

Beijing+5

Assessing Reproductive Rights

From June 5 to 9, 2000, about 2,000 government delegates and 2,000 non-governmental organization (NGO) representatives from more than 180 countries gathered in New York for a Special Session of the UN General Assembly to review implementation of the 1995 Beijing Declaration and Platform for Action (Beijing Platform). The Special Session, entitled “Women 2000: Gender Equality, Development and Peace for the 21st Century” (also known as “Beijing+5”), was the culmination of more than five weeks of negotiations spread over several months. The negotiations related primarily to a document entitled, “Further actions and initiatives to implement the Beijing Declaration and Platform for Action” (the Review Document). The Review Document is an agreement among governments, which analyzes what has occurred since 1995 and how to move implementation forward.¹ The document constitutes a pledge by the world’s governments to take measures to speed implementation of the Beijing Platform’s provisions.² Although there were significant disappointments, the chaotic negotiations did yield some positive gains, which reflected many of the concerns that women’s groups, including the Center for Reproductive Rights, put forward when the negotiations began in March 2000.³

OUTCOME OF THE NEGOTIATIONS

There was evidence at Beijing+5 that progressive positions on women’s human rights, including reproductive rights, have become more widely accepted. For example, many delegations that had opposed the Beijing Platform’s provisions on reproductive and sexual rights five years ago, notably from Latin America, supported more progressive measures to implement those very provisions. Despite the right wing’s strategy to wear down delegates to the point of physical exhaustion and extract concessions along the way, the Beijing Platform truly was a “floor.” Even those provisions considered to be “radical” in 1995 were accepted, demonstrating that the international community’s thinking on gender equality continues to move forward as it has in recent decades.⁴

However, in controversial areas where the language agreed to in these negotiations simply quoted the Beijing Platform, it obviously failed to provide guidance on Beijing’s implementation. In addition, the Review Document fell short in meeting the most fundamental priorities of women’s rights organizations for Beijing+5: commitment of financial resources and adoption of time-bound targets, indicators, and concrete benchmarks to foster accountability and increase political will.⁵ The Review Document adds just three time-bound targets to the Beijing Platform’s anemic twelve paragraphs. These are: ensuring a non-discriminatory legal environment by 2005;⁶ the incorporation of ICPD+5’s time-bound goals;⁷ and the improvement of adult literacy by 50 percent by 2015.⁸ This stands in contrast to the ICPD+5 negotiations in 1999, at which governments agreed to an additional thirteen targets and benchmarks, including one on financial resources.⁹ This anomalous situation shows that governments continue to resist setting concrete goals and committing adequate financial resources to further women’s equality and human rights.

As was the case at the 1994 International Conference on Population and Development (ICPD) in Cairo, at the 1995 Beijing Conference, and at the 1999 five-year review of ICPD (ICPD+5), reproductive and sexual rights were the primary targets of right-wing opponents of women's full equality. A small number of conservative governments and their NGO allies sought to undermine the negotiations, primarily by stalling and blocking consensus on issues such as unsafe abortion, the inclusion of reproductive and sexual rights, and discrimination based on sexual orientation; this strategy was designed to chip away at the Beijing Platform's principles. North-South debates on overseas development assistance, debt relief, and globalization also complicated the negotiations. A handful of countries, including the U.S., fundamentally disagreed on provisions related to sanctions, foreign occupation, and nuclear disarmament, with the U.S. entering reservations on several provisions as a result.¹⁰

G-77 BREAKDOWN

As noted above, a number of governments that in the past had adopted conservative positions came to support progressive positions in the Review Document. This phenomenon was borne out in a much more significant development during the negotiations. The Group of 77 and China (G-77), an inter-governmental bloc of 133 so-called developing countries that was formed in June 1964 to speak within the UN system as a united front on economic issues, has recently begun to speak as one voice on all issues. This represents a problematic development for women's rights advocates, given the diverse positions of the G-77 members on issues such as reproductive health and women's human rights. At the Beijing Conference in 1995, this coalescing of the G-77 had not yet occurred, but it was a serious impediment last year during the ICPD+5 negotiations because the most conservative G-77 members tended to be successful in ratcheting down the G-77's common positions on some reproductive rights issues. In the end, the G-77 negotiated as a bloc at ICPD+5 on all but adolescent rights, emergency contraception, and abortion.¹¹

