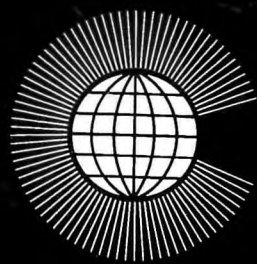


# Assessing the Status of Women

A Guide to Reporting Under the  
Convention on the Elimination of  
All Forms of Discrimination Against Women



Commonwealth  
Secretariat



United Nations



International Women's  
Rights Action Watch

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Convention on the Elimination of  
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Updated by the Division for the Advancement of Women  
Department of Economic and Social Affairs

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# Introduction

**T**his Manual is designed to serve as a framework for monitoring implementation of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention). Its main purpose is to assist individuals and women's, human rights and other groups and non-governmental organisations (NGOs) to assess the status of women and to determine the extent of Convention implementation in the countries that have ratified or acceded to the Convention.

The Manual is grounded in the premise that independent groups and organisations have a crucial role in monitoring implementation of the Convention. In those States where the Convention has been acceded to or ratified, these groups can assist the government in preparing the periodic reports to the Committee on the Elimination of Discrimination against Women (CEDAW) required by article 18 of the Convention. They can comment on or criticise the official report or they can prepare an independent "shadow" report on implementation. They can monitor the consideration of reports by the Committee on the Elimination of All Forms of Discrimination against Women, the body that monitors Convention implementation. They can use this treaty monitoring process—and particularly CEDAW's concluding comments—in dialogue with government to promote effective implementation of the Convention.

In those countries that are not States parties to the Convention, independent organizations can, nonetheless, use the Convention as a framework to advance the rights of women as required by its terms. They can encourage governments to become party to the Convention and monitor the achievements of governments in light of the Convention's provisions.

The Manual provides guidance for monitoring the implementation of the Convention and for reporting. It provides comments on the articles of the Convention and poses a series of questions that should be asked and answered in assessing the legal and actual status of women when reporting under the Convention. The commentary and questions

take into account CEDAW's interpretation of the meaning of obligations accepted under the Convention, as contained in its General Recommendations.

This manual is the result of collaboration between the Commonwealth Secretariat and the International Women's Rights Action Watch and has been updated by the Women's Rights Unit of the Division for the Advancement of Women of the United Nations. The organizations involved have drawn on the experience and expertise of women's rights experts and activists from all regions and legal systems and from countries that are States parties to the Convention and those that are not.

## Background to the Convention

**T**he adoption of the Convention by the General Assembly of the United Nations on 18 December 1979 was the culmination of decades of international efforts to protect and promote the rights of the world's women. It resulted from initiatives taken within the United Nations Commission on the Status of Women, the body established within the United Nations system in 1947 to consider and make policy recommendations to improve the position of women.

In the ten years between 1949 and 1959, the Commission prepared a number of treaties, including the Convention on the Political Rights of Women and the Convention on the Nationality of Married Women, which protected and promoted the rights of women in areas in which the Commission considered these rights to be particularly vulnerable. In 1965, the Commission embarked on the preparation of what was to become in 1967 the Declaration on the Elimination of Discrimination against Women. This Declaration stated in a single legal instrument the international standards which articulated the equal rights of women and men.

Because the Declaration was not a treaty, although it had moral and political force, it did not create binding obli-

gations for States. In 1972, the Commission on the Status of Women considered the possibility of preparing a treaty which would give binding force to the Declaration. Preparation of such a treaty was encouraged by the World Plan of Action adopted by the 1975 World Conference of the United Nations International Women's Year which called for "a convention on the elimination of discrimination against women, with effective procedures for its implementation." This work was also encouraged by the General Assembly, which proclaimed the period 1976 to 1985 as the United Nations Decade for Women, and urged the Commission to finish its work by 1976, so that the Convention would be completed in time for the 1980 mid-Decade Review Conference.

The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. In the resolution adopting the Convention, the General Assembly expressed the hope that it would come into force at an early date and requested the Secretary-General to present the text of the Convention to the mid-Decade World Conference of the United Nations Decade for Women, to be held in Copenhagen.

Sixty-four States signed the Convention and two States submitted their instruments of ratification at a special ceremony at the Copenhagen conference. On 3 September 1981, thirty days after the twentieth member nation had ratified it, the Convention entered into force, thus bringing to a climax United Nations efforts to codify comprehensively international legal standards for women.

As of 1 March 2000, 165 countries—more than two-thirds of the members of the United Nations—had deposited instruments of ratification or accession with the Secretary-General and an additional six countries were signatories.

### What the Convention Contains

**T**he Convention essentially constitutes the international bill of rights for women. Its preamble recalls that the elimination of discrimination against women and the promotion of equality between women and men are central principles of the United Nations and constitute binding obligations under the Charter of the United Nations and other instruments. However, by pointing out that extensive discrimination against women continues to exist, it indicates that the existing international human rights machinery has been insufficient to guarantee the protection of women's human rights. It goes on to state that discrimination against women violates the principles of equality of rights and respect for human dignity, amounts to an obstacle to

women's participation, on equal terms with men, in the political, social, economic and cultural life of their countries and hampers the growth of the prosperity of society and the family. The preamble states that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.

The preamble is followed by thirty operative articles that bind States which have ratified or acceded to its terms (States parties) to certain specific obligations. Although the treaty requires progressive rather than immediate implementation of many provisions, ratification demonstrates an unqualified positive commitment to the comprehensive prohibition and elimination of discrimination against women.

Article 1 of the Convention defines discrimination against women. It encompasses any distinction, exclusion or restriction on the grounds of sex, which prevents the equal exercise or enjoyment by women, irrespective of marital status, on the same basis as men, of their human rights and fundamental freedoms in all spheres of life.

States parties are required by the Convention to eliminate discrimination in the exercise and enjoyment of all civil, political, economic, social and cultural rights. Significantly, the obligations of States parties to eliminate discrimination extend beyond public life to incorporate discrimination in private life, and, uniquely, within the family. The sixteen substantive articles of the Convention identify the specific areas of discrimination that are of particular concern to women and establish the means to eliminate discrimination in these areas. Article 23 provides that the Convention will not affect any national or international provisions that are likely to be conducive to the achievement of equality between women and men, while article 24 binds States parties to adopt at the national level all measures necessary to full achievement of the rights recognised in the Convention.

In Part I of the Convention (articles 1-6) States parties agree to take all appropriate measures to bring about the advancement of women. These take the form of legal, administrative and other measures, which include temporary special measures of affirmative action, modification of social and cultural patterns of conduct and suppression of traffic in women and the exploitation of prostitution of women. In Part II (articles 7-9) States undertake to protect women's rights in political and public life. They agree to grant women the right to vote and be elected on a basis of equality with men, to participate in government as officials and policy makers, to participate in non-governmental organisations and to represent their countries internationally. They also agree to grant women equal nationality rights and equal

rights with respect to their children's nationality. In Part III (articles 10-14) governments make various commitments to eliminate discrimination in education, employment, health, economic, social and cultural life. In an important and unique provision, States parties also bind themselves to take into account the particular problems faced by rural women, to eliminate discrimination against them and ensure that they participate in and benefit from rural development on the same basis as men. Final substantive provisions are found in Part IV, where States parties agree to afford women equality with men before the law, in the exercise of legal rights, and in marriage and family law.

## Reservations

**A**rticle 28 of the Convention permits ratification subject to reservation—a formal declaration that the State does not accept as binding on it a certain part or parts of the treaty. Article 28(2) precludes any reservation which is incompatible with the Convention's object and purpose. States have entered many formal reservations to the Convention—perhaps more than to any other major human rights treaty. Some of these reservations are essentially procedural or relate to matters which are not fundamental to the object and purpose of the Convention. A significant number are substantive, and some appear inconsistent with the Convention's object and purpose, affecting the enjoyment of women's legally guaranteed rights in all areas of life. The most problematic reservations are those to article 2, the core provision of the Convention, while others relate to areas fundamental to the elimination of discrimination against women, such as family law, legal capacity and citizenship.

Except for article 29, which provides for referral to the International Court of Justice of disputes between States parties over the interpretation of the Convention, the Convention does not include a process for rejection of incompatible reservations. As yet, no State has invoked article 29 to raise the issue of the validity of any reservation. Indeed, article 29 is itself the subject of reservations by many States. Nevertheless, the number and extent of reservations to the Convention has been a matter of controversy among States parties and a number have objected to the reservations of other States on the basis of incompatibility.

CEDAW has always considered the matter of reservations to be serious, and has underscored its concern in General Recommendations 4 and 20, as well as in a number of its contributions to United Nations conferences. It encourages States parties, if they must enter reservations, to formulate them as narrowly and precisely as possible to ensure that they are not incompatible with the object and

purpose of the Convention, and to keep any reservations under review with a view to their withdrawal. CEDAW regularly questions reserving States on this matter during their presentation of reports. At its thirteenth session in 1994, the Committee amended its reporting guidelines for initial and subsequent reports to require reserving States to address reservations specifically. It also requested the Secretary-General to send a special letter conveying CEDAW's concern to those States that have entered substantive reservations to the Convention and recommended that the advisory services of the United Nations be deployed to advise States on the withdrawal of reservations.

Substantive reservations to the Convention strike at the universality of human rights standards and especially those that affect women. They pose a significant challenge to the integrity of the Convention and to the realisation of its goals. However, even reserving States are brought by ratification within the Convention's monitoring system and their performance in advancing equality of women is thus subject to scrutiny. CEDAW will continue to be vigilant in the context of reservations and may well take the approach of the Human Rights Committee, the treaty body established to monitor the implementation of the International Covenant on Civil and Political Rights, which expressed in its General Comment 24 that it is up to the Committee to determine whether reservations are compatible with the Convention. It is notable that as part of its contribution to the fiftieth anniversary of the Universal Declaration of Human Rights, CEDAW adopted a statement on reservations to the Convention, in which it, *inter alia*, outlined the role of the Committee in this context (Annex G).

## The Reporting Obligation

**I**n addition to binding themselves to implement the Convention at the national level, States parties also undertake to submit reports on the measures they have adopted to give effect to the Convention, and the difficulties they may have encountered in implementing its provisions. These reports are to be submitted to the Secretary-General of the United Nations who forwards them to the Committee on the Elimination of Discrimination against Women (CEDAW) for consideration. This obligation is stated in article 18 which binds States parties to submit a report on the legislative, judicial and administrative measures which they have adopted to give effect to the Convention, as well as obstacles that might have been encountered, within one year after ratification or accession. Thereafter, States parties must submit periodic reports at least every four years, or whenever the Committee requires.

Until October 1999, the reporting obligation was the

Convention's only implementation mechanism. On 6 October 1999, the General Assembly adopted an Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women without reference to a main Committee. Both the World Conference on Human Rights (Vienna 1993), and the Fourth World Conference on Women (Beijing 1995) had called for the introduction of a right to petition under the Convention.

The Protocol contains two procedures: a communications procedure allowing individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee on the Elimination of Discrimination against Women, an international body of 23 independent experts. The Protocol establishes that in order for individual communications to be admitted for consideration by the Committee, a number of criteria must be met, including that domestic remedies must have been exhausted. The Protocol also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights. In either case, States must be party to the Protocol. The Protocol includes an opt-out clause, allowing States upon ratification or accession to declare that they do not accept the inquiry procedure. The Protocol explicitly provides that no reservations may be entered to its terms. The Optional Protocol was opened for signature on 10 December 1999 (Annex H).

## **CEDAW**

**T**he Committee on the Elimination of Discrimination against Women which considers States parties' reports, is established under article 17 of the Convention. It is comprised of 23 experts who are elected by secret ballot from a list of persons of "high moral standing and competence in the field covered by the Convention" nominated by States parties. In the election of members, who serve four-year terms, consideration is given to equitable geographical distribution and to the representation of different forms of civilisation and the principal legal systems. Although Committee members are nominated by their own governments and elected by States parties, they serve in their personal capacity as independent experts and not as delegates or representatives of their countries. Unlike the supervisory committees established under the other United Nations covenants and conventions, which consist predominantly of male lawyers, CEDAW has, with one exception, been wholly composed of women from various walks of life.

The Convention assumes that the major function of the Committee is the consideration of State parties' reports. The Committee is also empowered by the Convention to

make suggestions and general recommendations based on the examination of reports and information received from States parties. Suggestions are directed to organs of the United Nations, while general recommendations are addressed to States parties and usually elaborate the Committee's view of the obligations assumed under the Convention. To date, the Committee has formulated 24 general recommendations. Under the Convention, the Committee may invite specialised agencies of the United Nations, which are entitled to be represented during its sessions, to submit reports for its consideration. Although the Committee welcomes information from non-governmental organisations, the Convention makes no explicit provision for NGO input.

Article 20 of the Convention provides that the Committee shall normally meet for a period of not more than two weeks annually to consider the reports submitted by States parties in accordance with article 18. Because the Committee has had to consider an increasing number of reports, the General Assembly has developed the practice of granting the Committee extra meeting time. For the first time in 1995, a State party provided the Committee with an extra week of meeting time in its capital. The restriction on CEDAW's meeting time in article 20 has been a matter of concern for the Committee for some time. At its Fourteenth session in 1995 the Committee (in General Recommendation 22) drew attention to the fact that it is the only treaty body whose meeting time is limited by its Convention and that its meeting time is the shortest of all human rights treaty bodies. CEDAW noted that its limited meeting time has become a serious obstacle to its work and recommended that the meeting of States parties in May 1995 recommend revision of article 20 to allow it to meet annually for as long as necessary to perform its functions effectively under the Convention. CEDAW also recommended that until the Convention is amended, the Committee be authorised by the General Assembly, to meet exceptionally in 1996 for two sessions of three weeks duration, both to be preceded by pre-session working groups.

The meeting of States parties agreed to replace article 20(1) with a new article providing that CEDAW shall normally meet annually, but that the duration of its meeting would be determined by a meeting of States parties, subject to the approval of the General Assembly. The States parties' amendment will enter into force after it has been considered by the General Assembly and accepted by a two-thirds majority of States parties. By late 1996, less than 10 States parties had accepted the amendment. At its fifty-first session in 1996, in its resolution 51/66, the General Assembly approved additional meeting time for the Committee, allowing it to meet, within existing resources, and for an interim period, for two three-week sessions annually, each preceded



by a one week pre-session working group. Accordingly, the Committee has met twice yearly since 1997. As of 1 March 2000, 23 States parties have accepted the amendment.

CEDAW normally meets in January and June or July. Until 1993, when its Secretariat was relocated from Vienna to New York, it met alternately in Vienna and New York. Currently, its sessions are held in New York.

Since 1991, a working group of five Committee members has met prior to each session to prepare a list of issues and questions to be sent in advance to those States presenting second and subsequent reports. Since the Committee's twentieth session in January 1999, the pre-session working group now meets immediately after the session prior to which the reports before the pre-session working group will be considered by the Committee. The list of issues and questions prepared by the pre-session working group are forwarded to those States parties presenting reports. When completed, the responses to the list of issues and questions are translated and provided to Committee members prior to the session at which the relevant reports will be considered. The Committee has also established two standing working groups which meet during its regular session. Working Group I considers and suggests means of expediting the work of CEDAW and Working Group II prepares suggestions and general recommendations for consideration by the full Committee.

The rules of procedure adopted by CEDAW stipulate that meetings of the Committee are generally to be held in public, with 12 members constituting a quorum. The presence of two thirds of its members is necessary for any formal decision to be taken. Consideration of the reports of States parties takes place in a public meeting in the presence of representatives of the reporting state, who are required to answer questions relating to the country report. As of 1 March 2000, CEDAW had considered 104 initial reports, 72 second, 45 third, and 13 fourth periodic reports. It had also received five reports on an exceptional basis from Bosnia and Herzegovina and Croatia, Rwanda, Federal Republic of Yugoslavia (Serbia and Montenegro) and Democratic Republic of the Congo.

### **The Objectives of Reporting**

The reporting obligation under the Convention assists States parties in fulfilling their other obligations and allows the Committee to assess the extent to which the obligations have been met. Reporting is more than a procedural matter, however. As the Committee on Economic, Social and Cultural Rights noted in its General Comment 1 (1989), reporting has seven objectives:

- ❖ To achieve a comprehensive review of national legislation, administrative rules and procedures and practices.
- ❖ To ensure that States parties regularly monitor the actual situation with respect to each provision of the Convention, so that they are aware of the extent to which the various rights guaranteed are being enjoyed by all women.
- ❖ To provide States parties with the basis for the elaboration of clearly stated and targeted policies, which incorporate priorities consistent with the provisions of the Convention.
- ❖ To permit public scrutiny of government policies and to encourage the involvement of various sectors of society in the formulation and review of these policies.
- ❖ To provide a baseline against which States parties and the Committee can evaluate the extent to which progress has been made towards the realisation of the obligations established in the Convention.
- ❖ To enable States parties themselves to develop a better understanding of the problems and shortcomings encountered in the progressive realisation of the aims of the Convention.
- ❖ To enable the Committee and the States parties as a whole to exchange information, develop a better understanding of the common problems faced by States and a fuller appreciation of the types of measures which might be taken to promote effective realisation of the obligations in the Convention. This enables the Committee to identify the most appropriate means by which the international community might assist States parties.

Reporting is far more than a formal exercise, therefore, and should serve as a dynamic force for change within a State party. Preparation of the report should provide an opportunity for review of domestic law, policy and practice to determine the extent to which the standards of the Convention have been met. It allows for monitoring, assessment and evaluation of the strategies put in place to advance the Convention's ideals and provides an opportunity for accurate assessment of the problems that impede the implementation of the Convention. Strengths and weaknesses are submitted to public scrutiny, while consideration of the report by CEDAW provides a forum for discussion with a wholly independent body whose brief is to provide constructive assistance so that States meet their treaty obligations.

## Preparation of Reports

**C**EDAW has adopted guidelines for the form and content of initial and periodic reports to assist States parties in the preparation of reports and to ensure that reports are presented in a manner that allows CEDAW and States parties to obtain a complete picture of the implementation of the Convention.

Guidelines for initial reports were first issued in 1983 and revised in 1995 and 1996. The revised guidelines require initial reports to be in two parts.

Part I of the report, which should aim to provide a “word picture” of the reporting State, presenting a clear description of the country in all its aspects, is to be prepared in accordance with consolidated guidelines issued by all the treaty bodies in 1991. These guidelines, reproduced in Annex B, were consolidated to reduce the burden on States that are party to more than one treaty that requires reporting. They call for the preparation of a “core document” which is to be submitted to the United Nations Centre for Human Rights in Geneva, which will distribute it to each treaty committee when the report of the particular State is considered. The “core document” should contain general information on the land and people of the State, its general political structure, general legal framework in which human rights are protected and a description of efforts made to promote awareness among the public and the relevant authorities of the rights contained in the various human rights instruments.

The guidelines for Part II of initial reports, reproduced in Annex C, require States to provide specific information in relation to each provision of the Convention; in particular,

- a) The constitutional, legislative and administrative provisions or other measures in force;
- b) The developments that have taken place and the programmes and institutions that have been established since the entry into force of the Convention;
- c) Any other information on progress made in the fulfilment of each right;
- d) The de facto position as distinct from the de jure position;
- e) Any restrictions or limitations, even of a temporary nature, imposed by law, practice or tradition or in any other manner on the enjoyment of each right.

In the guidelines, CEDAW recommends that the reports not be confined to mere lists of legal instruments adopted in

recent years, but should also include information indicating how these legal instruments are reflected in the economic, political and social realities and general conditions existing in countries. States parties are required to provide, to the extent possible, all data disaggregated by sex in all areas covered by the Convention and the general recommendations of CEDAW.

The guidelines invite States parties to submit copies of the principal legislative, judicial, administrative and other texts that are referred to in the report so they can be made available to the Committee. If a text is not quoted or annexed to the report, the report should contain sufficient information to be understood without reference to the text.

The guidelines require the report to reveal obstacles to the participation of women on an equal basis with men in the political, social, economic and cultural life of their countries and give information on types and frequencies of non-compliance with the principle of equal rights.

Specific guidance on reporting on reservations to the Convention was added in 1995:

- a) Each State party that has entered substantive reservations should include information on those reservations in each of its periodic reports;
- b) The State party should indicate why it considered the reservation to be necessary; whether any reservations the State party may or may not have registered on [sic] obligations with regard to the same rights set forth in other conventions are consistent with its reservations to the Convention; and the precise effect of the reservation in terms of national law and policy. It should indicate the plans that it has to limit the effect of reservations and ultimately to withdraw them and, whenever possible, specify a timetable for withdrawing them;
- c) States parties that have entered general reservations which do not refer to a specific article of the Convention or reservations to articles 2 and 3 should make a particular effort to report on the effect and interpretation of those reservations.

At its fifteenth session in 1996, the first session of the Committee following the Fourth World Conference on Women held in Beijing in September 1995, the Committee revised its guidelines with regard to the form and content of initial and periodic reports; they were further revised at its sixteenth session in 1997. It invited States parties to take into account the 12 critical areas of concern in chapter III of the Platform for Action adopted at the Fourth World Conference on Women in preparing their reports, or in sup-

plementary oral and/or written materials supplied in connection with reports already submitted. The Committee also noted in its new guidelines that the 12 critical areas of concern are compatible with the articles of the Convention, and therefore, within the mandate of the Committee.

The Committee's guidelines for second and subsequent reports, reproduced in Annex D, indicate that these reports should focus on the development that have taken place since the consideration of the preceding report by CEDAW. The previous report and its consideration by CEDAW should be addressed and it should include legal and other measures adopted since the previous report, details of actual progress made to promote and ensure the elimination of discrimination against women, any changes in the status and equality of women since the previous report, any remaining obstacles in the participation of women on an equal basis with men in the political, social, economic and cultural life of the country and matters raised by CEDAW that could not be dealt with at the time the previous report was considered.

In some cases, States parties to the Convention fall behind in the submission of reports. The Committee has encouraged States parties that find themselves in this position to submit a report which combines more than one report that is due. Thus, at its sixteenth session in January 1997, the Committee adopted decision 16/III which invites States parties to combine a maximum of two of the reports required under the Convention. For example, a State party whose initial report may have been considered by CEDAW two years after its date of submission may choose to combine and consolidate its second and third report rather than submitting separate periodic reports. By doing this, the State party keeps to its reporting schedule.

### **General Recommendations and Reporting**

**A** significant number of CEDAW's twenty-four general recommendations deal with issues related to specific articles that have been noted as a concern during consideration of reports. Most outline matters that CEDAW wishes to see described in reports and many indicate that implementation of the Convention requires States parties to introduce strategies that the recommendation describes in some detail. General recommendations adopted during the Committee's first ten years were short and modest. At its Tenth session in 1991, CEDAW decided to adopt the practice of issuing general recommendations on specific provisions of the Convention and on the relationship between the Convention articles and what CEDAW described as "cross-cutting issues." Following this decision, the Committee has issued four detailed and comprehensive general recommendations which offer States parties clear

guidance on the application of the Convention in particular situations. General Recommendation 19, concerning gender-based violence against women, was adopted by the Committee in 1992. General Recommendation 21, issued in 1994, concerns equality in marriage and family relations. General recommendation 23, adopted by the Committee at its sixteenth session in 1997, concerns women in public life and general recommendation 24, adopted at the twentieth session in January 1999, concerns article 12 - women and health.

At its seventeenth session in 1997, the Committee adopted a new approach to the formulation of general recommendations, which allows it to take advantage of the expertise of members and available input from the United Nations system and non-governmental organizations (NGOs). This process consists of three stages. First, a general discussion and exchange of views on the subject of the proposed general recommendation takes place at an open meeting of the Committee. Specialized agencies and other United Nations bodies, as well as non-governmental organizations are encouraged to participate in this discussion, as well as to submit informal background papers. Second, a member of the Committee and the Secretariat compile the results of the session into an initial draft. The draft is discussed at the next session by a working group of the Committee, which may invite resource persons and NGOs to participate in its discussions. A revised draft is compiled and distributed to all experts before the next session, which then considers the draft with a view to its approval. CEDAW's General Recommendations are included as Annex E.

### **Gender-based Violence against Women**

**W**ith the exception of article 6, which concerns traffic in women and exploitation of prostitution, gender-based violence against women is not addressed explicitly by the Convention. The Committee has, however, concluded that such violence constitutes a form of sex discrimination and is contrary to the principles of the Convention. General Recommendation 12 requires States parties to include information relating to all forms and settings of violence against women in reports and General Recommendation 14, which specifically concerns female circumcision, makes suggestions and recommendations aimed at its eradication.

General Recommendation 19, CEDAW's first "cross cutting" general recommendation, clearly defines gender-based violence against women, whether perpetrated by a state official or a private citizen, in public or in private life, as sex discrimination and a violation of internationally guaranteed

human rights. By defining gender-based violence against women, irrespective of perpetrator, as sex discrimination, CEDAW defines the responsibility of States parties under the Convention to include an obligation to ensure its elimination. General Recommendation 19 sets out specific punitive, rehabilitative, preventative and protective measures States should introduce to fulfil this obligation.

The definition of gender-based violence against women as a form of sex discrimination has influenced other international efforts to eradicate this form of violence. The Declaration on the Elimination of Violence against Women adopted by the General Assembly in December 1993 reflects the work of the Committee in this area and recognises the crucial importance of the effective implementation of the Convention in the elimination of violence against women. The Declaration, which elaborates measures that States and international agencies should take to ensure the elimination of all forms of violence against women, whether in public or private, is reproduced in Annex F.

### **Presentation of Reports Before CEDAW**

**T**he relationship CEDAW seeks to establish with governments when reports are considered is one of “constructive dialogue” during which information, experiences, ideas and suggestions are exchanged in a joint effort to implement the Convention in the reporting state. The consideration of the report aims, therefore, to contribute to the achievement of women’s de jure and de facto equality in the reporting state.

When a State party presents its initial report, the Chairperson of the Committee introduces the representative of the State who then speaks to the report for about thirty minutes. Information not contained in the report or developments which have occurred since it was submitted to the Secretary-General can be raised at this time. Often there is a time lag between the date the report is submitted and its consideration by CEDAW. Where this is the case, the State is encouraged to provide a written addendum to the original report and indicate in its oral presentation the most important developments since the original submission.

After the government’s presentation, CEDAW members make general observations and comments on the report. If the State party has entered reservations to the Convention, the Committee usually addresses its initial questions to these. Very often it will then raise general questions relating to the preparation of the report and the publicity given to the Convention in the reporting State. At this stage, CEDAW will seek information on the role of NGOs in the preparation of the report, whether the Convention and the obligations

that it creates are widely known in the country and whether it has been translated into any local languages. CEDAW will usually ask whether people at the local level have been made aware of the contents of the report and if the report itself has been made widely available and translated into any local languages.

Before moving to an article by article consideration of the report, asking questions on the implementation of the various articles and requesting clarification and further information, the Committee will often ask general questions on matters raised in the preamble. The role of women in peacemaking and peace-building is one of the main issues addressed at this point.

At the end of this process, the representative of the reporting state may decide to reply immediately to some of the questions asked. Usually, consideration of the report will be adjourned and the State representative will answer CEDAW’s questions some days later. During this stage, members of the Committee may ask further questions or suggest that those that have been answered insufficiently be addressed in the State party’s next report. The Committee has the power to request that the reporting state send its Secretariat further information, but it very rarely exercises this power.

At its thirteenth session in 1994, the Committee introduced the practice, common in other treaty bodies, of preparing concluding comments on the reports of State parties. Prior to each session, the Chairperson designates one member of the Committee, ideally from the region of the reporting State, to draft concluding comments on individual reports. The country rapporteur works closely with the main rapporteur of the Committee. The country rapporteur also provides an introductory analysis of the report in a closed meeting of the Committee prior to its presentation by the State party. Draft comments, which cover the most important points raised in the constructive dialogue and emphasise both positive and troubling points relating to women’s equality revealed in the examination of the report, are adopted by the full Committee in closed meetings. As adopted, concluding comments represent the collective view of the Committee on the situation in the reporting State and are forwarded to the State party and made public. They are an important resource for government in shaping future national policy and a useful tool for NGOs in their role as watchdog. The procedures for the adoption of concluding comments adopted by the Committee at its nineteenth session in 1998, as well as examples of concluding comments are attached as (Annex D).

The procedure for the consideration of second and subsequent reports follows a different pattern from that for the

initial report. CEDAW's pre-session working group prepares a list of issues and questions, which is sent in advance to the reporting state to allow it prepare replies to be presented when the report is considered. States parties' replies are translated and provided to the Committee prior to its consideration of reports. CEDAW members are not precluded, however, from asking further questions during the presentation. The same process of formulation of concluding comments is also employed.

### **Information Available to CEDAW in the Consideration of Reports**

**T**he Committee's consideration of country reports is based predominantly on information provided by states in their reports and the knowledge of individual members of CEDAW. Information is increasingly provided by United Nations specialised agencies and funds, a number of which are now actively co-operating with the Committee. CEDAW is also able to take advantage of information available in the United Nations system generally and with the growing integration of its work with that of the other treaty bodies, will be able to use information provided to those bodies under their respective reporting obligations. Several decisions adopted by the Committee concern specialized agencies and other bodies of the United Nations (decisions 18/I and 18/II, adopted at the Committee's eighteenth session in 1998). These bodies are invited to provide country-specific information to the pre-session working group on States parties whose reports are before the group. They are also invited to address the Committee as a whole in a closed meeting on those States parties whose initial reports are before the Committee.

