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# INTERNATIONAL LEGAL BASIS ON NATIONAL MACHINERIES ON WOMEN'S PROMOTION

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**Abstract.** The article is devoted to the national gender machineries, the history of their development, their roles and functions of national mechanisms. The author provides a brief overview of the relevant legal basis (both legally binding and soft law sources) and defines main problems the national gender machineries face worldwide such as a lack of resources and understanding of the gender issues as well as a lack of interaction with state bodies and CSO of relevance. Special attention is drawn to strengthening Women's Committee of Uzbekistan. The author proposes a number of specific measures to improve the activity of the Women's Committee of Uzbekistan.

**Key words:** national gender machinery, 1995 Beijing Declaration and Platform for Action, CEDAW, Women's Committee of Uzbekistan, gender, women's advancement (promotion)

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National gender machineries emerged as instruments of advancing women's interests after the World Conference of the International Women's Year in Mexico City (1975). Since then, the subject of national machineries has been taken up systematically by the subsequent world conferences on women in 1980 (Copenhagen), 1985 (Nairobi)[1] and 1995 (Beijing), as well as the various sessions of the Commission on the Status of Women.

**The 1995 Beijing Declaration and Platform for Action (PFA) played a**

**significant role in this regard. PFA adopted three strategic objectives such as:**

- Create or strengthen national machineries and other governmental bodies;
- Integrate gender perspectives in legislation, public policies, programmes and projects; and
- Generate and disseminate gender-disaggregated data and information for planning and evaluation[2].

The Beijing PFA identified institutional mechanisms for the advancement of women, including

national machineries, as one of the twelve critical areas of concern. By that time it was agreed that the gender machinery should act as a catalyst rather than an implementer[3]. The Platform provides a mandate for the national machinery for the advancement of women which includes, inter alia, "to design, promote the implementation of, execute, monitor, evaluate, advocate and mobilize support for policies that promote the advancement of women" (paragraph 196). It was noted that the necessary conditions for an effective functioning of such national machineries include:

*a. Location at the highest possible level in the Government, falling under the responsibility of a Cabinet minister;*

*b. Institutional mechanisms or processes that facilitate, as appropriate, decentralised planning, implementation and monitoring with a view to involving non-governmental organisations and community organisations from grass-roots upwards;*

*c. Sufficient resources in terms of budget and professional capacity;*

*d. Opportunity to influence development of all government policies[4].*

**Other UN bodies also made a contribution to the development of the issue. In particular, in July 1997, ECOSOC adopted agreed conclusions (1997/2), which emphasized the need to enhance interaction among UN entities and**

national machineries for the advancement of women. It also adopted resolution E/2004/L. which reinforced the role of national machineries as key actors in the promotion of gender mainstreaming.

In 1999 **the Commission on the Status of Women (CSW)** adopted conclusions (1999/2) on the institutional mechanisms for the advancement of women. The Commission recommended that national machineries be placed at the highest possible level of government and be invested with the authority and resources needed to fulfil their mandates.

In June 2000 **a special session of the United Nations General Assembly (UNGASS)** adopted an outcome document which showed that, in many countries, 'national machineries have been instituted or strengthened and recognized as the institutional base acting as "catalysts" for promoting gender equality, gender mainstreaming and monitoring of the implementation of the Platform for Action'. However, the outcome document also revealed the existence of factors which still hindered the activities of the national machineries in many countries, including 'inadequate financial and human resources, lack of political will and commitment (at the highest level), insufficient understanding of gender equality and mainstreaming among government structures, unclear mandates, and structural and

communication problems within and among government agencies'[5].

**CEDAW Committee** also reiterates in its General Recommendation No. 28 on the Core Obligations of States Parties under CEDAW that "The policy should also ensure that independent monitoring institutions, such as national human rights institutes or independent women's commissions, will be established, or that existing national institutes will receive a mandate with respect to the promotion and protection of the rights guaranteed under the Convention."

It is noteworthy to mention the contribution of the **UN Division for the Advancement of Women (DAW)**. In 1996 DAW **conducted a research on National Mechanisms for Gender Equality in South East and Eastern Europe, Caucasus and Central Asia**[6]. In the same year, the United Nations Economic and Social Commission for Asia and the Pacific held a **Regional Meeting on Strengthening National Mechanisms for the Advancement of Women** which drafted recommendations **for Asia and the Pacific**[7]. One of the technical cooperation activities undertaken by DAW was a project on 'Capacity Building of National Mechanisms for Gender Equality' in the African region[8].

