

GENDER
and
INTERNATIONAL
HUMAN RIGHTS LAW



Legal Assistance Centre
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INTRODUCTION

1. WOMEN'S RIGHTS AS HUMAN RIGHTS

"Women's rights are human rights" has become an important rallying cry for women around the world in the 1990s. It expresses both women's determination to claim our full birthright as one half of humanity and our exasperation that such an obvious assertion has taken so long to gain international acceptance. As the recognition of women's and girl's human rights has grown over the past decade, so too has the need for more works that explore and expound upon their meaning.

The idea that women's rights are human rights is at once both simple and complex. Its power lies in the fact that it is simultaneously ordinary and revolutionary. On the one hand, it makes common sense to declare that as human beings, women and girls have human rights. On the other hand, it is a radical reclamation of our humanity and right to equality which has transformative potential. The full incorporation of women's and girls' lives into human rights concepts and practice exposes the failure of countries worldwide to accord females the human dignity and respect they deserve simply as human beings. A human rights framework also provides tools to define, analyze, and articulate women's experiences of violation and to demand redress in ways already recognized by the international community. Finally it provides a common framework for bringing together women's diverse experiences and developing a wide array of strategies for change.

excerpt from **Charlotte Bunch**, Forward
"Local Action/Global Change: Learning About
the Human Rights of Women and Girls"

Women's rights initially received very little emphasis at the international level. One of the early bodies established in the young UN was the Commission on the Status of Women, which was set up in 1948. But the first draft of the Universal Declaration of Human Rights exhibited a fair degree of gender insensitivity by starting off its first article with the statement "All men are brothers." Thanks to the efforts of the Commission on the Status of Women (and Eleanor Roosevelt) the draft was changed – first to apply to "all people" and finally to "all human beings". The Universal Declaration of Human Rights – like its progeny, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Political Rights (both adopted in 1966) – explicitly forbade discrimination on the basis of sex, but there was little attention to the specific needs and concerns of women. It was 13 more years before the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) articulated women's rights as human rights in detail, in 1979.

This initial neglect of women's rights is not surprising. When the UN Charter was adopted, only 35 of the initial 51 member states gave women political rights equal to those possessed by men, and men were the dominant political actors throughout the world. Women's rights became prominent on the international agenda only with the rise of national women's

movements in many countries during the 1970s. This led to the declaration of 1975 as International Women's Year, which was such a success in throwing an international spotlight on women's issues that it was followed by a UN Decade for Women which covered the next 10 years. This stimulated the convening of a series of world conferences on women – the first at Mexico City in 1975, followed by the second at Copenhagen in 1980 and the third in Nairobi in 1985, where the Nairobi Forward-Looking Strategies for Women were adopted by government delegations from 157 countries.

Against this background, the 1993 World Conference on Human Rights in Vienna was a turning point. Although this was a conference on human rights in general, significant attention was devoted to women's rights as human rights. The Vienna Declaration stated: The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in the political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex, are priority objectives of the international community.

The next milestone was the Fourth World Conference for Women in Beijing, where Namibia played a prominent role with our Minister of Women Affairs and Child Welfare being chosen to act as the Rapporteur-General for the entire conference. The Beijing Platform for Action which was adopted at that conference was further elaborated at "Beijing +5", a special session of the UN General Assembly that took place in 2000.

Meanwhile, efforts were underway to ratify CEDAW, which has been described as an international bill of rights for women. It came into force in 1981 and had 166 signatories by the year 2000. Namibia is one of the few nations in the world that has ratified CEDAW with no reservations. Namibia also stands out as the first country to ratify the Optional Protocol to CEDAW which gives individuals and groups the right to complain directly to the UN about violations of the Convention, as well as giving investigative powers to the committee which monitors CEDAW in instances of grave or systematic abuse of women's human rights.

These international developments gave rise to a corresponding emphasis on women's rights at the regional level. In 1998, the Organisation of African States (now the African Union) appointed a Special Rapporteur on the Rights of Women to give special attention to women's rights in Africa. In 2003, after years of discussion and preparation, the African Union adopted a Protocol to the African Charter for Human and Peoples' Rights on the Rights of Women in Africa.

The Southern African Development Community (SADC) has followed suit, with the adoption of a Declaration of Gender and Development in 1997, supplemented in 1998 by an Addendum on the Prevention and Eradication of Violence against Women and Children. The SADC documents are not legally binding, however. SADC has also established a series of structures to facilitate the mainstreaming of gender into regional and national policies.

One specific gender issue which has been received special emphasis at the international and regional level is violence against women. This topic is singled out for attention here because it is one of Namibia's foremost human rights problems.

Knowledge of relevant international and regional agreements on gender is important in Namibia, because (as explained in more detail below) the Namibian Constitution gives them the force of law in Namibia once the government has agreed to them.

The remainder of this booklet will look at these developments in more detail. The booklet does not cover every international agreement relevant to gender, but rather focuses on key agreements. The texts of these key international agreements and other official documents are printed on coloured paper for easier reference.

“The struggle for gender equality is actually a struggle for justice and human rights; and, as in the rest of the world, the struggle for justice and human rights is never completed. Even in those countries which are regarded as mature democracies, the struggle for justice and human rights is still continuing; the women remain discriminated in those democracies. This is not to say that the battle against gender-based discrimination and injustices will not be overcome. Rather, it is a warning that we must prepare ourselves for a long drawn-out struggle against the forces of tradition, conservatism and reaction. Our success in the struggle for gender equality is certain, as long as we remain constantly aware of the urgency to achieve this goal and are prepared to continue the necessary actions to this end.”

President Sam Nujoma
SADC Council of Ministers Meeting,
Windhoek, February 1997

“The movement for gender equality the world over has been one of the defining developments of our times.”

UN Secretary-General Boutros Boutros-Ghali, 15 September 1995

“Empowering women means not only better lives for women, but better lives for all.”

UN Secretary-General Kofi Annan, 2001

TRANSFORMING HUMAN RIGHTS FROM A GENDER PERSPECTIVE

The lack of understanding of women's rights as human rights is reflected in the fact that few governments are committed, in domestic or foreign policy, to women's equality as a basic human right. No government determines its policies toward other countries on the basis of their treatment of women, even where aid and trade decisions are said to be based on a country's human rights record. Among non-governmental organizations women are rarely a priority and women's human rights are viewed as special interests, while violations that affect smaller numbers of people are considered "general". This separation of women's rights from human rights has perpetuated the secondary status of women and highlights the importance of recognizing women's human rights concerns.

