Annual Full Day Discussion on Women’s Rights

Panel 1- Taking stock of efforts to eliminate violence against women, from the Vienna Declaration and Programme of Action to the 57th session of the Commission on the Status of Women (CSW)

5, June 2013, 09:00-12:00

P. Schulz, CEDAW member, Panel I

Madame High Commissioner,
Excellencies,
Ladies and Gentlemen,
Dear Rashida,

It is a great honour for me as a member of the CEDAW Committee to be part of this panel.

I will make 3 remarks, on the past, the present and the future.

1. The past

As the High Commissioner reminded us, the CEDAW Committee did pioneer work in the field of GBV.

Already in GR 12 of 1988, the Committee stated that “articles 2, 5, 11, 12 and 16 of the Convention require the States parties to act to protect women against violence of any kind occurring within the family, at the work place or in any other area of social life”. The tone was sent for future work. In GR 19 of 1992, the Committee stated that “gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention”. This innovative interpretation has guided it work ever since. GR 12 and 19 arose from the findings of the Committee, from its awareness of what State reports were leaving out, of what was debated in the international women’s rights movement, but was not part of the Convention, because VAW was still a taboo, best left to silence, during the drafting of CEDAW. The Committee systematically addressed VAW in its Concluding Observations and Recommendations and in further GRs, such as GR 24 on health, GR 26 on migrant women, GR 27 on older women, and GR 28 on the core obligations of State parties. It has institutionalized the participation of NGO’s and National Human Rights Institutions.

2. The present : what is the CEDAW Committee doing on VAW
The Committee sees women victims of violence also as survivors, as agents in the society to which they belong, as participants in the present and future of their societies. Therefore, it insists on the necessity to include women in decision making in all fields as a central element to combat VAW.

First, COBs. GBV continues to be a central part of the monitoring of State reports by the Committee, because VAW occurs in all countries, including those that have taken the most active and efficient measures. Based on the Constructive dialog with State parties, the Committee makes precise, detailed recommendations, taking into account the concrete situations including the specific forms of violence in each country. Legislation, practical measures including training of all persons coming in contact with women survivors of GBV, the need for data and proper indicators, prevention, are part of the recommendations made to State parties.

Second, draft GR’s. The Committee is drafting a GR on Women in conflict and post-conflict situations and one on refugee and stateless women. It thus addresses VAW in some of the most difficult and complex situations.

Third, individual Communications in cases of VAW. They are handled in an in-depth, nuanced, contextualized manner. In cases of rape, the Committee has developed a complex and careful reasoning. It gives State parties a choice between 2 basic models, both putting lack of consent and equality at the centre of the legislation. Its Views are contributing to discussions on appropriate legislation on rape.

Regional Courts use the Views of the Committee to develop their own jurisprudence, and thus the influence of the Committee is growing even when some State parties do not implement its Recommendations.

3. The Future: recurring and new challenges for CEDAW and the other Treaty bodies dealing with VAW

What can we hope for, after all the efforts already made and the sobering finding that VAW continues everywhere and increases in many countries, because of various factors? In my opinion, what we need is implementation, implementation and implementation. Let me expand on this, under an institutional view, not limited to GBV.

187 countries have ratified CEDAW, 104 countries the Optional Protocol. State parties report on violence and engage in the dialog on measures to combat it. But many State parties are late, or very late, and irregular, in reporting. The Committee has no power to enforce its Recommendations. And it has a backlog of reports that increases every year, due to the high number of ratifications and the impossibility to examine more State reports under the present situation and resources.

Yet, as Nicole Ameline, Chair of the CEDAW Committee, said in her intervention at the 57th Session of the CSW, the CEDAW Convention gives us the legal, holistic, framework.

In addition, at regional level, new, specific instruments on VAW have been developed, and general human rights instruments are being used in a gender specific manner, against VAW. At universal
level, some of the instruments of international human rights or of international humanitarian law treat the worst forms of VAW as violations of jus cogens.

So we have a legal framework, checkered, complex, multi-layered, but theoretically capable of delivering. And we have monitoring bodies, such as CAT, the HR Committee and CEDAW. We need resources, including time. The decisions that State parties will take within the Treaty body strengthening process will therefore be of the utmost importance. So the first challenge is whether State parties will agree on an efficient, sustainable, long term solution for the work of the treaty bodies.

The second challenge is whether the UN will start to work as a system to implement human rights. As a member of the CEDAW Committee, I've been shocked to see that some of the UN agencies, including the financial institutions, and/or their field offices, do not work with a human rights framework (or too little and in too few fields), and that the Concluding Observations and Recommendations coming from the TB’s or the Reports of the SP’s are often not being used —when they are known.

Synergies should therefore be vastly expanded between the work of the TB’s and SR’s and the work of the UN development agencies including the financial institutions, on the ground, and also with human security efforts, in the fight against violence but also in the fight against all other forms of discrimination.

We should have cooperation and reinforcement between UN processes. I'm concerned that the UPR process may inadvertently weaken the protection afforded by the human rights conventions. Indeed, each State party being examined can refuse recommendations made by the other State parties, even when these recommendations are based on obligations emanating from ratified human rights conventions. The political process might obscure the legal obligations arising from the ratification of legal instruments. This would be a negative and paradoxical consequence of an interesting and useful political process.

In summary, I believe the big challenge is to give the resources and practice an integrated approach, where all stakeholders collaborate to implement all international human rights instruments. This would ensure congruence and coherence between them and between national and international levels. It would bring clarity on the obligations of State parties regarding GBV, based on international human rights law and humanitarian law. Combating VAW would be inspired by a human rights framework, guaranteeing sustainability and social justice in the long run. State parties Reports would be examined without delay. State would receive technical support where needed. Only through coordination, coordination and coherence can we hope to make human rights a lived reality for all human beings, everywhere, including the right of women to live free of GBV.