forms of Discrimination Against Women. There is a commitment to incorporate a gender-perspective in other publications, although to date the practical results of this commitment are difficult to discern.²⁴⁷ Many of these efforts coincided with preparations for the Fourth World Conference for Women, during which the Human Rights Centre participated in a number of special activities, including a panel discussion on the human rights of women and a panel discussion on violence against women. Representative of the importance of the human rights for women for the Centre was the presence of the High Commissioner for Human Rights, Mr Jose Ayala-Lasso and the Assistant Secretary-General for Human Rights, Mr Ibrahim Fallh.

Conclusion

The above review indicates solid evidence of attempts by the United Nations Human Rights framework to mainstream the human rights of women. However, it is clear that the aim of mainstreaming requires further and significant efforts. At this point, certainly, the human rights mechanisms and the Centre that services them are clearly aware that gender is an important dimension of human rights. Nonetheless, the real implications of gender for the work of these mechanisms and for the Centre has not yet been understood. Mainstreaming of the human rights of women has been confined to the formulation of the human rights agenda and has had little impact on the shaping of the agenda or the work within the agenda. With isolated exceptions, the approach has been to add women to the existing framework, not to modify the existing framework to take account of the gender dimensions of human rights.

245 E/CN.6/1995/13.

246 It is interesting to note that the first resolution concerning technical assistance in the field of human rights adopted by the General Assembly (res 729 (VIII), 23 October 1953)) approved a decision by the Economic and Social Council to render, at the request of Member States, services which did not fall within the scope of current technical assistance programmes, in order to assist those States in promoting and safeguarding the rights of women. More recent activities are described in the integration of the human rights of women into the activities of the human rights bodies and mechanisms, HR /Geneva/1995/EGP/BP. 1, pp 6-8.

247 The various volumes in the *ad hoc* publications series and the human rights study series pay little regard to the gender-dimension of their subjects. It is disappointing also to observe that the Centre for Human Rights Professional Training Series, which was initiated after the Vienna Conference, does not routinely address the human rights of women. No mention is made in the human rights and pretrial detention monograph, for example, of the particular threats to women in detention.

The conclusion that can be drawn is that while the gender dimensions of human rights are perceived as important, there is no real understanding of these dimensions and the implication of the dimensions for the work of the mechanisms or the Centre. To date, understanding appears to be confined to the issue of gender-based violence against women, with concentration being squarely upon violations of rights by such violence. The question of mediation of rights by issues other than gender-based violence, both insofar as violation and opportunity for enjoyment are concerned, has not been a subject within the human rights mainstream. Moreover, a gendered reading of existing human rights so as to promote pro-active, pro-woman policies and programmes has not, so far, occurred within the Programme ...²⁴⁸

4. *Challenges to mainstreaming*

Future efforts to mainstream the human rights of women throughout the international framework face a number of challenges. Perhaps the fundamental challenge is that of attitude. Both within the human rights programme of the United Nations and system-wide there is a continuing need to convince people of the importance of mainstreaming the human rights of women. Insofar as the system outside the human rights programme is concerned, the challenge of convincing people of the importance of mainstreaming the human rights of women is combined with the challenge of convincing people of the importance of the human rights approach to issues generally.

Another important challenge which faces the mainstreaming process flows from the gender of those charged with the mainstreaming mission. Many commentators have drawn attention to the fact that experts nominated to the United Nations system are overwhelmingly male. With the exception of the Committee on the Elimination of Discrimination Against Women which, since its inception, with one exception, has been composed entirely of women, most experts who have served on treaty bodies have been men. Few human rights special rapporteurs and members of working groups have been women.