Women's human rights are violated in a variety of ways. Sometimes, of course, women suffer abuses (such as political repression) in ways that are much the same as those inflicted on men. But since the dominant image of the political actor in our world is male, the problem for women is visibility. Most women's experiences of human rights violations are gendered, and many forms of discrimination or abuse occur because the victim is female. Women whose rights are being violated for reasons other than gender (as political prisoners or members of persecuted ethnic groups) often experience a particular form of abuse based on gender, such as sexual assault. The women's human rights movement has focused primarily on abuses where gender is a primary or related factor because these have been the most invisible and offer the greatest challenge to the human rights movement.

The United Nations Universal Declaration of Human Rights, adopted in 1948, defines human rights broadly and symbolises a world vision of respect for the humanity of all people. While not much is said about women, Article 2 does entitle all to the rights and freedoms set forth in the Declaration without distinction of any kind, including sex. Further, when read from the perspective of women's lives, many violations of women's rights such as rape and battering can readily be interpreted as forbidden under existing clauses such as 'No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.' The problem is that little elaboration of these rights has been made from the point of view of women, and therefore we have no significant body of international human rights law and practice in this area. Thus the dominant definitions of human rights and the mechanisms to enforce them in the world today are ones that pertain primarily to the types of violations that the men who first articulated the concept most feared. These definitions have tended to exclude much of women's experiences (and that of many nonelite men as well) because these groups have not been well represented in human rights discourse.

Human rights, however, like democracy and all vibrant visions, are not static, nor are they the property of any one group. While these concepts began in a particular historical moment and were defined in terms of the needs of a limited sector of the population, their dynamism and ongoing relevance stem from the fact that more people are claiming them and, in the process, expanding the meaning of "rights" to incorporate their own hopes and needs. Much of the creativity of the human rights movement over the past forty years has come from expanding the concept to address areas such as racial discrimination, disappearances, socio-economic rights, and the collective right to a sustainable environment. So, too, women are transforming the concept of human rights to address the degradations and violations that are a fundamental threat to our human dignity and right to life, liberty and security of person.

Because those Western-educated propertied men who first advanced the cause of human rights most feared the violation of their civil and political rights in the public sphere, this area of violation has been privileged in human rights work. They did not fear, however, violations in the private sphere of the home because they were the masters of that territory. Public civil rights are certainly important to women, who are even more often denied them since women's access to the public sphere is curtailed in many ways. Yet for most women and many men, the violations that daily threaten our human rights are not so narrowly confined. Much of the abuse of women is part of a larger socio-economic and cultural web that entraps women, making them vulnerable to abuses that cannot be delineated as exclusively political or solely caused by states. The indivisibility of rights and the inclusion of the so-called second generation (or socio-economic) human rights to food, shelter,

and work (clearly delineated as part of the UN Universal Declaration of Human Rights) are therefore vital to addressing women's concerns fully.

The assumptions that states are not responsible for violations of women's rights in the private or cultural sphere ignores the fact that such abuses are often condoned or even sanctioned by states even when the immediate perpetrator is a private citizen. The distinction between public and private is a dichotomy largely used to justify female subordination and to exclude human rights abuses in the home from public scrutiny. Yet human rights activists readily pressure states to prevent other forms of abuse, such as slavery and racial discrimination, that also occur in the private sphere at the hands of private actors and have often been proclaimed cultural traditions or matters of national sovereignty.

When women are denied democracy and human rights in private, their human rights in the public sphere also suffer, since what occurs in "private" shapes their ability to participate fully in the public arena. For example, in some countries state policies deny women the right to travel or leave the country without approval from their fathers, their husbands, their brothers, or even their sons. Few of those who have protested the refusal of governments to allow people to leave their countries at will have recognised this form of violation. Other women, whether they live in the North or the South, cannot exercise their right to freedom of assembly by attending political meetings or participating in development projects without fear of being beaten or locked up by their partners. Such violations are reported regularly, yet there is no outcry in the name of human rights about the denial of these women's rights to political participation, to assembly, to free speech and citizenship.

Excluding sex discrimination and violence against women from the human rights agenda also results from a failure to see the oppression of women as political. Female subordination runs so deep that it is still viewed as inevitable or natural rather than as a politically constructed reality maintained by patriarchal interests, ideology, and institutions. The physical territory of this political struggle is women's bodies. The importance of control over women can be seen in the intensity of resistance to laws and social changes that put control of women's bodies in the women's hands: reproductive rights; freedom of sexuality, whether heterosexual or lesbian; laws that criminalize rape in marriage; and so on. Abusing women physically maintains this territorial domination and is sometimes accompanied by other forms of human rights abuse such as slavery (forced prostitution), sexual terrorism (rape) or imprisonment (confinement to the home).

The real questions are: Who defines legitimate human rights issues and who decides where the state should enter and for what purposes? Women's voices have been missing from these decisions for too long. Good governance demands that women from diverse groups participate in developing such policies. In order to respond to the brutal and systematic violation of women globally, governments and the human rights community must move beyond male-defined norms, a move that requires examining gender biases and acknowledging the rights of women as human rights. Governments must seek to end the politically and culturally constructed wars on women, rather than continuing to perpetuate them. Every state has the responsibility to intervene in the abuse of women's rights within its borders and to end its collusion with the forces that perpetuate such violations in other countries.

from **Charlotte Bunch**, "Transforming Human Rights from a Feminist Perspective"
in Julie Peters and Andrea Wolpe, eds, *Women's Rights Human Rights:
International Feminist Perspectives* (1995)

2. PROVISIONS OF THE NAMIBIAN CONSTITUTION ON INTERNATIONAL AGREEMENTS

Article 32(3)(e) gives the President of Namibia to “negotiate and sign international agreements, and to delegate such power”.

Article 63(2)(e) of the Namibian Constitution gives the National Assembly the power “to agree to the ratification of or accession to international agreements which have been negotiated and signed in terms of Article 32(3)(e) hereof”.

Article 144 states:

Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding on Namibia under this Constitution shall form part of the law of Namibia.

This means that international agreements in Namibia are *self-executing*. They have the force of law in Namibia as soon as they become binding on Namibia at the international level – it is not necessary to wait for a Namibian statute to give effect to them. Namibia and Malawi are the only SADC states to include such provisions in their Constitutions.

Article 143 provides that “All existing international agreements binding upon Namibia shall remain in force unless and until the National Assembly acting under Article 63(2)(d) hereof otherwise decides.”