International and national NGOs also provide information to CEDAW. Some NGOs, particularly the International Women's Rights Action Watch, the International League for Human Rights, the International Human Rights Law Group and Amnesty International, have provided information to members of CEDAW, while national NGOs from a number of countries have provided the Committee directly with alternative reports. The Committee has adopted several decisions with regard to NGO participation in its work. In decision 18/I, adopted at its eighteenth session in January 1998, it decided that representatives of national and international NGOs should be invited to provide country-specific information to the pre-session working group of the Committee on those States parties whose reports were before the Group. In decision 20/I, adopted at its twentieth session in January 1999, the Committee decided that representatives of national and international NGOs should be invited to provide country-specific information on States parties whose reports are before the Committee in an informal meeting of the working group of the whole.

CEDAW is not only anxious to receive NGO information about countries, but encourages NGO participation in the preparation of reports. CEDAW believes that NGO participation offers an opportunity for exchange between government and the people and allows government to identify more easily areas of concern and obstacles to implementation of the Convention. Reporting states have come to expect questions from the Committee on whether women's groups and NGOs generally have been consulted or involved in the preparation of the report and whether, and in what ways, the report reflects the input of these groups.

# Article 1

## Definition of Discrimination against Women

*For the purposes of the Convention, the term “discrimination against women” means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*

### Comment

Article 1 provides the definition of discrimination against women which applies to all provisions of the Convention. Unlike earlier treaties, such as the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, which refer to discrimination or distinction on the basis of sex, article 1 establishes that the Convention is concerned with discrimination against women, which it then comprehensively explains.

The Convention defines discriminatory practices to include any differentiation, whether by way of distinction, exclusion or restriction, on the basis of sex, which aims or has the effect of preventing or hampering the enjoyment by women, whether married or unmarried, of their human rights to the same extent as men. It includes intentional and unintentional discrimination and encompasses differential treatment, as well as treatment which impacts differentially and disadvantageously on women when compared to men. Article 1 makes clear that the Convention aims to eliminate discrimination in all public spheres, which include the political, economic, social and civil fields. In light of the fact that discrimination against women is perhaps most entrenched in the private sphere, it also includes discrimination in “any other field” within its reach, thereby encompassing private or domestic differentiation. In General Recommendation 19, the Committee concluded that gender-based violence—violence directed against a woman because she is a woman or which affects women disproportionately, whether perpetrated by public authorities or by any person, organisation or enterprise—falls within the definition of article 1.

### Accountability and Implementation: Questions to Ask

1. Does the constitution, if there is one, include a guarantee of equality of women with men in the protection and enjoyment of human rights? Does it prohibit discrimination against women on the basis of sex and marital status? If it does, is it implemented in practice? If it does not, what work is being done to amend the constitution? Are there any obstacles to such an amendment? If so, what are they?
2. Are there laws or policy statements that define discrimination against women? What do they say? Do they include in their definition any act which causes, or results in, a difference of the treatment of women in comparison to men? Do they include laws, practices or policies (whether legislative, administrative, customary or traditional) which impair or nullify the recognition of women and their enjoyment or exercise of civil, political, economic, social and cultural or any other rights?
3. Is the legal definition of discrimination sufficiently broad or interpreted broadly enough to be compatible with that contained in the Convention? Does the definition cover practices which although not intending to discriminate, are discriminatory in effect and not reasonable or justifiable?
4. Does the legal definition of discrimination encompass discrimination against women by private institutions and individuals? Does the legal definition of discrimination include discrimination against women in the private or domestic sphere?
5. Does the legal definition of discrimination include gender-based violence against women?

## Article 2

### Obligations to Eliminate Discrimination

**S**tates Parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means the practical realisation of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

#### Comment

Article 2 obligates States Parties to condemn discrimination against women and to eliminate it through constitutional, legal, and other appropriate means. The obligations of States Parties to eliminate discrimination against women under article 2 extend to public authorities and institutions, private persons, organisations and enterprises. States Parties are under a duty to ensure that public and private bodies, as well as individual persons, refrain from and eliminate discrimination against women. A primary requirement of article 2 is that the principle of equality of women with men must be included in the constitution or other suitable legislation. States must also eliminate the legal bases for discrimination by revising existing civil, penal and labour laws.

Obligations imposed by article 2 go beyond law reform and require States Parties to ensure the practical realisation of the principle of equality of women through legal or other appropriate means.

#### Accountability and Implementation: Questions to Ask

1. Are there policies or practices of government and other public institutions that discriminate against women? Are there any laws or administrative or other practices that discriminate against women? Can the areas in which women are discriminated against in practice be identified? What means are used to identify such areas? To what extent do policies or practices of government and other public institutions nullify or impair the recog-

- dition, enjoyment or exercise of human rights by women? Are these policies and practices in the process of being repealed or changed?
2. In those States where the Constitution did not include a guarantee of non-discrimination at the time of ratification of the Convention, has the Constitution been amended to add such a guarantee? If not, has the process of amendment to add such a guarantee begun?
  3. Has the country passed or amended legislation to deal with discrimination in the specific areas described in the substantive articles of the Convention (concerning education, health, employment, etc.)?
  4. Have any laws, regulations, or policies been promulgated that regulate the conduct of official institutions, public authorities and public officials towards women? Do such laws extend to private persons, organisations or enterprises?
  5. Has the country undertaken any studies of the discriminatory implications of its laws?
  6. Has it sought to ensure that laws and policies prohibiting discrimination are effectively enforced through the court system or through other tribunals?
  7. Have any special remedies or avenues of redress been developed to enable women to pursue their rights? If so, how effective have these been? How many cases of discrimination have been brought before the courts or other bodies in the last four years? How were they decided?
  8. Does any special machinery, such as a commission or ombud, been established to promote and protect the rights of women? Has a specific machinery been established to oversee Convention implementation? If so, how do they operate and what has their effect been?
  9. Has the country attempted to address through legislation or other programmes the modification of customs and practices that result in discrimination against women or perpetuate such discrimination? In particular, has the country attempted to address through legislation and other programmes gender-based violence against women?
  10. Are there any sanctions or penalties, such as fines or loss of government contracts, imposed for discrimination against women? If so, what are they? Have they been applied?
  11. What measures if any, have been adopted to advance or improve the situation of women, and to guarantee women fundamental freedoms and equal rights?
  12. Has the country attempted to address through legislation or other programmes the modification of customs and practices that result in discrimination against women or perpetuate such discrimination?
  13. What are the practical obstacles that prevent women from attaining their full development, fundamental freedoms or equal rights?



## Article 3

### The Development and Advancement of Women

**S**tates Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

#### Comment

This article obligates States Parties to take all appropriate measures, including legislation, in all fields so as to implement the policies outlined in article 2 of the Convention. The obligation aims to guarantee women basic human rights and fundamental freedoms on a basis of equality with men, as well as to ensure their full development and advancement.

#### Accountability and Implementation: Questions to Ask

1. Do existing laws, practices, and administrative policies ensure the full development and advancement of women? Do women have the same access as men, in law and in fact, to the political process, social services, health and medical care, education, literacy development programmes, employment, ownership of property, and social welfare?
2. Is the exercise and enjoyment of human rights and fundamental freedoms by women, on a basis of equality with men, guaranteed under the constitution or other relevant laws? What are the practical obstacles that prevent women from attaining their full development, and exercise of human rights and fundamental freedoms on an equal basis with men?
3. What measures have been taken to bring about the full development and advancement of women, and to guarantee their exercise and enjoyment of human rights and fundamental freedoms?
4. Have any laws been enacted, or policy measures taken, that affect the status of women with regard to political participation and participation in social, economic and cultural life? Have women effectively participated in the formulation of such laws or policies? Are these laws and policies being implemented to the satisfaction of women?

## Article 4

### Acceleration of Equality between Men and Women

**A**doption by States Parties of temporary measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

*Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.*

#### Comment

Recognising that even if women enjoy legal equality, they do not necessarily reach a position of equality in fact, article 4 permits States to employ special measures of affirmative action for as long as inequalities continue to exist. These special measures, which are defined as non-discriminatory by article 4, are permissible because they accelerate de facto equality of women. They are justified on the basis that formal equality is inadequate to redress the factual inequality of women. In addition, special measures employed to protect interests which are specific to women, including maternity, are defined as non-discriminatory.

At its seventh session in 1988, CEDAW, although noting that significant progress had been made in guaranteeing women's legal equality, stressed the need to take steps to promote their de facto equality. In its General Recommendation 5, which it adopted at that session, the Committee encouraged States Parties to make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment. In General Recommendation 8, also adopted at its seventh session, CEDAW suggested that States Parties employ temporary special measures of affirmative action to ensure women equal opportunity to represent their governments internationally.

#### Accountability and Implementation: Questions to Ask

1. Is there an official policy aimed at accelerating the de facto equality of women? If so, what steps have been taken to implement this policy? Have any laws been enacted to implement such a policy?
2. What positive or temporary special measures, whether in the form of affirmative action, or otherwise, have been adopted to achieve equality between men and women? What are the inequalities that these measures sought to redress? Are there special measures for the protection of pregnancy, maternity, the health and safety of women in the workplace? If so, what are they? Are they effective?
3. How are these special measures enforced? What have their effects been? Is their effect being monitored?
4. Are special measures considered to be non-discriminatory under the law?
5. What enforcement mechanisms have been established? How do they operate?

## Article 5

### Sex Roles and Stereotyping

*States Parties shall take all appropriate measures:*

- a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;*
- b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.*

#### **Comment**

Article 5 of the Convention recognises that despite efforts to achieve legal and de facto equality for women, true advancement towards equality requires fundamental social and cultural change. Article 5(a) requires States to address social and cultural patterns that lead to discrimination and to stereotyped roles for women and men. It deals with interpersonal relationships between women and men and is concerned to eliminate practices based on ideas of the superiority or inferiority of one sex in relation to the other and sex-based stereotyping. Recognising that sex-role stereotyping is most apparent in family life, paragraph (b) calls on States to ensure that family education underlines the importance of maternity as a social function and the shared responsibility of men and women in the upbringing of children.

At its sixth session in 1987, CEDAW formulated General Recommendation 3 concerning article 5. It states that the consideration of reports had shown that owing to socio-cultural factors, stereotyped conceptions of women continue to exist. These perpetuate discrimination based on sex and hinder the implementation of article 5. CEDAW urged all States Parties to adopt education and public information programs to help eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women.

Other recommendations of the Committee have addressed article 5. For example, in General Recommendation 1, CEDAW observed that, in the context of article 5, "traditional attitudes under which women are

regarded as subordinate or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry death, acid attacks, female circumcision. Such prejudices and practices may justify gender based violence as a form of protection or control of women".

#### **Accountability and Implementation: Questions to Ask**

1. What cultural and traditional practices, or ways of life, if any, hamper women's advancement in society?
2. What measures have been taken to change social and cultural patterns that lead to stereotyping or reinforcing the idea of the inferiority of women?
3. Does religion or custom impose practices or beliefs that interfere with improving the status of women? If yes, what are they?
4. What roles are men and women expected to play in society and in the family?
5. Are males and females stereotyped in school books or in the media?
6. What efforts are being made to eliminate the stereotyping of men and women? What are the obstacles to eliminating these stereotypes?
7. Who is considered, by law or custom, to be the "head of the household"?

8. Are there certain kinds of work that are considered as "men's work" or "women's work"? What are the percentages of men and women in these kinds of work?
9. What kinds of work are women forbidden to do, either by law or custom?
10. Are girls and boys expected to do different tasks in the home or at school?
11. Who is responsible for the care of the children? Are men and women equally responsible for the care of children? In divorce cases, who is typically given custody of the children and why?
12. Is any provision made for family life education within the country? If so, what is it?
13. How do syllabuses in educational institutions reflect this article of the Convention?
14. Do husbands have the right to chastise their wives? Which law provides for such a right? Are sanctions exercised against men if they chastise their wives?
15. How is violent behaviour between spouses perceived by women and men? Are there any public campaigns to raise awareness about violence against women as a problem? And if there are, do they attempt to change the attitudes of men?
16. Are there public information programmes to educate women about their rights? If so, to what extent do the media contribute to such programmes?
17. In education is use made of materials on how to resolve conflict between men and women in non-violent ways?
18. Where dowry or brideprice is a condition or requirement for a valid marriage as a matter of custom and tradition, how many cases of violence related to marriage payments are reported? Is there legislation against these practices? If legislation does exist, does it provide sanctions against both parties (i.e. both those asking for and those making a marriage payment)?
19. What measures and steps have been taken to conscientise and inform law enforcement officials of the issue of violence against women, particularly within the home?
20. Is there a place for women to go when faced with violence within the family? Are there special law enforcement units to deal with domestic violence?
21. Is there a process to deal with violent and sexually offensive films and magazines?
22. How are the victims of sexual assault treated by law enforcement officers?
23. Are there any special procedures to deal with the sexual abuse of children?

## Article 6

### Exploitation of Women

*States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.*

#### Comment

The article addresses trafficking and exploitation of prostitution but does not require states to punish women who choose to be prostitutes. Historically, international law has dealt with the exploitation of prostitution through several international instruments concerning traffic in persons and slavery. These include the Slavery Convention 1926 as amended by the Protocol Amending the Slavery Convention 1953, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956 and the Abolition of Forced Labour Convention 1957. In 1949 specific standards relating to prostitution were agreed in the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which outlaws the procurement and enticement of another person for the purposes of prostitution, the exploitation of prostitution of another person and forbids the keeping of brothels. Article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women moves beyond existing international regulation of sexual exploitation, by requiring States not only to pass and implement appropriate legislation, but to address the root causes of both trafficking and exploitation of prostitution.

In General Recommendation 19, CEDAW draws attention to the fact that in addition to established forms of trafficking there are new forms of sexual exploitation, including sex tourism, the recruitment of domestic labour from developing countries to work in developed countries and organised marriages between women from developing countries and foreign nationals. Article 6 obligates States to confront these practices, as well as established forms of exploitation.

#### Accountability and Implementation: Questions to

##### Ask:

1. Does the country have legislation to prevent traffic in women and girls? If so, is it implemented effectively? What sanctions exist for such traffic?
2. Is prostitution legal? If prostitution is illegal, are both prostitute and client subject to prosecution? In practice, does prosecution take place? What sanctions do prostitutes face? What sanctions do the clients of prostitutes face? Are there specific laws relating to clients of prostitutes? If so, are they enforced? Are prostitutes licensed or regulated in any way? What laws, if any, are there concerning child prostitution?
3. If prostitution is legal, do sanctions exist to protect prostitutes from exploitation?
4. What is the prevailing social attitude towards prostitution?
5. Does the law relating to violence against women, including rape, apply equally to prostitute women? Is it applied equally in practice?
6. What are the laws on traffic in women and exploitation of prostitution?
7. Are patterns of immigration and emigration monitored? Specifically, is there a system in place to monitor whether immigrants or emigrants are predominantly engaged in sex work?
8. Are there laws and policies in place to protect women and young girls from labour agencies which are essentially engaged in trafficking? Are there laws and policies in place relating to marriage bureaux, specifically those involved in arranging marriages with foreign nationals?
9. Is the selling of a women's sexual services by a third person illegal?
10. Are there any obstacles to eliminating the exploitation of prostitution and traffic in women? If so, what are they?
11. Are there laws in the country to penalise nationals who exploit women and girl children outside the country, such as, for example, legislation relating to sex tourism? If so, describe their implementation and effect.

# Article 7

## Political and Public Life

*States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:*

- a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;*
- b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;*
- c) To participate in non-government organisations and associations concerned with the public and political life of the country.*

### Comment

Article 7(a) reaffirms the right of women to vote in all elections and to be eligible for election to elected bodies, rights already enshrined in other international instruments including the Convention on the Political Rights of Women 1953 and the International Covenant on Civil and Political Rights 1966. In addition to rights stated in prior instruments, the article explicitly enshrines the right to vote in public referenda.

Article 7(b) also reflects existing standards in international law. However, by providing that States Parties “shall ensure” the right of participation it obligates governments to create the conditions that facilitate women’s participation. This obligation can be met by, for example, including women on lists of government candidates, affirmative action and quotas and elimination of gender restrictions for certain posts.

Article 7(c) contains the only reference in the Convention to non-governmental organisations (NGOs). It establishes the right of women to participate in NGOs and associations concerned with the public and political life of the country and binds States to ensure this right on equal terms with men. General Recommendation 23 on women and public life adopted by the Committee and its sixteenth session provides further details on material to be included in reports under this article.

### Accountability and Implementation: Questions to Ask

1. Do women have the right to vote in all elections on

equal terms with men? If so, what percentage of women vote as compared to men? Is the right to vote dependent on any property or literacy requirement? If so, do such requirements adversely affect women? For instance, do such requirements exclude women from voting, or do they have a greater effect on women’s ability to vote than on that of men?

2. What percentage of the members of political parties are women? What is the nature of the participation of these women in the work of political parties? What measures have been adopted by political parties to increase women’s membership? What percentage of women stand as candidates for publicly elected bodies, locally or nationally? And what proportion of women to men are elected?
3. Are women eligible to be candidates for elected positions on the same terms as men? What percentage of candidates are women? What measures have been adopted by political parties to increase the percentage of women standing as candidates? What measures have been adopted by political parties to increase the number of women office holders? If so, which public offices are currently held by women? Include both appointed and elected positions. Are the holders of such offices representative of women? What percentage of public offices are held by women?
4. Are there any factors that prevent women’s political participation? If so, what are they and are they being addressed in any way? What impediments exist which prevent women from running for office in the party or

committee structure? For example, finance, provision for children, lack of confidence or general attitudes?

5. What percentage of women participate in elections and public referenda?
6. What measures have been taken to ensure that women participate in the design and implementation of development planning at all levels?
7. What support services exist within the country to enable women to participate in public life?
8. Do women participate in trade unions? Are there any

factors that affect their participation in this sector? Have measures been introduced to encourage their participation?

9. Are women discriminated against or subject to human rights violations because of their political activities as members of women's organisations? Are women political prisoners or detainees subject to sexual abuse? If yes, please document and give details.
10. To what extent are women's organisations actively involved in policy-making? Do mechanisms exist to ensure such involvement?

## Article 8

### International Representation and Participation

**S**tates Parties shall take all appropriate measures to ensure to women, on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

#### Comment

Echoing article 8 of the United Nations Charter, article 8 of the Convention requires States Parties to take measures to ensure that women have equal opportunities with men to represent their Government internationally, as well as to participate on a basis of equal opportunity in international organisations.

In view of the fact that equal representation of women at the international level is far from realised, the Committee on the Elimination of Discrimination against Women in General Recommendation 8 suggested that States Parties make use of temporary special measures envisioned in article 4 to achieve this goal. General recommendation 23 also provides more guidance on information to be included in reporting under this article.

#### Accountability and Implementation: Questions to Ask

1. Do women have the right and the opportunity to represent the Government on an international level and to participate in the work of international organisations on equal terms with men?
2. What percentage of ambassadors are women? What percentage of other representatives to foreign governments or international organisations are women? Where do they serve? Are there instances where women, because of their sex, have been denied their opportunity to represent the country or to participate in the work of international organisations? Please describe.
3. What proportion of women are represented in the foreign service of your country and at what levels? What proportion of experts sent to international meetings are women, and what are their areas of expertise?
4. What percentage of people from the country employed by international organisations are women and in which areas? Is there equal opportunity of women to serve as representatives of their country and as participants in the work of international organisations?
5. Are there any programmes to encourage women to enter the foreign service or to apply for positions in international bureaucracy?



## Article 9

### Nationality

*States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.*

*States Parties shall grant women equal rights with men with respect to the nationality of their children.*

#### Comment

Article 15 of the Universal Declaration on Human Rights guarantees everyone the right to a nationality. Article 9 of the Convention grants women equal rights with men to acquire, change or retain their nationality and grants them equal rights with respect to the nationality of their children. Article 9 should be read together with articles 15 and 16 of the Convention which respectively deal with equality of women before the law and within the family. As CEDAW points out in General Recommendation 21, nationality is critical to full participation in society. A woman's nationality may affect her right to vote or stand for public office; it may affect her choice of residence and her access to public services and benefits. In the case of married women, domestic citizenship laws may impose on women the nationality of their husbands, or cause them to lose their nationality on marriage to a foreigner. Article 9 strengthens standards elaborated in the Convention on the Nationality of Married Women, adopted by the General Assembly in 1957. According to the terms of this Convention, neither marriage nor its dissolution, nor the change of nationality of the husband should automatically change that of the wife.

Article 9 should not be understood as compelling a woman to maintain her nationality nor to disadvantage her in any way should she wish to change it.

Article 9 requires women to be granted equal rights with men with regard to the nationality of their children. Therefore citizenship laws under which children automatically acquire the nationality or citizenship of their fathers, but not their mothers, are contrary to this article. In addition, article 7 of the Convention on the Rights of the Child (1989) provides for the right of a child to acquire a nationality.

#### Accountability and Implementation: Questions to Ask

1. Do women, whether married or not, have equal rights with men to acquire, change or retain their nationality? What social, cultural or economic factors affect a woman's exercise of these rights?
2. Does marriage to a non-citizen, or a change of nationality by the husband, affect a woman's nationality in any way?
3. Is a person's citizenship determined by birth, by parentage, by marriage, or by a combination of these factors? If citizenship is determined by parentage, does a mother's citizenship carry equal weight with that of the father?
4. Do women and men have the same rights with respect to gaining residence and employment status for their spouse in situations where the spouse is a non-national? How is the nationality of a child determined? Do minor children have their own passports? If not, can minor children travel on their mother's passport or only their father's? Is the father's consent required to include children on their mother's passport? Is the consent of the parents of minor children required prior to their leaving the country? If so, whose consent is required and in what circumstances?
5. Can a woman obtain a passport or travel without the permission of her husband or male guardian?

## Article 10

### Education

**S**tates Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- a) *The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;*
- b) *Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;*
- c) *The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;*
- d) *The same opportunities to benefit from scholarships and other study grants;*
- e) *The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;*
- f) *The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;*
- g) *The same opportunities to participate actively in sports and physical education;*
- h) *Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.*

#### Comment

This article requires governments to take all appropriate measures to eliminate discrimination against women in education. It reiterates rights guaranteed by the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. With specific respect to the education of women, article 10 of the Convention maintains that all necessary measures be taken to give equal rights to women and girls in the field of educa-

tion to enable them to participate fully in the life of their countries.

In order to ensure the equality of men and women in matters of education, article 10(a) requires same conditions for men and women with regard to career and vocational guidance, and access to studies and achievement of qualifications or diplomas in all educational institutions in both rural and urban areas. The equality of women shall be ensured specifically in pre-school, general, technical, profes-

sional and higher technical education, and all types of vocational training. Article 10(b) guarantees women the same access as men to curricula, examinations, school premises, teaching staff of similar standard of qualification, and equipment of similar quality.

Article 10(c) seeks to eliminate stereotyped conceptions of the roles of women and men at all levels and in all forms of education. The Convention encourages co-education and other types of education which help to attain this aim and requires, in particular, the revision of textbooks and school programmes and the adaptation of teaching methods that encourage elimination of sex stereotyping. To eradicate sex stereotyping, it may be necessary to redress imbalances between women and men working in educational institutions.

Article 10(d) guarantees women and girls the same opportunities as men and boys with respect to scholarships and other study grants. Article 10(e) obligates States to ensure that women have equal opportunities to participate in continuing education, including literacy programmes. Access to continuing education programmes is important to redress the imbalance between women and men, particularly in areas of new technology. Disadvantaged women, especially immigrant women, who are often isolated, have a particular need for adult education to help them improve the quality of their lives with regard to the double burden of home and paid employment.

Since frequently more girls than boys leave school prematurely, governments should, under article 10(f), work to reduce drop-out rates for girls and to provide programmes for girls and women who have left school before completing their studies. Attention should especially be paid to meeting the needs of young pregnant students and young mothers to enable them to complete their education. Programmes should also be initiated to encourage these women to enter or re-enter the waged labour force.

Women and girls frequently have unequal opportunities to participate in sports and physical education, and fewer resources are made available to promote activities for them. Article 10(g) seeks to reverse this trend while article 10(h) entitles women and girls to receive education relating to health and family life. In a provision unique to this Convention, they are granted the right to have access to information and advice concerning family planning to allow them to decide on the number and spacing of their children. Provision of access to such information would enable girls to participate equally in matters connected with family life.

## Accountability and Implementation: Questions to Ask

1. Have legislative or other measures been taken to ensure equal access to education for men and women? Is there equal access to education in practice?
2. Are girls and boys able to take the same subjects at primary and secondary school and at institutions of higher learning? If so, are girls aware of the options which are available to them? If they are so aware, do they take advantage of these options? If not, why not?
3. What percentage of primary, secondary, and university graduates are female? How do these percentages relate to the percentage of women to men in the country per age cohort?
4. What are the overall literacy rates for males and females? Between ages 15-24? Ages 25-44? Ages 45 and above?
5. In schools that are not co-educational, are the curricula, examinations, teaching staff, school premises and equipment of the same quality for boys and girls? If not, describe the differences. For example, compare student-teacher ratios, subjects taught, per capita expenditures for male and female students.
6. If the educational system places students in different branches or streams or "tracks" of studies, are girls and boys equally represented in such tracks? Are girls encouraged to pursue traditionally "male" studies? How?
7. What is the percentage of women graduating in the fields of medicine? Engineering? Law? Sciences? Agriculture? How do these percentages relate to the percentage of women to men in the country?
8. What grants or scholarships are available? Are these grants and scholarships available to women and men equally? Of those grants and scholarships available to both women and men, what number go to women and what number go to men?
9. Are there any grants or scholarships available solely for women and solely for men? What percentage of all available scholarships, awards, or grants are given to women at primary, secondary, and post-secondary levels?
10. How many women are shortlisted for such scholarships and grants as compared to men?
11. What percentage of the students in adult education and

- literacy programmes are women? What are the comparative numbers of women and men enrolling in these programmes? Are there any barriers to women's enrolment? If so, what are they? Is there any particular group of women, for example migrant or indigenous women, particularly affected by such barriers?
12. Are there laws and policies that attempt to keep girls in school until school leaving age? Please describe.
  13. What educational programmes are available for girls and women who have left school before school leaving age and graduation? What are the qualifications and experiences of the teachers in such programmes? Do more men than women take such programmes?
  14. What are the dropout rates for women at all levels of education? What are the major causes of girls or women discontinuing their education? Are there statistics that show the levels of female student drop-out rates? Are these statistics kept on a comparative basis?
  15. What percentage of all teachers at the primary level are women? At the secondary level? At the university level? Compare the seniority levels of women staff at each level?
  16. What percentage of school principals and heads of departments are women? What percentage of university professors and heads of departments are women? Provide a gender disaggregated staff profile of the primary, secondary and higher education sectors.
  17. Do women have the same access as men to family life education, including family planning? Is education for family life and family planning included in course syllabi? If so, what is taught?
  18. Do girls have the same opportunities as boys to participate in sports and physical education in schools? Are there any regulations that prohibit participation of women and girls in sports and physical education? Are there any dress regulations that impede the full participation of girls and women in sports? Is it culturally acceptable for women to participate in all sports? Are sports facilities equally available to men and women, boys and girls?
  19. Does sex stereotyping, such as depictions of women as secretaries rather than managers, exist in programmes, curricula, textbooks, etc.? If so, how much? Have measures been introduced to address this stereotyping?
  20. Has research been undertaken into the achievements of girls who attend co-educational schools in comparison to those who attend single sex schools? If so, what is the result of this research?
  21. Is career and vocational guidance available to inform girls of the full range of vocational opportunities? Is information available about these opportunities? Do girls need special encouragement to take up these opportunities? If so, what are sort of encouragement is required? Do girls encounter any obstacles in taking up these opportunities? If so, what are they? Have any measures been introduced to address these obstacles? If so, please describe them.

# Article 11

## Employment

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:*
  - a) *The right to work as an inalienable right of all human beings;*
  - b) *The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;*
  - c) *The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;*
  - d) *The right to equal remuneration, including benefits and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;*
  - e) *The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;*
  - f) *The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.*
  
2. *In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*
  - a) *To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*
  - b) *To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*
  - c) *To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;*
  - d) *To provide special protection to women during pregnancy in types of work proved to be harmful to them.*
  
3. *Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.*

## Comment

Obligating governments to take all appropriate measures to eliminate discrimination against women in employment, article 11 guarantees women the same employment rights, opportunities, choices and benefits as men. It obligates States to make every effort to remove both direct and indirect discrimination against women. Indirect discrimination consists of subtle and less obvious measures that adversely affect women more than men. Examples include irrelevant requirements of size or height, age, or other considerations which hinder women's equal employment opportunities.

Drawing together standards set in United Nations instruments, as well as those agreed with in the International Labour Organisation (ILO), article 11 affirms the existence of the right to work in international law and elaborates a comprehensive set of obligations of States Parties to ensure the full and effective enjoyment by women of that right. States Parties must guarantee women the same employment rights and opportunities as men, both by dismantling discriminatory employment laws and practices and providing girls and women with the same de facto opportunities as men by ensuring that they are educationally and vocationally prepared for wide range of careers. In recruitment, the same criteria for the employment of men and women must be applied.