Despite Article 8 of the United Nations Charter which provides that no restrictions shall be placed on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs and a succession of policy statements and affirmative action guidelines, male dominance in these bodies is mirrored by male dominance at the decision-making level in the bureaucracy of the United Nations.²⁴⁹

Gender imbalance is even greater with older agencies, for example the ILO, being particularly affected in this way.²⁵⁰ While there is no conclusive evidence indicating that a gender-balanced bureaucracy would lead inevitably to more gender-conscious policy-making in the United Nations system, there are reasons to believe that this may be the case. Certainly, as Hilary Charlesworth has pointed out, the current imbalance makes it difficult for the realities of women's lives to contribute in any significant way to the shaping of the organisation's

248 *Mainstreaming Gender Within the International Framework*, pp 1–10.

249 Brian Urquhart and Erskine Childers describe the situation as 'appalling' and 'grotesque' in 'A World in Need of Leadership: Tomorrow's United Nations' (1990), pp 30, 60.

250 *Technical Assistance for Women: From Mainstreaming Towards Institutional Accountability*, Note by the Secretary General E/CN.6/1995/6, 19 December 1994, paras 25–31; Hilary Charlesworth, 'Transforming the United Nations: Feminist Futures for the United Nations' (1994) 4 *Transnational Law and Contemporary Problems* at 422–54.

policy.²⁵¹ Gender imbalance has also facilitated the construction of a category of 'women's concerns' within the system and the establishment of special women's institutions, such as CSW and CEDAW, to promote these concerns. These institutions have been crucial for women, but at the same time have confined women's views within their narrow mandates, creating yet another obstacle to mainstreaming.

While it is likely that a gender-balanced staff would facilitate the mainstreaming of gender within the system, this does not mean that it would bring about the mainstreaming of the human rights of women. Mainstreaming of the human rights of women requires mainstreaming a gender and human rights approach. Outside the Human Rights Programme and the ILO there is a dearth of expertise in human rights, let alone the human rights of women, again creating an obstacle to system-wide mainstreaming. Mainstreaming of the human rights of women is likely, further, to be more difficult in those agencies dominated by staff who have been educated in disciplines which blind them to relevance of gender.

The effect of male domination at decision-making levels system-wide and lack of expertise in human rights can be addressed by training in gender sensitivity and analysis and human rights and specific training and guidelines relating to the human rights of women to some extent, but training and guidelines can never fully replicate the effect that a gender-balanced and human rights-aware staff can have on mainstreaming. There is a danger also that current efforts at mainstreaming women in development – incorporating the establishment of a centralised WID focal point, generally short of staff and resources and working in relative isolation²⁵² – might be replicated in this context. This has proven to be insufficient in the absence of institutional commitment and education, accompanied by post-training follow-up and support.

The continuing institutional and geographical separation between the Human Rights Programme and the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women, system-wide regarded as the bodies concerned with 'women's issues' and, accordingly, the Women's Rights Programme, remains a powerful obstacle to mainstreaming of the human rights of women within the work of that Programme. Failure to mainstream within that Programme has further implications for mainstreaming system-wide, with other programmes and agencies prepared to remain unconvinced of the importance of the human rights of women if the Human Rights Programme is not prepared to accept their importance. The establishment of focal points for women and the development of workplans and co-operation guidelines can go some way to create greater integration, but the institutional and geographical separation of CEDAW, in particular, from the mainstream human rights programme will inevitably slow further progress. Mainstreaming of the human rights of women within the human rights programme will be facilitated with institutional and geographical integration of CEDAW, but at the same time, raises the further challenge of ensuring that this mainstreaming does not overwhelm or obscure the perspective of the human rights of women.

251 Hilary Charlesworth, *op cit*, p 444. UNICEF, Gender Equality and Empowerment of Women and Girls, E/ICEF/1994/L.5 para 20 points out that mainstreaming women's concerns in UNICEF programmes has been influenced in some instances by the varying levels of commitment to gender equality and women's empowerment among UNICEF staff.

252 'Technical Assistance and Women', *op cit*, E/CN.6/1995/5 para 12.