#### **Development of national gender machineries worldwide**

The role, structure and functions of a national machinery have evolved

over the years. Initially the machineries tended to be isolated structures within the government bureaucracy focusing on the implementation of discreet projects to promote women's advancement in different sectors. The machineries were often under-staffed and under-funded, with unclear mandates, frequent shifts in structural location and weak capacity to perform the myriad functions assigned to them.

After Beijing, national machineries were created in many countries as an integral part of the government. In countries that already had such machineries, measures have been taken to strengthen them. Many countries upgraded the status of the national machinery by making it either a full-fledged Ministry or giving it status just below a Ministry such as Vice-Ministry. Some countries created posts of deputy or full ministers in charge of women or gender affairs. An upgrade in status also occurred in several countries as a result of a strategic shift in location of the machinery to more central or powerful offices such as in the President's Office, the Prime Minister's Office or the Planning Ministry. Some countries reported making the machinery autonomous so that it could independently assess the performance of the government. A few countries continued with the NGO status of the machinery with increased function and activities.

In addition to national machineries, the majority of countries established gender focal

points in various ministries, government departments, and agencies such as those related to agriculture, education, health, but also to law, security, justice, interior, police, prisons, foreign affairs, trade and many other sectors. In some countries, parliamentary caucuses - of women parliamentarians or of male and female parliamentarians - were established which focused on gender equality in the work of parliaments. Other countries established separate gender equality or women's commissions, and a few have appointed Ombudspersons for gender equality[9]. Equal Employment Opportunity Offices were established in many countries[10]. To coordinate the activities of these different sectors and levels, many governments created special mechanisms such as an interagency commission or committee[11].

In a survey conducted by the UN Division for the Advancement of Women in 1996 it was noted that two-thirds of all national machineries are located in government, and one-third are either non-governmental or have a mixed structure. Of those within the government, more than half of the national machineries are part of a ministry, one-third are located in the office of the head of state and the rest are free-standing ministries. Of those within ministries, half are situated in Ministries of Social Affairs and one-third in that of

Labour[12]. Location at the top levels of government would provide the machineries with increased credibility at these forums, as well as the negotiating power to make contacts, strategic cross-border contacts and projects[13]. However, in some contexts, location at the highest level within the governmental structure that is not accountable to the citizenry can lead to the alienation of the national machinery from civil society groups[14].

Thus, examining these structures in many countries around the world shows that in practice the machineries take a wide variety of forms, from formal ministries to temporary councils and committees.

They may be established by formal statute, executive decree, or bureaucratic rules, or there may be machineries in political parties that have a widespread influence. The mandates, responsibilities and resources of these machineries vary as well[15].

However, there is no one single form that is consistently more effective generally than others. In addition, it is the variety of possible agency forms that allows machinery to adapt to blowing political winds and changing demands of gender policy and politics. At times a centrally located executive commission may be required; later, it may be a ministry or bureaucratic office; at still other times all three may coexist. In some countries, a range of single issue agencies-for labor, health, and education

matters-can be more effective than a large Ministry expected to cover all issues. In other situations, machineries may be more active at regional and local government levels[16]. The Committee of Ministers Recommendation (2007)[17] also highlights the fact that there are no ideal or fixed models of institutional mechanisms within government structures valid for all countries. Economic, social, cultural and political realities differ and institutional mechanisms must fit into the national context[17].

**To sum up, recent developments in the evolution of national machineries include the following organizational changes:**

- enhancement of mandates;
- upgrading of focal points within the government structure to high levels of power;
- establishment of women's bureaus/divisions in various line ministries and the creation of inter-ministerial committees and task forces;
- and collaboration with non-governmental organizations (ESCAP, 13 December 2003)[18].

**Roles and functions of national mechanisms**

National machineries are thus 'catalysts' for promoting gender equality and justice[19]. Until the late 1980s, many NWMs had a welfarist approach focusing on women as mothers and wives[20]. In the course of time, the mandate of these national institutions has evolved

from promoting women-specific projects to ensuring that equality concerns are integrated into all government legislation, policy, programmes and budgetary processes.