Women are guaranteed free choice of profession and employment and are not to be confined to work traditionally associated with women. They are to have equal rights in promotion, job security, all benefits and conditions of service, training and retraining. Women are guaranteed the right to equal remuneration and all work-related benefits. They must receive equal pay for equal work. In addition to equal treatment for work of equal value, the subject of CEDAW's General Recommendation 13, they must be afforded equality of treatment in the valuation of the quality of work. They are to enjoy the right to social security when unemployed, retired or incapable of work. Women are guaranteed the right to paid leave and healthy and safe working conditions.

Specific provisions prohibit any discrimination on the grounds of marital status or maternity. Dismissal on the grounds of pregnancy or maternity leave must be prohibited and subject to sanction, as must any discriminatory dismissal on the basis of marital status. States must also introduce measures, including paid maternity leave and maternity breaks without loss of employment status or benefits, to allow parents to combine family life with work and participation in public life. Here States are particularly encouraged to develop child-care programmes. Although prohibiting discrimination on the basis of women's reproductive

function, article 11 does enshrine their right to have that function safeguarded in the workplace, as well as obligating States Parties to provide special protection to women during pregnancy in types of work proved to be harmful to them. As women's reproductive function and pregnancy have often been the excuse for discriminatory employment practices, article 11(3) obliges States Parties to review regularly any protective legislation which might be introduced for these purposes.

In its formulation of general recommendations, CEDAW has devoted considerable attention to the meaning of article 11. In General Recommendation 13, concerning equal remuneration for work of equal value, it encouraged States Parties to consider gender-neutral job evaluation systems and to encourage the insertion of the principle of equal pay for work of equal value in collective agreements. In both General Recommendations 16 and 17, CEDAW drew attention to the disproportionate participation of women in the unwaged informal sector, most commonly in family and rural contexts. The rights guaranteed in article 11 are applicable to formal employment and, accordingly, leave such women unprotected and vulnerable. Again, in both General Recommendations 12 and 19, CEDAW drew attention to violence against women in the workplace, including sexual harassment, perpetrated by male co-workers and superiors. These general recommendations indicate that the elimination of discrimination in the workplace includes the obligation to eliminate workplace violence by means of appropriate legal and practical measures.

### Accountability and Implementation: Questions to Ask

1. Are there any distinctions in recruitment and employment practices between women and men? If so what are they?
2. What provisions exist to eliminate discrimination against women in employment? Are these provisions enforced? How?
3. What legislative or other measures have been taken to promote equal employment opportunities for women and men?
4. What percentage of the total waged workforce is women? Of the total waged workforce between ages 15-24? Ages 25-44? Ages 45 and older?
5. Of the women in the waged labour force, what percentage are part-time workers? What percentage are full-time workers? What percentage of part-time and full-time workers overall are women?

6. Are there industries in which women perform piecework or outwork in their homes? Are there regulations which affect such work? Are such workers entitled to benefits, for example, sick leave, holiday pay? What is the level of wage for such work compared with other employment?
7. Are there professions that, by law or custom, tend to be filled predominantly by women? What are they? Are there professions that, by law or custom, tend to be filled predominantly by men? If so, what are they?
8. Does the Government ensure that opportunities exist for women in occupations which are not traditionally pursued by women?
9. Are women encouraged to take up apprenticeships in fields not usually pursued by women?
10. Are women entitled by law to receive equal pay for equal work or work of the same value as that performed by men? What percentage of men's wages do women receive? What means are available to challenge discrimination in pay? Are there any obstacles that impede implementation of pay equity laws? If so, what are they? If pay equity provisions exist, how is quality of work evaluated? Does this evaluation lead to equality of treatment?
11. What work-related benefits are available to workers generally? Do women receive equal benefits such as holiday pay, sick leave, job training, disability and old age benefits?
12. Is work done by women in the home counted as part of the work done in the labour force and included in national statistics (e.g. calculation of GDP/GNP)? Is unpaid agricultural work counted as part of the country's gross national product? Does unpaid work in the home and agriculture count towards eligibility for retirement and other work-related benefits?
13. What is the mandatory retirement age for men and for women? What is the usual voluntary retirement age for men and for women? Do men and women contribute the same amounts towards their pensions?
14. If the country has social security legislation, are all women covered by such legislation? If not, which groups are excluded and for what reason? Do wives benefit from pension plans held by their husbands and vice versa?
15. Is employment security affected by pregnancy? If so, how? Does the country have provisions to ensure that women who are pregnant or on maternity leave are not subject to dismissal? If so what sanctions, if any, are provided for such dismissal? How frequently are these sanctions invoked?
16. What provision is made for maternity leave? Does the country have a system of maternity leave with pay? If so, by whom is it paid, and how effective is it? Is it enforced? What penalties exist for violations? Have studies been undertaken to determine its use and effectiveness?
17. Is there provision for parental leave? If there is, can it be shared between parents? If it is available, what percentage of men take it? If parental leave provisions exist, what effect does taking parental leave have on the accrual of work-related benefits and seniority and promotion?
18. Is dismissal of women on the grounds of maternity leave or marital status prohibited by law or policy? Is it done in practice?
19. If the country has provision for paid leave is such leave equally available to men and women?
20. Is there provision for flexible working patterns, such as job-sharing or permanent part-time employment, to allow women or men to combine employment with family responsibilities? If so, do women and men take advantage of these opportunities equally? If not, who takes advantage of these opportunities? If there is an opportunity for flexible work, what effect does working in this way have on the accrual of work-related benefits and seniority and promotion?
21. Does marital status affect job security?
22. What health and safety laws and regulations does the country have? Do legal provisions exist to provide women with special protection during pregnancy in types of work proven to be harmful to them? What sort of work is regarded as being particularly harmful?
23. Are there particular forms of work, for example night work, underground and mine work or work in particular industries that restrict women's participation? If so, on what basis are women restricted from participating? What effect do such restrictions have on women's economic opportunities? If provisions exist to protect the health and safety of women at work are they subject to regular review in the light of scientific and technical advances?

24. Does the country have a network of child-care facilities? If so, does it meet existing needs? What types of child care are available for working women? Does government support, financially or otherwise, child-care? If child-care services exist are they staffed by trained personnel?
25. Are there any legal measures regulating the establishment and function of such facilities where they exist? If so, what are they?
26. What percentage of employers provide child care? What percentage of children 0-3 are in child-care? Ages 3-6?
27. How are school-age children cared for when parents work longer than the school day?
28. Are nursing breaks for breastfeeding mothers required by law? In practice, are they provided? In practice, do women take advantage of them?
29. What is the extent of unionisation of the labour force? What percentage of women are members of unions overall? What is the level of unionisation in areas of the labour market dominated by women?
30. Has the country introduced measures to address sexual harassment and violence against women in the workplace? If so, please describe them and their effect.



## Article 12

### Equality in Access to Health Care

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health services, including those relating to family planning.*
2. *Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.*

#### Comment

Article 12 recognises that the unequal status of women hampers their equal access to adequate health care. Accordingly, the article obligates States Parties to ensure that women have access to health care on an equal basis with men. States Parties are required to remove all legal and social barriers that obstruct access to health care for all women, including those whose access is impeded by factors such as disability, illiteracy, or where they live.

The International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights both enshrine the basic right of couples to decide freely and responsibly the number and spacing of their children, but article 12 of the Convention is the first human rights treaty to make specific mention of access to family planning. States Parties must ensure that women have access to family planning services on a basis of equality with men. Access entails not only the availability of services, but also information and education relating to such services. Thus, States must ensure that information and education relating to family planning is available to both women and men. Any laws or policies that restrict women's access to family planning, such as those which require the consent of the woman's husband or near male relative, would run counter to this article, as would any health sector practice which required such consent.

Paragraph 2 of article 12 recognises the particular needs of women for health services during pregnancy, confinement and the post-natal periods. States are required to provide appropriate health services, free if necessary, as well as ensuring that pregnant and lactating women are provided with adequate nutrition.

The scope and application of article 12 has been the

focus of a number of CEDAW's general recommendations, in particular General Recommendation 24 which comprehensively analyzes the article. General Recommendation 14 calls on States Parties to eradicate the practice of female circumcision by, inter alia, health policy strategies which draw upon the role of traditional birth attendants. In General Recommendation 19, the Committee noted that gender-based violence puts women's health at risk and specifically described traditional practices harmful to health of women, including dietary restrictions for pregnant women, son-preference and female circumcision to be forms of discrimination.

Discrimination against women in national AIDS strategies was the subject of General Recommendation 15. Here CEDAW recommended that States Parties intensify efforts to raise public awareness of the risk of HIV and AIDS, particularly in women and children. States were asked to ensure that programmes to combat AIDS give special attention to the rights and needs of women and children and take into account the particular vulnerability of women to HIV infection resulting from their reproductive role and their subordinate position. States were also asked to ensure that women actively participate as primary health care workers and to take measures to enhance their role as care providers, health workers and educators in the prevention of HIV infection.

The importance of article 12 to gender equality and the empowerment of women was reaffirmed in 1994 by the International Conference on Population and Development, its Programme of Action underscoring the importance of reproductive rights, sexual and reproductive health and family planning for individual, national and international welfare.

### **Accountability and Implementation: Questions to Ask**

1. What measures have been taken to eliminate discrimination against women in the field of health care?
2. Do women have the same access as men to health care services?
3. Is medical care for women during pregnancy and in the post-natal period free of charge?
4. Does the State seek to ensure that women receive adequate nutrition during pregnancy and lactation? If so, in what ways?
5. What health facilities and personnel are available for women? This could include hospitals, clinics, health posts, and other facilities as well as physicians, nurses, auxiliary health personnel, family planning workers, and community agents. Are there any health facilities and personnel dedicated to the health needs of women?
6. What are major causes of female mortality and morbidity?
7. What is the maternal mortality rate?
8. What are the infant and child mortality rates for boys and for girls? What are the major causes of infant and child mortality and morbidity for girls? What are the major causes of infant and child mortality and morbidity for boys?
9. What is the average life expectancy for men and women?
10. What are the crude birth rates and crude death rates for men and women?
11. What percentage of women receive prenatal care?
12. What is the average number of live births per woman?
13. What is the unmet need for contraception?
14. What is the prevalence of contraception, by method?
15. What legal or cultural obstacles are there to women receiving health care services, including family planning?
16. How many women work in the health sector? In what areas of the health sector do they work? At what level of seniority in these areas do they work?
17. Does the country have traditional health workers? If so, what do they do? How many traditional health workers are women?
18. Is the husband's authorisation required, either by law or in practice, before a married woman can receive health services including family planning?
19. Does the State have any laws or policies that require use of family planning measures? If so, are there any consequences, such as financial penalties, where these laws or policies are not complied with?
20. Is abortion legal? If so, under what circumstances? Is the cost of abortion covered under national medical insurance or social security? Can poor women receive free or subsidised abortions? If abortion is legal, how available are services in practice?
21. Is pre-natal foetal testing available? If so, what is the incidence of abortion following pre-natal testing? If there is incidence of abortion following pre-natal testing, what are the major reasons for such abortions?
22. Does the State have any laws or policies requiring abortion? If there are such laws or policies, are the wishes of the mother taken into consideration when determining whether an abortion should take place?
23. If abortion is not legal, is it performed anyway? What statistics are available for death and/or illness due to or related to abortion? What provisions are made for care of women with incomplete abortions?
24. Is elective sterilisation available? If so, what is the incidence of elective sterilisation for women? For men?
25. Does the State have any laws or policies requiring sterilisation? What sanctions exist for failure to comply with these laws or policies?
26. Is female genital mutilation or circumcision practised? If yes, under what circumstances? Is it legal?
27. Do any groups in the country perpetuate practices ( for example, dietary restrictions for pregnant women) that might be harmful to women's health? If so, what measures have been introduced to eradicate such practices?
28. What measures have been introduced in the country to increase public awareness of the risk and effects sexually transmitted diseases, particularly, HIV/AIDS? Have any of these measures been aimed specifically at women and girls?

29. Have any programmes been introduced to combat sexually transmitted diseases, particularly HIV/ AIDS? If so, are any of these programmes dedicated to women and girls? Do any of these programmes pay particular attention to women's reproductive role and female subordination as factors that make women and girls vulnerable to sexually transmitted diseases, particularly, HIV/AIDS?
30. What measures have been introduced to ensure the participation of women as health care workers in the context of HIV/AIDS?

# Article 13

## Social and Economic Benefits

*States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:*

- a) The right to family benefits;*
- b) The right to bank loans, mortgages and other forms of financial credit;*
- c) The right to participate in recreational activities, sports and in all aspects of cultural life.*

### Comment

Article 13 obligates States to eliminate economic discrimination against women and to ensure that women have equal rights to participate in recreational and cultural life. This requires the State not only to eliminate discrimination by government, but also to take appropriate steps to ensure that no private actor, such as an employer or financial institution, discriminates.

Women are to be accorded equal rights to benefits that accrue to the family. Such benefits could be social, economic, or financial and include family allowances, insurance provision, housing subsidies, child care and financial or tax credits. They are to have equal rights to bank loans, mortgages and other forms of credit. Differential credit standards cannot be applied to women, nor can women be required to acquire the consent of male relatives for credit.

Article 13(c) articulates women's rights to recreational activities, sports and cultural life. It entitles them to take part in sports, recreational and cultural activities and obligates States to take measures so that women have real equality of access in these areas. States must take steps to remove legal or social obstacles that affect their participation in these contexts. They must also ensure that the principle of equality of opportunity underpins funding, grants and other forms of support.

### Accountability and Implementation: Questions to Ask

1. Does the country have a system of family benefits? If so, what are they?
2. If family benefits exist, who qualifies for them? Do women have a right to such family benefits?
3. Do married women, in their own right or as parents, have access to family benefits such as: children's allowances, housing allowances, public housing, health insurance or coverage, or other government subsidies or allowances? Do unmarried and married women have the same access to these benefits?
4. How are the various benefits paid? Are they paid directly or through the tax system as credits or deductions with respect to taxes?
5. Who actually receives the benefits? For example, if the payment is direct, is it paid to the primary care giver or to the family unit?
6. How do people qualify for bank loans, mortgages and other forms of financial credit (i) from Government (ii) from private institutions?
7. Do the qualifying requirements affect women and men equally? Do women, particularly married women, have access to loans, mortgages, and other forms of financial credit? If not, what are the constraints? Do they need the consent of their husbands or another male to obtain credit?
8. Is there any mechanism by which women who consider they have been unfairly treated can complain?
9. What legal, social, economic, or cultural barriers, prevent women's participation in recreational activities, sports or any aspect of cultural life?

# Article 14

## Rural Women

1. *States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.*
  
2. *States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:*
  - a) *To participate in the elaboration and implementation of development planning at all levels;*
  - b) *To have access to adequate health care facilities, including information, counselling and services in family planning;*
  - c) *To benefit directly from social security programmes;*
  - d) *To obtain all types of training and education, formal and non formal, including that relating to functional literacy, as well as inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;*
  - e) *To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;*
  - f) *To participate in all community activities;*
  - g) *To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;*
  - h) *To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.*

### **Comment**

Rural women frequently play a significant role in the economic survival of their families and communities. Frequently, however, rural women receive little or no recognition for their efforts, and they are often denied access to

the results of their work or the benefits of the development process. Article 14 seeks to redress this by obligating States Parties to ensure the benefits of the Convention to rural women and to eliminate discrimination against them, thus allowing them to participate in and benefit from rural development.

Article 14 obligates States to ensure that rural women participate in development planning and implementation. Development projects should meet women's expectations as well as their special development needs and requirements. Rural women are to be ensured access to adequate health care facilities and family planning information, counselling, and services, and they are to benefit directly from social security programmes. Rural women's rights to education and training and, particularly, functional literacy, are underscored, as is their right to equal access to economic opportunities, through employment, self employment, credit and loans, specifically related to agriculture. They are to be granted access to marketing facilities and technology and to be granted equal treatment in land reform and resettlement schemes. Beyond this to combat the isolation rural women often suffer, States are obligated to ensure women the right to enjoy adequate living conditions—housing, sanitation, electricity, water supply, transport and communications.

#### **Accountability and Implementation: Questions to Ask**

1. Are rural women aware of their rights under the Convention? What measures are being, or have been taken, to make women in rural areas aware of their rights?
2. In rural areas, are married, widowed, divorced, non-married, and childless women treated differently from each other?
3. What percentage of agricultural work in rural areas is done by women? What type of work is generally done by rural women (including cooking, cleaning, water carrying, child-care, marketing, etc.)?
4. Do rural women participate in developing economic and agricultural policies? Is their contribution taken into account in computing Gross National Product?
5. Are rural women represented in government and on bodies and commissions involved with development planning? If so, what is their representation and input?
6. What special programs, if any, have been developed to meet the needs of rural women? Does the national budget set aside a specific amount for programmes to benefit rural women? If so, what are they?
7. Is there a national policy with regard to the provision of family planning services for women in rural areas? If so, what is it? To what extent are family planning programmes designed to reach both women and men?
8. How does the availability of health services, including family planning, in rural areas compare to that in urban areas? What obstacles hinder or prevent women from receiving family planning services and counselling in rural areas?
9. What measures and follow-up facilities are made available to ensure safe contraception for rural women?
10. How does the mortality rate of rural women compare to that of urban women? The maternal mortality rate? Life expectancy? Nutritional status? Percent receiving prenatal care? Family planning services?
11. What are the infant mortality rates in rural compared to urban areas?
12. Do rural women have access to social security programmes? Are any specifically directed to rural women? How do they qualify for coverage?
13. Are training and education available for rural women locally? If such training exists, are there statistics indicating how many rural women participate?
14. What percentage of rural girls and women are enrolled in primary, secondary and university level education? How do these percentages compare with urban enrolment?
15. What percentage of rural women ages 15-24 are illiterate? Ages 25-44? How do these percentages compare with corresponding percentages for urban women?
16. Do any self-help groups or co-operatives exist for women in rural areas? Does the state recognise the right of rural women to organise self-help groups and to participate in co-operatives and other economic or development programmes as individuals? If not, what obstacles hinder their establishment?
17. If such groups exist do they organise to allow women to obtain equal access to economic opportunities through employment or self-employment? If not, what is their function?
18. Does the country have any marketing facilities? If so, do they pay attention to the needs of rural women? Can women use rural marketing facilities to sell their goods? What percent of these facilities are used by women?
19. Are agricultural extension services designed to reach women directly? What percentage of agricultural credit and loans in rural areas are actually given to women?

20. Can women hold title to land? Does women's title to land derive from their husbands or fathers or brothers or uncles or nephews?
21. Has the country undertaken any land or agrarian reform? If so, how has this affected rural women's title to land?
22. What specific provisions exist to ensure adequate living conditions for rural women?
23. Are there special provisions relating to housing, sanitation, electricity and water supply which take into account the needs of rural women?
24. Are there special provisions relating to transport and communications which take into account the needs of rural women?
25. When reform of sanitation, electricity, water supply, transport and communication is considered are the special needs of rural women taken into account? Are rural women involved in the planning and decision-making process?
26. In what community activities do rural women participate? Are there any religious or cultural traditions that keep women from participating?

## Article 15

### Equality Before the Law and in Civil Matters

1. *States Parties shall accord to women equality with men before the law.*
2. *States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.*
3. *States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.*
4. *States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

#### Comment

Article 15 obligates States Parties to ensure women's legal autonomy by guaranteeing them equality with men before the law. Women are also to be guaranteed equal legal capacity with men in civil matters and the same opportunities to exercise that capacity. Areas of legal capacity, including that relating to contracts, property and litigation, where women have been traditionally granted less status than men, are specifically highlighted. Accordingly, any law that limits the capacity of a woman to conclude contracts, limits her right to own and deal with property or restricts her capacity to represent her interests in courts or tribunals must be repealed or amended, and States Parties must take positive steps to eliminate any practices of this nature.

CEDAW's General Recommendation 21, concerning equality in marriage and family relations, explains the importance of the rights guaranteed to women in article 15. Restrictions on women's contractual capacity, access to credit and capacity with respect to property seriously limit their ability to provide for themselves and their dependants. Restrictions relating to litigation, including lack of access to legal advice, lack of legal capacity or unequal testimonial and evidentiary status in the courtroom, denies women their rights to equality with men and, again, restricts their ability to provide for themselves and their dependants.

States Parties under article 15 are not confined to

amending legislation and taking positive steps to ensure that women have full equality in civil law, but extend to rendering null and void any private agreement that limits women's legal and civil capacity.

Article 15(4) requires equality in the law relating to movement of persons, choice of residence and domicile. As CEDAW made clear in General Recommendation 21 any restrictions on a woman's right to choose a domicile on the same basis as a man may limit her access to the courts in the country in which she lives and prevent her from entering and leaving a country freely and in her own right and, hence, contravene article 15. Further, any legislation entrenching the concept of the married woman's dependent domicile or the husband's right to choose the family residence will be considered discriminatory under this article, as would any custom or practice perpetuating these concepts.

#### Accountability and Implementation: Questions to Ask

1. Are women formally treated equally with men under the law with respect to their legal capacity to conclude contracts and administer property? Are there any laws that provide for this? If so, what do they say? If not, when will such laws be passed?
2. Do women have the right to make contracts, including those relating to credit, real estate and other property,



as well as other commercial transactions, in their own name? Can women obtain health care e.g. contraceptives, without their husband's permission?

3. Do women have the same rights as men to administer property? Can women be executors or administrators of estates?
4. Do women have the right to administer property without interference or consent by a male, regardless of whether they acquire it during marriage, bring it into marriage or are unmarried? If not, why not?
5. Has the country given effect to the obligations in article 15(3), which requires that all contracts and other instruments aimed at restricting women's legal capacity be deemed null and void? Such contracts and instruments include marriage contracts that diminish women's legal capacity and commercial contracts in which women give up rights to negotiate on their own.
6. Are women treated equally in courts? Can women sue and be sued in their own name? Can women take their place in the legal system on an equal basis with men? Is the testimony of a woman equal in weight to the testimony of a man? Are women lawyers entitled to represent clients before courts and tribunals? Are women entitled to serve as jurors or on other citizen panels? Can they serve in the judiciary, in civil, customary, and religious courts? Do they?
7. Do women have equal access to legal services? Can they get free legal help if they are unable to pay for it? If legal aid is available is it provided equally to women and men? If so, do women know about it and take advantage of it? If not, why not?
8. Are women given similar damages awards as men in comparable circumstances? Are women and men sentenced similarly in comparable circumstances?
9. Has any research been carried out regarding judicial reasoning and judicial practices that have a differential impact on women and men?
10. Are there legal concepts, such as special defences, which apply to women and not men?
11. Are women and men accorded the same legal rights of freedom of movement and choice of residence? Do women have the right to choose the place where they live? Do traditions or customs restrict women from exercising this right?
12. Does marriage limit a women's right to choose her residence?
13. Is a woman's domicile dependent on that of her father or her husband? Under what circumstances does she retain her domicile of origin?
14. Do migrant women who live and work temporarily in other countries have the same rights as men to have their spouses, partners and children join them?

## Article 16

### Equality in Marriage and Family Law

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:*
  - a) *The same right to enter into marriage;*
  - b) *The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*
  - c) *The same rights and responsibilities during marriage and at its dissolution;*
  - d) *The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;*
  - e) *The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;*
  - f) *The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;*
  - g) *The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;*
  - h) *The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.*
2. *The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*

#### Comment

Article 16 addresses discrimination against women in the private spheres of marriage and the family. It is perhaps in these spheres that women's unequal status with men is seen most sharply. Many States maintain discriminatory laws, while even in those in which legal equality in these spheres exist, the roles women play which are not shared

by men, are regarded as inferior. Women's unequal status in marriage and the family is frequently based on traditional, customary and religious attitudes that confine women to particular roles. These attitudes are deeply entrenched and resistant to change. Indeed, many States Parties have entered reservations to article 16, thereby declaring that they are unprepared to remove discrimination in this context.

The meaning of article 16 and the scope of the obligations it creates have been explained in detail by CEDAW in its General Recommendation 21—equality in marriage and family relations. Whatever form the family takes—and CEDAW acknowledges that the form and concept of the family can vary widely—the treatment of women in the family both in law and in practice must accord with the principles of equality and justice for all peoples set out in article 2 of the Convention.

The scope of obligations imposed by article 16, as explained by CEDAW, is comprehensive. States Parties are obligated to prohibit and take steps to discourage polygamy and ensure that women are entitled to choose when, if and whom they shall marry by, inter alia discouraging forced marriages and remarriages. Child marriages and betrothals are to be the focus of specific action, with States obligated to deem such marriages and betrothals of no legal effect. A minimum age for marriage—which CEDAW suggests should be 18 for both women and men—should be legislated and enforced and States should make registration of marriages compulsory.

States must ensure that women have the same rights and responsibilities as men during marriage and at its dissolution, whether by divorce or death. Parents of children, whether born within or outside wedlock are to be guaranteed equal status: women must thus be accorded equal rights with men with respect to their children, through legal concepts such as guardianship, wardship, trusteeship and adoption, and men must share equal responsibility, including care and financial support, in relation to children.

The equal status of women and men during marriage established by article 16 encompasses equal reproductive choice and the right to have access to the means to exercise this choice. Coercive practices such as forced pregnancies, abortions and sterilisations are precluded by this article, while at the same time, it obligates States to create a climate in which informed choice is available. Equal status in marriage also presupposes equal rights to choose a profession or employment, as well as the family name. Any law or custom that obligates a woman to change her name on marriage or at its dissolution denies her equal status in marriage and family life.

Equal status in marriage extends to equal access and capacity in property matters. As CEDAW explains in General Recommendation 21, equal access and capacity in these matters requires the removal of any discrimination in property division on divorce or death and the acknowledgement of the right of wives and de facto wives to half the marital property, irrespective of whether they contributed financially to its acquisition.

Domestic violence is not explicitly addressed in article 16, but the obligations under this article and violence against women were explored by CEDAW in General Recommendation 19. CEDAW described family violence as one of the most insidious forms of violence against women and noted that it takes many forms, including battering, rape, and mental violence. CEDAW recommended the introduction of specific protective laws to address family violence, the establishment of protective and support services for women and gender-sensitive training of judicial and law enforcement officers. In General Recommendation 21, CEDAW urged States Parties to comply with General Recommendation 19 so women in both public and family life will be free of gender-based violence.

### **Accountability and Implementation: Questions to Ask**

1. Are family relations governed by civil law, religious laws, customary laws, or a combination of these? Please explain. Are women treated equally with men under these laws?
2. What types or forms of family exist under civil, religious, and customary laws? Are they marriages, unions, partnerships, or other kinds of cohabitation. Are they recognised by the State?
3. Do women have the same freedom to choose a spouse as men? Does the country ensure that all marriages are entered into with the free and full consent of the woman? In what ways?
4. Do men and women have the same rights and responsibilities during marriage? If not, how do these differ, both in law, in practice, and in traditional legal systems?
5. Is polygamy (one man having more than one wife) permitted by law? If so, which law? Is it done in practice? What percentage of marriages are polygamous?
6. In polygamous marriages, what are the rights and responsibilities of husbands towards wives and wives towards husbands?
7. What are the rights and responsibilities of men and women who live together as husband and wife without legal marriage towards each other and towards their children?
8. Do women have the same rights as men to choose a profession and occupation? Are these rights affected by marriage? If so, are they aware of these rights? Do they exercise these rights?

9. Do women have the same rights as men to own, acquire, manage and dispose of property? If the husband is declared bankrupt, how are the rights of the wife affected?
10. Do married women have an equal voice with their husbands in the management and disposal of property acquired during marriage? Does disposal of property require the consent of the other spouse?
11. Is divorce available to men and women on the same grounds? Does divorce by "renunciation" occur either in law or practice? Are divorces registered?
12. On dissolution of marriage what are the rights of the wife with respect to property? Are these the same as the rights of the husband?
13. What are the legal obligations to pay maintenance to a divorced husband or wife? Do women have rights to maintenance on divorce? If so, are such rights enforced?
14. How is property divided after divorce? Is a woman's work in the home, or her unpaid agricultural labour, counted as a contribution towards the value of the property? Is this work reflected in the division of property on divorce?
15. What rights do those who live together as husband and wife without legal marriage have with respect to property during the relationship and on its breakdown? Do such partners have a right to maintenance during the relationship and on its breakdown?
16. What is the law and practice relating to the abuse of wives and de facto wives?
17. Do women have the right to decide freely the number and spacing of their children? Do they have access, without having to ask anyone's permission, to information and services for family planning? In practice, do family planning providers provide information and treatment to women without the knowledge or consent of their husbands?
18. Is there a national policy concerning family planning? If so what is it? Does it encompass access to family planning information, education and services? Are there any specific legislative provisions that affect the provision of family planning information, education and services?
19. Are there any factors which obstruct women's exercise of their rights to family planning information and services? If so, what are they? Are any measures being taken to address these factors?
20. Do women have the same rights as men, regardless of their marital status, to make decisions about the upbringing of their children?
21. Do women have the right to retain their own name on marriage? If so, what percentage of women retain their own name on marriage? Describe the law relating to the selection of family name. If the law requires the selection of one family name, do women have equal rights with men to nominate their name as the family name? Can they add their name to the family name? If they can nominate their name as the family name or add their name to the family name, what is the percentage of women who do this? Do women have rights with respect to the choice of the family name of their children? If so, do they know them and exercise them?
22. Do women have the same rights to custody of their children as men? Are those rights, if they exist, affected by the marital status of the woman?
23. Who is the natural guardian of the child? Do women have the same rights as men in matters of guardianship, wardship, trusteeship, and adoption of children?
24. On divorce or relationship breakdown who usually acquires custody of the children? After death of a husband? Do the practical results in custody matters differ from the law as written?
25. Are fathers of children required to pay child support? Are child support orders enforced?
26. Do single parents have the right to appropriate child support from the other parent? Is this right enforceable? How?
27. What are the rights of surrogate mothers, including mothers of children born by virtue of artificial means?
28. What is the age of majority? Is it set by legislation? Is it different for males and females?
29. Do provisions exist which set a minimum age for marriage for males and females? How are they enforced? What is the minimum age of marriage? Is it the same for males and females? Are there exceptions to this minimum age? What are the grounds for such exceptions? What is the mean age at marriage for females? For males?