3. USING INTERNATIONAL COMMITMENTS IN NATIONAL COURTS

African courts have actively applied international human rights commitments when interpreting the scope of fundamental rights contained in constitutional bills of rights in their respective countries, even where those commitments have not been incorporated into national law.

Below are some cases that illustrate the possibility that international human rights norms can be successfully used to influence domestic human rights jurisprudence:

- *Namunjepo v. Commanding Officer, Windhoek Prison* (Namibia) - The Namibian Supreme Court made reference to the *Convention against Torture* and the *International Covenant on Civil and Political Rights* to determine whether the use of chains on prisoners was constitutional. In deciding that such treatment was inhuman and degrading, the Court noted that the values of the Namibian population should be considered. However, it also said that acceptance of these international human rights instruments by the Namibian Parliament should be seen as an expression of the values of Namibians. (*Case citation: 1999 NR 271*)
- *Ephrahim v. Pastory* (Tanzania) – This case involved a constitutional challenge to a Tanzanian customary law that prevented women from selling clan land. The High Court of Tanzania relied on the *Convention on the Elimination of all Forms of Discrimination against Women*, the *International Covenant on Civil and Political Rights*, and the *African*

Charter on Human and Peoples' Rights in holding that the equality guarantees in the Tanzanian Bill of Rights override customary law. The Court used the international commitments to strengthen its case that the customary law in question was contrary to the Tanzanian Bill of Rights. (Case citation: [1990] LRC (Const) 757)

- *Dow v. Attorney General* (Botswana) – In this case, the Botswana Court of Appeal considered a statute under which children of a woman (but not a man) married to a foreigner were denied citizenship. The Court decided that the Botswana Constitution prohibits discrimination based on sex and that the provisions in question were discriminatory. In making this decision, the Court cited *Convention on the Elimination of all Forms of Discrimination against Women* and the *African Charter on Human and People's Rights*. Even though neither of these instruments had been incorporated into Botswana law, the Court found they should be used as an aid to construction and interpretation. (Case citation: [1992] LRC (Const) 623)
- *Dawood v. Minister of Home Affairs* (South Africa) – South African courts have consistently used international human rights instruments by virtue of section 39 of the South African Constitution, which mandates the use international law as a guide to the interpretation of the Bill of Rights. This case considered the constitutionality of a statutory provision saying that an immigration permit could be granted to a spouse of a South African citizen residing in South Africa only if that spouse had a valid temporary residence permit. This provision resulted in long periods of separation for many spouses. Although the South African Constitution does not explicitly protect the right to family life or the right to cohabit, the Constitutional Court relied on the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *African Charter on Human and People's Rights* in finding that the right to family life and the right to cohabit was protected by the South African Constitution and that there was a constitutional violation in this case. (Case citation: 2000 (1) SA 997)

PART A: INTERNATIONAL COMMITMENTS

1. BACKGROUND

International agreements are referred to by various names – such as “treaties”, “conventions”, “covenants” and “accords”. Such terminology is not used consistently, and the title given to the agreement generally has no particular legal effect. The term “international agreements” is a general term that can be used for all such international instruments. This is the term used in the Namibian Constitution.

Generally, the first step in the creation of an international agreement is the negotiation of a text, which can be a long and difficult process. This usually takes place in an international forum, such as the United Nations. Usually a draft text is discussed, amended and modified through a process of consultation, bargaining and compromise, until a sufficient degree of consensus is reached. The text is then adopted by the negotiating states. (**Adoption** does not make the agreement binding, but indicates acceptance of the text for consideration by states.) Written records of the formal negotiations are kept. These records are called the *travaux préparatoires* (French for preparatory works), and they can be very helpful in interpreting the final text.

The Constitutions of some countries set forth the processes required to bring treaties into force in that state. The treaty itself will sometimes say what procedure is required to bring it into force in individual states. In some cases, signature by the head of state is sufficient to bind the state to the treaty. If so, this is referred to as a “definitive signature”. More commonly, “signature” by a state expresses an intent to become bound by the treaty at a later stage – once appropriate domestic procedures, such as approval by the legislature, have been carried out.

Ratification is the international act whereby a state formally indicates its consent to be bound by a treaty, where the treaty itself is not yet in force. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The treaty itself will often provide that it will come into force once a specified number of ratifications have been deposited. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty at the domestic level and to enact the necessary legislation to give domestic effect to that treaty.

Accession is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. Accession normally occurs after the treaty has entered into force. It has the same legal effect as ratification.

Sometimes a state will enter **reservations** to a treaty. This means that the state accepts the multilateral treaty in general, but refuses to bind itself to compliance with particular provisions. Reservations must not be incompatible with the overall object and purpose of the treaty.

States may also make **declarations** which clarify their understanding of particular provisions. Unlike reservations, declarations do not exclude the legal effect of such provisions but simply explain the state's interpretation of them.

In terms of international law, a state is not bound by a treaty until the instrument of ratification or accession has been **deposited** with the appropriate institution. For example, the Secretary-General of the United Nations is the depository of many multilateral treaties. Other examples of depositories are international organizations or the government of the state where the treaty was signed.

The **date of entry into force** of an international treaty does not necessarily coincide with the date of its ratification/accession by an individual state, or with the date that the instrument of ratification/accession is deposited by that state. It is common for multilateral treaties to provide that a fixed number of states must agree to the treaty before it will enter into force. Some treaties provide for additional conditions to be satisfied, such as specifying that a certain category of states must be among the nations which have agreed. The treaty may also provide for an additional time period to elapse after the required number of countries have expressed their consent or the conditions have been satisfied.

Human rights treaties are often followed by **optional protocols** which may either provide for procedures relating to the treaty, or address a substantive area related to the treaty. Optional protocols to human rights treaties are treaties in their own right, and are open to signature, accession or ratification by countries who are party to the main treaty.

Some international agreements have such widespread acceptance that they are regarded as “**international customary law**”. This means that their standards are applied universally, even where there has been no specific acceptance by a particular state. For example, the Universal Declaration of Human Rights is widely considered to have become part of international customary law. In terms of the Namibian Constitution, the “general rules of public international law” as well as “international agreements binding upon Namibia” form part of the law of Namibia.

The international customary law relating to international agreements has been codified in two treaties: the 1969 Vienna Convention on the Law of Treaties, which contains rule for treaties concluded between states, and the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (which has not yet entered into force internationally). As of 1 August 2004, Namibia had not yet agreed to either of these treaties, but they are still relevant to Namibia as statements of international customary law.

