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INTERACTIVE EXPERT PANEL

Commemorating 30 years of CEDAW

Converging tracks: the Convention on the Elimination of All Forms of
Discrimination against Women and the Platform for Action and the Way
Forward for Gender Equality*

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* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

The Convention on the Elimination of All Forms of Discrimination against Women (*CEDAW* Convention) of 1979 and the Beijing Platform for Action (BPA) of 1995 are the two key global instruments for the elimination of discrimination against women, advancement of women and achievement of equality between women and men.

Both the CEDAW Convention and the BPA have been widely accepted by the UN Member States. While the Convention has been ratified by 186 States, being the second most ratified treaty, coming close to the goal of universal ratification, the BPA has been built on the consensus of 189 countries. Those numbers reveal that the majority of States **are bound by both instruments**.

The Convention on the Elimination of All forms of discrimination against Women was adopted more than 30 years ago. It constitutes, as a legally binding human rights treaty that identifies legislative and other appropriate measures required to ensure women's rights to equality and non-discrimination in the enjoyment of civil, political, economic, social, and cultural rights.

In 1995, sixteen years after the adoption of the Convention the Beijing Platform for Action was agreed by the Fourth World Conference on Women. Although not legally binding, it is a comprehensive consensus policy **document that sets strategic priorities and elaborates** necessary measures, actions and implementation strategies for the advancement of women.

Fifteen years ago, I was privileged to be a participant at the Fourth World Conference on Women. The Conference attracted the greatest attendance of both Governmental and non-governmental participants in any United Nations conference. I was extremely impressed by its outcome - the Beijing Platform for Action - and have followed progress in its implementation during these past 15 years in different capacities: at the national level in the where I participated in the elaboration of Croatia's national plan of action for its implementation; at the CSW level where I participated in the five and ten year review processes; and as a member of the CEDAW Committee for the past seven years, where implementation of the Platform has been monitored under relevant articles of the Convention. Although these are different perspectives they have come together into one integrated perspective since the links and converging tracks between the Convention and the BPA have become stronger over the years and now constitute one main track directed at women's empowerment.

In 2000, the BPA had its first review and was **further developed** by the adoption of the Beijing +5 Documents. I participated in this process as the Chairperson of the CSW and member of Preparatory Bureau of the CSW. Long negotiations, including many all-night sessions resulted in the Beijing + 5 document that added 199 actions to be taken at the national and international level for the implementation of the BPA and specified the importance of establishment of explicit short- and long-term time bound targets or measurable goals, including where appropriate quotas to promote progress towards gender equality. Immediately prior to the review, the toolkit for women's rights was strengthened through the adoption of the Optional Protocol to the CEDAW Convention in 1999 and its entry into force in 2000. This instrument creates both a petition and an inquiry procedure for protection of the rights set forth in the Convention

In 2005, ten years later I again participated at the CSW Beijing + 10 review in 2005, this time as a member of the Croatian delegation, but also a CEDAW Committee member. The outcome was the Political Declaration that recognized “*that the implementation of the Beijing Declaration and Platform for Action and fulfillment of the obligations under the Convention on the Elimination of All Forms of Discrimination against women are mutually reinforcing in achieving gender equality and the empowerment of women*”.¹ A panel on synergies between the Convention on the Elimination of all Forms of Discrimination against Women and the Beijing Platform for Action held at the time of this review, stressed that the CEDAW Convention and the BPA are mutually reinforcing.

Today in 2010, fifteen years later, at the third CSW review of the PFA, this important panel is again focusing on converging tracks and synergies between the Convention on the Elimination of All forms of Discrimination against Women and the Beijing Platform for Action. As a current CEDAW Committee member, my presentation is an expression of my personal views on this topic based on seven years of experience as a CEDAW member including as its Chairperson from 2007 to 2008. The Committee’s official statement on the review was adopted at its last 45th sessions, just three weeks ago and the Committee’s current Chairperson has provided you with information on the work of the Committee.