30. Is child marriage a matter of custom in particular areas or among particular groups? Is it legally recognised? If it exists, how does it affect women's choice in marriage?
31. Is the betrothal of children prohibited? If the country has traditionally accepted child betrothals or marriages, has legislation been introduced to restrict this practice? If so, has such legislation affected traditional customs concerning the betrothal of children?
32. Is there a legislative provision setting the minimum legal age of consent to sexual intercourse? Is the age different for men and women? Does sexual intercourse below this age result in criminal penalty? If there is a minimum legal age for sexual intercourse, does it correspond with the minimum age of marriage?
33. Is the registration of marriages and divorces required by law? Are there procedures for the registration of marriage? If so, what are they and are they enforced?
34. Is information disseminated about laws on minimum age of marriage, consent to marriage and registration of marriage?
35. Is it customary or legal to pay a bride price or dowry? If so, what effect does this have on marriage? In States Parties with dual or plural legal systems, what is the position of statutory law and its interpretation, and of customary or religious law, on bride price or dowry? How does bride price or dowry affect the equality of women? If laws have been introduced to regulate the practises of dowry or bride price have they been enforced? What has been the effect of such laws?
36. What are the rules regarding inheritance? Are they beneficial to women? If so, do women make use of them?
37. Legally and in practice, what are the rights and obligations of widows? In what way, if any, do they differ from the rights and obligations of widowers? Are widows required to perform any rite of purification on the death of their husbands? If so, do widowers have to perform the same rites? What is the social status of widows? Is this status different from that of widowers?
38. Do widows and daughters of a deceased man have a legal right to inherit land and other property if there is no will? If they have such a right is it equal to that of widowers and sons? Can a widow or daughter receive property under a will? If so, is there any legal or customary constraint on a testator bequeathing the same share of property to widows and daughters as to widowers and sons?
39. Is the levirate (widows having to marry the deceased husband's brother) practised by any group in the country?
40. What percentage of households are headed by a female? What percentage of poor households are headed by a female?

## Annex A

# Convention on the Elimination of All Forms of Discrimination against Women 1979

### **The States parties to the present Convention,**

*Noting* that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

*Noting* that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

*Noting* that the States parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

*Considering* the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

*Concerned*, however, that despite these various instruments extensive discrimination against women continues to exist,

*Recalling* that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

*Concerned* that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

*Convinced* that the establishment of the new international economic order based on equity and justice will con-

tribute significantly towards the promotion of equality between men and women,

*Emphasizing* that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neocolonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

*Affirming* that the strengthening of international peace and security, relaxation of international tension, mutual cooperation among all States irrespective of their social and economic systems, general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

*Convinced* that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

*Bearing in mind* the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

*Aware* that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

*Determined* to implement the principles set forth in

the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

*Have agreed on the following:*

## Part I

### *Article 1*

For the purpose of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

### *Article 2*

States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to the end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, or organization or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

### *Article 3*

States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### *Article 4*

1. Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality or opportunity and treatment have been achieved.
2. Adoption by States parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

### *Article 5*

States parties shall take all appropriate measures:

- a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

### *Article 6*

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

## Part II

### *Article 7*

States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c) To participate in nongovernmental organizations and associations concerned with the public and political life of the country.

### *Article 8*

States parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

### *Article 9*

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States parties shall grant women equal rights with men with respect to the nationality of their children.

## Part III

### *Article 10*

States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be

ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;

- b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- d) The same opportunities to benefit from scholarships and other study grants;
- e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- f) The reduction of female student dropout rates and the organization of programmes for girls and women who have left school prematurely;
- g) The same opportunities to participate actively in sports and physical education;
- h) Access to specific educational information and to help to ensure the health and wellbeing of families, including information and advice on family planning.

### *Article 11*

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
  - a) The right to work as an inalienable right of all human beings;
  - b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
  - c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and recurrent training;
  - d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
  - e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;



- f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States parties shall take appropriate measures:
    - a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
    - b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
    - c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities;
    - d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.
  3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

#### *Article 12*

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

#### *Article 13*

States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) The right to family benefits;

- b) The right to bank loans, mortgages and other forms of financial credit;
- c) The right to participate in recreational activities, sports and all aspects of cultural life.

#### *Article 14*

1. States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the nonmonetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.
2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
  - a) To participate in the elaboration and implementation of development planning at all levels;
  - b) To have access to adequate health care facilities, including information, counselling and services in family planning;
  - c) To benefit directly from social security programmes;
  - d) To obtain all types of training and education, formal and nonformal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
  - e) To organize selfhelp groups and cooperatives in order to obtain equal access to economic opportunities through employment or selfemployment;
  - f) To participate in all community activities;
  - g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
  - h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

## Part IV

#### *Article 15*

1. States parties shall accord to women equality with men before the law.

2. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States parties shall accord to men and women the same rights with regard to law relating to the movement of persons and the freedom to choose their residence and domicile.

#### *Article 16*

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - a) The same right to enter into marriage;
  - b) The same right freely to choose a spouse and to enter into marriage only with their free will and consent;
  - c) The same rights and responsibilities during marriage and at its dissolution;
  - d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
  - e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
  - f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
  - g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
  - h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## Part V

### *Article 17*

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination Against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States parties which have nominated them, and shall submit it to the States parties.
4. Elections of the members of the Committee shall be held at a meeting of States parties convened by the Secretary-General at the United Nations Headquarters. At that meeting, for which two thirds of the States parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the

members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elect on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

#### *Article 18*

1. States parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
  - a) Within one year after the entry into force for the State concerned; and
  - b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

#### *Article 19*

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

#### *Article 20*

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

#### *Article 21*

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States parties.
2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

#### *Article 22*

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

## Part VI

#### *Article 23*

Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- a) In the legislation of a State party, or
- b) In any other international convention, treaty or agreement in force for that State.

#### *Article 24*

States parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

*Article 25*

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

*Article 26*

1. A request for the revision of the present Convention may be made at any time by any State party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

*Article 27*

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

*Article 28*

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

*Article 29*

1. Any dispute between two or more States parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States parties shall not be bound by that paragraph with respect to any State party which has made such a reservation.
3. Any State party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 30*

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

# Annex B

## Consolidated Guidelines for the Initial Part of State Party Reports<sup>1</sup>

### Land and people

1. This section should contain information about the main ethnic and demographic characteristics of the country and its population as well as such socio-economic and cultural indicators as per capita income, gross national product, rate of inflation, external debt, rate of unemployment, literacy rate and religion. It should also include information on the population by mother tongue, life expectancy, infant mortality, maternal mortality, fertility rate, percentage of population under 15 and over 65 years of age, percentage of population in rural areas and in urban areas, and percentage of households headed by women. As far as possible, States should make efforts to provide all data disaggregated by sex.

### General political structure

2. This section should briefly describe the political history and framework, the type of government and the organization of the executive, legislative and judicial organs.

### General legal framework within which human rights are protected

3. This section should contain information on:
  - a) Which judicial, administrative or other competent authorities have jurisdiction affecting human rights;
  - b) What remedies are available to an individual who claims that any of his rights have been violated; and what systems of compensation exist for victims;

- c) Whether any of the rights referred to in the various human rights instruments are protected either in the constitution or by a separate bill of rights and, if so, what provisions are made in the constitution or bill of rights for derogations and in what circumstances;
- d) How human rights instruments are made part of the national legal system;
- e) Whether the provisions of the various human rights instruments can be invoked before, or directly enforced by, the courts, other tribunals or administrative authorities or whether they must be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned;
- f) Whether there exist any institutions or national machinery with responsibility for overseeing the implementation of human rights.

### Information and publicity

4. This section should indicate whether any special efforts have been made to promote awareness among the public and the relevant authorities of the rights contained in the various human rights instruments. The topics to be addressed should include: the manner and extent to which the texts of the various human rights instruments have been disseminated; whether such texts have been translated into the local language or languages; what government agencies have responsibility for preparing reports and whether they normally receive information or other inputs from external sources; and whether the contents of the reports are the subject of public debate.

<sup>1</sup> UN Doc HRI/1991/1

# Annex C

## Committee on the Elimination of Discrimination against Women

### Guidelines Regarding the Form and Content of Initial Reports of States Parties<sup>2</sup>

1. Under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, each State Party undertakes to submit a report on the legislative, judicial, administrative or other measures that it has adopted to give effect to the provisions of the Convention and on the progress made in this respect within one year after the entry into force of the Convention for the reporting State, and thereafter at least every four years and further whenever the Committee on the Elimination of Discrimination against Women established under the Convention so requests.
2. In order to assist the States parties in fulfilling their obligations under article 18 of the Convention, the Committee recommends that the States parties should follow general guidelines as to the form, content and date of reports. The guidelines are to help ensure that the reports are presented in a uniform manner so that the Committee and the States parties can obtain a complete picture of the implementation of the Convention and the progress made therein.
3. The report should be in two parts. Part I should be prepared in accordance with the consolidated guidelines for the initial part of the reports of States parties to be submitted under the various international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, as contained in the annex to document HRI/CORE/1.<sup>3</sup>
4. Part II should provide specific information in relation to each provision of the Convention, in particular:
  - a) The constitutional, legislative and administrative provisions or other measures in force;
  - b) The developments that have taken place and the programmes and institutions that have been established since the entry into force of the Convention;
  - c) Any other information on progress made in the fulfilment of each right;
  - d) The de facto position as distinct from the de jure position;
  - e) Any restrictions or limitations, even of a temporary nature, imposed by law, practice or tradition, or in any other manner on the enjoyment of each right;
  - f) The situation of non-governmental organizations and other women's associations and their participation in the elaboration and implementation of plans and programmes of the public authorities.
5. It is recommended that the reports should not be confined to mere lists of legal instruments adopted in the country concerned in recent years but should also include information indicating how these legal instruments are reflected in the actual economic, political and social realities and general conditions existing in the country. As far as possible, States parties should make efforts to provide all data disaggregated by sex in all areas covered by the Convention and the general recommendations of the Committee.
6. States parties are invited to submit copies of the principal legislative, judicial, administrative and other texts referred to in the report so that these can be made available to the Committee. It should be noted, however, that for reasons of expense those texts will not normally be reproduced for general distribution with the report except to the extent that the reporting State specifically so requests. It is desirable, when a text is not actually quoted in or annexed to the report, that the report should contain sufficient information to be understood without reference to that text.
7. The reports should reveal obstacles to the participation of women on an equal basis with men in the political, social, economic and cultural life of their countries, and give information on types and frequencies of cases of non-compliance with the principle of equal rights.

<sup>2</sup> Adopted by the Committee at its 14th session: UN Doc CEDAW/C/7/Rev.1 (3 February 1995), and revised at its 16th session in January 1997: UN Doc CEDAW/C/7/Rev.3.

<sup>3</sup> [Eds] Reproduced in Annex B.

8. In reporting on reservations to the Convention:
  - a) Each State party that has entered substantive reservations to the Convention should include information on those reservations in each of its periodic reports;
  - b) The State party should indicate why it considered the reservation to be necessary; whether any reservations the State party may or may not have registered on obligations with regard to the same rights set forth in other conventions are consistent with its reservations to the Convention on the Elimination of All Forms of Discrimination against Women; and the precise effect of the reservation in terms of national law and policy. It should indicate the plans that it has to limit the effect of reservations and ultimately to withdraw them and, whenever possible, specify a timetable for withdrawing them;
  - c) States parties that have entered general reservations which do not refer to a specific article of the Convention or reservations to articles 2 and 3 should make a particular effort to report on the effect and interpretation of those reservations. The Committee considers such reservations to be incompatible with the object and purpose of the Convention.
9. The reports and the supplementary documentation should be submitted in one of the working languages of the Committee (Arabic, Chinese, English, French, Russian or Spanish) in as concise a form as possible.

## Annex D

### Committee on the Elimination of Discrimination against Women

#### Guidelines for the Preparation of Second and Subsequent Periodic Reports<sup>4</sup>

Recalling the guidelines it adopted at its 24th meeting on 11 August 1983 regarding the form and content of reports received from States Parties under article 18 of the Convention, and revised at its 16th session in January 1997, the Committee decided on the following guidelines to be submitted to Government for the preparation of second and -subsequent periodic reports:

1. In preparing second and subsequent periodic reports, States Parties should follow the general guidelines and include matters that were not covered in the initial report,
2. As a general rule States Parties in their second and subsequent periodic reports should focus on the period between the consideration of their latest report up to the date of preparation of their last one,
3. In their periodic reports States Parties should have regard to the previous report and to the proceedings of the Committee in regard to that report, and should include inter alia the following:
  - a) legal and other measures adopted since the previous report to implement the Convention;
  - b) actual progress made to promote and ensure the elimination of discrimination against women;
  - c) any significant changes in the status and equality of women since the previous report;
  - d) any remaining obstacle to the participation of women on an equal basis with men in the political, social, economic and cultural life of their country;
  - e) matters raised by the Committee which could not be dealt with at the time when the previous report was considered;
  - f) information on measures taken to implement the Beijing Declaration and Platform for Action.

<sup>4</sup> Adopted by the Committee at its 7th session: U.N. Doc A/43/38 (1988), Annex IV



# Annex E

## General Recommendations 1-24

### Adopted by the Committee on the Elimination of Discrimination against Women<sup>5</sup>

#### **General Recommendation No. 1 (Fifth session, 1986)<sup>6</sup>**

##### **Initial reports**

Initial reports submitted under article 18 of the Convention should cover the situation up to the date of submission. Thereafter, reports should be submitted at least every four years after the first report was due and should include obstacles encountered in implementing the Convention fully and the measures adopted to overcome such obstacles.

#### **General Recommendation No.2 (Sixth session, 1987)<sup>7</sup>**

##### **Preparation of initial reports**

The Committee on the Elimination of Discrimination against Women,

*Bearing in mind* that the Committee had been faced with difficulties in its work because some initial reports of States parties under article 18 of the Convention did not reflect adequately the information available in the State party concerned in accordance with the guidelines,

##### *Recommends:*

- a) That the States parties, in preparing reports under article 18 of the Convention, should follow the general guidelines adopted in August 1983 (CEDAW/C/7) as to the form, content and date of reports;
- b) That the States parties should follow the general recommendation adopted in 1986 in these terms;
- c) "Initial reports submitted under article 18 of the Convention should cover the situation up to the date of submission. Thereafter, reports should be submitted at least every four years after the first report was due and should include obstacles encountered in implementing

the Convention fully and the measures adopted to overcome such obstacles."

- d) That additional information supplementing the report of a State party should be sent to the Secretariat at least three months before the session at which the report is due to be considered.

#### **General Recommendation No. 3 (Sixth session, 1987)<sup>8</sup>**

##### **Consideration of reports**

The Committee on the Elimination of Discrimination against Women,

*Considering* that the Committee on the Elimination of Discrimination against Women has considered 34 reports from State parties since 1983,

*Further considering* that, although the reports have come from States with different levels of development, they present features in varying degrees showing the existence of stereotyped conceptions of women, owing to socio-cultural factors, that perpetuate discrimination based on sex and hinder the implementation of article 5 of the Convention,

*Urges* all States parties effectively to adopt education and public information programmes, which will help eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women.

#### **General Recommendation No. 4 (Sixth session, 1987)<sup>9</sup>**

##### **Reservations**

The Committee on the Elimination of Discrimination against Women

<sup>5</sup> Text reproduced from U.N. Docs CCPR/C/1/Rev.1 (1994), A/49/38 and A/50/38

<sup>6</sup> Contained in document A/41/45.

<sup>7</sup> Contained in document A/42/38.

<sup>8</sup> [Eds] Note that these guidelines have been superseded, the current guidelines being contained in U.N. Doc CEDAW/C/7/Rev.1, reproduced in Annex B.

<sup>9</sup> Contained in document A/42/38.

*Having examined* reports from States parties at its sessions,

*Expressing concern* in relation to the significant number of reservations that appeared to be incompatible with the object and purpose of the Convention,

*Welcomes* the decision of the States parties to consider reservations at its next meeting in New York in 1988, and to that end suggests that all States parties concerned reconsider such reservations with a view to withdrawing them.

#### **General Recommendation No. 5 (Seventh session, 1988)**

##### **Temporary special measures**

The Committee on the Elimination of Discrimination against Women,

*Taking note* that the reports, the introductory remarks and the replies by States parties reveal that while significant progress has been achieved in regard to repealing or modifying discriminatory laws, there is still a need for action to be taken to fully implement the Convention by introducing measures to promote de facto equality between men and women,

*Recalling* article 4.1 of the Convention,

*Recommends* that States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment.

#### **General Recommendation No. 6 (Seventh session, 1988)<sup>10</sup>**

##### **Effective national machinery and publicity**

The Committee on the Elimination of Discrimination against Women,

*Having considered* the reports of States parties to the Convention on the Elimination of all Forms of Discrimination against Women,

*Noting* United Nations General Assembly resolution 42/60 of 30 November 1987,

*Recommends* that States parties:

1. Establish and/or strengthen effective national machinery institutions and procedures; at a high level of Government, and with adequate resources, commitment and authority to
  - (a) advise on the impact on women of all government policies;
  - (b) Monitor the situation of women comprehensively;
  - (c) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination;
2. Take appropriate steps to ensure the dissemination of the Convention, the reports of the States parties under article 18 and the reports of the Committee in the language of the States concerned;
3. Seek the assistance of the Secretary-General and the Department of Public Information in providing translations of the Convention and the reports of the Committee;
4. Include in their initial and periodic reports the action taken in respect of this recommendation.

#### **General Recommendation No. 7 (Seventh session, 1988)<sup>11</sup>**

##### **Resources**

The Committee on the Elimination of Discrimination against Women,

*Noting* General Assembly resolutions 40/39, 41/108 and in particular 42/60, paragraph 14, which invited the Committee and the States parties to consider the question of holding future sessions of the Committee at Vienna,

*Bearing in mind* General Assembly resolution 42/105 and in particular, paragraph 11, which requests the Secretary-General to strengthen coordination between the United Nations Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs of the secretariat in relation to the implementation of human rights treaties and servicing treaty bodies,

<sup>10</sup> Contained in document A/43/38.

<sup>11</sup> Contained in document A/43/38.

*Recommends* to the States parties:

1. That they continue to support proposals for strengthening the coordination between the Centre for Human Rights at Geneva and the Centre for Social Development and Humanitarian Affairs at Vienna, in relation to the servicing of the Committee;
2. That they support proposals that the Committee meet in New York and Vienna;
3. That they take all necessary and appropriate steps to ensure that adequate resources and services are available to the Committee to assist it in its functions under the Convention and in particular that full-time staff are available to help the Committee to prepare for its sessions and during its session;
4. That they ensure that supplementary reports and materials are submitted to the Secretariat in due time to be translated into the official languages of the United Nations in time for distribution and consideration by the Committee.

**General Recommendation No. 8  
(Seventh session, 1988)<sup>12</sup>**

**Implementation of article 8 of the Convention**

The Committee on the Elimination of Discrimination against Women,

*Having considered* the reports of States parties submitted in accordance with article 18 of the Convention,

*Recommends* that States parties take further direct measures in accordance with article 4 of the Convention to ensure the full implementation of article 8 of the Convention and to ensure to women on equal terms with men and without any discrimination the opportunities to represent their Government at the international level and to participate in the work of international organizations.

**General Recommendation No. 9  
(Eight session 1989)<sup>13</sup>**

**Statistical data concerning the situation of women**

The Committee on the Elimination of Discrimination against Women,

*Considering* that statistical information is absolutely necessary in order to understand the real situation of women in each of the States parties to the Convention,

*Having observed* that many of the States parties that present their reports for consideration by the Committee do not provide statistics,

*Recommends* that States parties should make every effort to ensure that their national statistical services responsible for planning national censuses and other social and economic surveys formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.

**General Recommendation No. 10  
(Eight session 1989)<sup>14</sup>**

**Tenth anniversary of the adoption of the Convention  
on the Elimination of All Forms of Discrimination  
against Women**

The Committee on the Elimination of Discrimination against Women,

*Considering* that 18 December 1989 marks the tenth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women,

*Considering further* that in those 10 years the Convention has proved to be one of the most effective instruments that the United Nations has adopted to promote equality between the sexes in the societies of its States Member,

*Recalling* general recommendation No.6 (seventh session 1988) on effective national machinery and publicity,

*Recommends* that, on the occasion of the tenth anniversary of the adoption of the Convention, the States parties should consider:

1. Undertaking programmes including conferences and seminars to publicize the Convention on the Elimination of All Forms of Discrimination against Women in the main languages of and providing information on the Convention in their respective countries;

<sup>12</sup> Contained in document A/43/38.

<sup>13</sup> Contained in document A/44/38.

<sup>14</sup> Contained in document A/44/38.

2. Inviting their national women's organizations to cooperate in the publicity campaigns regarding the Convention and its implementation and encouraging non-governmental organizations at the national, regional and international levels to publicize the Convention and its implementation;
3. Encouraging action to ensure the full implementation of the principles of the Convention, and in particular article 8, which relates to the participation of women at all levels of activity of the United Nations and the United Nations system;
4. Requesting the Secretary-General to commemorate the tenth anniversary of the adoption of the Convention by publishing and disseminating, in co-operation with the specialised agencies, printed and other materials regarding the Convention and its implementation in all official languages of the United Nations preparing television documentaries about the Convention, and making the necessary resources available to the Division for the Advancement of Women, Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna, to prepare an analysis of the information provided by States parties in order to update and publish the report of the Committee (A/CONF.116/13), which was first published for the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi in 1985.

**General Recommendation No. 11  
(Eighth session, 1989)<sup>15</sup>**

**Technical advisory services for reporting obligations**

The Committee on the Elimination of Discrimination against Women,

*Bearing in mind* that, as at 3 March 1989, 96 States had ratified the Convention on the Elimination of All Forms of Discrimination against Women,

*Taking into account* the fact that by that date 60 initial and 19 second periodic reports had been received,

*Noting* that 36 initial and 36 second periodic reports were due by 3 March 1989 and had not yet been received,

*Welcoming* the request in General Assembly resolution 43/115, paragraph 9, that the Secretary-General should

arrange, within existing resources and taking into account the priorities of the programme of advisory services, further training courses for those countries experiencing the most serious difficulties in meeting their reporting obligations under international instruments on human rights,

*Recommends* to States parties that they should encourage, support and cooperate in projects for technical advisory services, including training seminars, to assist States parties on their request in fulfilling their reporting obligations under article 18 of the Convention.

**General Recommendation No. 12  
(Eighth session)<sup>16</sup>**

**Violence against women**

The Committee on the Elimination of Discrimination against Women,

*Considering* that articles 2, 5, 11, 12 and 16 of the Convention require the States parties to act to protect women against violence of any kind occurring within the family, at the workplace or in any other area of social life,

*Taking into account* Economic and Social Council resolution 1988/27.

*Recommends* to the States parties that they should include in their periodic reports to the Committee information about:

1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at the workplace etc.)
2. Other measures adopted to eradicate this violence;
3. The existence of support services for women who are the victims of aggression or abuses;
4. Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

**General Recommendation No. 13  
(Eighth session 1989)<sup>17</sup>**

**Equal remuneration for work of equal value**

<sup>15</sup> Contained in document A/44/38.

<sup>16</sup> Contained in document A/44/38

<sup>17</sup> Contained in document A/44/38.

The Committee on the Elimination of Discrimination against Women,

*Recalling* International Labour Organisation Convention No.100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, which has been ratified by a large majority of States parties to the Convention on the Elimination of All Forms of Discrimination against Women,

*Recalling* also that it has considered 51 initial and 5 second periodic reports of States parties since 1983,

*Considering* that although reports of States parties indicate that, even though the principle of equal remuneration for work of equal value has been accepted in the legislation of many countries, more remains to be done to ensure the application of that principle in practice, in order to overcome the gender-segregation in the labour market,

*Recommends* to the States parties to the Convention of the Elimination of All Forms of Discrimination against Women that:

1. In order to implement fully the Convention on the Elimination of All Forms of Discrimination against Women, those State parties that have not yet ratified ILO Convention No.100 should be encouraged to do so;
2. They should consider the study, development and adoption of job evaluation systems based on gender-neutral criteria that would facilitate the comparison of the value of those jobs of a different nature, in which women presently predominate, with those jobs in which men presently predominate, and they should include the results achieved in their reports to the Committee on the Elimination of Discrimination against Women;
3. They should support, as far as practicable, the creation of implementation machinery and encourage the efforts of the parties to collective agreements, where they apply, to ensure the application of the principle of equal remuneration for work of equal value.

**General Recommendation No. 14  
(Ninth session, 1990)<sup>18</sup>**

**Female circumcision**

The Committee on the Elimination of Discrimination against Women,

*Concerned* about the continuation of the practice of female circumcision and other traditional practices harmful to the health of women,

*Noting with satisfaction* that Governments, where such practices exist, national women's organizations, non-governmental organizations, specialized agencies, such as the World Health Organization, the United Nations Children's Fund, as well as the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, remain seized of the issue having particularly recognized that such traditional practices as female circumcision have serious health and other consequences for women and children,

*Noting with interest* the study of the Special Rapporteur on Traditional Practices Affecting the Health of Women and Children, as well as the study of the Special Working Group on Traditional Practices,

*Recognizing* that women are taking important action themselves to identify and to combat practices that are prejudicial to the health and well-being of women and children,

*Convinced* that the important action that is being taken by women and by all interested groups needs to be supported and encouraged by Governments,

*Noting with grave concern* that there are continuing cultural, traditional and economic pressures which help to perpetuate harmful practices, such as female circumcision,

*Recommends* to States parties:

- (a) That States parties take appropriate and effective measures with a view to eradicating the practice of female circumcision. Such measures could include:
  - (i) The collection and dissemination by universities, medical or nursing associations, national women's organizations or other bodies of basic data about such traditional practices;
  - (ii) The support of women's organizations at the national and local levels working for the elimination of female circumcision and other practices harmful to women;
  - (iii) The encouragement of politicians, professionals, religious and community leaders at all levels including the media and the arts to co-operate in influencing attitudes towards the eradication of female circumcision;

<sup>18</sup> Contained in document A/45/38, Corrigendum

- (iv) The introduction of appropriate educational and training programmes and seminars based on research findings about the problems arising from female circumcision;
- (b) That States parties include in their national health policies appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel including traditional birth attendants to explain the harmful effects of female circumcision;
- (c) That States parties invite assistance, information and advice from the appropriate organizations of the United Nations system to support and assist efforts being deployed to eliminate harmful traditional practices;
- (d) That States parties include in their reports to the Committee under articles 10 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women information about measures taken to eliminate female circumcision.

**General Recommendation No. 15  
(Ninth session, 1990)<sup>19</sup>**

**Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)**

The Committee on the Elimination of Discrimination against Women,

*Having considered* information brought to its attention on the potential effects of both the global pandemic of acquired immunodeficiency syndrome (AIDS) and strategies to control it on the exercise of the rights of women,

*Having regard* to the reports and materials prepared by the World Health Organization and other United Nations organizations, organs and bodies in relation to human immunodeficiency virus (HIV), and, in particular, the note by the Secretary-General to the Commission on the Status of Women on the effects of AIDS on the advancement of women and the Final Document of the International Consultation on AIDS and Human Rights, held at Geneva from 26 to 28 July 1989,

*Noting* World Health Assembly resolution WHA 41.24 on the avoidance of discrimination in relation to HIV-infected people and people with AIDS of 13 May 1988, resolution 1989/11 of the Commission and Human Rights on non-discrimination in the field of health, of 2 March 1989, and in

particular the Paris Declaration on Women, Children and AIDS, of 30 November 1989,

*Noting* that the World Health Organization has announced that the theme of World Aids Day, 1 December 1990, will be "Women and Aids".

*Recommends:*

- (a) That States parties intensify efforts in disseminating information to increase public awareness of the risk of HIV infection and AIDS, especially in women and children, and of its effects on them;
- (b) That programme to combat AIDS should give special attention to the rights and needs of women and children, and to the factors relating to the reproductive role of women and their subordinate position in some societies which make them especially vulnerable to HIV infection;
- (c) That States parties ensure the active participation of women in primary health care and take measures to enhance their role as care providers, health workers and educators in the prevention of infection with HIV;
- (d) That all States parties include in their reports under article 12 of the Convention information on the effects of AIDS on the situation of women and on the action taken to cater to the needs of those women who are infected and to prevent specific discrimination against women in response to AIDS.