During the April Beijing+5 negotiations, as it became apparent that the same core group of G-77 conservative states was obstructing progress and determined to prevent progressive positions from being reflected within the G-77's common position, the bloc began to rupture. Led by Brazil and Peru, the majority of Latin American states decided to develop a common position on outstanding issues. This new bloc—known as Some Latin American Countries (SLAC)—came under intense pressure from the Vatican and certain other members of the G-77. Several Latin American countries closely allied with the Vatican did not side with SLAC. But the progressive group was joined by the 14 Caribbean CARICOM countries (thus becoming “SLACC”) on most issues. In the final negotiations, SLACC worked closely with India and the bloc of Southern African countries known as SADC, as well as Cameroon, Ghana, and Kenya. The “lowest-common-denominator” phenomenon, that had predominated due to the G-77 earlier in the Beijing+5 negotiations and throughout most of the ICPD+5 negotiations, was radically altered by the emergence of common positions that unequivocally supported women's human and reproductive rights, as well as economic justice for low-income countries.¹²

Beijing +5: Assessing Reproductive Rights

On balance, despite the intransigent minority's determination to turn back the clock on women's human rights, the complex North-South politics, inadequacies in the UN Secretariat's role in the process, and the glacial pace of negotiations, the resulting Review Document—and in fact the Beijing+5 process itself—were valuable. Governments did reaffirm their commitment to the Beijing Platform and pledge to undertake additional strategies and actions to speed implementation. In sum, Beijing+5 continues the momentum to bring about real changes in women's status in every country of the world.

GAINS FOR REPRODUCTIVE HEALTH AND RIGHTS

The following is a brief summary of some key gains related to reproductive rights contained in the Review Document.

Affirmation of the Goals and Benchmarks of ICPD+5. The Review Document directs governments to “[r]eview and revise national policies, programmes and legislation to implement” the document agreed upon at ICPD+5, particularly “the specific benchmarks” related to maternal mortality, provision of the widest achievable range of safe and effective contraception, and reduction of young people's risk of HIV/AIDS.¹³

This paragraph was agreed to quite late in the negotiations, due to its incorporation of the various progressive provisions agreed to at ICPD+5, which were opposed the previous year by many of the same obstructionist delegations that were active during Beijing+5. Because it was not realistic for the Beijing+5 document (which encompasses so many issues germane to women's rights) to broadly address reproductive and sexual health and rights issues as the ICPD+5 document did,¹⁴ reproductive and sexual rights advocates viewed this provision as an essential reaffirmation of the previous year's agreed text. Its adoption—while seemingly a modest achievement—will counter opponents of reproductive rights who try to assert that omissions in the Beijing+5 text undermine last year's agreement. Clearly, advocates now have an even greater mandate to push for full implementation of ICPD+5's more detailed provisions on reproductive rights.

Reduction of Maternal Mortality. The Review Document directs governments to “[e]nsure that the reduction of maternal morbidity and mortality is a health sector priority and that women have ready access to essential obstetric care, well-equipped and adequately staffed maternal health-care services, skilled attendance at delivery, [and] effective referral and transport to higher levels of care”¹⁵

While the dire need to address maternal mortality and morbidity is not new, the failure to make measurable progress in recent decades in many low-income countries has led to somewhat stronger language both in the Beijing+5 review and in the ICPD+5 review of 1999.¹⁶ The Review Document's strong echo of the previous year's ICPD+5 language concerning this issue was a crucial reaffirmation for those in civil society, UN agencies, and those in governments who are working to muster political will and increase funding in countries where pregnancy and childbirth continue to threaten women's lives and health.

Adolescent Reproductive Rights. The Review Document reaffirms governments' commitment to design and implement programs with the full involvement of adolescents to ensure their access to sexual and reproductive health services, education, and information. The provision makes reference to "their right to privacy, confidentiality, respect and informed consent."¹⁷ Moreover, it affirms parents' responsibilities, rights, and duties to provide direction and guidance in the child's exercise of the rights recognized in the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination Against Women (Women's Convention), "ensuring that in all actions concerning children, the best interests of the child are a primary consideration."¹⁸

This paragraph on adolescent reproductive rights was among the last to be agreed upon on June 9. Fortunately, the right wing's views related to the role of parents and the sanctity of "the family"—composed strictly of a man, woman, and their children—were not adopted in the Review Document. A workable balance was maintained that emphasized the best interests of the child, as well as her right to access reproductive and sexual health services and information. The notion that "the family" often undermines gender equality and is sometimes an unsafe place for girls was asserted by delegations from Latin America, the Caribbean, and Africa.¹⁹