Links and synergies and /or converging tracks between the Convention and the BPA

Firstly, it is important to notice that as the BPA was adopted after the adoption of the CEDAW Convention, the BPA naturally includes numerous references to the CEDAW Convention and the CEDAW Committee, but it also includes a number of important actions aimed to strengthen the implementation of the CEDAW Convention. Now, I will attempt to show how the BPA upholds and reconfirms the CEDAW Convention in its full substance: describe the relationship between the BPA and the Convention with respect to an action plan for further development of the Convention.

I. The BPA upholds and reconfirms the CEDAW Convention

The Beijing Declaration and the BPA, both expressly **reconfirms** the CEDAW Convention:

- The Beijing Declaration in Para 8. “*confirms commitment to the CEDAW Convention*”,
- The BPA in Para 7 states “upholds *the CEDAW Convention...*”

The BPA also include a number of references to the CEDAW Convention:

- Para 25. refers to the fact that adoption of the CEDAW Convention in 1979, and its entry into force in 1981 “*set an international standard for what was meant by equality between women and men*;
- Para 124. (f) Under actions to prevent and combat violence against women Governments are called to “*Implement the CEDAW Convention, taking into account general recommendation 19, adopted by the CEDAW committee at its eleventh session*”.
- Para 215. under I critical areas of concern “ Human Rights of Women” emphasizes that “ *Governments must not only refrain from violating the human rights of all women, but must work actively to promote and protect these rights. Recognition of the*

¹ E/ CN6/2005/L1

importance of the human rights of women is reflected in the fact that three quarters of the States members of the UN have become parties to the CEDAW Convention”

- Para 218 calls for avoidance of reservations that are incompatible with the object and purpose of the Convention.
- Para 219 makes clear that in those countries that have not yet become parties to the CEDAW Convention, or where reservations are incompatible with the object and purpose of the Convention or where national laws have not yet been revised to implement international norms and standards, women’s *de jure* equality is not yet secured.

2. The BPA Plan of action for the CEDAW Convention and Committee and results achieved

Under the BPA’s critical area of concern human rights of women a number of important actions aimed to strengthen the CEDAW Convention and the CEDAW Committee are included. This set of actions can be seen as constituting **the “BPA CEDAW Action Plan.”**

Universal ratification

ACTIONS	RESULTS
The BPA Para 230 b): Ratify the CEDAW Convention to secure its universal ratification by the year 2000.	Although universal ratification has not been achieved, with 186 State parties we are well on the road to this goal.

Withdrawal of reservations

The BPA Para 230 c): Limit the extent of any reservation to the CEDAW Convention, narrow them with a view to withdrawing them	Significant progress has also been achieved in respect of removal of reservations to the Convention. The CEDAW Committee calls upon States which have yet to ratify, if they consider entering reservations, to formulate them as precisely and narrowly as possible so they are not incompatible with the core provisions of the Convention that express its object and purpose. ² In 1998, the Committee expresses the view that reservations to articles 2 and 16 of the Convention are incompatible with the object and purpose of the Convention and as such are impermissible. ³
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² In General Recommendation No. 4 (A/42/38 of 1987) the Committee expresses its concern regarding the significant number of reservations that are incompatible with the object and purpose of the Convention, while General Recommendation No. 20 about reservations to the Convention (A/47/38 of 1992) calls upon other states parties to raise the issue of the validity and legal effect of reservations to the Convention.

³General Recommendation No. 4, General Recommendation No. 20 and in its Statement on reservations to the Convention on the Elimination of All Forms of Discrimination against Women (1998) , A/53/38/Rev.1 pp. 47-50.