2. THE UNITED NATIONS

WHAT IS THE UNITED NATIONS?

The United Nations was established on **24 October 1945** by 51 countries committed to preserving peace through international cooperation and collective security. Today, nearly every nation in the world belongs to the UN: membership now totals 191 countries.

When States become Members of the United Nations, they agree to accept the obligations of the UN Charter, an international instrument which sets out basic principles of international relations. According to the Charter, the UN has four purposes: (1) to maintain international peace and security, (2) to develop friendly relations among nations, (3) to cooperate in solving international problems and in promoting respect for human rights for all “without distinction as to race, sex, language, or religion”, and (4) to be a centre for harmonizing the actions of nations. The UN has played a positive role in helping to resolve international conflicts in many nations around the world.

UN Members are sovereign countries. The United Nations is not a world government, and it does not make laws. It does, however, provide the means to help resolve international conflict and formulate policies on matters affecting the world. At the UN, all the Member States – large and small, rich and poor, with differing political views and social systems – have a voice and a vote in this process.

HOW THE UN WORKS

The United Nations has six main organs. Five of them – the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council and the Secretariat – are based at UN Headquarters in New York. The sixth, the International Court of Justice, is located at The Hague in The Netherlands.

General Assembly

All UN Member States are represented in the General Assembly – a kind of parliament of nations which meets to consider the world’s most pressing problems. Each Member State has one vote. Decisions on “important matters,” such as international peace and security, admitting new members, the UN budget and the budget for peacekeeping, are decided by two-thirds majority. Other matters are decided by simple majority. In recent years, a special effort has been made to reach decisions through consensus, rather than by taking a formal vote. The Assembly cannot force action by any State, but its recommendations are an important indication of world opinion and represent the moral authority of the community of nations.

Security Council

The UN Charter gives the Security Council primary responsibility for maintaining international peace and security. The Council may convene at any time, day or night, whenever peace is threatened. Under the Charter, all Member States are obligated to carry out the Council’s decisions. There are 15 Council members. Five of these – China, France, the Russian Federation, the United Kingdom and the United States – are permanent members. The other 10 are elected by the General Assembly for two-year terms. Member States have discussed making changes in Council membership to reflect today’s political and economic realities. Decisions of the Council require nine yes votes. Except in votes on procedural questions, a decision cannot be taken if there is a no vote, or a veto, by a permanent member.

When the Council considers a threat to international peace, it first explores ways to settle the dispute peacefully. It may suggest principles for a settlement or undertake mediation. In the event of fighting, the Council tries to secure a ceasefire. It may send a peacekeeping

mission to help the parties maintain the truce and to keep opposing forces apart. The Council can take measures to enforce its decisions, such as economic sanctions or an arms embargo. On rare occasions, the Council has authorized Member States to use “all necessary means”, including collective military action, to see that its decisions are carried out.

Economic and Social Council

The Economic and Social Council, under the overall authority of the General Assembly, coordinates the economic and social work of the United Nations and the UN family of structures. As the central forum for discussing international economic and social issues and for formulating policy recommendations, the Council plays a key role in fostering international cooperation for development. It also consults with non-governmental organizations (NGOs), thereby maintaining a vital link between the United Nations and civil society. The Council has 54 members, elected by the General Assembly for three-year terms.

Trusteeship Council

The Trusteeship Council was established to provide international supervision for eleven Trust Territories administered by seven Member States and ensure that adequate steps were taken to prepare the Territories for self-government or independence. By 1994, all Trust Territories had attained self-government or independence, either as separate States or by joining neighbouring independent countries. The last to do so was the Trust Territory of the Pacific Islands (Palau), administered by the United States, which became the 185th Member State of the UN. Its work completed, the Trusteeship Council now consists only of the five permanent members of the Security Council. It has amended its rules of procedure to allow it to meet as and when occasion requires.

International Court of Justice

The International Court of Justice, also known as the World Court, is the main judicial organ of the UN. Consisting of 15 judges elected by the General Assembly and the Security Council, the Court decides disputes between countries. Participation by States in a proceeding is voluntary, but if a State agrees to participate, it is obliged to comply with the Court's decision. The Court also provides advisory opinions to the General Assembly and the Security Council upon request.

Secretariat

The Secretariat carries out the substantive and administrative work of the United Nations as directed by the General Assembly, the Security Council and the other organs. At its head is the Secretary-General, who provides overall administrative guidance. The Secretariat consists of departments and offices with a total staff of about 8900 under the regular budget, drawn from some 160 countries.

The UN system

The International Monetary Fund, the World Bank group and twelve other independent organizations known as “specialized agencies” are linked to the UN through cooperative

agreements. These agencies, among them the World Health Organization and the International Civil Aviation Organization, are autonomous bodies created by intergovernmental agreement. They have wide-ranging international responsibilities in the economic, social, cultural, educational, health and related fields. Some of them, like the International Labour Organization and the Universal Postal Union, are older than the UN itself.

In addition, a number of UN offices, programmes and funds — such as the Office of the UN High Commissioner for Refugees (UNHCR), the UN Development Programme (UNDP) and the UN Children’s Fund (UNICEF) - work to improve the economic and social condition of people around the world. These bodies report to the General Assembly or the Economic and Social Council.

All these organizations have their own governing bodies, budgets and secretariats. Together with the United Nations, they are known as the UN family, or the UN system. They provide an increasingly coordinated yet diverse programme of action.

information drawn from the official website of the United Nations: www.un.org/aboutun

The chart on the following page illustrates the structure of the United Nations.

EXCERPTS FROM THE UNITED NATIONS CHARTER

PREAMBLE

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

- to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
- to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
- to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
- to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

- to practice tolerance and live together in peace with one another as good neighbours, and
- to unite our strength to maintain international peace and security, and
- to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
- to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I PURPOSES AND PRINCIPLES

Article 1

The **Purposes** of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following **Principles**.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER III ORGANS

Article 7

1. There are established as the principal organs of the United Nations:
 - a General Assembly
 - a Security Council
 - an Economic and Social Council
 - a Trusteeship Council
 - an International Court of Justice
 - and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IX INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.
2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

3. UNITED NATIONS STRUCTURES AND WOMEN

The main characteristic of the present United Nations arrangements for women's advancement are multiplicity of focal points, diffused mandate, limited financial resources and inadequate interaction with national governments ... However, it is a sign of progress that so many parts of the UN family have included 'women' on their agenda.