Abortion. The Review Document simply repeats the Beijing Platform's relatively progressive provision on abortion, i.e., governments should "consider reviewing laws containing punitive measures against women who have undergone illegal abortions."²⁰ It also contains an evaluative paragraph which provides that "[w]hile some measures have been taken in some countries, the actions contained in [the Beijing] Platform for Action regarding the health impact of unsafe abortion and the need to reduce the recourse to abortion have not been fully implemented."²¹

After midnight on Friday, June 9, exhausted delegates were unable to reach an agreement to adopt the same language agreed to one year prior at the ICPD+5 negotiations; that language provided that governments should "train and equip health-service providers . . . to ensure that . . . abortion is safe and accessible."²² Interestingly, during the ICPD+5 negotiations, additional wording echoing the Beijing Platform's language on reviewing laws containing punitive measures was not agreed to, due to opposition from a small minority of delegations.²³

The dynamic during that last tense evening of the Beijing+5 negotiations resulted in the Chair of the Preparatory Committee ruling that on the few remaining paragraphs—the action-oriented abortion paragraph among them—contested language would be dropped in favor of verbatim Beijing Platform language. The stalemate that existed at that point effectively meant that only Beijing Platform language would be adopted without unanimity—a unanimity that was impossible on an issue as controversial as abortion still is. While the right wing portrayed the defeat of a more explicitly progressive paragraph on abortion as a major victory,²⁴ this was not the case. The general paragraph incorporating all of the ICPD+5's provisions, including the one on abortion referred to above, as well as governments' reaffirmation of the Beijing Platform's progressive abortion paragraph, confirms that the international consensus favoring concerted action to address unsafe abortion, including through legal reform, has grown stronger, not weaker.²⁵

Beijing +5: Assessing Reproductive Rights

Nicaragua, supported by the Holy See, introduced an amendment to incorporate a “conscience clause” in the abortion paragraph. It would have permitted physicians to refuse to perform abortions and to deny women information on abortion, without requiring such physicians to provide mandatory referrals or to perform abortions in cases where the woman’s life is in danger and no other health provider is available. NGOs devoted to women’s health and rights mobilized quickly to oppose this amendment, and it was defeated, as it had been at ICPD, Beijing, and ICPD+5.²⁶

Addressing HIV/AIDS. Several provisions address significant issues surrounding the HIV/AIDS pandemic’s impact on women. In particular, the Review Document emphasizes non-discrimination and respect for the privacy of those living with HIV/AIDS and other STIs,²⁷ as well as increasing awareness of HIV/AIDS prevention, especially among young women,²⁸ and encouraging and enabling men to adopt safe and responsible sexual behavior to prevent HIV/AIDS transmission.²⁹

These provisions are similar to those adopted last year during ICPD+5.³⁰ The Holy See and its allies seemed to devote less attention to opposing these provisions than they did last year, instead focusing their attention on a bizarre campaign to replace the phrase “health services”—in connection with HIV/AIDS and more broadly—with “health care.”³¹ They argued that “services” could include abortion. Their interventions on this point did not succeed and would have had no impact even if they had, since paragraph 94 of the Beijing Platform (which was literally reproduced as a paragraph in the Review Document³² at the Holy See’s insistence) defines reproductive health care as including health services.

Crimes of Sexual and Gender-Based Violence. For the first time in an international consensus document, the Review Document calls on governments to address through legislation and other measures so-called “honor crimes” and forced marriage.³³ Language addressing other forms of violence against women, including marital rape and dowry-related violence and deaths, was strengthened by calling for stronger mechanisms to combat such practices, such as the adoption and full implementation of legislation and other policy responses.³⁴ Finally, the document directs governments to “[t]reat all forms of violence against women . . . as a criminal offence punishable by law”³⁵

The Review Document affirms that the Rome Statute of the International Criminal Court is an indispensable tool in the realization of women’s human rights by encouraging its ratification.³⁶ Of particular import is a provision encouraging increased awareness and knowledge of the Rome Statute and the gender-based crimes it defines as war crimes and crimes against humanity, including rape, sexual slavery, forced pregnancy, and enforced sterilization, with “the aim of preventing such crimes . . . [.] tak[ing] measures to support prosecution of all persons responsible . . . and provid[ing] avenues for redress to victims”³⁷

The Beijing Platform was revolutionary for its detailed provisions defining violence against women and setting out strategic objectives and actions to be taken by governments and other actors to combat it.³⁸ As women’s rights advocates and UN agencies have continued to emphasize the horrifying prevalence of such practices in all cultures

of the world,³⁹ the government negotiators at Beijing+5 felt some pressure to strengthen their past commitments to combat all such practices, including some that had not been explicitly named.