Optional protocol to the CEDAW

<p>The BPA Para 230 k) support the CSW process on elaboration of the draft Optional protocol to the CEDAW convention on petition procedure...</p>	<p>The tenth anniversary of the adoption of the Optional Protocol by the General Assembly was celebrated in 2009. There has been steady acceptance of the Protocol, which currently has 99 States parties.</p>
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Meeting time

<p>The BPA in Para 324 j): called States to Enable CEDAW Committee with adequate meeting time; accept amendment to article 20 paragraph 1⁴</p>	<p>A two-thirds majority of States parties must accept the amendment before it enters into force. As of today, only 56 States have done so, so entry into force of the amendment will still take some time. In the meantime, the General Assembly has granted the Committee more meeting time, so that in 2010 the Committee meets three times annually. The Committee has significantly increased its efficiency since 2006, with holding three sessions per year and some of them in parallel chambers.</p>
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Regular reporting

<p>The BPA in Para 324 i) called States to: Report on schedule to the CEDAW Committee, involve NGOs ...</p>	<p>As a result of its extended meeting time, the Committee has been able to take up reports very soon after their submission. (you probably need some statistics on how many States have submitted reports)</p> <p>In 2009, the Committee adopted the practice of identifying two concerns in its concluding observations which it considered required the State party's priority attention and requesting the State party to provide information on steps taken with regard to these concerns within one or two years.</p> <p>The Committee has also focused on</p>
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⁴ The eighth meeting of States parties, held in 1995, revised the original proposal and adopted the following amendment to Article 20.: "*The Committee shall normally meet annually in order to consider the reports submitted in accordance with article 18 of the present Convention. The duration of the meetings of the Committee shall be determined by a meeting of the States parties to the present Convention, subject to the approval of the General Assembly.*"The General Assembly took note with approval of the amendment at its fiftieth session (resolution 50/202).

	<p>encouraging reporting, in particular by States whose reports are long overdue extending a special invitation to those States parties calling on the submission of their reports by specific future date, failing which the Committee takes up implementation in the State party concerned in advance of its report. The Committee has allocated specific meeting time for NGOs to present reports during its pre-session working group (PSWG) its sessions in respect of reports and in relation to the follow-up procedure. It has also formulated a statement on NGOs and their interaction with the Committee.</p>
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Consultations with Special Rapporteur on violence against women

<p>The BPA Para 127 calls on the UN SG to provide the Special Rapporteur on violence against women with periodic consultations with the CEDAW committee</p>	<p>In past few years the CEDAW Committee has had regular consultations and exchanges with the Special Rapporteur on violence against women</p>
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Visibility

<p>The BPA in Para 233 a) calls States to: translate, whenever possible, into local and indigenous languages the CEDAW Convention and national reports to the CEDAW Committee.</p>	<p>In all concluding observations the CEDAW Committee includes this recommendation</p>
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3. The CEDAW Committee monitors implementation of the Convention and the BPA

The CEDAW Convention is a living human right instrument ensuring women’s human rights which is constantly develops through the work of the treaty body - the CEDAW Committee – it establishes. The Committee is composed of 23 experts who serve in their personal capacity. The mandate of the CEDAW Committee, set up by article 18 of the Convention, is to monitor the implementation of the Convention by the consideration of the reports that States Parties are obligated to submit periodically.⁵ Further competence is provided by the Optional

⁵These reports concern legislative, judicial, administrative and other measures that States Parties have adopted for the implementation of the Convention. Submission of an Initial report is required within a period of one year after the Convention has come into force for the given state; after that a State Party

Protocol, and the Convention also empowers the Committee to elaborate general recommendations and suggestions based on the examination of reports and information received from States parties.

The BPA provides a very important link between the CEDAW Committee's mandate and the implementation of the BPA.

Paragraph 323 of the BPA states that *“The Committee on the Elimination of Discrimination against Women, in implementing its responsibilities under the Convention on the Elimination of All Forms of Discrimination against Women, should, within its mandate, take into account the Platform for Action when considering the reports submitted by States Parties.”*⁶

Paragraph 324 of the BPA, further indicates that *“States Parties to the Convention on the Elimination of All Forms of Discrimination against Women are invited, when reporting under Article 18 of the Convention, to include information on measures taken to implement the Platform for Action in order to facilitate the Committee on the Elimination of Discrimination against Women in monitoring effectively women's ability to enjoy the rights guaranteed by the Convention.”*⁷

Those provisions clearly recognize that in substance the CEDAW Convention and the BPA are mutually reinforcing and that information allowing the monitoring of the implementation of the CEDAW Convention should be supplemented with information on the implementation of the BPA in order to facilitate *Committee's role as monitor on women's ability to enjoy the human rights guaranteed by the Convention.*

