

“Access to CEDAW and other mechanisms of Women’s rights”

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I want to start my presentation saying that I feel very honoured to participate in this important celebration commemorating the 20th Anniversary of the Women, Law and Development Networks. To be here is like a dream for me because when I used to listen to many people telling about the opportunity they had to go to distant countries and know about great experiences shared by wiser people, I always hoped to get one day the same opportunity. This commemoration is part of our history, a 20 years old history of the efforts of women coming from distant parts of the world fighting for the defense of our human rights; we must realize there is much experience and wisdom all together here.

I want to thank CLADEM for giving me this opportunity and the organizers for the chance to participate representing a new generation coming at this point of convergence to share critical analysis and proposals for the construction of new global strategies.

To be part of a recognized network within the sphere of inter-governmental spaces is of relevance for the development of the work we do regarding the ratification by the States of Pacts, Treaties and Agreements. In the search of that assertiveness and effectiveness as network it becomes essential on one hand, the strengthening of local alliances and the improvement of the formulation of our own theoretical- legal and feminist argumentation so that the defenders of the rights of women, specially our associates, can rely on better strategies for the development of their work

Cladem considers as part of its high-priority objectives, the need to monitor the obligations of the States ; it is a process of in-depth study which starts with the selection of the instrument to be monitored.

I believe we have taken the first step to open a big door.

When we speak about the relevance of taking possession of our “own” legal instruments of human rights, I refer not only to the Universal Legal System but the Interamerican System. I remember the words of one of our trainers explaining to us that we already have instruments , so “we must use them all”. The appeal is clear: if human rights are universal, interdependent and indivisible, the instruments designed for their protection are also of the same kind.

Speaking about the Interamerican System of Human Rights, we must mention as fundamental the American Declaration of the Rights and Duties of Man (1948), the American Convention of Human Rights (Pact of San Jose) of 1969 and the Belem Do Para Convention or Interamerican Convention to prevent, punish and eradicate violence against women (1994).

The Convention of Belem Do Para, could be mentioned as the best example we have of achieving a positive impact at an Interamerican level within the list of international instruments presently available for the defense of our rights.

A key case was the one regarding María Da Penha from Brazil, a woman who experienced a number of murder attempts and finally remained suffering quadriplegia as a consequence of her injuries.

This case raised by Cladem, was fundamental for the promulgation of a Law against domestic violence in Brazil called the María Da Penha Act which had a big social impact regarding misconceptions and prejudices on domestic violence.

The Interamerican System for the protection of Human Rights created in 1959 the Interamerican Commission of Human Rights, an autonomous organism of the American States Organization (OAS) which mandate emerges from the Chart of the OAS and the American Convention of Human Rights. It is formed by 7 members acting independently; they do not represent any particular country and are elected by the General Assembly.¹ Its Headquarters are located in Washington, D.C.

The States members of the OAS are subjected to the decisions of the Commission, and this includes the States which are part of the San Jose Pact as well as the ones which have not ratified it.

Among its functions we can identify the preservation and defense of human rights, receive, analyze and investigate individual petitions on violations of human rights according to arts. 44 to 51 of the Convention and formulate recommendations to

¹ Camilo, Janet, "El Sistema Internacional. Taller de Mecanismos Internacionales para la Defensa del Derechos de la Mujer a una vida libre de violencia", San Salvador, El Salvador, August, 2006.

the States members of the OAS about the adoption of measures to contribute to the promotion and defense of human rights.

Part of the Interamerican System is the Interamerican Court of Justice, located in San José, Costa Rica, extending its advisory function to all States members of the Regional Organization while its jurisdiction is applicable to only 21 countries which specifically recognized it.

In relation to the International System we acknowledge the existence of the Universal Declaration of Human Rights, The International Covenant on Civil and Political Rights , the International Covenant on Social and Cultural Rights , besides others such as the Convention of the Rights of the Children (Boy Child-Girl Child) and the International Convention for the elimination of all forms of racial discrimination.

Cladem has focused its work on monitoring the International Covenant of Civil and Political Rights, the International Covenant of Social and Cultural Rights, and the Convention for the Rights of Children Boy Child-Girl Child). This exercise has been transformed into a tool to get full access to these mechanisms. If we only analyze them from a logical perspective in relation to what these instruments offer us despite difficulties, we may remain at a primary level. To report must be more than a simple exercise but a way to put our systems to effectively work towards our goals; doing this exercise we activate the number of functions that have been designed to defend our rights.

Our network throughout the years has learned the importance of using monitoring and reporting on human rights situations in our countries. When we activate the system we can obtain new jurisprudence that is very valuable when we decide to file action against a particular State.

In our work, of course is of high relevance the CEDAW promulgated in 1979 which has a Protocol which allows to file action not only individually but collectively and also request for investigations as it was approved in 1999.

This Convention has the feature to include not only civil and political rights but also economic, social and cultural rights as well. It establishes the responsibility of the states to implement special temporal measures looking towards real equality. It covers public and private spheres and we can act regarding not only an action but an omission as well.

The CEDAW has a Committee of experts (23) which receives reports every 4 years, including shadow/ alternative reports, can make observations and recommendations to the states which are responsible for violations or abuses committed by any person, company or organization, receives individual complaints and investigates violations of human rights in different countries..

The existence of CEDAW reaffirms the importance of monitoring and elaborating reports. Taking into consideration the period of 4 years to present reports, it is a

minimal duty to elaborate shadow reports that need to be presented to explain the human rights situation in our countries.

However, we must say that certainly our systems are bureaucratic, slow and huge so it is difficult to realize their real effectiveness in relation to the needs of the affected people. We need more than what we actually have.

Nevertheless we must use these mechanisms and put them to work; lack of use or neglect is an enemy of the spirit of the Law. When we make use of the tools we have we also make visible the ones that we need and that is what we call incidence.

As a network our colleagues have shared with us their experiences and practices using all these mechanisms for the defense of our human rights, from lobby techniques to disparities regarding attention provided to certain cases depending on the actors who are involved, the system and the common difficulties which are involved in litigation.

Certainly, Cladem has had successful experiences on this regard, but it is clear that it is true to a certain extent, as the strategy of *Amicus Curia*, can get results regarding the formulation of recommendations but not regarding reparations on behalf of the States

Then it will be necessary at this stage, to analyze and reinforce our working methodologies to overcome defaults. The mechanisms for the defense of women's human rights must be analyzed from our diversity, the reality of our own countries, peoples, societies in order to detect the lack of attention and really make our

actions to be more effective, not only looking through our own specific goals regarding monitoring and litigation but to achieve real transformations making the necessary changes.

This is also a matter of responsibility in relation to the systems which exist to be used even with all their deficiencies. It is a matter of responsibility in relation to all the people who suffer abuses and violations of human rights, with all women who suffer discrimination and violence on a daily basis, and it is a matter of responsibility before ourselves because after 20 years of struggle we know there are lacunas and that our own system sometimes legitimizes violations of human rights because we did not act at the correct time or in many occasions not in the proper way when we had to decide what to do in a particular case.

After 20 years of continuous struggle to achieve what we all have now, I believe the main focus in our work must be to never surrender.