**General Recommendation No. 16  
(Tenth session, 1991)<sup>20</sup>**

**Unpaid women workers in rural and urban family enterprises**

The Committee on the Elimination of Discrimination against Women,

*Bearing in mind* articles 2(c) and 11(c), (d) and (e) of the Convention on the Elimination of All Forms of Discrimination against Women and general recommendation No. 9 (eighth session, 1989) on statistical data concerning the situation of women,

*Taking into consideration* that a high percentage of women in the States parties work without payment, social security and social benefits in enterprises owned usually by a male member of the family,

<sup>19</sup> Contained in document A/45/38.

<sup>20</sup> Contained in document A/46/38.

*Noting* that the reports presented to the Committee on the Elimination of Discrimination against Women generally do not refer to the problem of unpaid women workers of family enterprises, affirming that unpaid work constitutes a form of women's exploitation that is contrary to the Convention,

*Recommends* that States parties:

- (a) Include in their reports to the Committee information on the legal and social situation of unpaid women working in family enterprises,
- (b) Collect statistical data on women who work without payment, social security and social benefits in enterprises owned by a family member, and include these data in their report to the Committee,
- (c) Take the necessary steps to guarantee payment, social security and social benefits for women who work without such benefits in enterprises owned by a family member.

**General Recommendation No. 17  
(Tenth session, 1991)<sup>21</sup>**

**Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product**

The Committee on the Elimination of Discrimination against Women,

*Bearing in mind* article 11 of the Convention on the Elimination of All Forms of Discrimination against Women,

*Recalling* paragraph 120 of the Nairobi Forward-looking Strategies for the Advancement of Women,

*Affirming* that the measurement and quantification of the unremunerated domestic activities of women, which contribute to development in each country, will help to reveal the de facto economic role of women,

*Convinced* that such measurement and quantification offers a basis for the formulation of further policies related to the advancement of women,

*Noting* the discussions of the Statistical Commission, at its twenty-first session, on the current revision of the System of National Accounts and the development of statistics on women,

*Recommends* that States parties:

- (a) Encourage and support research and experimental studies to measure and value the unremunerated domestic activities of women; for example, by conducting time-use surveys as part of their national household survey programmes and by collecting statistics disaggregated by gender on time spent on activities both in the household and on the labour market,
- (b) Take steps, in accordance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Nairobi Forward-looking Strategies for the Advancement of Women, to quantify and include the unremunerated domestic activities of women in the gross national product,
- (c) Include in their reports submitted under article 18 of the Convention information on the research and experimental studies undertaken to measure and value unremunerated domestic activities, as well as on the progress made in the incorporation of the unremunerated domestic activities of women in national accounts.

**General Recommendation No. 18  
(Tenth session, 1991)<sup>22</sup>**

**Disabled women**

The Committee on the Elimination of Discrimination against Women,

*Taking into consideration* particularly article 3 of the Convention on the Elimination of All Forms of Discrimination against Women,

*Having considered* more than 60 periodic reports of States parties, and having recognized that they provide scarce information on disabled women,

*Concerned* about the situation of disabled women, who suffer from a double discrimination linked to their special living conditions,

*Recalling* paragraph 296 of the Nairobi Forward-looking Strategies for the Advancement of Women in which disabled women are considered as a vulnerable group under the heading "areas of special concern",

*Affirming* its support for the World Programme of Action concerning Disabled Persons (1982),

<sup>21</sup> Contained in document A/44/38.

<sup>22</sup> Contained in document A/46/38.

*Recommends* that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security and to ensure that they can participate in all areas of social and cultural life.

### **General Recommendation No. 19 (Eleventh session, 1992)<sup>23</sup>**

#### **Violence against Women**

##### **Background**

1. Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.
2. In 1989, the Committee recommended that States should include in their reports information on violence and on measures introduced to deal with it (General recommendation 12, eighth session).
3. At its tenth session in 1991, it was decided to allocate part of the eleventh session to a discussion and study on article 6 and other articles of the Convention relating to violence towards women and the sexual harassment and exploitation of women. That subject was chosen in the anticipation of the 1993 World Conference on Human Rights, convened by the General Assembly by its resolution 45/155 of 18 December 1990.
4. The Committee concluded that not all the reports of States parties adequately reflected the close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms. The full implementation of the Convention required States to take positive measures to eliminate all forms of violence against women.
5. The Committee suggested to States parties that in reviewing their laws and policies, and in reporting under the Convention, they should have regard to the following comments of the Committee concerning gender-based violence.

##### **General comments**

6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects

women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:
  - (a) The right to life;
  - (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
  - (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
  - (d) The right to liberty and security of person;
  - (e) The right to equal protection under the law;
  - (f) The right to equality in the family;
  - (g) The right to the highest standard attainable of physical and mental health;

The right to just and favourable conditions of works.

8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligation under general international human rights law and under other conventions, in addition to breaching this Convention.
9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2 (e), 2 (f) and 5). For example, under article 2 (e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

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Contained in document A/47/38.



## Comments on specific articles of the Convention

### *Articles 2 and 3*

10. Articles 2 and 3 establish a comprehensive obligation to eliminate discrimination in all its forms in addition to the specific obligations under articles 5-16.

### *Articles 2 (f), 5 and 10 (c)*

11. Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities.

12. These attitudes also contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects, rather than as individuals. This in turn contributes to gender-based violence.

### *Article 6*

13. States parties are required by article 6 to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.
14. Poverty and unemployment increase opportunities for trafficking in women. In addition to established forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labour from developing countries to work in developed countries, and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.
15. Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which

may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.

16. Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures.

### *Article 11*

17. Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.
18. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile work environment.

### *Article 12*

19. States parties are required by article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk.
20. In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.

### *Article 14*

21. Rural women are at risk of gender-based violence because traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in towns.

### *Article 16 (and Article 5)*

22. Compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children.

23. Family violence is one of the most insidious form of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.

*Specific recommendations*

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends:

- (a) States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;
- (b) States parties should take laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;
- (c) States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;
- (d) Effective measures should be taken to ensure that the media respect promote respect for women;
- (e) States parties in their report should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women, and the kinds of violence that result. They should report the measures that they have undertaken to overcome violence, and the effects of those measures;
- (f) Effective measures should be taken to overcome

these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices which hinder women's equality (recommendation No. 3, 1987);

- (g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;
- (h) States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures, that have been taken to protect women engaged on prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described;
- (i) Effective complaints procedures and remedies, including compensation, should be provided;
- (j) States parties should include in their reports information on sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;
- (k) States parties should establish or support services for victims of family violence, rape, sex assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;
- (l) States parties should take measures to overcome such practices and should take account of the Committee's recommendation on female circumcision (recommendation No. 14) in reporting on health issues;
- (m) States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion because of lack of appropriate services in regard to fertility control;
- (n) States parties in their reports should state the extent of these problems and should indicate the measures that have been taken and their effects;
- (o) States parties should ensure that services for

victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;

(p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;

(q) States parties should report on the risk to rural women, the extent and nature of violence and abuse to which they are subject, their need for and access to support and other services and the effectiveness of measures to overcome violence;

(r) Measures that are necessary to overcome family violence should include:

(i) Criminal penalties where necessary and civil remedies in case of domestic violence;

(ii) Legislation to remove the defence of honour in regard to the assault or murder of a female family member;

(iii) Services to ensure the safety and security of victims of family violence, include refuges, counselling and rehabilitation programmes;

(iv) Rehabilitation programmes for perpetrators of domestic violence;

(v) Support services for families where incest or sexual abuse has occurred;

(s) States parties should report on the extent of domestic violence and sexual abuse, and on the preventive, punitive and remedial measures that have been taken;

(t) That States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based-violence, including, inter alia:

(i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including, inter alia, violence and abuse in the family, sexual assault and sexual harassment in the workplace;

(ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;

(iii) Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;

(u) That States parties should report on all forms of gender-based violence, and that such reports should include all available data on the incidence of each form of violence, and on the effects of such violence on the women who are victims;

(v) That the reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

#### **General Recommendation No. 20 (Eleventh session, 1992)<sup>24</sup>**

##### **Reservations to the Convention**

1. The Committee recalled the decision of the Fourth Meeting of States parties on reservation to the Convention with regard to article 28.2, which was welcomed in General recommendation No. 4 of the Committee.

2. The Committee recommended that, in connection with preparations for the World Conference on Human Rights in 1993, States parties should:

(a) Raise the question of the validity and the legal effect of reservations to the Convention in the context of reservations to other human rights treaties;

(b) Reconsider such reservations with a view to strengthening the implementation of all human rights treaties;

(c) Consider introducing a procedure on reservations to the Convention comparable with that of other human rights treaties.

<sup>24</sup> Contained in document A/47/38.

**Equality in marriage and family relations**

1. The Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex) affirms the equality of human rights for women and men in society and in the family. The Convention has an important place among international treaties concerned with human rights.
2. Other convention and declarations also confer great significance on the family and woman's status within it. These include the Universal Declaration on Human Rights (General Assembly resolution 217/A (III), annex), the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex), the Convention on the Nationality of Married Women (General Assembly resolution 1040 (XI), annex), the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (General Assembly resolution 1763 A (XVII), annex) and the subsequent Recommendation thereon (General Assembly resolution 2018 (XX)) and the Nairobi Forward-looking Strategies for the Advancement of Women.
3. The Convention on the Elimination of All Forms of Discrimination against Women recalls the inalienable rights of women which are already embodied in the above-mentioned conventions and declarations, but it goes further by recognizing the importance of culture and traditions have in shaping the thinking and behaviour of men and women and the significant part they play in restricting the exercise of basic rights by women.

*Background*

4. The year 1994 has been designated by the General Assembly in its resolution 44/82 as the International Year of the Family. The Committee wishes to take the opportunity to stress the significance of compliance with women's basic rights within the family as one of the measures which will support and encourage the national celebrations that will take place.
5. Having chosen in this way to mark the International Year of the Family, the Committee wishes to analyse three articles in the Convention that have special significance for the status of women in the family:

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States parties shall grant women equal rights with men with respect to the nationality of their children.

*Comment*

6. Nationality is critical to full participation in society. In general, States confer nationality on those who are born in that country. Nationality can also be acquired by reason of settlement or granted for humanitarian reasons such as statelessness. Without status as nationals or citizens, women are deprived of the right to vote or to stand for public office and may be denied access to public benefits and a choice of residence. Nationality should be capable of change by an adult woman and should not be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality.

*Article 15*

1. States parties shall accord to women equality with men before the law.
2. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

<sup>25</sup> Contained in document A/49/38.

*Comment*

7. When a woman cannot enter into a contract at all, or have access to financial credit, or can do so only with her husband's or a male relative's concurrence or guarantee, she is denied legal autonomy. Any such restriction prevents her from holding property as the sole owner and precludes her from the legal management of her own business or from entering into any other form of contract. Such restrictions seriously limit the woman's ability to provide for herself and her dependents.
8. A woman's right to bring litigation is limited in some countries by law or by her access to legal advice and her ability to seek redress from the courts. In others, her status as a witness or her evidence is accorded less respect or weight than that of a man. Such laws or customs limit the woman's right effectively to pursue or retain her equal share of property and diminish her standing as an independent, responsible and valued member of her community. When countries limit a woman's legal capacity by their laws, or permit individuals or institutions to do the same, they are denying women their rights to be equal with men and restricting women's ability to provide for themselves and their dependents.
9. Domicile is a concept in common law countries referring to the country in which a person intends to reside and to whose jurisdiction she will submit. Domicile is originally acquired by a child through its parents, but in adulthood, denotes the country in which a person normally resides and in which she intends to reside permanently. As in the case of nationality, the examination of States parties' reports demonstrates that a woman will not always be permitted at law to choose her own domicile. Domicile, like nationality, should be capable of change at will by an adult woman regardless of her marital status. Any restrictions on a woman's right to choose a domicile on the same basis as a man may limit her access to the courts in the country in which she lives or prevent her from entering and leaving a country freely and in her own right.
10. Migrant women who live and work temporarily in another country should be permitted the same rights as men to have their spouses, partners and children join them.

*Article 16*

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating

to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
  - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
  - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
  - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
  - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
  - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

*Comment*

*Public and private life*

11. Historically, human activity in public and private life has been viewed differently and regulated accordingly. In all societies women who have traditionally performed

their roles in the private or domestic sphere have long had those activities treated as inferior.

12. As such activities are invaluable for the survival of society, there can be no justification for applying different and discriminatory laws or customs to them. Reports of States parties disclose that there are still countries where de jure equality does not exist. Women are thereby prevented from having equal access to resources and from enjoying equality of status in the family and society. Even where de jure equality exists, all societies assign different roles, which are regarded as inferior, to women. In this way, principles of justice and equality contained in particular in article 16 and also in articles 2, 5 and 24 of the Convention are being violated.

#### *Various forms of family*

13. The form and concept of the family can vary from State to State, and even between regions within a State. Whatever form it takes, and whatever the legal system, religion, custom or tradition within the country, the treatment of women in the family both at law and in private must accord with the principles of equality and justice for all people, as article 2 of the Convention requires.

#### *Polygamous marriages*

14. States parties' reports also disclose that polygamy is practised in a number of countries. Polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependents, that such marriages ought to be discouraged and prohibited. The Committee notes with concern that some States parties whose constitutions guarantee equal rights, permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women, and breaches the provisions of article 5 (a) of the Convention.

#### *Article 16 (1) (a) and (b)*

15. While most countries report that national constitutions and laws comply with the Convention, custom, tradition and failure to enforce these laws in reality contravene the Convention.
16. A woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being. An examination of States parties' reports discloses that there are countries

which, based on custom, religious beliefs or the ethnic origins of particular groups of people, permit forced marriages or remarriages. Other countries allow a woman's marriage to be arranged for payment or preference and in others, women's poverty forces them to marry foreign nationals for financial security. Subject to reasonable restrictions based for example on a woman's youth or consanguinity with her partner, a woman's right to choose when, if, and whom she will marry must be protected and enforced at law.

#### *Article 16 (1) (c)*

17. An examination of States parties' reports discloses that many countries in their legal systems provide for the rights and responsibilities of married partners by relying on the application of common law principles, religious or customary law, rather than by complying with the principles contained in the Convention. These variations in law and practice relating to marriage have wide-ranging consequences for women, invariably restricting their rights to equal status and responsibility within marriage. Such limitations often result in the husband being accorded the status as head of household and primary decision maker and therefore contravene the provisions of the Convention.

18. Moreover, generally a de facto union is not given legal protection at all. Women living in such relationships should have their equality of status with men both in family life and in the sharing of income and assets protected by law. Such women should share equal rights and responsibilities with men for the care and raising of dependent children or family members.

#### *Article 16 (1) (d) and (f)*

19. As provided in article 5 (b), most States recognize the shared responsibility of parents for the care, protection and maintenance of children. The principle that "the best interests of the child shall be the paramount consideration", has been included in the Convention on the Rights of the Child (General Assembly resolution 44/25, annex) and seems now to be universally accepted. However, in practice, some countries do not observe the principle of granting the parents of children equal status particularly when they are not married. The children of such unions do not always enjoy the same status as those born in wedlock and where the mothers are divorced or living apart, many fathers fail to share the responsibility of care, protection and maintenance of their children.

20. The shared rights and responsibilities enunciated in the Convention should be enforced at law and as appropriate through legal concepts of guardianship, wardship, trusteeship and adoption. States parties should ensure that by their laws, both parents regardless of their marital status and whether they live with their children or not, share equal rights and responsibilities for their children.

*Article 16 (1) (e)*

21. The responsibilities that women have to bear and raise children affect their right of access to education, employment and other activities related to their personal development. They also impose inequitable burdens of work on women. The number and spacing of their children have a similar impact on women's lives and also affect their physical and mental health, as well as that of their children. For these reasons, women are entitled to decide on the number and spacing of their children.
22. Some reports disclose coercive practices which have serious consequences for women, such as forced pregnancies, abortions or sterilization. Decisions to have children or not, while preferably made in consultation with spouse or partner, must not nevertheless be limited by spouse, parent, partner or Government. In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention.
23. There is general agreement that where there are freely available appropriate measures for the voluntary regulation of fertility, the health, development and well-being of all members of the family improves. Moreover, such services improve the general quality of life and health of the population, and the voluntary regulation of population growth helps preserve the environment and achieve sustainable economic and social development.

*Article 16 (1) (g)*

24. A stable family is one which is based on principles of equity, justice and individual fulfilment for each member. Each partner must therefore have the right to choose a profession or employment that is best suited to his or her abilities, qualifications and aspirations, as provided in article 11 (a) and (c). Moreover, each partner should have the right to choose his or her name thereby preserving individuality, identity in the commu-

nity and distinguishing that person from other members of society. When by law or custom a woman is obliged to change her name on marriage or at its dissolution, she is denied these rights.

*Article 16 (1) (h)*

25. The rights provided in this article overlap with and complement those in article 15 (2) in which an obligation is placed on States to give women equal rights to enter into and conclude contracts and to administer property.
26. Article 15 (1) guarantees women equality with men before the law. The right to own, manage, enjoy and dispose of property is central to a woman's right to enjoy financial independence, and in many countries will be critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and for her family.
27. In countries that are undergoing a programme of agrarian reform or redistribution of land among groups of different ethnic origins, the right of women, regardless of marital status, to share such redistributed land on equal terms with men should be carefully observed.
28. In most countries, a significant proportion of the women are single or divorced and many have the sole responsibility to support a family. Any discrimination in the division of property that rests on the premise that the man alone is responsible for the support of the women and children of his family and that he can and will honourably discharge this responsibility is clearly unrealistic. Consequently, any law or custom that grants men a right to a greater share of property at the end of a marriage or de facto relationship, or on the death of a relative, is discriminatory and will have a serious impact on a woman's practical ability to divorce her husband, to support herself or her family and to live in dignity as an independent person.
29. All of these rights should be guaranteed regardless of a woman's marital status.

*Marital property*

30. There are countries that do not acknowledge that right of women to own an equal share of the property with the husband during a marriage or de facto relationship and when that marriage or relationship ends. Many countries recognize that right, but the practical ability of women to exercise it may be limited by legal precedent or custom.

31. Even when these legal rights are vested in women, and the courts enforce them, property owned by a woman during marriage or on divorce may be managed by a man. In many States, including those where there is a community-property regime, there is no legal requirement that a woman be consulted when property owned by the parties during marriage or de facto relationship is sold or otherwise disposed of. This limits the woman's ability to control disposition of the property or the income derived from it.
32. In some countries, on division of marital property, greater emphasis is placed on financial contributions to property acquired during a marriage, and other contributions, such as raising children, caring for elderly relatives and discharging household duties are diminished. Often, such contributions of a non-financial nature by the wife enable the husband to earn an income and increase the assets. Financial and non-financial contributions should be accorded the same weight.
33. In many countries, property accumulated during a de facto relationship is not treated at law on the same basis as property acquired during marriage. Invariably, if the relationship ends, the woman receives a significantly lower share than her partner. Property laws and customs that discriminate in this way against married or unmarried women with or without children should be revoked and discouraged.

#### *Inheritance*

34. Reports of States parties should include comment on the legal or customary provisions relating to inheritance laws as they affect the status of women as provided in the Convention and in Economic and Social Council resolution 884 (XXXIV), in which the Council recommended that States ensure that men and women in the same degree of relationship to a deceased are entitled to equal shares in the estate and to equal rank in the order of succession, has not been generally implemented.
35. There are many countries where the law and practice concerning inheritance and property results in serious discrimination against women. As a result of this uneven treatment, these women may receive a smaller share of the husband's or father's property at his death than would widowers and sons. In some instances, women are granted limited and controlled rights and receive income only from the deceased's property. Often inheritance rights for widows do not reflect the principles of equal ownership of property acquired during marriage. Such provisions contravene the Convention and should be abolished.
36. In the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, States are urged to repeal existing laws and regulations and to remove customs and practices which discriminate against and cause harm to the girl child. Article 16 (2) and the provisions of the Convention on the Rights of the Child (General Assembly resolution 44/25) preclude States parties from permitting or giving validity to a marriage between persons who have not attained their majority. In the context of the Convention on the Rights of the Child, "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier". Notwithstanding this definition, and bearing in mind the provisions of the Vienna Declaration, the Committee considers that the minimum age for marriage should be 18 years for both man and woman. When men and women marry, they assume important responsibilities. Consequently, marriage should not be permitted before they have attained full maturity and capacity to act. According to the World Health Organization, when minors, particularly girls, marry and have children, their health can be adversely affected and their education is impeded. As a result their economic autonomy is restricted.
37. This not only affects women personally but also limits the development of their skills and independence and reduces access to employment, thereby detrimentally affecting their families and communities.
38. Some countries provide for different ages for marriage for men and women. As such provisions assume incorrectly that women have a different rate of intellectual development from men, or that their stage of physical and intellectual development at marriage is immaterial, these provisions should be abolished. In other countries, the betrothal of girls or undertakings by family members on their behalf is permitted. Such measures contravene not only the Convention, but also a woman's right freely to choose her partner.
39. States parties should also require the registration of all marriages whether contracted civilly or according to custom or religious law. The State can thereby ensure compliance with the Convention and establish equality between partners, a minimum age for marriage, prohibition of bigamy and polygamy and the protection of the rights of children.



## Recommendations

### *Violence against women*

40. In considering the place of women in family life, the Committee wishes to stress that the provisions of General Recommendation No. 19 concerning violence against women have great significance for women's abilities to enjoy rights and freedoms on an equal basis with men. States parties are urged to comply with this general recommendation to ensure that in both public and family life, women will be free of the gender-based violence that so seriously impedes their rights and freedoms as individuals.

### *Reservations*

41. The Committee has noted with alarm the number of States parties which have entered reservations to the whole or part of article 16, especially when a reservation has also been entered to article 2, claiming that compliance may conflict with a commonly held vision of the family based inter alia, on cultural or religious beliefs or on the country's economic or political status.

42. Many of these countries hold a belief in the patriarchal structure of a family which places a father, husband or son in a favourable position. In some countries where fundamentalist or other extremist views, or economic hardships have encouraged a return to old values and traditions, women's place in the family has deteriorated sharply. In others, where it has been recognized that a modern society depends for its economic advance and for the general good of the community on involving all adults equally, regardless of gender, these taboos and reactionary or extremist ideas have progressively been discouraged.

43. Consistent with articles 2, 3 and 24 in particular, the Committee requires that all States parties gradually progress to a stage where by their resolute discouragement of notions of the inequality of women in the home, each country will withdraw its reservation, in particular to articles 9, 15 and 16 of the Convention.

44. States parties should resolutely discourage any notions of inequality of women and men which are affirmed by laws, or by religious or private law or by custom, and progress to the stage where reservations, particularly to article 16, will be withdrawn.

45. The Committee noted, on the basis of its examination of initial and subsequent periodic reports, that in some

States parties to the Convention who had ratified or acceded without reservation, certain laws, especially those dealing with family, do not actually conform to the provisions of the Convention.

46. Their laws still contain many measures which discriminate against women based on norms, customs and socio-cultural prejudices. These States, because of their specific situation regarding these articles, make it difficult for the Committee to evaluate and understand the status of women.

47. The Committee, in particular on the basis of articles 1 and 2 of the Convention, requests that those States parties make the necessary efforts to examine the de facto situation relating to the issues and to introduce the required measures in their national legislations still containing provisions discriminatory to women.

### *Reports*

48. Assisted by the comments in the present general recommendation, in their reports States parties should:

(a) Indicate the stage that has been reached in the country's progress to removal of all reservations to the Convention but in particular reservations to article 16;

(b) Set out whether their laws comply with the principles of articles 9, 15 and 16 and where by reason of religious or private law or custom, compliance with the law or with the Convention is impeded.

### *Legislation*

49. States parties should where necessary to comply with the Convention, in particular in order to comply with articles 9, 15 and 16, enact and enforce legislation.

## Encouraging compliance with the Convention

50. Assisted by the comments in the present general recommendation, and as required by articles 2, 3 and 24, States parties should introduce measures directed at encouraging full compliance with the principles of the Convention, particularly where religious or private law or custom conflict with those principles.

**General Recommendation No. 22  
(Fourteenth Session, 1995)<sup>26</sup>**

**Amending article 20 of the Convention**

The Committee on the Elimination of Discrimination against Women,

*Noting* that the States parties to the Convention on the Elimination of All Forms of Discrimination against Women, at the request of the General Assembly, will meet during 1995 to consider amending article 20 of the Convention,

*Recalling* its previous decision, taken at its tenth session, to ensure effectiveness in its work and prevent the building up of an undesirable backlog in the consideration of reports of States parties,

*Recalling* that the Convention is one of the international human rights instruments that has been ratified by the largest number of States parties,

*Considering* that the articles of the Convention address the fundamental human rights of women in all aspects of their daily lives and in all areas of society and the State,

*Concerned* about the workload of the Committee as a result of the growing number of ratifications, in addition to the backlog of reports pending consideration, as reflected in annex I,<sup>27</sup>

*Concerned* also about the long lapse of time between the submission of reports of States parties and their consideration, resulting in the need for States to provide additional information for updating their reports,

*Bearing in mind* that the Committee on the Elimination of Discrimination against Women is the only human rights treaty body whose meeting time is limited by its Convention, and that it has the shortest duration of meeting time of all the human rights treaty bodies, as reflected in annex II,<sup>28</sup>

*Noting* that the limitation on the duration of sessions, as contained in the Convention, has become a serious obstacle to the effective performance by the Committee of its functions under the Convention,

1. *Recommends* that the States parties favourably consider amending article 20 of the Convention in respect of

the meeting time of the Committee, so as to allow it to meet annually for such duration as is necessary for the effective performance of its functions under the Convention, with no specific restriction except for that which the General Assembly shall decide;

2. *Recommends* also that the General Assembly, pending the completion of an amendment process, authorize the Committee to meet exceptionally in 1996 for two sessions, each of three weeks' duration and each being preceded by pre-session working groups;
3. *Recommends* further that the meeting of States parties receive an oral report from the chairperson of the Committee on the difficulties faced by the Committee in performing its functions;
4. *Recommends* that the Secretary-General make available to the States parties at their meeting all relevant information on the workload of the Committee and comparative information in respect of the other human rights treaty bodies.

**General Recommendation No. 23  
(sixteenth session)<sup>29</sup>**

**Women in public life**

*Article 7*

States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referendums and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

*Background*

1. The Convention on the Elimination of All Forms of Discrimination against Women places special importance on the participation of women in the public life of

<sup>26</sup> Contained in document A/51/38.

<sup>27</sup> [Eds] Not reproduced here.

<sup>28</sup> [Eds] Not reproduced here.

<sup>29</sup> Contained in document A/52/38/Rev.1.

their countries. The preamble to the Convention states in part:

*"Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity"*.

2. The Convention further reiterates in its preamble the importance of women's participation in decision-making as follows:

*"Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields"*.

3. Moreover, in article 1 of the Convention, the term "discrimination against women" is interpreted to mean: "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".
4. Other conventions, declarations and international analyses place great importance on the participation of women in public life and have set a framework of international standards of equality. These include the Universal Declaration of Human Rights,<sup>30</sup> the International Covenant on Civil and Political Rights,<sup>31</sup> the Convention on the Political Rights of Women,<sup>32</sup> the Vienna Declaration,<sup>33</sup> paragraph 13 of the Beijing Declaration and Platform for Action,<sup>34</sup> general recommendations 5 and 8 under the Convention,<sup>35</sup> general comment 25 adopted by the Human Rights

Committee,<sup>36</sup> the recommendation adopted by the Council of the European Union on balanced participation of women and men in the decision-making process<sup>37</sup> and the European Commission's "How to Create a Gender Balance in Political Decision-making".<sup>38</sup>

5. Article 7 of the Convention obliges States parties to take all appropriate measures to eliminate discrimination against women in political and public life and to ensure that they enjoy equality with men in political and public life. The obligation specified in article 7 extends to all areas of public and political life and is not limited to those areas specified in subparagraphs (a), (b) and (c). The political and public life of a country is a broad concept. It refers to the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers. The term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. The concept also includes many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.
6. The Convention envisages that, to be effective, this equality must be achieved within the framework of a political system in which each citizen enjoys the right to vote and be elected at genuine periodic elections held on the basis of universal suffrage and by secret ballot, in such a way as to guarantee the free expression of the will of the electorate, as provided for under international human rights instruments, such as article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights.
7. The Convention's emphasis on the importance of equality of opportunity and of participation in public life and decision-making has led the Committee to review article 7 and to suggest to States parties that, in reviewing their laws and policies and in reporting under the

<sup>30</sup> General Assembly resolution 217 A (III).

<sup>31</sup> General Assembly resolution 2200 A (XXI), annex.

<sup>32</sup> General Assembly resolution 640 (VII).

<sup>33</sup> Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III.

<sup>34</sup> Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex I.

<sup>35</sup> See Official Records of the General Assembly, Forty-third Session, Supplement No. 38. (A/43/38), chap. V.

<sup>36</sup> Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40), annex V.

<sup>37</sup> 96/694/EC, Brussels, 2 December 1996.

<sup>38</sup> European Commission document V/1206/96-EN (March 1996).

Convention, they should take into account the comments and recommendations set out below.