From its side, the CEDAW Committee has clarified that the reports of States parties should contain information on the implementation of the Platform for Action and of the Outcome document. The CEDAW Committee provide that clarification in its CEDAW Reporting guidelines and its Cobs. At its fortieth session, the Committee adopted **its treaty-specific or CEDAW reporting guidelines of 2008**⁸ and specified that:

*..The Convention specific document should also contain information on how the implementation of the 12 critical areas of the Platform for Action , as they relate to specific articles of the Convention, is integrated into the State party's implementation of the Conventions substantive equality framework”.*⁹

In its review of States parties' reports, the Committee has often highlighted the commitments made by State Parties at Beijing and noted in its concluding comments if States have failed to address the BPA in their reports. The Committee has often requested adoption of overall plans for implementation of the BPA within a clear time frame and in its “constructive dialogue”

must submit periodic reports at least once in four years, and further whenever the Committee so requests.

⁶ Beijing Declaration and Platform for Action, Fourth World Conference on Women: Action for Equality, Development and Peace, Beijing, September 15, 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), Chapter V, Institutional Arrangements, Title C. International Level, Subtitle 1. United Nations, Other functional commissions, Paragraph 323;

⁷ Idem, Paragraph 324;

⁸ CEDAW/SP/2008/INF/1

⁹ Ibid, para 27.

with the states representatives. In its concluding observations the CEDAW Committee links implementation of the Convention and the Beijing Platform for Action.¹⁰ For example the CEDAW Committee has noted:

- “with satisfaction that the National Plan of Action on Gender Equality and Women’s Empowerment covers the 12 critical areas of concern identified in the Beijing Platform for Action.”¹¹
- “[...] the Convention and the Beijing Platform for Action have not been integrated into policy planning and programmes. While there have been several national plans in the pre- and post-Beijing period, the Committee notes that these adopt a welfare approach towards women.” The Committee further recommended that “the proposed gender empowerment policy integrate the Convention and the Beijing Platform for Action and a rights-based approach.”¹²
- “[...] the Convention constitutes the legal basis and framework of the Beijing Platform for Action.”¹³

“While noting that the State party’s gender policy appears to be formulated primarily in the framework of the Beijing Platform for Action and European Union provisions, the Committee is concerned that the Convention has not been given central importance as a binding human rights instrument and basis for the elimination of all forms of discrimination against women and the advancement of women.”¹⁴

The Committee urges the State party to **place emphasis on the Convention as a binding human rights instrument, and to view the Platform for Action as a complementary policy document** to the Convention in its efforts to achieve the goals of equality. It furthermore urges the State party to take proactive measures to raise awareness about the Convention.¹⁵

In all its concluding comments the CEDAW Committee calls upon Governments to integrate the Beijing Platform for Action with its commitments made under international law to implement the Convention, including in all **concluding comments a standard paragraph** on the State Party’s obligation under the BPA when reporting to the Committee:

The Committee urges the State party to utilize fully, in its implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.”

The CEDAW Committee has further routinely includes in its concluding comments a recommendation to the reporting State Party to widely disseminate the BPA in a standard paragraph in the Concluding Comments that emphasizes the importance of **disseminating the**

¹⁰ ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC, High-level Intergovernmental Meeting to Review Regional Implementation of the Beijing Platform for Action and its Regional and Global Outcomes, September 7-10, 2004 Bangkok, Moving Beijing Forward: Strategies and Approaches for Creating an Enabling Environment;

¹¹ CEDAW Committee, Thirtieth session, January 12-30, 2004, Concluding 2004 Report for Nepal, CEDAW/C/2004/I/CRP.3/Rev.1, para. 13;

¹² CEDAW Committee, Twenty-second session, February 4, 2000, Concluding 2004 Report for India, CEDAW/C/2000/I/CRP.3/Add.4/Rev.1, paras. 54-55;

¹³ CEDAW Committee, Twentieth session, February 5, 1999, Concluding 2004 Report for China, CEDAW/C/1999/I/L.1/Add.7, para.25;

¹⁴ CEDAW, A/57/38 (Part II) (2002), Belgium, paragraph 141, p 98;

¹⁵ CEDAW, A/57/38 (Part II) (2002), Belgium, paragraph 142, p 98;

Committee's Concluding comments together with, *inter alia*, the Beijing Platform for Action within the State party.