Women's Human Rights. Governments agreed that they should “[c]onsider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.”⁴⁰ The United Nations system is directed to “[a]ssist States Parties, upon their request, in building capacity to implement the Convention on the Elimination of All Forms of Discrimination Against Women,” as well as to implement the concluding comments and general recommendations of the Committee overseeing the convention.⁴¹

In discussing obstacles to the Beijing Platform's implementation, the Review Document notes “insufficient recognition of women's and girls' reproductive rights, as well as barriers to their full enjoyment of those rights.”⁴² The document also directs governments to “[c]reate and maintain a non-discriminatory and gender-sensitive legal environment by reviewing legislation . . . to remove discriminatory provisions . . . preferably by 2005, and eliminat[e] legislative gaps that leave women and girls without protection of their rights and without effective recourse against gender-based discrimination.”⁴³ In an important breakthrough, the Review Document provides that governments should “[m]ainstream a gender perspective into national immigration and asylum policies, regulations and practices,” and, in particular, they should consider “steps to recognize gender-related persecution and violence when assessing grounds for granting refugee status and asylum.”⁴⁴

References to the human rights of women generally and the use of instruments such as the Optional Protocol to support them remained controversial throughout the negotiations. Moreover, a handful of the most conservative governments mounted a concerted effort to insert language that would have permitted cultural values and religion to override respect for women's human rights, a battle they lost at Beijing in 1995. This effort also failed at Beijing+5. The Review Document reiterates that “it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”⁴⁵ Finally, although most of the far right's proposals were defeated, they were successful in keeping out all references to “sexual orientation” as an explicit discriminatory barrier that women face. Even a factual statement providing that “in a growing number of countries, legal measures have been taken to prohibit discrimination on the basis of sexual orientation” was deleted from the document.⁴⁶ The document does retain the Beijing Platform phrase “of other status” in the list of barriers in the introductory section governing the document.⁴⁷ In addition, the expression “full diversity of women's conditions and situations” is included, which includes sexual orientation among other “conditions and situations.”⁴⁸ Some conservative delegations opposed the inclusion of the phrase for that reason, but were unsuccessful in keeping it out.⁴⁹

NOVEMBER 2000

Beijing +5: Assessing Reproductive Rights

ENDNOTES

1 See *Further actions and initiatives to implement the Beijing Declaration and the Platform for Action (Annex, Draft Resolution II)*, Report of the Ad Hoc Committee of the Whole of the twenty-third special session of the General Assembly, New York, 5-9 June 2000, UN Doc A/S-23/10/Rev.1 [hereinafter *Beijing+5 Review Document*]. The document can be found at

<<http://www.un.org/womenwatch/daw/followup/beijing+5.htm>>.

2 *Id.* ¶ 1.

3 See Coalition in Support of the Beijing Platform for Action, Suggested Amendments to Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action (March 4, 2000) (unpublished manuscript on file with Center for Reproductive Rights). This document was supported by approximately 116 non-governmental organizations and networks and was widely distributed to government delegations during negotiations.

4 See International Women's Health Coalition, Beijing Plus Five—Analysis of Negotiations and Final “Further Actions” Document 1 (11 July 2000) (unpublished manuscript on file with Center for Reproductive Rights) [hereinafter International Women's Health Coalition, Beijing Plus Five]. We have relied on information from this document in preparing this summary.

5 See A Statement from the NGOs of the Linkage Caucus (June 10, 2000) (visited Sept. 26, 2000) <<http://www.cwgl.rutgers.edu/b5/linkage.htm>>.

6 See *Beijing+5 Review Document*, *supra* note 1, ¶ 68 (b).

7 *Id.* ¶ 79 (c).

8 *Id.* ¶ 95 (f).

9 See *Key Actions for the Further Implementation of the Programme of Action of the International Conference on Population and Development*, report of the Ad Hoc Committee of the Whole of the Twenty-First Special Session of the General Assembly, New York, 1 July 1999, ¶¶ 34, 35(a), 53, 58, 64, 70 and 95, UN Doc A/S-21/5/Add.1 [hereinafter *ICPD+5 Key Actions Document*]. The document can be found at

<<http://www.unfpa.org/icpd/reports.htm>>.

10 For a more detailed discussion of these issues see International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 3-8. See also Earth Negotiations Bulletin (ENB), Summary of the 23rd Special Session of the General Assembly (Beijing+5): 5-10 June 2000, Vol. 14, No. 46, June

13, 2000, at 10-11. This document can be found at <<http://www.iisd.ca/4wcw/Beijing+5/index.html>> (visited Sep. 26, 2000) [hereinafter ENB, Summary of the 23rd Special Session]. We have also relied on information from this document in preparing this summary.