Katarina Tomasevski, *Women and Human Rights* (1993)

INTRODUCTION

According to one report in the early 1990s, the system of UN focal points on women consisted of a network of officials in 32 units of the UN Secretariat, seven UN programmes, seventeen specialised agencies and ten UN research bodies or inter-agency bodies. In theory, all women's issues should be co-ordinated by the Division for the Advancement of Women, although this has not been entirely successful in practice.

The UN has, however, achieved notable success in giving women's issues visibility worldwide, and in setting international norms for the eradication of gender-based discrimination. By 1991, more than 500 resolutions on women had been adopted by the UN General Assembly and the Economic and Social Council.

UN RESOLUTIONS AND DECISIONS ON WOMEN 1946-1991

	GENERAL ASSEMBLY	ECONOMIC AND SOCIAL COUNCIL	TOTAL
1945-1955	12	15	27
1956-1965	13	10	23
1966-1975	30	68	98
1976-1985	111	107	218
1986-1991	51	118	145
TOTAL	225	318	511

Source: *Division for the Advancement of Women*, background paper, 1991, reprinted in Tomasevski. *Women and Human Rights* (1993)

The sheer number of adopted resolutions is subject to two interpretations: some see them as a tool for advocacy – and an instrument for change, because they constitute the international community's recognition that a problem – such as the status of rural women, or domestic violence – merits its attention, and necessitates international co-operation towards its solution. Others see these resolutions as a substitute, rather than a basis for action, and point to the proliferation of resolutions adopted within the UN and the lack of evidence that these result in the changes that were advocated or requested by them. These are really two sides of the same coin – resolutions can be an instrument for action only if used; tools which if not used serve no purpose.

Katarina Tomasevski, *Women and Human Rights* (1993)

UN COMMISSION ON THE STATUS OF WOMEN

Right after the United Nations was established, one of the first acts of the Economic and Social Council was to set up a Sub-Commission on the Status of Women under the Commission of Human Rights. This Sub-Commission quickly became a full commission in its own right. It met for the first time on 10 February 1947. Its mandate was defined in 1946 as being:

to prepare recommendations and reports to the Economic and Social Council on promoting women's rights in political, economic, civil, social and educational fields. The Commission shall also make recommendation to the Council on urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women shall have equal rights, and to develop proposals to give effect to such recommendations.

The primary object of the Commission is to promote implementation of the principle that men and women shall have equal rights.

The Commission's mandate was expanded in 1987 to include "promoting the objectives of equality, development and peace, monitoring the implementation of measures for the advancement of women, and reviewing and appraising progress made at the national, subregional, regional, sectoral and global levels".

Following the 1995 Fourth World Conference on Women (which is discussed in detail below), the General Assembly further mandated the Commission to integrate into its work programme a follow-up process to the Conference, by regularly reviewing the critical areas of concern in the Platform for Action agreed upon at this Conference.

The Commission, which began with 15 members, now consists of 45 members elected by the Economic and Social Council for four-year terms. Members, who are appointed by Governments, are elected on the following basis: thirteen from African states; eleven from Asian states; four from Eastern European states; nine from Latin American and Caribbean states; and eight from Western European and other states. As of November 2004, Namibia is not amongst the members. The Commission normally meets once a year for a period of eight working days.

The Commission collects and publicizes information on the status of women in individual countries, and adopts resolutions addressed to governments, to other UN organs and to non-governmental organizations. It also prepares draft resolutions for adoption by the General Assembly, and drafts of conventions on issues pertaining to women. For example, one of the first acts of the Commission was to recommend to the General Assembly that states should give women and men equal political rights, and the General Assembly adopted a convention on this issue in 1952. The Commission was more recently responsible for drafting the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

The Commission on the Status of Women also has the power to consider communications addressed to the United Nations on the status of women. These fall into two categories: confidential and non-confidential.

The Secretary General of the United Nations prepares lists of confidential and non-confidential petitions or communications relating to the status of women. These are submitted annually to the Commission on the Status of Women, after being processed by the Division for the Advancement of Women.

In order to be processed for examination as a *confidential communication*, a communication must allege that a particular State has committed violations against women. Such a communication could contain allegations by individuals that they themselves have been the victims of human rights violations,

or allegations by individuals that another identified person or persons have been the victims of human rights violations. Admissible communications may also allege that there is a pattern of violations in a particular country; or identify a problem or problems facing women in several countries. Petitions from the specialized agencies of the United Nations containing communications they have received will also be admitted.

When a confidential communication is received by the Division for the Advancement of Women, an acknowledgement is sent to the author informing her or him that the communication will be dealt with in accordance with the approved procedures. Copies of the UN resolutions setting forth these procedures are sent to the author, and the author is informed that a copy of the communication will be sent to the relevant government. The author's identity is not made known to the government, unless the author agrees to disclosure. The government concerned is also sent copies of the resolutions setting forth the communications procedure and given a deadline for submitting its reply.

The Division for the Advancement of Women submits a summary of all confidential communications together with any government replies to the Commission on the Status of Women, for consideration by its Working Group on Communications.

Non-confidential communications are those dealing with principles relating to the promotion of women's rights in the political, economic, civil, social and educational fields. When these are received by the Division for the Advancement of Women, they are summarized and included in a report submitted to the Commission on the Status of Women, for consideration by its Working Group on Communications.

The Working Group on Communications is composed of five members, who are drawn from the five regional groups of the United Nations (Africa, Asia, Eastern Europe, Latin America and the Caribbean, and Western Europe and Other states). The Working Group considers all the communications and any Government replies with a view to bringing to the full Commission's attention those communications which appear to reveal a consistent pattern of reliably-attested injustice and discriminatory practices against women. The Working Group, which meets in closed session, prepares a report identifying the categories of violations which the communications reveal.

The Working Group's report is submitted to the full Commission on the Status of Women for consideration. Consideration of the report takes place in closed session. After consideration, the Commission may "take note" of the report and/or make recommendations for action to the Economic and Social Council.

The Commission on the Status of Women does not take decisions on the merits of the communications that are submitted to it, and thus the communication procedure does not provide an avenue for the redress of individual grievances. The main purpose of the communications procedure of the Commission on the Status of Women is to provide a source of information about violations against women that can assist the Commission in its task of policy formulation and development of further strategies for the advancement of women.

The Commission's communication procedure is different from the communications procedure under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which can result in the adoption of views and recommendations relating to individual cases by the Committee on the Elimination of All Forms of Discrimination against Women.