The Committee requests the wide dissemination in the Netherlands of the present concluding observations in order to make the people, including Government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women and the further steps that are required in that regard. The Committee requests the State party to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

4. Examples of the integrated use of CEDAW and the Platform for Action in the promotion of gender equality and the realization of women's rights

The CEDAW Convention and the BPA are both **gender specific** instruments targeting only women. As such, both represent an important recognition that general human rights treaties or agendas are important but not sufficient for the elimination of discrimination against women, and that a specific set of principles and measures are needed for the advancement of women and elimination of all forms of discrimination against women.

Although the CEDAW Convention is a gender specific instrument its goal is the recognition and achievement of the *de jure* and *de facto* equality of women and men, which is to be achieved by a policy of elimination of all forms of discrimination against women. It protects **women throughout their lifecycle and implicitly includes girls, explicitly touching on their situation in article 16, paragraph 2.** A primary requirement for States parties is to "*embody the principle of equality of men and women in their national constitutions or other appropriate legislation*" and to *ensure the practical realization of this principle.*" This requirement of practical realization of equality makes clear that the Convention envisages substantive equality between women and men in the enjoyment of all human rights.

The BPA is also a **gender specific** instrument that protects **women throughout their lifecycle and explicitly includes girls.** The BPA under one of its strategic objectives (I.2. Para 232) also recognizes as a goal achievement of the *de jure* and *de facto* equality of women and men. Under the objective to "Ensure equality and non –discrimination under law and in practice" it calls governments to:

b) provide constitutional guarantees and or enact appropriate legislation to prohibit discrimination on the basis of sex,

c) embody the principle of equality of man and women in their legislation and ensure, thought law and other appropriate means, the practical realization of this principles.

In substance the BPA provisions mirror the non–discrimination and substantive gender equality principles contained in articles 1 and 2 of the CEDAW Convention.

Both the Convention and the BPA have had a **significant impact on the development of** domestic laws, standards and policies for the elimination of discrimination against women and

promotion of women's rights; therefore they **should not be used as two separate, parallel instruments**, but as two **mutually reinforcing, complimentary tools** for the elimination of discrimination against women and the practical realization of the gender equality.

All 16 substantive article of the CEDAW and the 12 critical areas of concern the Beijing Platform for Action are in substance the **same, similar or complementary**. In some areas, the Beijing Platform for Action is more explicit in terms of the actions required to reach the objective of both instruments. The Committee has been able to integrate these recommended actions into its analysis of the practical steps States must take to comply with their Convention obligations and to integrate these into concluding observations.

National machinery - an example of additional clarifications provided by the BPA and used the CEDAW Committee.

With respect to national institutions for the advancement of women the CEDAW Convention is not very explicit while the **Beijing Action Platform of 1995 contains as one of the 12 critical areas** national mechanisms for the advancement of women, **and establishes standards for their activities**. Usually during the constructive dialogue on States parties reports the CEDAW Committee experts pose questions with respect to the national machinery under article 3 of the Convention and in reflect their conclusions in the concluding observations using the language of BPA Para 201 on national institutions. Thus, **concluding observations recommend that** national institutions for the protection of the rights of women in the State party should have an appropriate position in the Government, appropriate staffing, resources and a mandate for gender mainstreaming in all segments of government policy and programmes.

“The Committee recommends that the State party strengthen the existing national machinery in order to make it more effective by providing it with adequate power, visibility and human and financial resources at all levels and enhancing coordination among the existing mechanisms for the advancement of women and the promotion of gender equality...¹⁶”

Violence against women - an example of complementarity between the BPA and the Convention, as well as the reinforcing nature of both instruments. This has been strengthened through the Committee's work under the Optional Protocol, and particularly its views on petitions.