#### *Comments*

8. Public and private spheres of human activity have always been considered distinct, and have been regulated accordingly. Invariably, women have been assigned to the private or domestic sphere, associated with reproduction and the raising of children, and in all societies these activities have been treated as inferior. By contrast, public life, which is respected and honoured, extends to a broad range of activity outside the private and domestic sphere. Men historically have both dominated public life and exercised the power to confine and subordinate women within the private sphere.
9. Despite women's central role in sustaining the family and society and their contribution to development, they have been excluded from political life and the decision-making process, which nonetheless determine the pattern of their daily lives and the future of societies. Particularly in times of crisis, this exclusion has silenced women's voices and rendered invisible their contribution and experiences.
10. In all countries, the most significant factors inhibiting women's ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men's failure to share the tasks associated with the organization of the household and with the care and raising of children. In all countries, cultural traditions and religious beliefs have played a part in confining women to the private spheres of activity and excluding them from active participation in public life.
11. Relieving women of some of the burdens of domestic work would allow them to engage more fully in the life of their communities. Women's economic dependence on men often prevents them from making important political decisions and from participating actively in public life. Their double burden of work and their economic dependence, coupled with the long or inflexible hours of both public and political work, prevent women from being more active.
12. Stereotyping, including that perpetrated by the media, confines women in political life to issues such as the environment, children and health, and excludes them from responsibility for finance, budgetary control and conflict resolution. The low involvement of women in the professions from which politicians are recruited can create another obstacle. In countries where women

leaders do assume power this can be the result of the influence of their fathers, husbands or male relatives rather than electoral success in their own right.

#### *Political systems*

13. The principle of equality of women and men has been affirmed in the constitutions and laws of most countries and in all international instruments. Nonetheless, in the last 50 years, women have not achieved equality, and their inequality has been reinforced by their low level of participation in public and political life. Policies developed and decisions made by men alone reflect only part of human experience and potential. The just and effective organization of society demands the inclusion and participation of all its members.
14. No political system has conferred on women both the right to and the benefit of full and equal participation. While democratic systems have improved women's opportunities for involvement in political life, the many economic, social and cultural barriers they continue to face have seriously limited their participation. Even historically stable democracies have failed to integrate fully and equally the opinions and interests of the female half of the population. Societies in which women are excluded from public life and decision-making cannot be described as democratic. The concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both. The examination of the reports of States parties shows that where there is full and equal participation of women in public life and decision-making, the implementation of their rights and compliance with the Convention improves.

#### *Temporary special measures*

15. While removal of *de jure* barriers is necessary, it is not sufficient. Failure to achieve full and equal participation of women can be unintentional and the result of outmoded practices and procedures which inadvertently promote men. Under article 4, the Convention encourages the use of temporary special measures to give full effect to articles 7 and 8. Where countries have developed effective temporary strategies in an attempt to achieve equality of participation, a wide range of measures has been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions, such as the judiciary or other profes-

sional groups, that play an essential part in the everyday life of all societies. The formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public life of their societies are essential prerequisites to true equality in political life. In order, however, to overcome centuries of male domination of the public sphere, women also require the encouragement and support of all sectors of society to achieve full and effective participation, encouragement which must be led by States parties to the Convention, as well as by political parties and public officials. States parties have an obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens.

#### Summary

16. The critical issue, emphasized in the Beijing Platform for Action,<sup>5</sup> is the gap between the *de jure* and *de facto*, or the right as against the reality of women's participation in politics and public life generally. Research demonstrates that if women's participation reaches 30 to 35 per cent (generally termed a "critical mass"), there is a real impact on political style and the content of decisions, and political life is revitalized.
17. To achieve broad representation in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels, both nationally and internationally, so that they may make their contribution to the goals of equality, development and the achievement of peace. A gender perspective is critical if these goals are to be met and if true democracy is to be assured. For these reasons, it is essential to involve women in public life to take advantage of their contribution, to ensure that their interests are protected and to fulfil the guarantee that the enjoyment of human rights is for all people regardless of gender. Women's full participation is essential not only for their empowerment but also for the advancement of society as a whole.

#### Article 7 (a) (the right to vote and to be elected)

18. The Convention obliges States parties in constitutions or legislation to take appropriate steps to ensure that women, on the basis of equality with men, enjoy the right to vote in all elections and referendums, and to be elected. These rights must be enjoyed both *de jure* and *de facto*.

19. The examination of the reports of States parties demonstrates that, while almost all have adopted constitutional or other legal provisions that grant to both women and men the equal right to vote in all elections and public referendums, in many countries women continue to experience difficulties in exercising this right.
20. Factors which impede these rights include the following:
  - (a) Women frequently have less access than men to information about candidates and about party political platforms and voting procedures, information which Governments and political parties have failed to provide. Other important factors that inhibit women's full and equal exercise of their right to vote include their illiteracy, their lack of knowledge and understanding of political systems or about the impact that political initiatives and policies will have upon their lives. Failure to understand the rights, responsibilities and opportunities for change conferred by franchise also means that women are not always registered to vote;
  - (b) Women's double burden of work, as well as financial constraints, will limit women's time or opportunity to follow electoral campaigns and to have the full freedom to exercise their vote;
  - (c) In many countries, traditions and social and cultural stereotypes discourage women from exercising their right to vote. Many men influence or control the votes of women by persuasion or direct action, including voting on their behalf. Any such practices should be prevented;
  - (d) Other factors that in some countries inhibit women's involvement in the public or political lives of their communities include restrictions on their freedom of movement or right to participate, prevailing negative attitudes towards women's political participation, or a lack of confidence in and support for female candidates by the electorate. In addition, some women consider involvement in politics to be distasteful and avoid participation in political campaigns.
21. These factors at least partially explain the paradox that women, who represent half of all electorates, do not wield their political power or form blocs which would promote their interests or change government, or eliminate discriminatory policies.

22. The system of balloting, the distribution of seats in Parliament, the choice of district, all have a significant impact on the proportion of women elected to Parliament. Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.
23. The enjoyment of the right to vote by women should not be subject to restrictions or conditions that do not apply to men or that have a disproportionate impact on women. For example, limiting the right to vote to persons who have a specified level of education, who possess a minimum property qualification or who are literate is not only unreasonable, it may violate the universal guarantee of human rights. It is also likely to have a disproportionate impact on women, thereby contravening the provisions of the Convention.

*Article 7 (b) (the right to participate in formulation of government policy)*

24. The participation of women in government at the policy level continues to be low in general. Although significant progress has been made and in some countries equality has been achieved, in many countries women's participation has actually been reduced.
25. Article 7 (b) requires States parties to ensure that women have the right to participate fully and be represented in public policy formulation in all sectors and at all levels. This would facilitate the mainstreaming of gender issues and contribute a gender perspective to public policy-making.
26. States parties have a responsibility, where it is within their control, both to appoint women to senior decision-making roles and, as a matter of course, to consult and incorporate the advice of groups which are broadly representative of women's views and interests.
27. States parties have a further obligation to ensure that barriers to women's full participation in the formulation of government policy are identified and overcome. These barriers include complacency when token women are appointed, and traditional and customary attitudes that discourage women's participation. When women are not broadly represented in the senior levels of government or are inadequately or not consulted at all, government policy will not be comprehensive and effective.
28. While States parties generally hold the power to appoint women to senior cabinet and administrative

positions, political parties also have a responsibility to ensure that women are included in party lists and nominated for election in areas where they have a likelihood of electoral success. States parties should also endeavour to ensure that women are appointed to government advisory bodies on an equal basis with men and that these bodies take into account, as appropriate, the views of representative women's groups. It is the Government's fundamental responsibility to encourage these initiatives to lead and guide public opinion and change attitudes that discriminate against women or discourage women's involvement in political and public life.

29. Measures that have been adopted by a number of States parties to ensure equal participation by women in senior cabinet and administrative positions and as members of government advisory bodies include the adoption of a rule whereby, when potential appointees are equally qualified, preference will be given to a woman nominee; the adoption of a rule that neither sex should constitute less than 40 per cent of the members of a public body; a quota for women members of cabinet and for appointment to public office; consultation with women's organizations to ensure that qualified women are nominated for membership in public bodies and offices; and the development and maintenance of registers of such women to facilitate the nomination of women for appointment to public bodies and posts. Where members are appointed to advisory bodies upon the nomination of private organizations, States parties should encourage those organizations to nominate qualified and suitable women for membership in these bodies.

*Article 7 (b) (the right to hold public office and to perform all public functions)*

30. The examination of the reports of States parties demonstrates that women are excluded from top-ranking positions in cabinets, the civil service and public administration, in the judiciary and in justice systems. Women are rarely appointed to these senior or influential positions and while their numbers may in some States be increasing at the lower levels and in posts usually associated with the home or the family, they form only a tiny minority in decision-making positions concerned with economic policy or development, political affairs, defence, peacemaking missions, conflict resolution or constitutional interpretation and determination.
31. Examination of the reports of States parties also demonstrates that in certain cases the law excludes women from exercising royal powers, from serving as

judges in religious or traditional tribunals vested with jurisdiction on behalf of the State or from full participation in the military. These provisions discriminate against women, deny to society the advantages of their involvement and skills in these areas of the life of their communities and contravene the principles of the Convention.

*Article 7 (c) (the right to participate in non-governmental and public and political organizations)*

32. The examination of the reports of States parties demonstrates that, on the few occasions when information concerning political parties is provided, women are under-represented or concentrated in less influential roles than men. As political parties are an important vehicle in decision-making roles, Governments should encourage political parties to examine the extent to which women are full and equal participants in their activities and, where this is not the case, should identify the reasons for this. Political parties should be encouraged to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women's full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election.
33. Measures that have been adopted by some political parties include setting aside for women a certain minimum number or percentage of positions on their executive bodies, ensuring that there is a balance between the number of male and female candidates nominated for election, and ensuring that women are not consistently assigned to less favourable constituencies or to the least advantageous positions on a party list. States parties should ensure that such temporary special measures are specifically permitted under anti-discrimination legislation or other constitutional guarantees of equality.
34. Other organizations such as trade unions and political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules and in the composition of their memberships with gender-balanced representation on their executive boards so that these bodies may benefit from the full and equal participation of all sectors of society and from contributions made by both sexes. These organizations also provide a valuable training ground for women in political skills, participation and leadership, as do non-governmental organizations.

*Article 8*

States parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

*Comments*

35. Under article 8, Governments are obliged to ensure the presence of women at all levels and in all areas of international affairs. This requires that they be included in economic and military matters, in both multilateral and bilateral diplomacy, and in official delegations to international and regional conferences.
36. From an examination of the reports of States parties, it is evident that women are grossly under-represented in the diplomatic and foreign services of most Governments, particularly at the highest ranks. Women tend to be assigned to embassies of lesser importance to the country's foreign relations and in some cases women are discriminated against in terms of their appointments by restrictions pertaining to their marital status. In other instances spousal and family benefits accorded to male diplomats are not available to women in parallel positions. Opportunities for women to engage in international work are often denied because of assumptions about their domestic responsibilities, including that the care of family dependants will prevent them accepting appointment.
37. Many permanent missions to the United Nations and to other international organizations have no women among their diplomats and very few at senior levels. The situation is similar at expert meetings and conferences that establish international and global goals, agendas and priorities. Organizations of the United Nations system and various economic, political and military structures at the regional level have become important international public employers, but here, too, women have remained a minority concentrated in lower-level positions.
38. There are few opportunities for women and men, on equal terms, to represent Governments at the international level and to participate in the work of international organizations. This is frequently the result of an absence of objective criteria and processes for appointment and promotion to relevant positions and official delegations.
39. The globalization of the contemporary world makes the

inclusion of women and their participation in international organizations, on equal terms with men, increasingly important. The integration of a gender perspective and women's human rights into the agenda of all international bodies is a government imperative. Many crucial decisions on global issues, such as peacemaking and conflict resolution, military expenditure and nuclear disarmament, development and the environment, foreign aid and economic restructuring, are taken with limited participation of women. This is in stark contrast to their participation in these areas at the non-governmental level.

40. The inclusion of a critical mass of women in international negotiations, peacekeeping activities, all levels of preventive diplomacy, mediation, humanitarian assistance, social reconciliation, peace negotiations and the international criminal justice system will make a difference. In addressing armed or other conflicts, a gender perspective and analysis is necessary to understand their differing effects on women and men.<sup>39</sup>

#### *Recommendations*

##### *Articles 7 and 8*

41. States parties should ensure that their constitutions and legislation comply with the principles of the Convention, and in particular with articles 7 and 8.
42. States parties are under an obligation to take all appropriate measures, including the enactment of appropriate legislation that complies with their Constitution, to ensure that organizations such as political parties and trade unions, which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in articles 7 and 8.
43. States parties should identify and implement temporary special measures to ensure the equal representation of women in all fields covered by articles 7 and 8.
44. States parties should explain the reason for, and effect of, any reservations to articles 7 or 8 and indicate where the reservations reflect traditional, customary or stereotyped attitudes towards women's roles in society, as well as the steps being taken by the States parties to change those attitudes. States parties should keep the necessity for such reservations under close review and in their reports include a timetable for their removal.

#### *Article 7*

45. Measures that should be identified, implemented and monitored for effectiveness include, under article 7, paragraph (a), those designed:
- (a) To achieve a balance between women and men holding publicly elected positions;
  - (b) To ensure that women understand their right to vote, the importance of this right and how to exercise it;
  - (c) To ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women's freedom of movement;
  - (d) To assist women experiencing such disadvantages to exercise their right to vote and to be elected.
46. Under article 7, paragraph (b), such measures include those designed to ensure:
- (a) Equality of representation of women in the formulation of government policy;
  - (b) Women's enjoyment in practice of the equal right to hold public office;
  - (c) Recruiting processes directed at women that are open and subject to appeal.
47. Under article 7, paragraph (c), such measures include those designed:
- (a) To ensure that effective legislation is enacted prohibiting discrimination against women;
  - (b) To encourage non-governmental organizations and public and political associations to adopt strategies that encourage women's representation and participation in their work.
48. When reporting under article 7, States parties should:
- (a) Describe the legal provisions that give effect to the rights contained in article 7;
  - (b) Provide details of any restrictions to those

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<sup>39</sup> Contained in document A/47/38.



rights, whether arising from legal provisions or from traditional, religious or cultural practices;

- (c) Describe the measures introduced and designed to overcome barriers to the exercise of those rights;
- (d) Include statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights;
- (e) Describe the types of policy formulation, including that associated with development programmes, in which women participate and the level and extent of their participation;
- (f) Under article 7, paragraph (c), describe the extent to which women participate in non-governmental organizations in their countries, including in women's organizations;
- (g) Analyse the extent to which the State party ensures that those organizations are consulted and the impact of their advice on all levels of government policy formulation and implementation;
- (h) Provide information concerning, and analyse factors contributing to, the under-representation of women as members and officials of political parties, trade unions, employers organizations and professional associations.

#### *Article 8*

- 49. Measures which should be identified, implemented and monitored for effectiveness include those designed to ensure a better gender balance in the membership of all United Nations bodies, including the Main Committees of the General Assembly, the Economic and Social Council and expert bodies, including treaty bodies, and in appointments to independent working groups or as country or special rapporteurs.
- 50. When reporting under article 8, States parties should:
  - (a) Provide statistics, disaggregated by sex, showing the percentage of women in their foreign service or regularly engaged in international representation or in work on behalf of the State, including membership in government delegations to inter-

national conferences and nominations for peace-keeping or conflict resolution roles, and their seniority in the relevant sector;

- (b) Describe efforts to establish objective criteria and processes for the appointment and promotion of women to relevant positions and official delegations;
- (c) Describe steps taken to disseminate widely information on the Government's international commitments affecting women and official documents issued by multilateral forums, in particular, to both governmental and non-governmental bodies responsible for the advancement of women;
- (d) Provide information concerning discrimination against women because of their political activities, whether as individuals or as members of women's or other organizations.

#### **General Recommendation No. 24 (Twentieth session, 1999)<sup>40</sup>**

- 1. The Committee on the Elimination of Discrimination against Women, affirming that access to health care, including reproductive health, is a basic right under the Convention on the Elimination of All Forms of Discrimination against Women, decided at its twentieth session, pursuant to article 21, to elaborate a general recommendation on article 12 of the Convention.

#### *Background*

- 2. States parties' compliance with article 12 of the Convention is central to the health and well-being of women. It requires States to eliminate discrimination against women in their access to health-care services throughout the life cycle, particularly in the areas of family planning, pregnancy and confinement and during the post-natal period. The examination of reports submitted by States parties pursuant to article 18 of the Convention demonstrates that women's health is an issue that is recognized as a central concern in promoting the health and well-being of women. For the benefit of States parties and those who have a particular interest in and concern with the issues surrounding women's health, the present general recommendation seeks to elaborate the Committee's understanding of article 12 and to address measures to eliminate discrimination in order to realize the right of women to the highest attainable standard of health.

<sup>40</sup> Contained in document A/54/38/Rev. 1.

3. Recent United Nations world conferences have also considered these objectives. In preparing this general recommendation, the Committee has taken into account relevant programmes of action adopted at United Nations world conferences and, in particular, those of the 1993 World Conference on Human Rights, the 1994 International Conference on Population and Development and the 1995 Fourth World Conference on Women. The Committee has also noted the work of the World Health Organization (WHO), the United Nations Population Fund (UNFPA) and other United Nations bodies. It has collaborated with a large number of non-governmental organizations with a special expertise in women's health in preparing this general recommendation.
4. The Committee notes the emphasis that other United Nations instruments place on the right to health and to the conditions that enable good health to be achieved. Among such instruments are the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Racial Discrimination.
5. The Committee refers also to its earlier general recommendations on female circumcision, human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS), disabled women, violence against women and equality in family relations, all of which refer to issues that are integral to full compliance with article 12 of the Convention.
6. While biological differences between women and men may lead to differences in health status, there are societal factors that are determinative of the health status of women and men and can vary among women themselves. For that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child and older women, women in prostitution, indigenous women and women with physical or mental disabilities.
7. The Committee notes that the full realization of women's right to health can be achieved only when States parties fulfil their obligation to respect, protect and promote women's fundamental human right to nutritional well-being throughout their lifespan by means of a food supply that is safe, nutritious and adapted to local conditions. To this end, States parties should take steps to

facilitate physical and economic access to productive resources, especially for rural women, and to otherwise ensure that the special nutritional needs of all women within their jurisdiction are met.

*Article 12*

8. Article 12 reads as follows:

- "1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning".
- "2. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."

States parties are encouraged to address the issue of women's health throughout the woman's lifespan. For the purposes of the present general recommendation, therefore, women includes girls and adolescents. The general recommendation will set out the Committee's analysis of the key elements of article 12.

*Key elements*

*Article 12 (1)*

9. States parties are in the best position to report on the most critical health issues affecting women in that country. Therefore, in order to enable the Committee to evaluate whether measures to eliminate discrimination against women in the field of health care are appropriate, States parties must report on their health legislation, plans and policies for women with reliable data disaggregated by sex on the incidence and severity of diseases and conditions hazardous to women's health and nutrition and on the availability and cost-effectiveness of preventive and curative measures. Reports to the Committee must demonstrate that health legislation, plans and policies are based on scientific and ethical research and assessment of the health status and needs of women in that country and take into account any ethnic, regional or community variations or practices based on religion, tradition or culture.
10. States parties are encouraged to include in their reports information on diseases, health conditions and conditions hazardous to health that affect women or certain

groups of women differently from men, as well as information on possible intervention in this regard.

11. Measures to eliminate discrimination against women are considered to be inappropriate if a health-care system lacks services to prevent, detect and treat illnesses specific to women. It is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women. For instance, if health service providers refuse to perform such services based on conscientious objection, measures should be introduced to ensure that women are referred to alternative health providers.
12. States parties should report on their understanding of how policies and measures on health care address the health rights of women from the perspective of women's needs and interests and how it addresses distinctive features and factors that differ for women in comparison to men, such as:
  - (a) Biological factors that differ for women in comparison with men, such as their menstrual cycle, their reproductive function and menopause. Another example is the higher risk of exposure to sexually transmitted diseases that women face;
  - (b) Socio-economic factors that vary for women in general and some groups of women in particular. For example, unequal power relationships between women and men in the home and workplace may negatively affect women's nutrition and health. They may also be exposed to different forms of violence which can affect their health. Girl children and adolescent girls are often vulnerable to sexual abuse by older men and family members, placing them at risk of physical and psychological harm and unwanted and early pregnancy. Some cultural or traditional practices such as female genital mutilation also carry a high risk of death and disability;
  - (c) Psychosocial factors that vary between women and men include depression in general and post-partum depression in particular as well as other psychological conditions, such as those that lead to eating disorders such as anorexia and bulimia;
  - (d) While lack of respect for the confidentiality of patients will affect both men and women, it may deter women from seeking advice and treatment and thereby adversely affect their health and well-being. Women will be less willing, for that reason, to seek medical care for diseases of the genital tract, for contraception or for incomplete abortion and in cases where they have suffered sexual or physical violence.
13. The duty of States parties to ensure, on a basis of equality of men and women, access to health-care services, information and education implies an obligation to respect, protect and fulfil women's rights to health care. States parties have the responsibility to ensure that legislation and executive action and policy comply with these three obligations. They must also put in place a system that ensures effective judicial action. Failure to do so will constitute a violation of article 12.
14. The obligation to respect rights requires States parties to refrain from obstructing action taken by women in pursuit of their health goals. States parties should report on how public and private health-care providers meet their duties to respect women's rights to have access to health care. For example, States parties should not restrict women's access to health services or to the clinics that provide those services on the ground that women do not have the authorization of husbands, partners, parents or health authorities, because they are unmarried<sup>41</sup> or because they are women. Other barriers to women's access to appropriate health care include laws that criminalize medical procedures only needed by women and that punish women who undergo those procedures.
15. The obligation to protect rights relating to women's health requires States parties, their agents and officials to take action to prevent and impose sanctions for violations of rights by private persons and organizations. Since gender-based violence is a critical health issue for women, States parties should ensure:
  - (a) The enactment and effective enforcement of laws and the formulation of policies, including health-care protocols and hospital procedures to address violence against women and sexual abuse of girl children and the provision of appropriate health services;
  - (b) Gender-sensitive training to enable health-care workers to detect and manage the health consequences of gender-based violence;

<sup>41</sup> See *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 38 (A/49/38)*, chap. I, sect. A, General recommendation 21, para. 29.

- (c) Fair and protective procedures for hearing complaints and imposing appropriate sanctions on health-care professionals guilty of sexual abuse of women patients;
- (d) The enactment and effective enforcement of laws that prohibit female genital mutilation and marriage of girl children.
16. States parties should ensure that adequate protection and health services, including trauma treatment and counselling, are provided for women in especially difficult circumstances, such as those trapped in situations of armed conflict and women refugees.
17. The duty to fulfil rights places an obligation on States parties to take appropriate legislative, judicial, administrative, budgetary, economic and other measures to the maximum extent of their available resources to ensure that women realize their rights to health care. Studies such as those that emphasize the high maternal mortality and morbidity rates worldwide and the large numbers of couples who would like to limit their family size but lack access to or do not use any form of contraception provide an important indication for States parties of possible breaches of their duties to ensure women's access to health care. The Committee asks States parties to report on what they have done to address the magnitude of women's ill-health, in particular when it arises from preventable conditions, such as tuberculosis and HIV/AIDS. The Committee is concerned about the growing evidence that States are relinquishing these obligations as they transfer State health functions to private agencies. States parties cannot absolve themselves of responsibility in these areas by delegating or transferring these powers to private sector agencies. States parties should therefore report on what they have done to organize governmental processes and all structures through which public power is exercised to promote and protect women's health. They should include information on positive measures taken to curb violations of women's rights by third parties and to protect their health and the measures they have taken to ensure the provision of such services.
18. The issues of HIV/AIDS and other sexually transmitted diseases are central to the rights of women and adolescent girls to sexual health. Adolescent girls and women in many countries lack adequate access to information and services necessary to ensure sexual health. As a consequence of unequal power relations based on gender, women and adolescent girls are often unable to refuse sex or insist on safe and responsible sex practices. Harmful traditional practices, such as female genital mutilation, polygamy, as well as marital rape, may also expose girls and women to the risk of contracting HIV/AIDS and other sexually transmitted diseases. Women in prostitution are also particularly vulnerable to these diseases. States parties should ensure, without prejudice or discrimination, the right to sexual health information, education and services for all women and girls, including those who have been trafficked, even if they are not legally resident in the country. In particular, States parties should ensure the rights of female and male adolescents to sexual and reproductive health education by properly trained personnel in specially designed programmes that respect their right to privacy and confidentiality.
19. In their reports, States parties should identify the test by which they assess whether women have access to health care on a basis of equality of men and women in order to demonstrate compliance with article 12. In applying these tests, States parties should bear in mind the provisions of article 1 of the Convention. Reports should therefore include comments on the impact that health policies, procedures, laws and protocols have on women when compared with men.
20. Women have the right to be fully informed, by properly trained personnel, of their options in agreeing to treatment or research, including likely benefits and potential adverse effects of proposed procedures and available alternatives.
21. States parties should report on measures taken to eliminate barriers that women face in access to health-care services and what measures they have taken to ensure women timely and affordable access to such services. Barriers include requirements or conditions that prejudice women's access, such as high fees for health-care services, the requirement for preliminary authorization by spouse, parent or hospital authorities, distance from health facilities and the absence of convenient and affordable public transport.
22. States parties should also report on measures taken to ensure access to quality health-care services, for example, by making them acceptable to women. Acceptable services are those that are delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her confidentiality and is sensitive to her needs and perspectives. States parties should not permit forms of coercion, such as non-consensual sterilization, mandatory testing for sexually transmitted diseases or mandatory pregnancy testing as a condition of employment that violate women's rights to informed consent and dignity.

23. In their reports, States parties should state what measures they have taken to ensure timely access to the range of services that are related to family planning, in particular, and to sexual and reproductive health in general. Particular attention should be paid to the health education of adolescents, including information and counselling on all methods of family planning.<sup>42</sup>
24. Committee is concerned about the conditions of health-care services for older women, not only because women often live longer than men and are more likely than men to suffer from disabling and degenerative chronic diseases, such as osteoporosis and dementia, but because they often have the responsibility for their ageing spouses. Therefore, States parties should take appropriate measures to ensure the access of older women to health services that address the handicaps and disabilities associated with ageing.
25. Women with disabilities, of all ages, often have difficulty with physical access to health services. Women with mental disabilities are particularly vulnerable, while there is limited understanding, in general, of the broad range of risks to mental health to which women are disproportionately susceptible as a result of gender discrimination, violence, poverty, armed conflict, dislocation and other forms of social deprivation. States parties should take appropriate measures to ensure that health services are sensitive to the needs of women with disabilities and are respectful of their human rights and dignity.

*Article 12 (2)*

26. Reports should also include what measures States parties have taken to ensure women appropriate services in connection with pregnancy, confinement and the post-natal period. Information on the rates at which these measures have reduced maternal mortality and morbidity in their countries, in general, and in vulnerable groups, regions and communities, in particular, should also be included.
27. States parties should include in their reports how they supply free services where necessary to ensure safe pregnancies, childbirth and post-partum periods for women. Many women are at risk of death or disability from pregnancy-related causes because they lack the funds to obtain or access the necessary services, which include ante-natal, maternity and post-natal services. The Committee notes that it is the duty of States par-

ties to ensure women's right to safe motherhood and emergency obstetric services and they should allocate to these services the maximum extent of available resources.

*Other relevant articles in the Convention*

28. When reporting on measures taken to comply with article 12, States parties are urged to recognize its interconnection with other articles in the Convention that have a bearing on women's health. Those articles include article 5 (b), which requires States parties to ensure that family education includes a proper understanding of maternity as a social function; article 10, which requires States parties to ensure equal access to education, thus enabling women to access health care more readily and reducing female student drop-out rates, which are often a result of premature pregnancy; article 10 (h), which requires that States parties provide to women and girls access to specific educational information to help ensure the health and well-being of families, including information and advice on family planning; article 11, which is concerned, in part, with the protection of women's health and safety in working conditions, including the safeguarding of the reproductive function, special protection from harmful types of work during pregnancy and with the provision of paid maternity leave; article 14, paragraph 2 (b), which requires States parties to ensure access for rural women to adequate health-care facilities, including information, counselling and services in family planning, and (h), which obliges States parties to take all appropriate measures to ensure adequate living conditions, particularly housing, sanitation, electricity and water supply, transport and communications, all of which are critical for the prevention of disease and the promotion of good health care; and article 16, paragraph 1 (e), which requires States parties to ensure that women have the same rights as men to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise those rights. Article 16, paragraph 2 proscribes the betrothal and marriage of children, an important factor in preventing the physical and emotional harm which arise from early childbirth.

*Recommendations for government action*

29. States parties should implement a comprehensive national strategy to promote women's health through-

<sup>42</sup> Health education for adolescents should further address, *inter alia*, gender equality, violence, prevention of sexually transmitted diseases and reproductive and sexual health rights.

out their lifespan. This will include interventions aimed at both the prevention and treatment of diseases and conditions affecting women, as well as responding to violence against women, and will ensure universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services.

30. States parties should allocate adequate budgetary, human and administrative resources to ensure that women's health receives a share of the overall health budget comparable with that for men's health, taking into account their different health needs.

