

Lisa Gormley

July 12th, 2019

## 40 years of creativity, striving for women's human rights across the globe

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*This year marks the 40<sup>th</sup> anniversary of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In the first of a two-part article [Lisa Gormley](#) looks at the successes of the international treaty, and the challenges in setting a global legal commitment to equality for women to achieve social and political transformation.*

Almost every State in the world, with the exception of the United States of America, Somalia, Sudan and Iran, are [States parties to the CEDAW Convention](#). This commitment obliges States parties

to report regularly (every six years, usually) to the Committee on the Elimination of Discrimination (the CEDAW Committee) on their progress in ensuring the human rights of women and girls.

40 years of State party reviews has brought the CEDAW Committee an unparalleled body of knowledge about the lived detail of how women's and girls' human rights are both respected and violated: and how States in all regions of the world – developed and developing States alike – need to improve their laws and practices to transform the situations of discrimination that women and girls face.

### **Celebrating 40 years of CEDAW**

Nahla Haidar, an experienced CEDAW Committee member, provided inspiring and in-depth insights into this thematic and country-related work at the recent Doughty Street Chambers event **"A Celebration of the 40th Anniversary of CEDAW"** – in conversation with my colleagues **Christine Chinkin** and **Keina Yoshida**. The conversation drew on in-depth analysis and insights into the CEDAW Committee's discussions, including their work considering individual cases and inquiries into grave or systematic violations of the CEDAW Convention. What made these stories of women's and girls' experiences so compelling is that providing evidence to the CEDAW Committee brings to women and girls a deep sense of their binding legal entitlements to equality – as Christine Chinkin said, the CEDAW Convention allows a woman to say, "What happened to me should not have happened." The rights recognised in CEDAW must be put into practice.

The panel discussed various conceptions of gender equality and "transformative equality" a term used with increasing regularity in the

CEDAW Committee's activities. Nahla Haidar reflected that even in the countries which were most successful in promoting equality in law and policy, these approaches were still not leading to real change for women, particularly relating to violence against women. In response the CEDAW Committee developed the idea of "transformative equality" – where gendered stereotypes, cultures and structures, such as educational and work expectations, family life and religion are also transformed, so that, States "ensure the full development and advancement of women" – as **Article 3** of the CEDAW Convention requires. This leads to a creative challenge for women's rights advocates, whether lawyers or campaigners, to imagine what that advancement of women and girls looks like.



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## The case of **Ángela González Carreño**

An example of this creative approach of advocates and CEDAW members is the case of **González Carreño's v Spain**. Ángela González Carreño had left her partner after years of an abusive relationship. Even after the end of the relationship, he continued to assault and harass her, often using contact visits with their child Andrea as an opportunity to commit more violence. Even though Ángela made more than 30 reports of this violence to the authorities, no effective action was taken to prosecute this man, or secure protection for Ángela and Andrea: and even though Andrea told the authorities that she was afraid of her father, he was still allowed unsupervised contact visits with her. During the course of one of these visits, he killed Andrea, and then killed himself. Ángela sought justice for the State's failure to protect Andrea, but her case failed in Spain – the blame was put wholly on the violent man, with no acknowledgement of State failures to take effective action to stop someone who was known to be violent, so she appealed to the CEDAW Committee. The CEDAW Committee found that the state violated the rights of Ángela and her daughter in failing to respond effectively to their clear need for protection, and eventually, Spain agreed to comply with CEDAW's decision in this case.

Ángela González Carreño's case raised important questions about the role of gender stereotyping in domestic violence and child custody matters. The CEDAW Committee built on its analysis of violence against women as a form of discrimination, set out in **General Recommendation 19**, calling on Spain to provide specific reparation to the applicant herself for the gender-based violence in the family she experienced, but also to make broader recommendations for the Spanish authorities, such as reforming family law processes so that "prior acts of domestic violence will be taken into consideration when determining custody and visitation rights regarding children and so that the exercise of custody or visiting rights will not endanger the safety of the victims of violence,

including the children”, and ensuring training for judges and State administration staff about the gender stereotypes as well as the laws and the reality of domestic violence, so that more effective action is taken to protect women at risk of violence and their children.

### **An Intersectional and inclusive approach**

Questions about the very nature of gender difference remain, particularly on what is the basis of the transformation that the CEDAW Convention seeks to achieve? In General Recommendation 28, the CEDAW Committee endorses the term “intersectionality” (GR28, paragraph 18) and indicates the many intersecting grounds of discrimination that compound gender discrimination: “The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity.” The panel discussed how challenges to the very idea of gender come from different standpoints. On one hand, moves towards gender-neutral and gender-mainstreaming policies make women’s experience invisible, on the other hand, in places where right-wing populist ideologies are gaining ground, the term “gender ideology” is used to create a backlash against women’s rights, on the grounds that women’s rights are destructive to the family, and religious teaching, and the structures of society. In fact, it is not women’s rights which are undermining the structures of society, it is the structures of society that are undermining women’s rights. On the question of media controversy about the nature of biological sex and non-binary conceptions of gender, Nahla Haidar was clear that “Women have different perceptions of their identity. It is important not to exclude – in the CEDAW Committee we have an inclusive definition – any woman facing a violation of her human rights is our concern.”



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### **40 years of success**

The last question to the panel was about the CEDAW Committee's inquiry into the criminalisation of abortion in Northern Ireland, which identified the practice as a form of systematic discrimination and violence against women – what could be done to persuade the UK government to comply with CEDAW's ruling? Nahla Haidar's response was that working with a variety of individuals and institutions, such as national human rights commissions, is helpful in making it clear to governments that they need to abide by their legal commitments. So, while the legal obligation is on States, everyone can make a difference in demanding that women's right to equality is made real in practice. Just three weeks after this conversation, the **UK parliament took steps to put CEDAW's recommendation on abortion in Northern Ireland into practice**: so this is a timely moment to reflect on the effect of the CEDAW Convention in our own jurisdiction, as well as around the world.

*This article is the first of a series of blogs celebrating 40 years of CEDAW.*

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### About the author



**Lisa Gormley**

Lisa Gormley is a Policy Fellow in the Centre for Women, Peace and Security. She is an international lawyer specialising in equality for women and girls, and the obligation of States to eradicate violence against women and girls. Currently, Lisa is developing the Centre's Tackling Violence against Women website, adding further detailed analysis of the international jurisprudence relating to violence against women, with support from the Joseph Rowntree Charitable Trust.

**Posted In:** CEDAW at 40

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