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Soft Law, Hard Impact: the Role of Beijing Declaration in Shaping International Economic Governance and Women's Labour Rights

a cura di

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Introduction

The 1995 Fourth World Conference on Women was a conference convened by the United Nations during 4-15 September 1995 in Beijing, People's Republic of China. It produced the Beijing Declaration and Platform for Action, establishing a comprehensive plan for global legal gender equality.

Within the international law system, these documents, such as recommendations, guidelines, resolutions by the United Nations General Assembly and declarations, are not binding: hence, they lack the formal enforcement mechanisms which characterise other instruments of international law, such as Treaties, and, for example, the Convention on the Elimination of All Forms of Discrimination Against Women, which are commonly referred to as hard law. Thus, the Beijing Declaration operates strictly as soft law, primarily serving to crystallise emerging international norms and help the formation of customary international law within the consolidation of state practice and *opinio iuris*.

Since its formation and widespread adoption, the Declaration has functioned as a point of departure from the past, altering international economic governance and state-level policy.

This paper argues that the Beijing Declaration has gone over its soft law origins and legal stance and hugely shaped customary international law and hard domestic legislation involving women's economic participation, by setting explicit standards for labour market access and property rights as the

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Platform for Action asks states and international financial institutions to restructure their economic pre-existing frameworks.

The Legal Framework

The Beijing Declaration and Platform for Action can be enacted only as soft law. Unlike the above cited Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which constitutes hard law and imposes legally binding obligations upon the States who ratified the treaty, under the foundational principle of *pacta sunt servanda*, the Beijing Declaration represents a consensus-based, politically binding commitment. In the international legal system, soft law instruments often act as vital precedents to binding norms, offering a more flexible and easy-to-navigate system (compared to the hard law one) which can make the creation of commonly accepted agreements or *ententes* faster and more accessible.

The principles contained in the Beijing Declaration operate as fundamental interpretative tools for tribunals. Under Article 31(3)(c) of the Vienna Convention on the Law of Treaties (VCLT), whoever has the responsibility to judge must take into account "[…] any relevant rules of international law applicable in the relations between the parties" when interpreting treaty provisions. Consequently, bodies such as the Inter-American Court of Human Rights (IACHR) and the European Court of Human Rights (ECHR) frequently employ evolutive and up-to-time interpretation, in order not to be limited by the precision and stability of hard law norms, but ensure fair and modern decisions which also reflect the stance of today's common consensus on issues and social rights. Such courts utilise soft law texts such as the Beijing Platform or the Belém do Pará Convention to focus the contemporary meaning of broad treaty terms, such as "equality" and "non-discrimination". By explicitly detailing what economic parity entails, going from equal remuneration to property and inheritance rights, the Beijing Declaration provides the necessary and basic content that every judge should use to interpret and apply the broader guarantees contained in instruments like CEDAW.

Furthermore, the Declaration is a huge precedent for the formation of customary international law. The crystallisation of customary law requires two main elements in order to be accepted: a widespread and consistent state practice (in Latin "*usus*") and the conviction that such practice is legally mandated (the concept of *opinio iuris*). While any piece of law cannot instantly create and become custom, the unanimous adoption of the Beijing Declaration by 189 states provided a huge and powerful initial evidence of a common and international demand and agreement for pieces of law regarding women's fundamental rights. Over the subsequent decades, the recommendations of the Platform for Action have been systematically included into various domestic legal systems through legislative reforms, national action plans, and the jurisprudence of courts, hence allowing for the unambiguous and clear use of the provisions contained in the different pieces of law, generating the requisite for state practice. The continuous alignment of States within the Beijing Declaration's soft law principles progressively helps in transforming such recommendations into binding rules of customary international law, hence establishing obligations even for States that may have not signed or entered specific human rights treaties.

Economic Integration and Structural Reforms

When looking at the Beijing Platform for Action through an economics lens, the most crucial part of the document is "Area of Concern F: Women and the Economy". Before 1995, international agreements mostly treated women's rights as a purely social or human rights issue. The Beijing Declaration shifted this paradigm by highlighting that gender inequality is actually a massive macroeconomic inefficiency. Essentially, the legal world sent a clear message to governments and policymakers: if you systematically exclude or undervalue half of your population in the productive economy, your overall economic output and development will suffer.

A primary focus of the Platform was the persistent gender pay gap and labour market rigidities. Hence, it did not just ask for fairness, but it attacked the market failures that keep wages unequal. It specifically targeted occupational segregation, where women are disproportionately pushed into lower paying (and lower opportunities) sectors, and the heavy burden of care work, which both is present at family level and outside such nucleus and it is very commonly non-monetised. From an economic point of view, women's uncompensated domestic labour essentially acts as a massive, hidden subsidy that props up the global economy without being counted in the GDP.