31. States parties should also, in particular:

(a) Place a gender perspective at the centre of all policies and programmes affecting women's health and should involve women in the planning, implementation and monitoring of such policies and programmes and in the provision of health services to women;

(b) Ensure the removal of all barriers to women's access to health services, education and information, including in the area of sexual and reproductive health, and, in particular, allocate resources for programmes directed at adolescents for the prevention and treatment of sexually transmitted diseases, including HIV/AIDS;

(c) Prioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance. When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion;

(d) Monitor the provision of health services to women by public, non-governmental and private organizations, to ensure equal access and quality of care;

(e) Require all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice;

(f) Ensure that the training curricula of health workers includes comprehensive, mandatory, gender-sensitive courses on women's health and human rights, in particular gender-based violence.

## Annex F

### Declaration on the Elimination of Violence against Women

(adopted by the United Nations General Assembly on 20 December 1993,  
GA Res 48/104)

#### The General Assembly,

*Recognizing* the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human persons,

*Noting* that those rights and principles are enshrined in international instruments, including the Universal Declaration of Human Rights,<sup>43</sup> the International Covenant on Civil and Political Rights,<sup>44</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>45</sup> the Convention on the Elimination of All Forms of Discrimination against Women,<sup>46</sup> and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>47</sup>

*Recognizing* that the effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women would contribute to the elimination of violence against women and that the Declaration on the Elimination of Violence against Women, annexed to the present resolution, will strengthen and complement that process,

*Concerned* that violence against women is an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women<sup>48</sup> which recommend a set of measures to combat violence against women, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

*Affirming* that violence against women both violates and impairs or nullifies the enjoyment by women of human

rights and fundamental freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in relation to violence against women,

*Recognizing* that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of their full advancement, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men,

*Concerned* that some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict, are especially vulnerable to violence,

*Recalling* Economic and Social Council resolution 1990/15 of 24 May 1990, in the annex to which it was recognized that violence against women in the family and society was pervasive and cut across lines of income, class and culture, and had to be matched by urgent and effective steps to eliminate its incidence,

*Recalling also* Economic and Social Council resolution 1991/18 of 30 May 1991, in which the Council recommended the development of a framework for an international instrument that would address explicitly the issue of violence against women,

<sup>43</sup> Resolution 217 A (III).

<sup>44</sup> Resolution 2200 A (XXI), annex.

<sup>45</sup> Resolution 2200 A (XXI), annex.

<sup>46</sup> Resolution 34/180, annex.

<sup>47</sup> Resolution 39/46, annex.

<sup>48</sup> *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi. 15-26 July 1985* (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

*Welcoming* the role that women's movements have played in drawing increasing attention to the nature, severity and magnitude of the problem of violence against women,

*Alarmed* that women's opportunities to achieve legal, social, political and economic equality in society are limited, inter alia, by continuing and endemic violence,

*Convinced* that in the light of the above there is a need for a clear and comprehensive definition of violence against women, a clear statement of the rights to be applied to ensure the elimination of violence against women in all its forms, a commitment by States in respect of their responsibilities, and a commitment by the international community at large towards the elimination of violence against women,

*Solemnly proclaims* the following Declaration on the Elimination of Violence against Women and urges that every effort be made so that it becomes generally known and respected:

#### *Article 1*

For the purposes of this Declaration, the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

#### *Article 26*

Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

#### *Article 3*

Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia:

- (a) The right to life;<sup>49</sup>
- (b) The right to equality;<sup>50</sup>
- (c) The right to liberty and security of person;<sup>51</sup>
- (d) The right to equal protection under the law;<sup>52</sup>
- (e) The right to be free from all forms of discrimination;<sup>53</sup>
- (f) The right to the highest standard attainable of physical and mental health;<sup>54</sup>
- (g) The right to just and favourable conditions of work;<sup>55</sup>
- (h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.<sup>56</sup>

#### *Article 4*

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

- (a) Consider, where they have not yet done so, rati-

<sup>49</sup> Universal Declaration of Human Rights, article 3; and International Covenant on Civil and Political Rights, article 6.

<sup>50</sup> International Covenant on Civil and Political Rights, article 26.

<sup>51</sup> Universal Declaration of Human Rights, article 3; and International Covenant on Civil and Political Rights, article 9.

<sup>52</sup> International Covenant on Civil and Political Rights, article 26.

<sup>53</sup> International Covenant on Civil and Political Rights, article 26.

<sup>54</sup> International Covenant on Economic, Social and Cultural Rights, article 12.

<sup>55</sup> Universal Declaration of Human Rights, article 23; and International Covenant on Economic, Social and Cultural Rights, articles 6 and 7.

<sup>56</sup> Universal Declaration of Human Rights, article 5; International Covenant on Civil and Political Rights, article 7; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.



- fying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women or withdrawing reservations to that Convention;
- (b) Refrain from engaging in violence against women;
  - (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
  - (d) Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;
  - (e) Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for this purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly those concerned with this subject;
  - (f) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of gender insensitive laws, enforcement practices or other interventions;
  - (g) Work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation;
  - (h) Include in government budgets adequate resources for their activities related to the elimination of violence against women;
  - (i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;
  - (j) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;
  - (k) Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women; those statistics and findings of the research will be made public;
  - (l) Adopt measures directed to the elimination of violence against women who are especially vulnerable to violence;
  - (m) Include, in submitting reports as required under relevant human rights instruments of the United Nations, information pertaining to violence against women and measures taken to implement the present Declaration;
  - (n) Encourage the development of appropriate guidelines to assist in the implementation of the principles set forth in the present Declaration;
  - (o) Recognize the important role of the women's movement and non-governmental organizations world wide in raising awareness and alleviating the problem of violence against women;

- (p) Facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels;
- (q) Encourage intergovernmental regional organizations of which they are members to include the elimination of violence against women in their programmes, as appropriate.

*Article 5*

The organs and specialized agencies of the United Nations system should, within their respective fields of competence, contribute to the recognition and realization of the rights and the principles set forth in the present Declaration, and to this end should, inter alia:

- (a) Foster international and regional cooperation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women;
- (b) Promote meetings and seminars with the aim of creating and raising awareness among all persons the issue of the elimination of violence against women;
- (c) Foster coordination and exchange within the United Nations system between human rights treaty bodies to address the matter effectively;

- (d) Include in analyses prepared by organizations and bodies of the United Nations system of social trends and problems, such as the periodic reports on the world social situation, examination of trends in violence against women;
- (e) Encourage coordination between organizations and bodies of the United Nations system to incorporate the issue of violence against women into ongoing programmes, especially with reference to groups of women particularly vulnerable to violence;
- (f) Promote the formulation of guidelines or manuals relating to violence against women, taking into account the measures mentioned herein;
- (g) Consider the issue of the elimination of violence against women, as appropriate, in fulfilling their mandates with respect to the implementation of human rights instruments;
- (h) Cooperate with non-governmental organizations in addressing violence against women.

*Article 6*

Nothing in the present Declaration shall affect any provision that is more conducive to the elimination of violence against women that may be contained in the legislation of a State or in any international convention, treaty or other instrument in force in a State.

## Annex G

### Statement on Reservations to the Convention on the Elimination of all Forms of Discrimination against Women adopted by the Committee on the Elimination of Discrimination against Women

1. The Committee adopted the following statement on reservations to the Convention which it wishes to bring to the attention of States parties as its contribution to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights.

#### *Introduction*

2. The Committee on the Elimination of Discrimination against Women wishes to mark the fiftieth anniversary of the Universal Declaration of Human Rights and the five-year review of the Vienna Declaration and Programme of Action with a statement concerning the adverse impact that reservations to the Convention on the Elimination of All Forms of Discrimination against Women have on the achievement by women of full and substantive equality with men. The Committee has extensive experience of the impact of reservations gained from the examination of States parties' reports. It has also noted the increasing concern expressed by other human rights treaty bodies, the International Law Commission, some Member States, the World Conference on Human Rights and the Fourth World Conference on Women, as well as scholars and non-governmental organizations, at the number and extent of reservations to human rights treaties, and to this Convention in particular.

#### *Background*

3. The Committee has, on a number of occasions, expressed its views and concerns regarding the number and extent of reservations to the Convention.<sup>57</sup> It has also noted that some States parties that enter reservations to the Convention do not enter reservations to analogous provisions in other human rights treaties. A number of States enter reservations to particular articles on the ground that national law, tradition, religion or culture is not congruent with Convention principles, and purport to justify the reservation on that basis.

Some States enter a reservation to article 2, although their national constitutions or laws prohibit discrimination. There is therefore an inherent conflict between the provisions of the State's constitution and its reservation to the Convention. Some reservations are drawn so widely that their effect cannot be limited to specific provisions in the Convention.

4. Several States parties have entered interpretative declarations to the Convention on ratification or accession. While it is not always easy to distinguish a declaration from a reservation, any statement, irrespective of its title, which seeks to modify the legal effect of the Convention in respect of a State party, will be considered by the Committee to be a reservation.<sup>58</sup> The Committee has noted, in this regard, that a number of States parties have entered general declarations which constitute, in fact, general reservations.

#### *Reservations to the Convention*

5. As at 1 July 1998, 161 States parties had ratified the Convention on the Elimination of All Forms of Discrimination against Women. Fifty-four States had entered reservations to one or more articles in the Convention including permissible reservations to article 29 (1) and (2).
6. Articles 2 and 16 are considered by the Committee to be core provisions of the Convention. Although some States parties have withdrawn reservations to those articles, the Committee is particularly concerned at the number and extent of reservations entered to those articles.

#### *Impermissible reservations*

7. Article 28, paragraph 2, of the Convention adopts the impermissibility principle contained in the Vienna Convention on the Law of Treaties. It states that a

<sup>57</sup> General recommendations 4, 20 and 21.

<sup>58</sup> Article 2, subpara. 1 (d), Vienna Convention on the Law of Treaties, 1969.

reservation incompatible with the object and purpose of the present Convention shall not be permitted.

8. Although the Convention does not prohibit the entering of reservations, those which challenge the central principles of the Convention are contrary to the provisions of the Convention and to general international law. As such they may be challenged by other States parties.
9. States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:
  - (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation, if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle;
  - (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
  - (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
  - (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
  - (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
  - (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
  - (g) To repeal all national penal provisions which constitute discrimination against women.
10. Reservations affect the efficacy of the Convention, whose objective is to end discrimination against women and to achieve de jure and de facto equality for them. Reservations prevent the Committee from assessing the progress of States parties' implementation of the

Convention, limit its mandate and potentially affect the entire human rights regime. Some States are concerned about a perceived conflict between article 2 and the Islamic shariah law. In other instances, States have entered reservations, which, although unspecific, are broad enough to encompass article 2. These reservations pose an acute problem for the implementation of the Convention and for the Committee's ability to monitor compliance with it. Several have entered reservations to article 2 to protect rights of succession to the throne and to chiefly and other traditional titles. This too is discriminatory against women.

11. In general recommendation 20, the Committee, *inter alia*, sought to resolve the problem of impermissible reservations. And, in June 1993, the Vienna Declaration and Programme of Action encouraged States to consider limiting the extent of any reservations they lodged to international human rights instruments, to formulate any reservations as precisely and narrowly as possible, to ensure that none is incompatible with the object and purpose of the relevant treaty and to regularly review any reservations with a view to withdrawing them. In spite of these recommendations, to date few reservations to article 2 have been modified or withdrawn by any State party.

#### *Article 16*

12. The Committee has previously analysed article 16 in its general recommendation 21. In the course of the analysis of factors impeding compliance with article 16, it said:

#### *"Reservations*

"The Committee has noted with alarm the number of States parties which have entered reservations to the whole or part of article 16, especially when a reservation has also been entered to article 2, claiming that compliance may conflict with a commonly held vision of the family, based, *inter alia*, on cultural or religious beliefs or on a country's economic or political status.

"Many of these countries hold a patriarchal belief in the structure of a family which places a father, husband or son in a favourable position. In some countries where fundamentalist or other extremist views or economic hardship have encouraged a return to old values and traditions, women's place in the family has deteriorated sharply. In others, where it has been recognized that a modern society depends for its economic advance and for the general good of the community on involving all adults equally, regardless of gender, these taboos and reactionary or extremist ideas have progressively been discouraged.

"Consistent with articles 2, 3 and 24 in particular, the Committee requires that all States parties gradually progress to a stage where, by their resolute discouragement of notions of the inequality of women in the home, each country will withdraw its reservation, in particular to articles 9, 15 and 16 of the Convention.

"States parties should resolutely discourage any notions of inequality of women and men which are affirmed by laws or by private law or custom, and progress to the stage where reservations, in particular to article 16, will be withdrawn."<sup>59</sup>

13. The Committee again emphasizes these recommendations and encourages States parties to note, adopt and implement them.

### Impact of reservations

14. Reservations to any human rights treaty limit the application of internationally accepted human rights norms at the national level. They will also indicate clearly the degree of commitment of the reserving State to full compliance with the particular treaty.
15. When reservations are made to the Convention on the Elimination of All Forms of Discrimination against Women, there can be a double impact. By entering a reservation, the State indicates its unwillingness to comply with an accepted human rights norm. It also ensures that women's inequality with men will be entrenched at the national level. The promise given to its women when the State ratifies the Convention is not therefore fulfilled. This not only affects women's ability to exercise and enjoy their rights, but also guarantees that they will remain inferior to men and have less access to the full range of civil, political, economic, social and cultural rights enjoyed by men. The ramifications for women are significant. They must compete with men on an unequal footing for such fundamental rights as equality of income, access to education, housing and health care, and equality of rights and responsibilities within the family. Reservations to articles 2 and 16 perpetuate the myth of women's inferiority and reinforce the inequalities in the lives of millions of women throughout the world. They continue to be treated in both public and private life as inferior to men, and to suffer greater violations of their rights in every sphere of their lives.
16. The Committee holds the view that article 2 is central to the objects and purpose of the Convention. States parties which ratify the Convention do so because they

agree that discrimination against women in all its forms should be condemned and that the strategies set out in article 2, subparagraphs (a) to (g), should be implemented by States parties to eliminate it.

17. Neither traditional, religious or cultural practice nor incompatible domestic laws and policies can justify violations of the Convention. The Committee also remains convinced that reservations to article 16, whether lodged for national, traditional, religious or cultural reasons, are incompatible with the Convention and therefore impermissible and should be reviewed and modified or withdrawn.

### Removing reservations

18. The Committee considers that those States parties which have entered reservations to the Convention have certain options open to them. According to the Special Rapporteur appointed by the International Law Commission to report on the law and practice relating to reservations to treaties a State party may:
  - (a) After having examined the finding in good faith, maintain its reservation;
  - (b) Withdraw its reservation;
  - (c) "Regularize" its situation by replacing its impermissible reservation with a permissible reservation;
  - (d) Renounce being a party to the Treaty.
19. The Committee has already noted that to date, few reservations to article 2 have been withdrawn or modified by any State party and that reservations to article 16 are rarely withdrawn.
20. While article 29 provides an inter-State dispute procedure, a number of States have entered reservations to article 29 itself, thereby limiting its effect. Some States formally lodge objections to reservations to articles 2 or 16. The Committee recognizes and appreciates the positive impact that the use of this procedure can have in encouraging States to withdraw or modify reservations and the empowering effect these objections have for women in the State party. It is optimistic that more States parties will rigorously review and object to impermissible reservations to the Convention.

<sup>59</sup> General recommendation No. 21 (thirteenth session, 1994), Equality in marriage and family relations, paras. 41-44.

21. The Committee also acknowledges the view of the Special Rapporteur appointed by the International Law Commission that objections by States are not only a means of exerting pressure on reserving States, but also serve as a useful guide for the assessment of the permissibility of a reservation by the Committee itself.

### **The role of the Committee**

22. The Committee has an important role to play, one which has been mandated by the Vienna Declaration and Programme for Action, which, in paragraph 39, states that the Committee should continue its review of reservations.

23. The Committee concludes that it has certain responsibilities as the body of experts charged with the consideration of periodic reports submitted to it. The Committee, in its examination of States' reports, enters into constructive dialogue with the State party and makes concluding comments routinely expressing concern at the entry of reservations to articles 2 and 16 or the failure of States parties to withdraw or modify them.

24. The Special Rapporteur considers that control of the permissibility of reservations is the primary responsibility of the States parties. However, the Committee again wishes to draw to the attention of States parties its grave concern at the number and extent of impermissible reservations. It also expresses concern that, even when States object to such reservations there appears to be a reluctance on the part of the States concerned to remove and modify them and thereby comply with general principles of international law.

### **Conclusion**

25. Fifty years after the adoption of the Universal Declaration of Human Rights, the great majority of Member States have signified their commitment to the Convention by ratification or accession. It is now time to re-examine States' self-imposed limitations to full compliance with all the principles in the Convention by the entry of reservations. Removal or modification of reservations, particularly to articles 2 and 16, would indicate a State party's determination to remove all barriers to women's full equality and its commitment to ensuring that women are able to participate fully in all aspects of public and private life without fear of discrimination or recrimination. States which remove reservations would be making a major contribution to achieving the objectives of both formal and de facto or substantive compliance with the Convention. A laudable and appropriate contribution to the commemoration of 50 years of compliance with the Universal Declaration of Human Rights, as well as implementation of the 1993 Vienna Declaration and Programme of Action.

## Annex H

# Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women

*The States parties to the present Protocol,*

*Noting* that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

*Also noting* that the Universal Declaration of Human Rights<sup>60</sup> proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

*Recalling* that the International Covenants on Human Rights<sup>61</sup> and other international human rights instruments prohibit discrimination on the basis of sex,

*Also recalling* the Convention on the Elimination of All Forms of Discrimination against Women<sup>62</sup> ("the Convention"), in which the States parties thereto condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women,

*Reaffirming* their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms,

*Have agreed as follows:*

### *Article 1*

A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Elimination of Discrimination against Women ("the Committee") to receive and consider communications submitted in accordance with article 2.

### *Article 2*

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

### *Article 3*

Communications shall be in writing and shall not be anonymous. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

### *Article 4*

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.
2. The Committee shall declare a communication inadmissible where:
  - (a) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
  - (b) It is incompatible with the provisions of the Convention;
  - (c) It is manifestly ill-founded or not sufficiently substantiated;

<sup>60</sup> Resolution 217 A (III).

<sup>61</sup> Resolution 2200 A (XXI), annex.

<sup>62</sup> Resolution 34/180, annex.

- (d) It is an abuse of the right to submit a communication;
- (e) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

*Article 5*

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

*Article 6*

1. Unless the Committee considers a communication inadmissible without reference to the State Party concerned, and provided that the individual or individuals consent to the disclosure of their identity to that State Party, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State Party concerned.
2. Within six months, the receiving State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been provided by that State Party.

*Article 7*

1. The Committee shall consider communications received under the present Protocol in the light of all information made available to it by or on behalf of individuals or groups of individuals and by the State Party concerned, provided that this information is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications under the present Protocol.
3. After examining a communication, the Committee shall transmit its views on the communication, together with its recommendations, if any, to the parties concerned.

4. The State Party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.
5. The Committee may invite the State Party to submit further information about any measures the State Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the State Party's subsequent reports under article 18 of the Convention.

*Article 8*

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.
4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

*Article 9*

1. The Committee may invite the State Party concerned to include in its report under article 18 of the Convention details of any measures taken in response to an inquiry conducted under article 8 of the present Protocol.
2. The Committee may, if necessary, after the end of the



period of six months referred to in article 8.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

#### *Article 10*

1. Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 8 and 9.
2. Any State Party having made a declaration in accordance with paragraph 1 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General.

#### *Article 11*

A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

#### *Article 12*

The Committee shall include in its annual report under article 21 of the Convention a summary of its activities under the present Protocol.

#### *Article 13*

Each State Party undertakes to make widely known and to give publicity to the Convention and the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular, on matters involving that State Party.

#### *Article 14*

The Committee shall develop its own rules of procedure to be followed when exercising the functions conferred on it by the present Protocol.

#### *Article 15*

1. The present Protocol shall be open for signature by any State that has signed, ratified or acceded to the Convention.
2. The present Protocol shall be subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any

State that has ratified or acceded to the Convention.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

#### *Article 16*

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

#### *Article 17*

No reservations to the present Protocol shall be permitted.

#### *Article 18*

1. Any State Party may propose an amendment to the present Protocol and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States parties with a request that they notify her or him whether they favour a conference of States parties for the purpose of considering and voting on the proposal. In the event that at least one third of the States parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States parties that have accepted them, other States parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

*Article 19*

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 or any inquiry initiated under article 8 before the effective date of denunciation.

*Article 20*

The Secretary-General of the United Nations shall inform all States of:

- (a) Signatures, ratifications and accessions under the present Protocol;

(b) The date of entry into force of the present Protocol and of any amendment under article 18;

(c) Any denunciation under article 19.

*Article 21*

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 25 of the Convention.

## Annex I

### Procedures for the Elaboration of Concluding Comments by the Committee during the 19th Session in 1998

The Committee decided to streamline those parts of the Committee's concluding comments relating to "factors and difficulties" and "positive aspects", while retaining flexibility in this regard. The sections relating to "principal areas of concern" and "recommendations and suggestions" of the Committee's concluding comments should be combined in a single section to be entitled "principal areas of concern and recommendations".

Where appropriate, the Committee's concluding comments should include specific suggestions to the States parties with regard to obtaining technical assistance from the Office of the United Nations High Commissioner for Human Rights and other parts of the United Nations system. Recommendations relating to technical assistance could, for example, be directed to reservations and law reform, including review of legislation.

The Committee adopted the following procedures and format for the elaboration of concluding comments:

- (a) The Committee designates from among its members a country rapporteur for the report of each State party;
- (b) Assisted by the Secretariat, the country rapporteur seeks additional information on the situation of women in the State party under review. The findings of the country rapporteur are presented as a briefing on the report at a closed meeting before the State party's presentation. In the case of periodic reports, the rapporteur's report is sent in advance to the pre-session working group;
- (c) The Committee holds a closed meeting after the constructive dialogue to consider the main issues and trends to be reflected in the concluding comments relating to the report of the State party. Concluding comments drafted thereafter reflect only the views expressed at the meetings during which the report is presented, and not the views of the individual country rapporteurs;
- (d) The expert nominated as the country rapporteur drafts concluding comments in close collaboration with the general rapporteur of the Committee and with the support of the secretariat;
- (e) Concluding comments are preceded by a summary of the State party's presentation, which is prepared by the secretariat;
- (f) Concluding comments usually follow a standard format under four headings: introduction; positive aspects; factors and difficulties affecting the implementation of the Convention; principal areas of concern and recommendations;
- (g) The introduction contains comments on whether the report has followed the Committee's guidelines for the preparation of initial and periodic reports; whether it was sufficient or insufficient; whether it incorporates or refers to statistical information disaggregated by sex; and the Committee's general recommendations. Whether there are any reservations to the Convention; whether reservations have been withdrawn; whether the State party has objected to the reservations of other State parties; and whether the State party has mentioned the implementation of the Beijing Platform for Action are issues which are addressed in this section, as well as the nature and relevance of the oral presentation. An objective indication of the strengths of the report and the strength of the delegation is generally included;
- (h) The "positive aspects" section is organized in the order of the articles of the Convention;
- (i) The "factors and difficulties" section describes major overarching reasons why the Convention on the Elimination of All Forms of Discrimination against Women has not been implemented fully by the State party. Any reservations to the Convention are also addressed in this section, as well as other legal impediments to the implementation of the Convention;
- (j) The "principal areas of concern and recommendations" section is organized in the order of the importance of the particular issues to the country under review and

provides concrete proposals from the Committee on the problems identified in the rest of the comments;

- (k) The concluding comments include reference to any commitments of the State party made at the Fourth World Conference on Women;
- (l) Where appropriate, the concluding comments include specific suggestions to the States parties with regard to possible technical assistance from the Office of the United Nations High Commissioner for Human Rights and other parts of the United Nations system. Recommendations relating to technical assistance could, for example, be directed to reservations, review of legislation and law reform;
- (m) Concluding comments close with a recommendation relating to dissemination, requesting the wide dissemination of the concluding comments in the State party concerned, in order to make the people in the State

party, and particularly its government administrators and politicians, aware of the steps that have been taken to ensure de facto equality for women and the further steps required in that regard. It also requests the State party to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and the Platform for Action;

- (n) Each concluding comment is internally balanced, and the Committee strives to achieve consistence and balance, particularly in terms of praise and expressions of concern, among the concluding comments elaborated at each session. Accordingly, the Committee considers concluding comments comparatively in an effort to ensure that they are even.

# Selected Concluding Comments of the Committee<sup>63</sup>

## Initial reports

### Belize

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#### (a) Introduction by the State party

In introducing the combined initial and second periodic reports, the representative noted that the ratification of the Convention in 1990 had been a catalyst in bringing changes to achieve gender equality in Belize. Since that date, small but consistent steps had been taken to comply with the articles of the Convention. She also noted that the report reflected the combined effort of the Government and non-governmental organizations.

The representative placed the implementation of the Convention in the context that Belize operated a Church-State education system, and that the Church's role in influencing gender attitudes was important.

In presenting the status of implementation of the Convention, the representative noted that the Constitution provided protection against discriminatory treatment and required State policies to eliminate economic and social privilege and disparity among citizens on grounds that included sex. She underlined that the current Government was the first to have a women's agenda. No national laws or policies on affirmative action, temporary special measures or quotas existed in the country, and women continued to experience unequal access to opportunities and resources. The Government aimed at achieving a rate of at least 30 per cent women in senior-level positions in the public service. The Political Reform Commission was expected to submit recommendations on political reform in Belize by the end of the year, including on affirmative action and special temporary measures.

The representative drew attention to the National Strategic Plan on Gender Equity and Equality, which had been developed to promote implementation of the Government's commitments under the Beijing Declaration

and Platform for Action. It focused on five priority areas: family violence; employment; health; decision-making; and poverty. Belize would soon adopt the Commonwealth gender management system, as a major component of the Plan. A domestic violence task force had been established and was developing a national plan to address domestic violence and family violence in an integrated and coordinated manner. Legislation on sexual harassment and domestic violence existed and a legislative bill on marital rape was being introduced in the House of Representatives. A plan of action had been developed for instituting the gender management system in the health sector. She noted that there was growing concern about the level of prostitution in the light of the fact that Belize had the highest rate of transmission of the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) in Central America.

While women comprised 52 per cent of registered voters, and increasingly were candidates for public office, women's representation at the parliamentary level and local government level remained low. For example, out of 29 elected members of the House of Representatives, two were women, and out of 58 municipal representatives, eight were women. The number of women in appointed positions was also below that of men. The National Women's Commission had conducted a study on opportunities for women's political participation, and recommendations would be submitted to the Cabinet and to other governmental and non-governmental bodies.

Education in Belize was mandatory at the primary level for children between the ages of 5 and 14. While children under 14 showed a higher male enrolment rate (70.1 per cent) than female (67.2 per cent), the female transition rate from primary to secondary school was, in general, higher (90 per cent) than for male students (78.8 per cent). This pattern was reversed in rural areas, and regional differences were noted. More female students enrolled in tertiary education, with 65 per cent of the students at the University College of Belize being women. It was noted that pregnancy

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<sup>63</sup> Contained in document A/54/38/Rev.1.

was a major cause of girls discontinuing their education. With individual schools under the Church-State system of education free to expel girls from school because of pregnancy, the Government recognized the need to develop a national policy on teenage pregnancy.

While there were no discriminatory labour laws, discriminatory attitudes persisted, resulting in a female workforce that was better educated than the male workforce but earned less on average. Women's participation in the labour force was lower than men's, and women were concentrated in lower-paying jobs, suffered twice the unemployment rate of men and were more likely to experience long-term unemployment. Different minimum wage regulations applied to different types of jobs, and certain types of female-dominated work were not covered by minimum wage regulations. Efforts were under way to improve the employment situation of women, including through training in non-traditional jobs. In contravention of existing labour regulations, schools operating under the Church-State system were allowed to dismiss unwed pregnant women before they qualified for maternity leave.

The representative noted that teenage pregnancy was high, with 23 per cent of births having been to women under 19 years of age. Abortion was illegal in Belize, and while the use of contraception was not prohibited, data suggested that the unmet need for contraception was high. Women's HIV/AIDS infection rate was higher than men's, and women affected by AIDS were a major target group of the awareness and prevention programmes of the Government's AIDS task force.

Belize had a high number of consensual and common-law unions as opposed to marital unions, but de facto spouses could not claim maintenance after the breakup of a relationship, and their claims to family property were limited, including on the death of the de facto spouse.

The representative noted that sexual harassment, access to continuing education for young mothers, equal pay for work of equal value, gender-neutral teaching materials and health services for women required greater effort. Increased compliance with existing laws and policies was also required in a number of areas, including domestic violence and sexual offences. The variety of family types and structures in Belize required that all segments of society take responsibility for narrowing the gap in family laws and practice. Concluding the presentation, the representative indicated that the reporting process had enabled the State party to identify areas of priority action to eliminate all forms of discrimination against women.

## **(b) Concluding comments of the Committee**

### **Introduction**

The Committee expresses its appreciation to the Government of Belize for ratifying the Convention in 1990 without reservations, and for submitting its initial and second periodic reports, as well as supplemental information updating the reports to 1999. It commends the Government for its oral presentation, and for the comprehensive replies to the Committee's questions. It appreciates the open manner in which the report was prepared and presented, and in particular the consultative process with non-governmental and other organizations during the preparation of the report.