11 See CENTER FOR REPRODUCTIVE RIGHTS, ICPD+5: GAINS FOR WOMEN DESPITE OPPOSITION 4 [hereinafter CENTER FOR REPRODUCTIVE RIGHTS, ICPD+5: GAINS FOR WOMEN]. This briefing paper discusses the dynamics of government blocs at ICPD+5, particularly the effect of the G-77/China block on negotiations regarding reproductive health and rights.

12 See International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 8. See also ENB, Summary of the 23rd Special Session, *supra* note 10, at 11.

13 See *Beijing+5 Review Document*, *supra* note 1, ¶ 79 (c). See also *ICPD Key Actions Document*, *supra* note 9, ¶¶ 53, 63-64 and 68.

14 For a detailed analysis of the sexual and reproductive rights issues addressed by the ICPD+5 Key Actions Document, see CENTER FOR REPRODUCTIVE RIGHTS, ICPD+5: GAINS FOR WOMEN, *supra* note 11.

15 *Beijing+5 Review Document*, *supra* note 1, ¶ 72 (b).

16 Cf. *ICPD +5 Key Actions Document*, *supra* note 9, ¶¶ 63-65. See also CENTER FOR REPRODUCTIVE RIGHTS, ICPD+5: GAINS FOR WOMEN, *supra* note 11, at 8.

17 *Beijing+5 Review Document*, *supra* note 1, ¶ 79 (f).

18 *Id.*

19 See International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 4.

20 *Beijing+5 Review Document*, *supra* note 1, ¶ 107(i). See also *Beijing Declaration and Platform for Action, Fourth World Conference on Women, Beijing, China 4-15 Sept. 1995*, ¶ 106(k), UN Doc. DPI/1766/Wom (1996) [hereinafter *Beijing Platform for Action*]. The *Beijing Platform for Action* can be found at

<gopher://gopher.undp.org/00/unconfs/women/off/a-20.en> (visited 14 September 2000).

21 *Beijing+5 Review Document*, *supra* note 1, ¶ 12.

22 *ICPD+5 Key Actions Document*, *supra* note 9, ¶ 63 (iii).

23 See CENTER FOR REPRODUCTIVE RIGHTS, ICPD+5: GAINS FOR WOMEN, *supra* note 11, at 11.

24 See Catholic Family & Human Rights Institute, Friday Fax: Feminists Suffer Defeat at Beijing +5, Vol. 3, Special Edition (June 9, 2000) (weekly

email communication on file with Center for Reproductive Rights).

25 See ENB, Summary of the 23rd Special Session, *supra* note 10, at 11.

26 See International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 5.

27 See *Beijing+5 Review Document*, *supra* note 1, ¶ 72 (n).

28 *Id.*

29 *Id.* ¶ 72 (l).

30 See *ICPD+5 Key Actions Document*, *supra* note 9, ¶¶ 67–72.

31 See International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 5.

32 See *Beijing+5 Review Document*, *supra* note 1, ¶ 72 (i).

33 *Id.* ¶ 69 (e).

34 *Id.* ¶ 96 (a) and 69 (d).

35 *Id.* ¶ 69 (c).

36 *Id.* ¶ 68 (e).

37 *Id.* ¶ 96 (b).

38 See *Beijing Platform for Action*, *supra* note 20, ¶ 112–130.

39 See *generally* UNITED NATIONS POPULATION FUND, *STATE OF THE WORLD'S POPULATION 2000* (2000). This publication can also be found at

<<http://www.unfpa.org/swp/swpmain.htm>> (visited Sept. 27, 2000).

40 *Beijing+5 Review Document*, *supra* note 1, ¶ 67 (d).

41 *Id.* ¶ 85 (g).

42 *Id.* ¶ 27.

43 *Id.* ¶ 68 (b).

44 *Id.* ¶ 68 (i).

45 *Id.* ¶ 3.

46 See International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 6.

47 See *Beijing+5 Review Document*, *supra* note 1, ¶ 5.

48 *Id.* ¶ 4.

49 Moreover, as discussed above, gender-related persecution—which has been interpreted by the UN High Commissioner for Refugees (UNHCR) to include sexual orientation—is specifically included as a ground for refugee status and asylum. See International Women's Health Coalition, Beijing Plus Five, *supra* note 4, at 6, *citing* UNHCR, *STATE OF THE WORLD'S REFUGEES* 196 (1997).