The traditional priority given to civil and political rights at the expense of economic, social and cultural rights, similarly presents an obstacle to the mainstreaming of the human rights of women. Human rights discourse subscribes to the indivisibility and inter-dependence of rights and emphasises that the promotion of certain fundamental freedoms cannot justify the denial of other fundamental rights and freedoms, but more attention is devoted to civil and political rights at the expense of economic, social and cultural rights. This has meant that denial of the human rights of women in the context of these rights – such as the impact of structural adjustment, denial of cultural difference – issues of pressing concern to most women in their everyday lives and rights of importance to the work of many UN agencies have been marginalised. Until proper attention is paid to these rights and the gendered dimensions of the enjoyment is elaborated, the mainstreaming of the human rights of women is likely to be confined to acknowledgement of gender-based violence as an issue of human rights. Further, until the gender dimensions of economic, social and cultural rights are elaborated those bodies of the United Nations concerned with economics and development are likely to remain resistant, certainly at the level of operations, if not at the level of policy, to the idea of system-wide mainstreaming of the human rights of women.

Challenges posed by attitude, gender-imbalance in the international framework, location of bodies concerned with the human rights of women and the prioritisation of agreed 'indivisible and inter-dependent' human rights while real, are nonetheless capable of realisation. Deeper obstacles, related to the doctrinal framework of international law – of which human rights law is a branch – also stand in the way of effective mainstreaming of the human rights of women.

One of the reasons why the concerns of women have so far failed to be integrated into the discourse of human rights law or into its jurisprudence is the historic focus of international law on violations committed directly by the State. Within this conceptualisation of the law as a constraint on the power of the State many abuses against women have not been acknowledged as human rights violations because they are committed by private persons very often husbands, lovers, family or community members rather than agents of the State. The focus of human rights law on the direct actions of the State serves to marginalise the concerns of women at two levels: at the level of definition of human rights and at the level of the responsibility of the State.

It has already been noted that there are no special human rights for women, but that they, like men, are entitled to universal human rights. Human rights as currently defined, are not only usually limited to State actions and obligations, but envisage a human condition unmediated by issues of gender. Moreover, as currently framed non-discrimination in enjoyment of rights is measured against male standard. The challenge is thus to broaden the normative framework of human rights to include abuses suffered by women and to take account of the realities of women's lives – in other words, issues of gender. Without a gendered-approach to human rights, efforts in mainstreaming will outweigh the value in its achievement.

The effects of the focus of international law on the direct actions of the State are not only seen in the definition of human rights, but are apparent in the international principle of State responsibility which divides public actions for which the State is accountable from those private ones for which it does not have to answer internationally. In general, the State is answerable internationally for abuses for which it has direct or indirect responsibility, with other abuses being

within its domestic jurisdiction. Inevitably, until the notion of State responsibility is broadened, everyday abuses that women suffer will not involve the State internationally.

The challenges to a notion of women's human rights and accordingly its further integration into the mainstream have so far been discussed within the context of gender-based violence against women and some progress has been made. This progress has come at a price, however, as the discussions of the relevance of gender in human rights appear to include only gender-based violence against women. It is essential that the current view of the relevance of gender in the context of human rights moves beyond a narrow focus of violence to a gendered reading all rights.

Conclusion

Enormous progress has been made within the international framework towards mainstreaming gender in the guise of the notion of the human rights of women. Much more remains to be done and a number of challenges remain. Strategies are currently being formulated and within those strategies perhaps the most effective will be to 'mainstream' the Convention on the Elimination of All Forms of Discrimination Against Women. Now ratified by 151 nations – over two-thirds of the members of the United Nations – the Convention remains little known within the Human Rights Programme and in other areas of the UN system. It is crucially important that the Convention constitutes a force internationally. Here, again, obstacles exist. These include the various well-known weaknesses of the Convention, including the absence of a method to resolve the large number of substantive reservations that States have entered to its terms and the fact that it lacks investigatory and enforcement powers and has no capacity to resolve interstate or individual complaints. Yet, weaknesses aside, were the Convention to be the focus of sustained attention, particularly in view of current plans to provide for an optional complaints and enquiry mechanism the capacity for progress in gender mainstreaming in the international framework would be significant.

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