The Committee commends the Government of Belize for having sent a large delegation, headed by the Minister of Human Development, Women and Youth, and including the First Lady as President of the National Women's Commission, and a representative of the Women's Issues Network. Their participation in presenting the report and in replying to the Committee's questions enhanced the quality of the constructive dialogue between the State party and the Committee. The Committee notes that the report refers to steps taken by the Government to implement the Beijing Platform for Action.

### **Positive aspects**

The Committee notes that the Constitution of Belize contains, in its chapter on the protection of the fundamental rights and freedoms, protection against discriminatory treatment on the basis of sex. It commends the Government on its commitment to achieving equality for women and the full implementation of the Convention, as reflected in its Women's Agenda 1998 on the legal, socio-political and economic status of women. It welcomes the Government's target of realizing at least 30 per cent women in the top positions of the civil service.

The Committee commends the fact that responsibility for women's equality issues rests with a Cabinet Minister. It welcomes the appointment of the National Women's Commission, an advisory body to the Government Minister responsible for women, as the main mechanism for monitoring governmental compliance with the Convention. It also commends the cooperation between governmental machinery and non-governmental organizations in the implementation of the Convention.

The Committee welcomes the legislative and policy measures already undertaken, as well as those that are being planned to translate its commitment to gender equality into practice. It welcomes the preparation of the National

Strategic Plan on Gender Equity and Equality to implement the Government's commitments under the Beijing Platform for Action. It also welcomes the Domestic Violence Act (1993), the Protection from Sexual Harassment Act (1996) and the Families and Children's Act (1998). It notes with appreciation the establishment of a domestic violence task force, and the Government's ongoing development of a multi-sectoral national family violence plan.

The Committee congratulates the Government on the high level of educational achievement by girls and women, as reflected in the female transition rate from primary to secondary school, and in the high enrolment rate of women (65 per cent) at the University College of Belize.

### **Factors and difficulties affecting the implementation of the Convention**

The Committee is of the view that the Church-State system of education perpetuates an intermingling of the secular and religious spheres, which is a serious impediment to the full implementation of the Convention. The consequences of this system seriously affect girls' and women's right to education and to health, including reproductive health, protected under the Convention.

The Committee notes that the multi-ethnic and multi-cultural character of the population of Belize and the influence of religion in public affairs represent a particular challenge to the Government in the adoption and implementation of legislation for the achievement of equality for all women in Belize, and full implementation of the Convention.

### **Principal areas of concern and recommendations**

The Committee is concerned about the lack of legislation implementing the constitutional provision of protection against discrimination into the civil code. In particular, the Committee is concerned that article 1 of the Convention, providing a definition of discrimination, covering both direct and indirect discrimination by public as well as private actors, is not fully reflected in legislation.

The Committee urges the Government to ensure that the Convention's definition of discrimination is fully incorporated in Belize's legislation, and in particular to ensure that women have effective remedies against indirect discrimination and discrimination by non-State actors.

The Committee is seriously concerned about the consequences of the Church-State system of education on girls' and young women's right to education. In this regard, the Committee is concerned that schools are free to expel girls

from school because of pregnancy, and that only a few secondary schools allow girls to continue their education after pregnancy. The Committee notes that this violates not only the Convention but also the Constitution of Belize. The Committee is further concerned that under the same system, schools are allowed to dismiss unwed teachers who become pregnant. The Committee considers this also to be in violation of the Convention. While noting with appreciation the Minister's commitment, expressed during the dialogue, to work for change in this regard, the Committee notes the absence of any kind of policy or legislative initiative to reverse this situation.

The Committee urges the Government to place the highest priority on eliminating discrimination against women and girls in education because of pregnancy, through both legislative provisions and adequate policy measures. It calls on the Government to strengthen the role of the National Council of Education in protecting girls' and teachers' rights in education. It urges the Government to formulate needed policy and legislative measures to ensure de facto adherence to articles 10, 11 and 12 of the Convention.

While welcoming the Government's commitment to establishing a single minimum wage, the Committee expresses its concern that female-dominated jobs currently have a substantially lower minimum wage than jobs held predominantly by men. The Committee is also concerned about the economic situation of women and, especially, their low and falling labour force participation rate, which is indicative of the denial of equal opportunities to women in the labour force. Sixty per cent of women are not in the labour force, and the unemployment rate of women is double that of men. The lack of childcare increases women's disadvantage in the labour market.

The Committee encourages the Government to implement a single minimum wage. It recommends that a national childcare policy be developed to support working mothers. It also urges the Government to assess the reasons for women's lower earnings, and for their voluntary departure from the labour market with a view to adopting adequate measures to reverse this trend. The Committee also encourages the Government to intensify its programmes for women entrepreneurs, including access to loans, credits and skill development, as well as to ensure that educational and vocational training opportunities for girls include non-traditional and emerging areas of the economy, such as the information and communications field. The Committee also invites the Government to ensure that women can fully exercise their right to unionize, and that all applicable legislation in this regard is enforced, including in special economic zones. The Committee urges the Ministry of Women's

Affairs to initiate dialogue with the Ministry of Labour, with a view to ensuring proper implementation and monitoring of existing labour laws, to enable women to benefit from the employment protection found in these laws.

The Committee is concerned at the high incidence of teenage pregnancy, with 23 per cent of births in 1998 being to women under 19 years of age, which, in combination with the prevention of teenage mothers from pursuing their education, is predestined to reduce women's economic opportunities and thus increase their level of poverty. The fact that 60 per cent of births to young women are unplanned is indicative of the lack of adequate family planning information and contraceptive use. The Committee is also concerned at the restrictive abortion laws in place in the State party. It is concerned that, in 1998, so-called "unspecified abortions" (abortions initiated outside the formal health sector) were the fifth cause of hospitalization, and hospitals discriminate against these women in the provision of services and care. In this regard, the Committee notes that the level of maternal mortality due to clandestine abortions may indicate that the Government does not fully implement its obligations to respect the right to life of its women citizens. The Committee is concerned that, while there are no legal barriers, the need for contraception remains unmet.

The Committee urges the Government to revise its abortion laws, in particular since according to the information, existing legislation penalizing abortion is not strictly enforced. It also urges the Government to include age-appropriate sex education in school curricula and to conduct awareness campaigns so as to reduce teenage pregnancy rates and to increase girls' and women's life choices. The Committee also urges the Government to implement programmes and policies aiming to increase knowledge about, and availability of, various types of contraceptives, with the understanding that family planning is a joint responsibility of both partners.

The Committee is concerned at the high incidence of HIV/AIDS infection in the country.

The Committee recommends that the Government implement awareness-raising programmes and policies about the prevention of HIV/AIDS and encourage the use of condoms.

The Committee invites the Government to assess the mental health status of women in Belize, and to include information thereon in its next report.

Noting the recent revision of the Criminal Code with regard to repealing the need for corroborating evidence in sexual offence cases, including rape, the Committee

remains concerned that the existing provision demands higher evidentiary requirements in these cases than for other crimes. The Committee is concerned that this constitutes a serious impediment to women seeking justice in sexual offence cases, and thus to the elimination of discrimination.

The Committee recommends that the Criminal Code be kept under review with a view to placing sexual offence and violence on a par with other criminal offences. It also urges the Government to ensure that investigation and prosecution of rape and sexual offence cases are conducted as rigorously as in other criminal cases. The Committee urges the Government to seek, as a priority, the repeal in the Criminal Code of the marital immunity relating to rape.

The Committee is concerned at the differential treatment of married, common-law, and "visiting" spouses under common law with regard to the distribution of matrimonial property following the break-up of the relationship.

The Committee recommends a revision of this situation, taking into account the examples of civil law systems and community of matrimonial property approaches.

The Committee notes a lack of data disaggregated by sex and age, including a breakdown by urban and rural categories, on health issues, illiteracy rates and the situation of immigrant women.

The Committee recommends that the Government improve data collection through its census to create a better basis for gender-sensitive policy-making, and to that end that it seek technical and financial support from international agencies.

The Committee commends the Government for the introduction of the Commonwealth gender management system to ensure that a gender perspective is reflected in all governmental policies and programmes, and requests that an assessment of progress made in this regard be included in the next report.

The Committee requests that the Government respond in its next periodic report to the specific issues raised in these concluding comments.

The Committee requests the wide dissemination in Belize of the present concluding comments, in order to make the people of Belize, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the further steps that are required in that regard. It also requests the Government to continue to dis-



seminate widely, and in particular, to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and Platform for Action.

## **Combined second and third periodic reports**

### **Ireland**

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#### **(a) Introduction by the State party**

The representative of Ireland began his introduction by emphasizing Ireland's involvement of women in politics, giving the example of the election of their second successive woman President, which followed an election in which four of the five candidates were women. Although the number of women in Parliament was still lower than desired, the Second Commission on the Status of Women had made several recommendations to the Government and political parties were seeking to increase women's representation. The representative explained that the 1998 Employment Equality Act outlawed discrimination on nine grounds, including gender, marital status, family status, sexual orientation and membership in the "traveller" community.

The representative described the role of women in the labour force, noting the participation of women in the civil service and policies with regard to sexual harassment, childcare, parental leave, work sharing and part-time work. He noted that childcare was seen as one of the most important ways of reconciling work and family life, and a working group had been established to report on that. He described the national development plan on equal opportunities between women and men.

The representative noted that the educational system enabled each person to fulfil her or his potential, and was reinforced by the Education Act of 1998, which made specific provisions for the promotion of equality of access to and participation in education. The Equality Committee of the Department of Education and Science had been established to monitor and coordinate activities relating to equality of opportunity for girls and boys in education. It was also developing strategies for mainstreaming gender equality and had also addressed the under-representation of women in decision-making positions in education. Following research and a series of pilot courses designed specifically for women interested in seeking promotion to decision-making positions, more women had been appointed to senior positions, but the Government recognized that more women in top management positions were still required.

The representative described the National Anti-Poverty

Strategy and its key objective of reducing inequalities and focusing on the gender dimensions of poverty. Single-parent and single-adult households were given particular attention in the Strategy. The representative noted that women in both urban and rural areas experienced problems arising from poverty and marginalization, and that women's and community groups had an important role in tackling those problems.

The Committee was informed that Ireland's five reservations to the Convention were being kept under regular review. The reservation to article 13 (b) and (c) concerning access to financial credit and recreational facilities would be lifted when an equal status bill, which would prohibit discrimination in areas other than employment, was enacted. The removal of the reservation relating to contracts entered into by women was also expected.

The representative informed the Committee that in 1993, the Government had established a task force to examine the needs of "traveller", which had resulted in a report containing over 300 recommendations. The report recommended the examination of gender implications in order to ascertain how policies and practices contributed to or hampered progress for "traveller" women. Proposals for future initiatives would be monitored and resources would be made available for the collection and collation of data. The representative noted that the health of "traveller" women was a priority area, that outreach services and on-site and special clinics had been introduced or were in the planning stages and that the Primary Health Care for Travellers Project established in 1994 trained "traveller" women in the delivery of primary health-care services.

The representative indicated that measures, including the Refugee Act of 1996, had been introduced to deter discrimination against refugees and asylum seekers. Measures to address vulnerable categories of refugees, such as victims of trauma, torture or rape, had also been introduced.

The representative informed the Committee about the new women's prison that had been built to replace existing inadequate accommodation. Education, work-training and physical education facilities for female prisoners had also been introduced.

The representative indicated to the Committee that in order to meet women's health needs fully, the Plan for Women's Health, 1997-1999, had been developed. Its four main objectives include maximizing the health and social gains for Irish women; creating a woman-friendly health service; increasing consultation with, and representation of, women in health services; and enhancing the contribution of the health services to promoting women's health in the

developing world. The plan had been supplemented by the establishment of a Women's Health Council, which provided for women's participation in the policy-making processes.

The representative noted that violence against women continued to be of grave concern to the Government, and had led to the establishment in 1997 of the National Steering Committee on Violence against Women. Its objectives included the development of public-awareness campaigns, criminal justice intervention, services and support. Regional Committees on Violence had been formed in the eight Health Board regions and were designed to draw together the services available to women to provide a sympathetic and consolidated approach to the treatment of victims of violence. Rape crisis centres were regarded as vital for the victims of rape and sexual abuse.

In concluding, the representative indicated that Ireland had supported a strong optional protocol during negotiations, and expected to ratify it as soon as the protocol was adopted and opened for signature, accession or ratification.

## **(b) Concluding comments of the Committee**

### **Introduction**

The Committee expresses its appreciation to the Government of Ireland for submitting its combined second and third periodic report, containing data disaggregated by sex. It commends the Government for the comprehensive written replies to the Committee's questions and its oral presentation which provided additional information on the current situation of the implementation of the Convention. It appreciates the manner in which the State party identified areas for further progress.

The Committee commends the Government of Ireland for having sent a large delegation, headed by the Second Secretary of the Department of Justice, Equality and Law Reform, and including officials from various branches of Government. Their participation enhanced the quality of the constructive dialogue between the State party and the Committee. The Committee notes that information was provided in the combined second and third periodic report, as well as in the written replies, on Ireland's follow-up to the Beijing Declaration and Platform for Action.

### **Positive aspects**

The Committee commends the Government on its steady progress in withdrawing reservations entered to the Convention upon ratification, and on the fact that remaining reservations are kept under review.

The Committee welcomes legislative changes since the consideration of the initial report in 1989, including the adoption of the Criminal Law (Rape) (Amendment) Act (1990), the Criminal Justice Act (1993), the Domestic Violence Act (1996), the Parental Leave Act (1998), the Education Act (1998) and the Employment Equality Act (1998) and the forthcoming entry into force of the Equal Status Bill, published in April 1999. In particular, the Committee welcomes the amendment to the Constitution allowing for the introduction of divorce, and the subsequent adoption of the Family Law (Divorce) Act of 1996. The Committee also notes the pending establishment of an independent statutory-based Human Rights Commission, as well as consideration of the incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms into Irish law.

The Committee notes with appreciation the appointment, in 1993, of a Cabinet Minister for Justice, Equality and Law Reform, responsible for institutional, administrative and legal reform and for coordinating and monitoring government policies with regard to women's equality. It welcomes the Government's commitment to mainstreaming a gender perspective into all policies and programmes, and the regular scrutiny of all governmental proposals for their impact on women. It also welcomes the issuance of guidelines for dealing with sexual harassment in the civil service, and the adoption of a plan of action on elderly women.

The Committee notes with appreciation that women have benefited from a strong economic growth rate in recent years and have entered the labour market in unprecedented numbers. The Committee welcomes the Government's commitment to reaching the target of a minimum of 40 per cent of women on each State board, and the increase to over 33 per cent of Irish women in the elections to the European Parliament in June 1999.

### **Factors and difficulties affecting the implementation of the Convention**

The Committee considers that the persistence of the emphasis on the role of women as mothers and caregivers tends to perpetuate sex role stereotypes and constitutes a serious impediment to the full implementation of the Convention. The lack of emphasis, in public perception and in State policy, on the shared responsibility of men for family and caring work further compounds the situation of de facto inequality of women.

### **Principal areas of concern and recommendations**

The Committee notes that although Ireland is a secular

State, the influence of the Church is strongly felt not only in attitudes and stereotypes but also in official State policy. In particular, women's right to health, including reproductive health, is compromised by this influence. The Committee notes that Ireland did not enter a reservation to article 12 upon ratification of the Convention. The Committee recommends implementation of this article in full.

The Committee expresses its concern that, notwithstanding recent favourable economic growth, which has led to women's labour force participation reaching 40 per cent, there is a considerable age gap in that participation, with almost no women over the age of 50 years in paid employment. It is also concerned that women hold the majority of part-time jobs and earn less than men, and that little progress is being made in assessing and valuing work of comparable value.

The Committee urges the Government to ensure that legislation and policies create the structural and systemic framework that will lead to women's long-term participation in the labour force on a basis of equality with men. In particular, the Committee urges the Government to take further measures to reduce the pay gap in women's earnings, taking into account developments that have refined the concepts of equal pay for work of comparable value, and to assess the impact of cultural stereotypes and women's reproductive responsibilities on the continuing pay gap.

While welcoming the Government's recent focus on developing and adopting family-friendly, childcare and parental leave policies to facilitate women's participation in the labour market, the Committee expresses its concern that these policies continue to place primary responsibility for family work and childcare on women, rather than emphasizing the shared responsibility of men and women.

The Committee urges the Government to monitor and review its work and family life policies and legislation so as to ensure that they create incentives and opportunities for women and men to share, equally, paid work outside the home and unpaid family work. In particular, the Committee recommends that such regulations and policies be accompanied by awareness-raising and educational efforts aimed at changing attitudes concerning women's traditional roles and responsibilities for child and family care. It also recommends that parental leave regulations be assessed with a view to providing for paid parental leave so as to create an incentive for men to take advantage of their legal entitlements.

While noting with appreciation the existence of a Plan for Women's Health, 1997-1999, and the establishment of a Women's Health Council, as well as the wide availability of

various programmes to improve women's health, the Committee is concerned that, with very limited exceptions, abortion remains illegal in Ireland. Women who wish to terminate their pregnancies need to travel abroad. This creates hardship for vulnerable groups, such as female asylum seekers who cannot leave the territory of the State.

The Committee urges the Government to facilitate a national dialogue on women's reproductive rights, including on the restrictive abortion laws. It also urges the Government to further improve family planning services and the availability of contraception, including for teenagers and young adults. It also urges the Government to promote the use of condoms to prevent the spread of HIV/AIDS.

Noting that a National Steering Committee on Violence against Women has been established to develop a national strategy to this issue, the Committee is concerned that no comprehensive and multidimensional strategy has yet been adopted to prevent and eliminate violence against women.

The Committee requests the inclusion in the next report of comprehensive statistical information on the types and frequency of violence against women, including domestic violence, the number of complaints brought by women and the results of investigations. The Committee also requests detailed information on sexual harassment against women in the workplace, and on means of redress available to and used by women and the results thereof.

The Committee notes with concern that women continue to be under-represented in public and political life, and that structural and attitudinal reasons, including limiting cultural and social values, difficulties in reconciling family life, paid employment and political tasks, have been identified among the reasons for this low representation.

The Committee urges the Government to make full use of temporary special measures in accordance with article 4.1 of the Convention to increase women's participation in politics and decision-making. It also recommends that the Equal Status Bill (1999) be implemented to provide for temporary special measures to overcome systemic and indirect discrimination against women. The Committee recommends awareness-raising and educational measures to redress cultural stereotypes, increase men's sharing of domestic work and encourage mentoring, networking and support systems to facilitate women's entry into public life.

The Committee recommends that the impact of such legislation and policies on achieving equality for women be rigorously monitored and regularly assessed and evaluated with a view to taking corrective action when and if necessary. The Committee requests that detailed information on

these policies, including data disaggregated by sex, a discussion of methodologies and of indicators used and of their impact on women's equality, be included in the next report.

The Committee encourages the Government to ensure that the Convention on the Elimination of All Forms of Discrimination against Women is included in the terms of reference of the Human Rights Commission, and that the Commission is made up of a balanced number of women and men.

The Committee expresses its concern about the continuing existence, in article 41.2 of the Irish Constitution, of concepts that reflect a stereotypical view of the role of women in the home and as mothers. It is aware that amendments to this article are being considered by the Parliamentary Committee on Constitutional Reform. The Committee also notes with concern that the constitutional guarantee of non-discrimination does not extend to private, non-State actors.

The Committee emphasizes that article 5 of the Convention stipulates that all appropriate measures to modify the social and cultural patterns of conduct of men and women be taken, with a view to the elimination of prejudices and customary and all other practices that are based on stereotyped roles for men and women. The Committee calls upon the Government to ensure that the Parliamentary Committee on Constitutional Reform is fully aware of Ireland's obligations under the Convention, including article 5.

The Committee requests that the next report provide comprehensive information, including statistical data covering life expectancy, literacy rates, employment and property rights, on the situation of rural women. Noting with concern that a recent poverty survey did not provide data disaggregated by sex, the Committee requests that a detailed analysis be included in the next report of the causes, forms and extent of women's poverty and its intergenerational perpetuation, as well as of the impact of measures to reduce and eliminate women's poverty in general and that of vulnerable groups of women in particular.

The Committee is concerned about the lack of sex-disaggregated data on members of the academic profession with respect to different fields and levels. This is necessary to assess women's advancement in higher education. It is also concerned about the inadequacy of information provided on women's studies in tertiary education in Ireland.

The Committee requests that the next report provide sex-disaggregated data on academic personnel in the universities, as well as information on the activities and pro-

grammes on women's studies centres, particularly with respect to whether or not they grant degrees and to what extent gender and women's studies courses are integrated into the curricula of conventional disciplines in tertiary education.

Noting the recent and extensive legislative developments in Ireland as they pertain to women's equality, the Committee also notes that there is a need for continuing and ongoing training of the judiciary, including magistrates, on gender sensitivity.

The Committee encourages the Government to ensure, through various means and channels, that gender training is not only an integral part of Law School curricula but that it is also part of the continuing education of legal professionals and the judiciary. It also encourages the Government to ensure that an adequate number of women are selected for appointment to specialized courts, such as family courts.

The Committee requests that the Government responds in its next periodic report to the specific issues raised in these concluding comments.

The Committee requests the wide dissemination in Ireland of the present concluding comments, in order to make the people of Ireland, and in particular government administrators and politicians, aware of the steps that have been taken to ensure *de jure* and *de facto* equality for women and the further steps that are required in that regard. It also requests the Government to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and Platform for Action.

## **Second and third periodic reports**

### **Chile**

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#### **(a) Introduction by the State party**

In her statement, the representative of the Government of Chile described the social, cultural and political context in which the Government of Chile was implementing the Convention and informed the Committee of the institutional arrangements made since the restoration of democracy. She recalled that Chile had established the first governmental mechanism for women in the Office of the President of the Republic in 1949. She stressed that the establishment of the National Office for Women's Affairs (SERNAM) in 1991 had been a decisive factor in incorporating a gender perspective into public policy and consolidating the principle of

the equality of Chilean women, with effect throughout the country through regional offices.

Referring to the activities carried out by SERNAM in the legislative sphere, the representative stressed that one of the milestones of the century in terms of the status of Chilean women was the recently approved reform of the Constitution which established the legal equality of women and men at the highest legislative level by amending articles 1 and 19. With regard to family law, she referred to the adoption of the Domestic Violence Act of 1994; in order to facilitate the implementation of that Act, an inter-ministerial commission on the prevention of domestic violence, coordinated by SERNAM, had been established. She drew attention to the Act issued in October 1998 which, in an important reform for the future of the boys and girls of today, amended the Civil Code and other pieces of legislation with respect to filiation.

The representative said that, in order to guarantee equality between husbands and wives at the personal level and in respect of property, the 1994 Act established the sharing of assets acquired during a marriage as an alternative marital property regime.

The representative drew attention to the implementation of the Equal Opportunity Plan for Women, 1994-1999, which had been incorporated into the Government's programme in 1995 and had become the main tool for implementing the Convention and the Platform for Action adopted at the Fourth World Conference on Women, Beijing, in 1995. She also singled out for mention the proposals for policies on equal opportunities for rural women which SERNAM had drawn up in conjunction with civil society.

The representative of Chile stressed the commitment of the democratic Governments to overcome extreme poverty in Chile and in that respect reported that SERNAM had initiated a vocational training programme for low-income women, particularly women heads of household, which had helped to reduce the number of poor households in Chile, through the economic contribution of women.

The representative also stressed that significant legal changes had been made and major programmatic action carried out in the labour sphere, both in respect of access and improvement of the conditions for the entry of women into the labour market, and in the promotion of shared family responsibilities and the protection of maternity. She said that SERNAM was continuing to carry out the programme for temporary women workers in order to bring the public sectors into line with their needs and provide them with leadership training so as to increase their visibility. Among the legislative advances, she mentioned the amendment of the Labour Code to provide day care serv-

ices to working women and the protection of maternity leave for domestic workers.

The representative drew attention to the considerable progress made as regards the health of Chilean women and girls, stressing the reduction in maternal mortality to 0.2 per 100,000 live births. She acknowledged the incidence of teenage pregnancy and mentioned the special days for community dialogue on emotional health and sexuality, based on a new educational approach, which SERNAM had launched, in cooperation with other State bodies, for the purpose of preventing such situations. She also said that induced abortion was a public health problem in Chile, where it was estimated that one abortion was performed for every four pregnancies, and where abortion was the second leading cause of maternal mortality, even though Chilean law prohibited and penalized all types of abortions.

The representative also informed the Committee of the progress made in the political participation of women in various bodies and institutions in the three areas of State power, especially the grass-roots level, although that participation remained very limited in decision-making bodies, such as the Supreme Court or the Senate. She referred to the efforts made by various groups with a view to ensuring the increased participation of women in the Congress. She also reported that the criteria of equality of opportunities for male and female employees had been incorporated in various government ministries.

The representative referred to the efforts made by SERNAM to achieve the institutionalization of the gender dimension in the public policies of the State. In that respect, she indicated that SERNAM had carried out a growing task of sensitization and training in the gender perspective for public officials and had implemented programmes for the dissemination of women's rights by establishing women's rights information centres in all regions of Chile.

In conclusion, the representative pointed out that the Government of Chile was in the process of elaborating another Equal Opportunity Plan for Women, which would cover the 10-year period 2000-2010, in order to ensure that policies on equality were not dependent on the Government in office but rather became policies of State. She stressed that the Plan would be prepared with the participation of all sectors of Chilean society.

## **(b) Concluding comments of the Committee**

### **Introduction**

The Committee expresses its appreciation to the

Government of Chile for its second and third periodic reports, and, in particular, for including in the third periodic report data requested by the Committee during its consideration of the initial report. The Committee commends the comprehensive and detailed replies to its questions, which were accompanied by statistical data prepared with input from the ministries and government offices responsible for the areas in question and from a group of women's non-governmental organizations and thematic networks. The Committee also appreciated the oral presentation, which demonstrated with transparency and sincerity the progress achieved, the obstacles encountered and the constraints which have still to be overcome before the *de jure* and *de facto* equality of Chilean women is achieved. In both cases, the Committee gained a broader picture of the overall status of the implementation of the Convention.

The Committee pays tribute to the Government of Chile for its decision to send a delegation headed by the Director-Minister of the National Office for Women's Affairs and composed of experts in the areas of the Convention. The Committee notes that both the third periodic report and the answers given to Committee members' questions include information on fulfilment of the commitments under the Beijing Platform for Action.

### **Positive aspects**

The Committee congratulates the Government of Chile on the adoption of a number of legislative reforms, including the amendment of articles 1 and 19 of the Constitution of the Republic on the equality of women and men; the Domestic Violence Act; reforms to improve the conditions of access to employment and training, working hours and social benefits for female workers, including domestic workers; and reforms of the Civil Code pertaining to family law. These reforms improve legal equality between husband and wife by establishing a regime of shared assets, introduce a joint family estate and provide for equal treatment of children, whether or not they are born in wedlock.

The Committee commends the Government for the political will it has displayed in implementing the Convention; in strengthening SERNAM by continuing its programmes as a decentralized government office in the country's 13 regions and granting it, in addition, budgetary autonomy; and in adopting the Equal Opportunity Plan for Women and implementing it nationally.

The Committee also commends the adoption of policies and the implementation of a number of government actions and programmes with a view to ensuring the equality of the girl child and of women in education, resulting in a national literacy rate of 94.6 per cent. The Committee commends

policies aimed at improving the living conditions of temporary female workers and providing job training to youth of both sexes; the scholarship programme for women heads of household; and the high level of primary health-care coverage. The Committee welcomes the Government's decision to mainstream the gender perspective in all social programmes in order to integrate it in the definition and adoption of government policies and to incorporate the principle of equality in various spheres, thereby creating a solid basis for gender equity.

The Committee commends the efforts made by the Government of Chile both to disseminate information concerning women's human rights in the various social spheres and to uphold those rights. It also notes with satisfaction the actions taken with the participation of all governmental sectors and civil society aimed at preventing and combating domestic violence and which include the establishment of a special unit in the Department of Police and the creation of 17 specialized offices in the judiciary.

The Committee notes with satisfaction the follow-up to the implementation of the recommendations and decisions of the world conferences of the 1990s, including the Fourth World Conference on Women, held in Beijing.

### **Factors and difficulties affecting the implementation of the Convention**

The Committee notes that despite the important role Chilean women have played in the defence of human rights and in the restoration of democracy in their country, the persistence of stereotypes and traditional attitudes that were aggravated by the after-effects of 20 years of military dictatorship has slowed down the full implementation of the Convention.

### **Principal areas of concern and recommendations**

The Committee is concerned at the failure to protect women under family law, which restricts, *inter alia*, women's ability to administer their own or joint property. The Committee is also concerned at the absence of any provision for dissolution of marriage. These are seriously discriminatory of women both in their family relations and in the full exercise of their economic and social rights.

The Committee recommends that the Government introduce and support vigorously legislation which permits divorce, allows women to remarry after divorce, and grants women and men the same rights to administer property during marriage and equal rights to property on divorce. It also recommends that women be granted the right to initiate divorce on the same terms as men.



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**Division for the Advancement of Women  
Department of Economic and Social Affairs**

United Nations  
New York, NY 10017, USA  
Fax: (212) 963-3463  
Home page: <http://www.un.org/womenwatch/daw>  
E-mail: [daw@un.org](mailto:daw@un.org)

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