Information from **John Humphrey**, *No Distant Millennium: The International Law of Human Rights* (UNESCO 1989),
<http://www.un.org/womenwatch/daw/csw/index.html>

DIVISION FOR THE ADVANCEMENT OF WOMEN

The Division for the Advancement of Women was established in 1946. In 1972, it became part of the UN's newly created Centre for Social Development and Humanitarian Affairs in Vienna. In 1993, the Division moved to New York where it now forms part of the Department of Economic and Social Affairs. The Division for the Advancement of Women was responsible for the preparations for the four World Conferences on Women (Mexico 1975, Copenhagen 1980, Nairobi 1985, Beijing 1990).

The mission statement of the Division for the Advancement of Women is as follows:

Grounded in the vision of equality of the United Nations Charter, the Division advocates the improvement of the status of women of the world and the achievement of their equality with men. It aims to ensure the participation of women as equal partners with men in all aspects of human endeavour. It promotes women as equal participants and beneficiaries of sustainable development, peace and security, governance and human rights. It strives to stimulate the mainstreaming of a gender perspective both within and outside the United Nations system.

The following are some of the functions of the Division:

- It is a catalyst for advancing the global agenda on women's issues and for mainstreaming a gender perspective in all sectors. It works closely with governments, its partners in the United Nations system and civil society.
- It conducts research and develops policy options, fosters interaction between governments and civil society and provides substantive servicing for United Nations intergovernmental and expert bodies.
- It aims to strengthen communication between the international and national policy-making processes and the women of the world by awareness and consciousness-raising and the promotion of international standards and norms and the sharing of best practices.
- It supports the implementation of the Nairobi Forward-Looking Strategies, the Beijing Platform for Action, the outcome of the 23rd Special Session of the General Assembly (Beijing + 5), relevant recommendations of other global conferences and their reviews; and relevant decisions taken by the General Assembly, Economic and Social Council and the Commission on the Status of Women.

The Division also:

- provides substantive services to the Commission on the Status of Women and to the expert treaty body which monitors the implementation of the legal standards in the Convention on the Elimination of all Forms of Discrimination against Women;
- assists the Committee on the Elimination of Discrimination against Women to achieve equality between women and men;
- promotes and supports the mainstreaming of a gender perspective into the work of the United Nations system, as well as at the national and regional levels; and
- provides advisory services and technical cooperation programmes to developing countries in connection with its policy work.

Information from <http://www.un.org/womenwatch/daw/daw/index.html>.

4. UNIVERSAL DECLARATION OF HUMAN RIGHTS

BACKGROUND

The moral terrain of international relations was forever altered late one night in Paris, on December 10, 1948, when the General Assembly of the United Nations adopted the Universal Declaration of Human Rights without a single dissenting vote. Early in 1947, with the horrors of two world wars fresh in their memories, a remarkable group of men and women gathered, at the behest of the newly formed United Nations, under the chairmanship of Eleanor Roosevelt, to draft the first “international bill of rights.” So far as the Great Powers of the day were concerned, the main purpose of the United Nations was to establish and maintain collective security in the years after the war. The human rights project was peripheral, launched as a concession to small countries and in response to the demands of numerous religious and humanitarian associations that the Allies live up to their war rhetoric by providing assurances that the community of nations would never again countenance such massive violations of human dignity. Britain, China, France, the United States, and the Soviet Union did not expect these assurances to interfere with their national sovereignty.

In the years that followed, to the astonishment of many, human rights would become a political factor that not even the most hard-shelled realist could ignore. The Universal Declaration would become an instrument, as well as the most prominent symbol, of changes that would amplify the voice of the weak in the corridors of power. It challenged the long-standing view that a sovereign state’s treatment of its own citizens was that nation’s business and no one else’s. It gave expression to diffuse, deep-seated longings and lent wings to movements that would soon bring down colonial empires. Its thirty concise articles inspired or influenced scores of postwar and postcolonial constitutions and treaties, including the new constitutions of Germany, Japan, and Italy. It became the polestar of an army of international human rights activists, who pressure governments to live up to their pledges and train the searchlight of publicity on abuses that would have remained hidden in former times. Confirming the worst fears held in 1948 by the Soviet Union and South Africa, the Declaration provided a rallying point for the freedom movements that spurred the collapse of totalitarian regimes in Eastern Europe and the demise of apartheid. It is the parent document, the primary inspiration, for most rights instruments in the world today.

Together with the Nuremberg Principles of international criminal law developed by the Allies in 1946 for the trials of German and Japanese war criminals and the 1948 Genocide Convention, the Universal Declaration of Human Rights became a pillar of a new international system under which a nation’s treatment of its own citizens was no longer immune from outside scrutiny. The Nuremberg Principles, by sanctioning prosecutions for domestic atrocities committed in wartime, represented a determination to punish the most violent sorts of assaults on human dignity. The Genocide Convention obligated its signers to prevent and punish acts of genocide, whether committed in times of war or in peace. The Universal Declaration was more ambitious. Proclaiming that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind,” it aimed at prevention rather than punishment.

Today, the Declaration is the single most important reference point for cross-national discussions of how to order our future together on our increasingly conflict-ridden and interdependent planet. But time and forgetfulness are taking their toll. Even within the international human rights movement, the Declaration has come to be treated more like a monument to be venerated from a distance than a living document to be re-appropriated by each generation. Rarely, in fact, has a text been so widely praised yet so little read or understood.

The Declaration marked a new chapter in a history that began with the great charters of humanity’s first rights moment in the seventeenth and eighteenth centuries. The British Bill of Rights of 1689, the U.S. Declaration of Independence of 1776, and the French Declaration of the Rights of Man and Citizen of 1789 were born out of struggles to overthrow autocratic rule and to establish governments based on the consent of the governed. They proclaimed that all men were born free and equal and

that the purpose of government was to protect man's natural liberties. They gave rise to the modern language of rights.

From the outset, that language branched into two dialects. One, influenced by continental European thinkers, ... had more room for equality and "fraternity" and tempered rights with duties and limits. It cast the state in a positive light as guarantor of rights and protector of the needy. Charters in this tradition ... combined political and civil rights with public obligations to provide relief for the poor. In the late nineteenth and early twentieth centuries, as continental European Socialist and Christian Democratic parties reacted to the harsh effects of industrialization, these paternalistic principles evolved into social and economic rights.

The Anglo-American dialect of rights language emphasized individual liberty and initiative more than equality or social solidarity and was infused with a greater mistrust of government. The differences between the two traditions were mainly of degree and emphasis, but their spirit penetrated every corner of their respective societies.