The BPA includes, for instance, an **entire section on violence against women**, which although implicitly covered by the CEDAW Convention, is not specifically referred to. The BPA in Para 124.F) call States to: *Implement the CEDAW Convention, taking into account general recommendation 19, adopted by the CEDAW Committee*. In its historic General Recommendation 19 of 1992 the Committee confirmed that violence against women constitutes a discrimination against women and a violation of human rights and emphasizes that *“States can also be accountable for private acts of violence against woman if they fail to act with due diligence to prevent them, to investigate, to penalise and appropriately compensate for the damage”*. This is an elaboration of obligations under articles 1 and 2 line

¹⁶ CEDAW, A/57/38 (Part III)(2002), Czech Republic, paragraph 90, p 160

Article 2 (e) of the Convention. Currently the CEDAW Committee is further developing its interpretation of States Parties' obligation under due diligence principle under its decision in individual cases under the Optional protocol. For example in two cases on domestic violence Committee expressed its views" *that the perpetrator's rights cannot supersede women's human rights to life and to physical and mental integrity*" what was recently quoted by the European Court for Human rights in a recent case on domestic violence against women.

Discriminatory laws -an example of complimentary between the BPA and the Convention that should be stronger addressed by all stakeholders

With respect to discriminatory laws article 2 d) of the CEDAW Convention imposes obligation to State parties:... *to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women.*

The BPA Para 232 calls on Governments d) *"to review national laws, including customary laws and legal practices (.....)to revoke and remaining laws that discriminate on the basis of sex...*

The BPA Para 230 g) *If they are State parties, implement the Convention by reviewing all national laws, policies, practices and procedures to ensure that they meet the obligations set out in the Convention, all States should undertake a review of all national laws, policies, practices and procedures* The BPA +5 Para 68 b) ...remove discriminatory provisions as soon as possible, preferably by 2005, ...

Both the CEDAW Convention and BPA contain obligations to eliminate discriminatory laws and mutually reinforce each other. In a number of cases the Committee has called for the abolition of specific discriminatory laws, or discriminatory practices. The Committee has also seen that many discriminatory laws persist from one reporting cycle to reporting cycle in all areas covered by the Convention and in all parts of the world.

In all cases where the Committee has recommended in its concluding observations elimination of discriminatory laws or practices against women and the girl child we need to see the changes of such laws at the national level "without delay", with the full involvement of the respective Governments and all other stakeholders that have their role to play, such as Parliaments, NGOs, National human rights institutions and the UN agencies working in the country. Technical assistance for such legislative changes if requested from the Office of the HCHR could include the expertise of the available former or current CEDAW Committee members.

5. Role of different stakeholders in realization of women's human rights

The Committee has sought to expand the range of stakeholders with whom it interacts in relation to implementation of the Convention. While States parties have the primary responsibility in this regard, other actors are also critical. In 2008, the Committee adopted a statement on the role of national human rights institutions in its work and in follow-up to its recommendations at its forty-fifth session in January/February 2010 it adopted a Statement on the role of Parliaments and a Statement on the role of NGOs.

Conclusion

There is significant synergy between the substantive content of the Convention and the BPA and they are mutually reinforcing. When integrated and invoked together, the two instruments constitute a comprehensive and global basis for advocating gender equality.

Taking into consideration this complementarily and reinforcing nature of the two instruments as well as the mandate of the CEDAW Committee to monitor the implementation of both instruments, the inevitable conclusion is that the Convention and the BPA should be not be used as a two separate instruments.

They should be used in an integrated manner taking into account the reality that majority of States have voluntarily agreed to be bound by both instruments and that it is likely that in the not too distant future all States will be bound by the both instruments. All States bound by both instruments have obligation to use, incorporate and implement the Convention as a legally binding women's human rights instrument, and in that process they should use and integrate implementation of the Beijing Platform for Action that in many areas provide substance to the content of "all appropriate measures" to implement the Convention and achieve its goal of substantive equality of women and man.

Over the past fifteen years the links and converging tracks between the Convention and the BPA have become stronger and they now more and more merge into one main track directed at women's empowerment.