The mandate given to NWMs is crucial in defining the scope of the activities and influence and their general orientation. An important choice is whether the NWM will try to implement its own projects (and whether in doing so it will seek collaboration with other technical ministries) or whether it will simply try to influence or advise other ministries or agencies undertaking major projects[21].

A majority of the national women's machineries serve as coordinating mechanisms that formulate and recommend policy proposals and plans on women and gender concerns to their respective Governments. Their roles include the following: lead agency for initiating and coordinating governmental efforts in gender mainstreaming; planning and overall coordination of various matters related to the promotion of gender equality; formulation of policies for women's welfare and empowerment; and preparation of gender equality and women and development plans.

Several machineries serve as advisers or consultative bodies on women and gender equality.

Some machineries (such as in Brunei, Cambodia, Cook Islands, Indonesia, Nepal, Maldives, Myanmar, the Republic of Korea

and Viet Nam), act as monitoring mechanisms for harmonizing local initiatives with national development objectives.

Other machineries assist in harmonizing their Government's policies with international programmes on women (Australia, the Lao People's Democratic Republic, New Zealand, Pakistan and Singapore), or in harmonizing their Government's commitments and policies on gender and development (the Philippines and New Zealand). Some national machineries also assist in harmonizing their human rights system with international standards (Australia, the Democratic People's Republic of Korea and Pakistan).

Almost all of the machineries and mechanisms are responsible for the implementation and monitoring of programmes and services that are related to the welfare of women. These services include the following: providing financial assistance; emergency relief; protection, counselling, welfare assistance, temporary shelter, entrepreneurial assistance to victims of gender based violence and other victimized women; providing educational guidance, training and temporary shelter to women who are destitute, elderly, widowed, divorced, disabled or victims of natural disasters; and promoting legal protection for women from gender based violence, exploitation and discriminatory practices.

Some machineries engage in active partnerships and networking with civil society and nongovernmental organizations for planning and implementing programmes and policies[22]. Almost all mechanisms are responsible for the dissemination of information on existing laws, on various United Nations conventions and on agreements related to rights and gender equality.

### **Main problems**

**The outcome document adopted at the 23rd special session of the General Assembly on Beijing +5 identified a number of obstacles in this regard:** in a number of countries, inadequate financial and human resources and a lack of political will and commitment are the main obstacles confronting national machineries.

This is further exacerbated by insufficient understanding of gender equality and gender mainstreaming among government structures, as well as prevailing gender stereotypes, discriminatory attitudes, competing government priorities and, in some countries, unclear mandates, a marginalized location within the national government structures, lack of data disaggregated by sex and age in many areas and insufficient applied methods for assessing progress, in addition to paucity of authority and insufficient links to civil society. The activities of the national machineries were also hindered by structural and

communication problems within and among government agencies.

Other obstacles included weak capacities of the national machineries; political instability as well as instability in the staffing of national machineries; lack of coordination between different ministries, departments and planning systems at different levels of government; lack of statistics, data and tools; shortage of specialized permanent staff in different sectors; gaps between policy and plan formulation and implementation; negative impacts of macroeconomic policies such as trade liberalization; weak monitoring and accountability structures to enforce compliance with gender equality mandates, policies and programmes; lack of public awareness about the work of various institutional mechanisms; weak support from women parliamentarians; and lack of support from civil society, particularly women's movements.

Vaguely formulated mandates minimize the role the national mechanisms can take in policy-making and reduce the influence they may exert within the government to achieve a more profound impact.

Indicators of progress and tools for tracking these indicators were relatively

undeveloped. Lack of statistics and data was a major constraint. As discussed earlier, many of the previously established monitoring indicators need to be revisited. Some

of these indicators tracked progress of various actions but not results. If outcomes are to be monitored there needs to be a better understanding of the causality between policy/action and outcome and design of appropriate monitoring indicators.

### **Measures to be taken**

An enabling environment for the national machineries for women is of great importance. Broadly, these include the role of the state, civil society organizations and the work of the national machineries themselves. An enabling environment, however, is also a contextualized environment.

