

WRAP-UP OF THE GENERAL DISCUSSION
by
Ms. Silvia Pimentel
Chair of the Working Group on Access to Justice

Committee on the Elimination of Discrimination against
Women
on the occasion of the general discussion on women and access to justice

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Madam Chair of the CEDAW Committee,

Colleagues and Friends,

Ladies and Gentlemen,

I would like to first express my gratitude for the presentations and results of today's general discussion. I am sure that all the experiences and inputs shared today will be of immense value to the process of elaboration a General Recommendation on Access to Justice, as they further develop and deepen the issues presented in the Concept Note for today's discussion. Ensuring access to justice in a holistic way is a key aspect for the empowerment of women and an important step towards complete realization of their basic human rights.

Now, I will make an effort to summarize some of the highlights of the material provided by all speakers, and stress the points of concern

that I believe are essential to be taken into account when drafting the General Recommendation. I am sure that other valuable point, which may not have been mentioned today, will be addressed in the course of the drafting process of the General Recommendation.

In spite of the differences and particularities of each country, a wide range of obstacles that were presented today are similar. Some important measures identified today can be integrated into CEDAW's efforts to assist States parties to recognize and address social barriers that impede women's equal access to justice and to offer adequate conditions.

With regard to the challenges and barriers faced by women in accessing justice, it must be said that their situation is aggravated by different factors. Poverty and gender, for example, are, among the main obstacles and are overlapping and mutually reinforcing. The recognition of the minimum core content of economic and social rights as justiciable rights is crucial. In this sense, it is important to consider that women living in poverty are even more affected by these barriers to accessing justice, given that they usually are economically dependent on their husbands and other family members, who are often the perpetrators of violence against them and violations of their rights.

Moreover, a legal framework that guarantees women's right to accessing justice is of fundamental importance. In this sense, it has been

stressed that States parties must eliminate discriminatory norms and any other gender-based obstacles that deprive women of their right to equal access to justice. Judicial power is a key instrument within this framework, but it is important to bear in mind that to access justice in practice does not mean merely to access the judiciary power – and this aspect can certainly be further deepened in our reflections.

Justice is also achieved when human rights are provided to women by national institutions, in areas such as health care and reproductive health services, education, equal labor conditions, *et cetera*. In this sense, States Parties have an obligation to take active measures to ensure respect for the afore-mentioned human rights and to prevent harm, rather than merely to provide remedies after violations have already taken place. In the majority of countries, the issue goes beyond the lack of a legal framework. States Parties are often unable or unwilling to enforce existing laws, which can result into failure to translate norms into action.

As highlighted during the speeches, a better understanding of this complex set of challenges for women is achieved only through an intersectional approach taking into account the multiple facets of discrimination and considering access to justice within the broader context of governance, societies and communities.

I also noted the special importance given to the institutional aspects – professional guidelines for the justice sector personnel (including lawyers, prosecutors and law enforcement officials) and institutional resources and capacities must include a gender based approach, in order for the justice system to adequately respond to women’s specific realities, when reporting on rights violations and pursuing remedies.

Therefore, it is crucial to implement a holistic approach that includes all stakeholders and prioritizes the participation of women as rights-holders. In addition, when drafting this General Recommendation, we must also consider that access to justice is not limited to accessing the formal justice system. We should also recall the impact of customary or informal justice systems and alternative dispute resolution mechanisms on women’s access to justice. Our upcoming General Recommendation on the economic consequences of family relations and their dissolution will explicitly address the harmful and discriminatory effects of plural legal systems on women.

The failure of the executive and legislative powers to guarantee women’s human rights results in greater demand for the judiciary, which becomes a locus of complaints and often becomes overburdened and unable to adequately respond to this demand.

It must be also highlighted that gender stereotyping permeates all the subjects mentioned so far and has also been a recurrent matter of discussion today. It is true that access to justice is a concern, not only for women, but for every human being. Nevertheless, it is imperative to insist that women, within their specific realities and in addition to the already existing barriers, often encounter gender based obstacles in accessing justice. These obstacles are mainly originated by gender stereotypes, the most important of which portrays women as the pillar of the family as a fundamental unit of society. According to this stereotypical notion, women must accept all forms of social charges that frequently result in limitations on their rights as well as in suffering. In this context, the patriarchy remains a stigma associated with women actively pursuing their rights and maintains inequalities and discriminatory behaviors.

In this reality, women are prone to believe that they do not have the right to pursue a remedy for violations of their rights. As a consequence, women often remain at the margin of the justice system.

The same can be said for subgroups of vulnerable women, as it has been stressed by several NGOs today. Special attention must be given to older women; widows; women with disabilities; lesbians, bisexuals and transgender individuals; women sex workers; women living in situations of conflict or post-conflict; women in detention; refugee

women; rural women; indigenous women; ethnic minority women; and marginalized and undocumented women, especially migrants and trafficked women, among others. These women suffer from multiple forms of discrimination that are mutually reinforcing and increase their difficulties in accessing justice.

So, I would like to thank you again for your participation at this half-day of general discussion on access to justice and the valuable contributions that have been provided in particular by the speakers. I extend a special thank you to Ms Karen Vertido who shared with us today her personal experience and suffering in accessing justice after having been raped. I wish to conclude with Ms Sardar Ali's words: "Justice is the very base upon which we survive, not only as individuals, but also in societies and states".

Thank you.