When Latin American countries achieved independence in the nineteenth century, these two strains began to converge. Most of the new nations retained their continental European-style legal systems but adopted constitutions modelled on that of the United States, supplementing them with protections for workers and the poor. The Soviet Union's constitutions took a different path, subordinating the individual to the state, exalting equality over freedom, and emphasizing social and economic rights over political and civil liberty.

In 1948 the framers of the Universal Declaration achieved a distinctive synthesis of previous thinking about rights and duties. After canvassing sources from North and South, East and West, they believed they had found a core of principles so basic that no nation would wish openly to disavow them. They wove those principles into a unified document that quickly displaced all antecedents as the principal model for the rights instruments in force in the world today.

When read as it was meant to be, namely as a whole, the Declaration's vision of liberty is inseparable from its call to social responsibility ... Its organic unity was, however, one of the first casualties of the cold war. The United States and the Soviet Union could not resist treating the Declaration as an arsenal of political weapons: each yanked its favourite provisions out of context and ignored the rest. What began as expediency hardened into habit, until the sense of an integrated body of principles was lost. Today the Declaration is almost universally regarded as a kind of menu of rights from which one can pick and choose according to taste.

The fact that nations and interest groups increasingly seek to cast their agendas or justify their actions in terms of human rights is one measure of the success of the human rights idea. Nearly every international dispute today sooner or later implicates human rights; nearly every exercise of military force claims some humanitarian justification. Yet the more the Declaration is pulled apart and politicised, the higher the risk that protect of human rights will become a pretext for imposing the will of the strong by armed intervention or economic pressure.

One of the most common and misfortunate misunderstandings today involves the notion that the Declaration was meant to impose a single model of right conduct rather than to provide a common standard that can be brought to life in different cultures in a legitimate variety of ways. This confusion has fostered suspicion of the Universal Declaration in many quarters, and lends credibility to the charge of Western cultural imperialism so often levelled against the entire human rights movement.

The growing hostility between the United States and the USSR was only one of many daunting obstacles confronted by the Declaration's drafters. They had to surmount linguistic, cultural, and political differences and overcome personal animosities as they strove to articulate a clear set of principles with worldwide applicability. Their final product, they all acknowledged, was imperfect, yet they succeeded well enough to give the lie to claims that peoples with drastically opposed worldviews cannot agree upon a few common standards of decency.

from the Preface to *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*,
by **Mary Ann Glendon** (2001)

DRAFTING AND ADOPTING THE DECLARATION

In June 1946, the United Nations established a Human Rights Commission composed of members representing eighteen member states: five permanent seats were allocated to the USA, the Soviet Union, the UK, France and China, and the other thirteen seats were to be rotated at three-year intervals among the other members of the United Nations, with the seats being held initially by Australia, Belgium, Byelorussia, Chile, Egypt, India, Iran, Lebanon, Panama, the Philippines, Ukraine, Uruguay and Yugoslavia. Eleanor Roosevelt, wife of the late US President Franklin D Roosevelt, was elected as the first Chairperson of the Commission. This new body was given the task of preparing an international bill of rights and suggesting means for its implementation. The Commission decided to focus its energies on framing a set of international human rights standards, leaving the problem of implementation for a later stage.

There were many splits of opinion within the Commission – between the Soviet bloc and the Western nations, between the more philosophically-minded delegates and the more practically-oriented ones, between representatives of small or weak nations and those from more powerful countries. The US-Soviet divide was dominant.

The Commission studied all the constitutions and rights documents existent in the world at that stage. It also considered the proposals, models and drafts that poured in from governments, non-governmental organisations and individuals in a range of different countries.

A panel of leading world philosophers was put together to provide input into the drafting process. This group sent out a questionnaire on universal human rights to statesmen and scholars around the world. Several respondents from non-Western countries noted that the sources of human rights were present in their cultural traditions, even though rights terminology was a relatively modern Western development. Gandhi was among many who emphasised the importance of including duties alongside rights. He wrote to the panel, giving the following advice:

I learned from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be a usurpation hardly worth fighting for.

Somewhat to the panel's surprise, the lists of basic rights and values that it received from its far-flung correspondents were broadly similar. They concluded that the principles underlying the draft Declaration were present in many cultural and religious traditions, though not always expressed in terms of rights — the members of the United Nations, in spite of their different philosophical, political and economic systems, did indeed share “common convictions on which human rights depend”.

No one underestimated the political differences which divided the world's nations. The challenge facing the Commission was to articulate a rights framework which was definite enough to be a meaningful guide to action, while remaining flexible enough to apply to a wide variety of nations at different stages of social and political development.

The draft Declaration included the *first-generation political and civil rights* which had dominated the British, French and American declarations of rights from the seventeenth and eighteenth centuries, as well as *second-generation economic and social rights* found in late nineteenth and early-twentieth century constitutions such as those of Sweden, Norway, the Soviet Union and some Latin American countries. The draft was submitted to the UN's Economic and Social Council, and then to the UN's Social, Humanitarian and Cultural Affairs Committee which had the task of presenting it for approval to the entire UN General Assembly. This Committee debated each clause of the draft at great length, approving some and amending others, before approving the Declaration.

In December 1948, when the Declaration of Human Rights was put to a vote in the UN General Assembly, the United Nations had 58 member states – twenty-two from the Americas, sixteen from Europe, five from Asia, eight from the Near and Middle East, four from Africa (Egypt, Ethiopia, Liberia and South Africa) and three from Oceania. In the General Assembly, after more debate took place, each member nation was polled on each article of the Declaration separately. In an astonishing display of international agreement, twenty-three out of thirty articles gained unanimous approval. There were a few abstentions and a handful of nay votes on the articles on non-discrimination, the family and the right to freedom of opinion and expression. When it came to the vote on the Declaration as a whole, there were eight abstentions (including all the nations in the Soviet bloc), but no nation went on record as being opposed to the Declaration. The voting record thus supports the document's claim to universality.

THE INFLUENCE OF THE DECLARATION

A continuing point of debate is whether the Universal Declaration of Human Rights is a 'Western' document which has been imposed on the world as a form of cultural imperialism. Many people living in non-Western nations or under colonial rule, especially in sub-Saharan Africa, were not represented in the United Nations in 1948, and most of the Declaration's rights first appeared in documents from Europe or from North or South America. However, there was significant participation from developing countries in the preparation of the draft, as well as from Asian countries, Muslim countries and countries with large Buddhist populations. Furthermore, the comprehensive nature of the kinds of rights which were enumerated – such as social and economic rights, the emphasis on family and community, and the coupling of rights and duties – made the document acceptable to nations from Asia and Africa while making a number of Western politicians suspicious of it.