### **Five elements that are critical in this regard:**

1. Location [at a high level] within the decision-making hierarchy [and authority] to influence government policy.

2. Clarity of mandate and functional responsibility.

3. Links with civil society groups supportive of the advancement of women's rights and enhancement of women's status.

4. Human and financial resources' (United Nations, 1999b). 5 Accountability of the national machinery itself[23].

The responsibility for promoting gender equality is a matter of the whole government. In terms of political level, Gender equality mechanisms should be under direct responsibility of the President, Prime Minister or Cabinet Minister and units or focal points should be

set up within ministries or other government departments or within regional and local power structures, at the highest level of those departments and structures. The international community becomes an important source of strength in some political contexts, but poses difficult issues of independence of machineries in others, especially where nationalist rhetoric is available to, and deployed by, the major political players.

If the NWM is to be effective, a solid constitutional and legal status is crucial, as is a policy which specifies goals and clear lines of organisational responsibility and accountability. These need to be backed by planning procedures and management support structures which can transform policy into practice[24].

In order to ensure local level implementation of gender policies and to increase accountability of service provision to women, gender units or women's committees within local government are required. Just as at national level, however, there is a danger of ghettoisation and under-resourcing[25].

The economic strength of the state is also important to the strength of the machinery - under-resourcing and vulnerability due to restructuring of state bodies often depend on the state of a particular economy. Gender equality institutional mechanisms should have the necessary funding and human resources. Adequate resources are a

basic element for progress in gender equality. Increasing financial allocation from the national budget, earmarking a portion of the budget and increasing resource flow from international agencies is required.

The ways in which gender mainstreaming is understood and accepted as a frame of reference within particular political contexts are also critical.

Another important condition for effective functioning is the existence of adequate mandate of the institutional mechanisms both at central and at decentralised level. The mandate of institutional mechanisms should have a clear legal basis with well-defined functions and responsibilities. There is a growing evidence of decentralisation of gender equality policy, both horizontally and vertically. Involvement of the different sectors and levels of government in gender equality work has been manifested either as a reinforcement of responsibilities of the central executive power or as a creation of new structures operating at regional and local level. Gender equality units or focal points have been set up within ministries or other government departments or within regional and local power structures.

The involvement civil society, namely of women's NGOs, NGOs dealing with women's rights or human rights, and social partners tends to gain more and more importance. They are recognized as essential partners in the social

change that is the ultimate objective of gender equality policies. Civil society groups and the media can also play a significant role in mobilizing and sustaining political will. In future, greater effort needs to be made to mobilize widespread citizen support which is necessary to overcome the deeply held social and cultural obstacles to achieving gender equality and women's empowerment[26]. The pre-Beijing accountability models, which emphasized accountability of the public sector, need to be supplemented by the design of accountability measures for the private sector, civil society and transnational actors[27]. Women parliamentarians can play an important role in supporting the women's movements by piloting legislation, advocating policy reforms facilitating and sustaining the political will needed for the promotion of gender equality and women's empowerment[28].

The CEDAW Committee has often expressed its appreciation where there is a system of reporting regularly to the national/federal legislative bodies on the progress of gender equality efforts, such as an annual/biannual reporting process in some countries.

There is the need to improve the capacity of staff. The suggested areas of action included recruitment of qualified and gender sensitive staff from within government bureaucracy and infusion of outside qualified consultants; training of existing staff

and gender focal points as well as training of senior management to be sensitive to gender concerns;

Supporting research, which will illuminate the gender dimensions of macro policy changes, will be an important step for the future[29].

It is of importance to improve co-ordination and collaboration among different national mechanisms. The national machineries need to improve co-ordination and collaboration with other mechanisms to improve implementation of their goals and reinforce synergies[30].

Two issues are central to the establishment and functioning of a national machinery to promote gender equality: accountability and autonomy.

Accountability is essential for national machineries. A real and permanent dialogue has to be established between the national machinery on the one hand and the various interest groups, especially women's groups, from the civil society on the other hand. If a national machinery is unwilling or unable to keep alive this dialogue with the civil society, the purpose for which it was created is no longer valid.

At the same time, the actors in charge of the national machinery have to be liberated from the stricter forms of political accountability to be able to freely intervene in discussions. Here, the second principle, autonomy, plays its role. Without autonomy there is no

flexibility and, as a consequence, practical policy -making becomes impossible.

Accountability and autonomy go hand in hand. The crucial point is to find a balance between these two principles so that the national machinery can be effective[31].

