Workshop on enhancing cooperation between United Nations and regional mechanisms for the promotion and protection of human rights
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Ending discrimination against women through continual dialogue with regional human rights mechanisms

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Background

The worldwide efforts to end discrimination against women in law and practice remain full of challenges, wrought with incidences of backsliding and often on the defensive in front of the threat of regression. In this era of implementation with regard to international human rights law and standards, and as we continue to develop advanced tools to measure the gender gap in all fields of life and all around the world, we are called to be more and more responsive to the diverse realities on the ground and to broaden the stakeholders for substantive equality between men and women. On the latter point, the task given by the Human Rights Council to our Working Group to develop a dialogue, amongst others, with experts on different legal systems is particularly timely and welcome.

In an increasingly multipolar world, regional mechanisms for the promotion and protection of human rights are critical players in shaping the progress of human rights implementation, particularly so on women’s human rights. For example, the Convention of Belém do Para, on violence against women, adopted by the Organization of American States exactly 20 years ago was a landmark not only for its own region but also for the world. Path-breaking decisions have been made based on this Convention, particularly the ‘Cotton Field’ decision in 2009 which redefined the parameters of gender-responsive reparations and gave it transformative power. In the same year, 2009, the European Court of Human Rights established the binding nature of the CEDAW Convention, particularly the due diligence obligation of the State, in a domestic violence case of Opuz v. Turkey. Subsequently, it has also ruled cases within its region of domestic slavery, forced sterilization of Romani women, state’s prohibition on wearing headscarves, and the rights of transgender persons.

In Africa, the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol), which came into force in 2005, has shaped, along with the CEDAW Convention, gender-responsive jurisprudence by national courts, such as a landmark judgment in Zambia on rape of a girl by her teacher; high court judgments on women’s equal right to property and inheritance in the Gambia, Tanzania and Swaziland.

More recently, mechanisms for the promotion of human rights have been established by the Association of Southeast Asian Nations (ASEAN), which is sub-regional, and by the Organization of Islamic Cooperation (OIC), which is cross regional. In both contexts, special measures have been taken to address women’s rights. ASEAN has adopted declarations on human rights, violence against women, trafficking and
migrant workers and has set up commissions on human rights and on the rights of women and children. The OIC's Independent Permanent Human Rights Commission has also just set up a Working Group on women's and children's rights.

Will we be able to maintain the meaningful progress of the regional human rights mechanisms in advancing implementing human rights law and standards, for women and men, on the ground?

The challenge found in almost all the regional mechanisms for human rights is women's disproportionately limited and uneven access to these mechanisms' protection systems to address human rights violations against them. For example, it is reported that, as of 2012, 550 communications had been considered by the African Commission on Human and People's Rights and none have focused on violations of women’s human rights. The African Court of Human Rights has received 28 applications of complaint, none appear to be from female applicants. The European Court of Human Rights does not seem to collect statistics about female applicants, while independent research shows that, as of 1995, only 10% of applicants were female. Neither ASEAN nor the OIC have developed protection systems for human rights, focusing only on promotion.

The 2012 workshop on ‘Enhancing Cooperation between the United Nations and Regional Human Rights Mechanisms’ organized by the UN High Commissioner for Human Rights identified a challenge to cooperation, particularly in the context of women’s human rights, which is contradictory human rights standards (paragraph 54, A/HRC/23/18).

These are, indeed, serious challenges which would be better addressed with enhanced focus and continual dialogue by all stakeholders on the responsiveness of regional human rights mechanisms for women’s human rights.

Our initiative

In the 2010 Resolution 15/23 establishing the Working Group on the issue of discrimination against women in law and in practice, the Human Rights Council requires the Working Group to “take into account the views of other stakeholders, including relevant regional human rights mechanisms, national human rights institutions and civil society organizations” (point 18c).

During its Eighth Session, on 30 September to 4 October 2013, our Working Group convened a meeting with representatives from regional human rights mechanisms from the Americas, Europe, Africa, the Southeast Asia sub-region, and the Organization of Islamic Cooperation. This was a first meeting to explore possible avenues of cooperation with the Working Group. It provided the foundation for further exchanges by building a common understanding on the state of play in terms of the role of regional human rights mechanism in ending discrimination against women in law and practice, and by exploring common views for the way forward.

The Working Group and the representatives of regional mechanisms present in the meeting appreciated the importance of the two-way information flow regarding
efforts to eliminate discrimination against women in law and practice. They reiterated commitment to the principle of the universality and indivisibility of human rights. There was agreement that the exchange views and discussions on ways and means to cooperate should continue. Such exchanges should be carried out both through formal and informal avenues. Follow up meetings should be held in the regions and beyond Geneva, whenever possible.

Ideas were shared to advance congruence across the mechanisms, which are very much in line with ideas expressed in the report of the 2012 Workshop on ‘Enhancing Cooperation between the United Nations and Regional Human Rights Mechanisms’. They were:

- Develop means to exchange information, for example on relevant jurisprudence, including by developing a common database;
- Cross-reference each others’ documents;
- Share work plans and priorities, including calendar of events;
- Create opportunities for ad hoc and issue-based exchange of views;
- Provide technical assistance when necessary;
- Develop mechanisms for joint declarations and emergency response;
- Conduct joint visits and meetings.

As we build our information base on relevant cases and issues on discrimination against women relevant to the regional human rights mechanisms, the Working Group would be better positioned to initiate meaningful actions and initiatives to ensure congruence and cooperation across the mechanisms based on the principle of the universality and indivisibility of human rights.

The meeting also made clear to our Working Group the imperative of maintaining a continual dialogue with and among all the regional mechanisms focusing specifically on the elimination of discrimination against women in law and in practice. The Working Group is committed to incorporate such continual dialogue into its method of work, in the form of convening an annual meeting with regional human rights mechanisms on the Working Group’s annual thematic focus – funding permitting, of course.

Upon the closing of this workshop, our Working Group will be convening a follow-up seminar with regional human rights mechanisms on women’s participation in family and cultural life, which is its current thematic focus for reporting to the Human Rights Council in 2015. This seminar, which will involve experts in the field, is designed to:

1. Exchange views on the continuous obstacles to women’s participation in family and cultural life;
2. Exchange information on good practices in eliminating discrimination against women in family and cultural life;
3. Examine the regional standards and jurisprudence on women’s participation in family and cultural life;
4. Identify potential areas of collaboration among the various stakeholders and particularly between the regional mechanisms and the Working Group to maximize efforts to eliminate discrimination against women in family and cultural life.
While we hope to continue our engagement and dialogue with the regional human rights mechanisms on our future thematic focus, namely health and safety, as well as in compiling the compendium of good practices in eliminating discrimination against women, a major constraint faced in carrying our initiative forward is resource availability, both human and financial.

Practical recommendations

The Working Group on discrimination against women in law and in practice would like to make the following immediate and practical recommendation to States, the United Nations and regional human rights mechanisms in order to enhance the responsiveness of regional mechanisms to women’s human rights:

1. Support the Working Group’s initiative for continual dialogue with and among regional human rights mechanisms through annual meetings during its regular sessions following its annual thematic focus.

2. Develop and analyze sex-disaggregated data on complaint applicants and other users of the protection systems of regional human rights mechanisms in order to identify and rectify gaps.

3. Create a database containing relevant findings, decisions and recommendations of United Nations and regional human rights mechanisms related to discrimination against women in order to facilitate systematic cross-referencing among them.

4. Facilitate timely exchanges of good practices in addressing discrimination against women in law and practice, including through technical assistance, across regional human rights mechanisms, particularly in support of the more recently established sub-regional and cross regional mechanisms.