To correct this, the Platform's directives made States intervene in their labour markets. Over the last thirty years, we have seen such soft law pressure translate into reforms, such as the introduction of wage transparency laws (for example, for public jobs), stricter equal pay regulations, and subsidised childcare policies. Governments began to realise that removing these barriers was not just about rights, but about optimising human capital allocation.

Another critical economic barrier the Platform addressed was property rights and access to credit. In mainstream economics, secure property rights are the absolute foundation of market participation and wealth creation. If a woman cannot legally own land, inherit family property, or sign a contract without a male relative's permission, she is effectively locked out of the financial system.

The Beijing Platform for Action urged governments to reform their civil and commercial codes to grant women equal economic standing. By pushing states to dismantle these legal barriers, the Declaration helped to allow women to finally actually own and use their (or their family's) assets as collateral for loans and mortgages.

Furthermore, the Platform demanded a complete modification of governance and institutional way of thinking and deciding. It was not enough to just pass a few anti-discrimination laws: what had to change is the way governments managed their money had to change. This led to the widespread adoption of "gender-responsive budgeting". The Declaration forced states to analyse how their fiscal policies, taxation, and public spending impacted men and women differently.

It also applied massive pressure on international financial institutions like the World Bank and the International Monetary Fund (IMF). Historically, these institutions focused purely on aggregate growth and structural adjustment programs that often harmed women disproportionately.

After the Beijing agreements, they were forced to include gender metrics into their loan conditions and development projects, shifting their focus toward more inclusive growth models.

Critically evaluating these impacts, it is clear the Beijing Platform successfully forced a rewrite of the rules of global economic governance: States had to build gender parity into their institutional frameworks.

However, as an economics student, I must note that there is still a significant gap between these formal legislative reforms and actual market outcomes. While states changed their labour laws and banking regulations to comply with the Beijing consensus, millions of women globally remain trapped in the informal economy, where these structural reforms and new labour protections simply do not reach them.

Implementation Mechanisms and Compliance

At the international level, the implementation and monitoring of the Beijing Platform rely primarily on the UN Commission on the Status of Women (CSW). Every five years, the CSW conducts a full global review where states submit national reports detailing their progress. However, from a regulatory perspective, this mechanism relies entirely on "soft enforcement", specifically, peer pressure, reputation costs, and a more diplomatic mutual checks-and-balance system based on enhancing or reducing relations with a named State based on the respect of such common provisions on equality.

Since the Declaration is not a binding treaty, the CSW lacks the authority to impose formal sanctions, trade penalties, or financial consequences for non-compliance, unlike institutions such as the World Trade Organisation. In economic terms, this creates a classic moral hazard: a market failure where information about the actions of the agent (the State) is hidden from the principal (international enforcement bodies). States have a high incentive to formally endorse the Declaration to secure international legitimacy, state practice and, more generally, a more equitable world, but without credible international enforcement mechanisms, they often avoid committing the necessary fiscal budgets required to enact real, genuine, structural reforms.

Despite this international enforcement deficit, the true compliance mechanism of the Beijing Declaration operates at the domestic level. When states absorb these international soft law directives into their own national legislation, the regulatory framework suddenly achieves more power, and its enforcement gets actually under everybody's eyes.

A prime example is the United Kingdom's approach to the Platform's directive on wage parity and labour market transparency. The UK progressively tightened its domestic labour regulations, culminating in the Equality Act 2010. For example, this Act obliged all companies with over 250 employees to publicly report their gender pay gaps. The UK transformed the Beijing Declaration, a non-binding international recommendation, into a strict corporate compliance rule. Companies failing to comply face fines, regulatory action and reputational damage, since such laws are no more given from above and perceived as external but are in all terms internal to the domestic system of a country.

This demonstrates the true efficacy of international law as a whole lies in urging national governments to correct domestic market failures using their own sovereign legal instruments.

Conclusion

In conclusion, analysing the Beijing Declaration from an economic standpoint reveals its dual nature: both a highly effective policy instrument, and, at the same time a legally restricted tool. Over the past three decades, its primary success has been being a fundamental global normative benchmark. The Declaration provided a nice starting point that governments from all over the world, other than financial institutions can use to restructure labour markets.

However, the core weakness of the Beijing framework lies in the recognized enforcement problem of international law.

Because the Declaration lacks binding sanctions or financial penalties for non-compliance, states can easily adopt the rhetoric of gender-responsive budgeting and equal pay without fully committing to the costly, structural market interventions required to actually achieve them.

The persistent global gaps in wage parity and asset ownership clearly illustrate this enforcement deficit and, maybe, a cultural blockade enacted by the new wave of conservatism which is drowning many countries in Europe and the United States of America.

Therefore, while the 1995 Beijing Declaration was a crucial first step in correcting these massive market failures, soft law has likely taken us as far as it can. To fully guarantee economic integration, the international community must now focus on translating these principles into binding hard law. Until international economic governance treats gender parity directives with the same rigorous enforcement mechanisms as international trade or investment treaties, the ultimate goals of the Beijing Platform will remain structurally incomplete.

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