Thus, a set of potential ingredients, or "factors," for the successful operation of the NGMG includes: the legal framework (the existence of provisions on gender equality in the Constitution, special laws of gender equality, national plans and / or gender equality programs); institutional conditions (the presence of political and administrative structures in government and government responsible for the implementation of gender equality, the existence of a specialized network of gender equality bodies at the federal, regional and local levels); mechanisms to promote women in government structures (quotas, positive discrimination); a developed network of feminist organizations and open channels for the entry of feminists into power (for example, women's cocoons in parties); positive attitude to the issues of gender equality on the part of civil society structures[32].

### **Strengthening Women's Committee of Uzbekistan**

The **Women's Committee of Uzbekistan** provides consulting services to the government on matters of policy affecting women.

The Committee was created in 1991 and is a budget organization funded with State monies. The uniqueness of the national mechanism consists in the fact that the chairperson of the Women's Committee is at the same time a deputy prime minister, which gives the organization the right to coordinate the social partnership between governmental organizations and public and non-governmental organizations.

The Women's Committee of Uzbekistan initiates, coordinates, and implements governmental policy, programmes, and projects geared to improving women's status; advises the government on matters pertaining to women; and disseminates pertinent information among women and on the problems women face.

In order to maintain the rate of advancement of women, the Women's Committee of Uzbekistan focuses special attention on five priority programme areas: employment and the economic well-being of women; the safeguarding of the reproductive rights and reproductive health of women; women and their participation in the life of the society, with an especial focus on the participation of women in leadership and decision making; women and the law, with an especial focus on the elimination of discrimination against women; and women and education, with a focus on the development of professionalism and competency.

The Women's Committee of Uzbekistan also bears primary responsibility for the participation of the Republic of Uzbekistan in the conduct of international events involving the problems women face.

The Women's Committee is the largest women's organization of the Republic of Uzbekistan and has its own chambers in all regions of the republic[33].

Nevertheless, in its Concluding observations of the result of the consideration of the Fifth report of Uzbekistan in 2015 The Committee recommends that the State party:

(a) Strengthen the Women's Committee by transforming it into an effective and genuine part of the State machinery for the advancement of women with the status, authority and human, technical and financial resources necessary to effectively promote the implementation of the Convention and enhance coordination between the Women's Committee and government agencies;

(b) Use the Convention as the legal framework for the design of a comprehensive national plan of action to promote gender equality and put in place monitoring mechanisms to regularly assess the progress made towards the achievement of the goals established in the plan[34].

In this regard a number of specific measures can be proposed.

As to financial resources, not only a state shall provide them, the Committee itself take active efforts

to mobilize financial resources through the cooperation with national and international partners. It will also provide engagement of a wide range of specialists and promote the strengthening human resources. In this regard, it shall continue the practice of concluding Memoranda of cooperation with a wide range of partners.

The status of the Committee will be strengthened if its competence is extended. It shall receive new functions which in its turn will require the establishment of new departments within the Committee. In particular, it can be offered to create a Commission for gender expertise of legislation which will provide in-depth analysis of the legislation and its compliance with international women's rights standards and country's obligations in this regard.

In addition, in each ministry and agency there shall be established gender focal points or advisors on gender issues. Such kind of practice exists in many countries. WCU shall not be the only body to deal with women's rights in the country. One person in each agency shall be responsible for gender mainstreaming dealing with relevant data collection, conducting trainings, etc. These gender focal points will promote women's advancement at their own levels .

It can be also recommended to organize forum of women parliamentarians to assist to the WCO in increasing the role of women in political life of the country.

Special attention of the Women's Committee of Uzbekistan shall be drawn to the development of international cooperation. In this regard, it is noteworthy that the Asia-Pacific economies and their national machineries are represented in the Asia-Pacific Economic Cooperation Gender Focal Point Network, which is tasked to provide expert advice and technical support to both Asia-Pacific Economic Cooperation committees and economies for the implementation of the Framework for the Integration

of Women in Asia-Pacific Economic Cooperation. The Gender Focal Point Network meets annually, implements a three-year work plan to promote the framework, and provides training on gender analysis for members of Asia-Pacific Economic Cooperation[35]. Similar network could be developed within the CIS or Central Asian counties.

To sum up, efforts with the end to improve women's status shall be continued with an active involvement of international partners and civil society institutions.

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