Although the Universal Declaration is not a treaty which nations can accede to, it is significant that most nations which were not members of the UN in 1948 have endorsed it in some way. For example, it is explicitly mentioned in the constitutions of Algeria, Burundi, Burkina Faso, Cameroon, Chad, Congo, Dahomey, Equatorial Guinea, Gabon, Guinea, Ivory Coast, Madagascar, Mali, Mauritania, Niger, Rwanda, Senegal, Somalia and Togo. At the 1993 Vienna Conference on Human Rights, representatives of 171 nations affirmed by consensus their "commitment to the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights".

The Namibian Constitution does not mention the Declaration explicitly, but some of its provisions are obviously modelled on language in the Declaration. The Namibian Constitution

also pledges to “promote amongst all of us the dignity of the individual and the unity and integrity of the Namibian nation among and in association with the nations of the world” (Preamble) and to “foster respect for international law and treaty obligations” (Article 96).

It must be admitted that there are a number of nations and interest groups which use the language of human rights in the service of their own political, economic or military ends. It is prudent to remember that the Declaration was conceived of as a broad standard which would be brought to life in a variety of legitimate ways. As one member of the panel of philosophers which assisted with the drafting put it at the time, many different kinds of music could be played on the document's thirty strings. This flexibility does indeed open the door to political manipulation, but it does not completely erode the force of the common standards articulated in the Declaration for a common humanity. The Universal Declaration of Human Rights is not universally observed, but it continues to have a real and undeniable force in the world. As one of the original drafters stated, the main goal of the Declaration is not merely to punish those who violate human rights but “to build up better human beings”. information based primarily on *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, by Mary Ann Glendon (2001)

There are three reasons why the Universal Declaration of Human Rights is important:

- (1) It is used as a standard of behaviour for all governments.
- (2) Some of the principles in it have been used in other international documents, such as agreements between nations.
- (3) It has influenced the constitutions, laws and court decisions of many nations. For example, some of the ideas in the Namibian Constitution come from it.

Nations in three regions of the world have also used the Universal Declaration of Human Rights as a model for treaties which protect human rights. These are the European Convention on Human Rights and Fundamental Freedoms, the American Convention on Human Rights and the African Charter on Human and People's Rights. Namibia has agreed to follow the African Charter on Human and People's Rights.

from **Law for All**, Volume I , Introduction to Namibian Law 1 (2001)

The Universal Declaration of Human Rights “has retained its place of honour in the human rights movement. No other document has so caught the historical moment, achieved the same moral and rhetorical force, or exerted as much influence on the movement as a whole... the Declaration expressed in lean, eloquent language the hopes and idealism of a world released from the grip of World War II. However self-evident it may appear today, the Declaration bore a more radical message than many of its framers perhaps recognised. It proceeded to work its subversive path through many rooted doctrines of international law, forever changing the discourse of international relations on issues vital to human decency and peace.

Henry Steiner, “Securing Human Rights: The First Half-Century of the Universal Declaration and Beyond” (1998), reprinted in Henry J Steiner & Philip Alston, *International Human Rights in Context* (1996)

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

WHEREAS recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

WHEREAS disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

WHEREAS it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

WHEREAS it is essential to promote the development of friendly relations between nations,

WHEREAS the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

WHEREAS Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

WHEREAS a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 21

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

5. THE TWO INTERNATIONAL COVENANTS

The standards contained in the Universal Declaration of Human Rights were implemented by means of two internationally binding covenants – the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*. The split was primarily a casualty of the cold war which was dividing the world at the time. This division violated the conceptual unity which had characterised the Universal Declaration.

Even with the division of rights into two separate international agreements, the drafting process was still long and difficult. The texts of the two covenants were adopted by the UN General Assembly only in 1966, and it was ten more years before either of them came into force.

The texts of these two Covenants further reinforce the prohibition of discrimination, but contribute little to the articulation of the specific issues affecting women. The approach followed in human rights was generic rather than gender-specific; hence gender discrimination did not have prominence, and women were not addressed as women, but only as child-bearers and child-rearers, namely through the special protection of motherhood. Indeed, much of the United Nations work at the time, not only in human rights, tended to deal with 'women and children', thus reducing women's concerns to motherhood.

Katarina Tomasevski, *Women and Human Rights* (1993)

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

The International Covenant on Civil and Political Rights was adopted in December 1966 by the UN General Assembly. It entered into force ten years later, in March 1976, after 35 member states had ratified it.

This Covenant elaborates on the political and civil rights identified in the Universal Declaration. It includes the right to life (Art.6), the right to freedom and security (Art. 9), and the respect of privacy (Art. 17). It prohibits torture and cruel, inhuman or degrading treatments (Art. 7). It recognises freedom of thought, conscience and religion (Art. 18), freedom of movement (Art. 12), and freedom of association, including the right to form trade-unions (Art. 22). It also guarantees the cultural rights of ethnic minorities (Art. 27).

With respect to women, it makes the principle of equality before the law and the principle of non-discrimination binding (Arts. 2-3). It also provides for equality between men and women at marriage and at its dissolution (Art 6), protects the right to participate in public life without discrimination (Art. 25), and prohibits the use of the death penalty on pregnant women (Art. 23).

Article 28 of the Covenant provides for the establishment of a Human Rights Committee consisting of eighteen independent experts, nominated and elected by states parties to the Covenant but serving in their personal capacities. The Human Rights Committee monitors implementation by examining periodic reports from states parties to the Covenant to verify if they are complying with its provision. It can also consider complaints made by one state against another, provided that both have made a special declaration recognizing this power.

This Committee issues “General Comments” from time to time which explain their interpretation of specific articles of the Convention. In 2000, the Committee adopted a General Comment which elaborates on equality between men and women (replacing a previous comment on this topic which was issued in 1981).

The Covenant has been supplemented by an Optional Protocol that creates an individual complaints procedure for persons whose civil and political rights have been violated. In order to utilize the Optional Protocol, the state being held accountable must have signed the protocol and all means of obtaining redress at the national level must be exhausted. Article 26 of the ICCPR provides that all people are equal before the law and entitled to equal protection of the law without discrimination, and the Human Rights Committee has interpreted this to prohibit discrimination in law or in fact in any field regulated by public authorities. Article 26 can therefore be used to challenge discriminatory laws whether or not they relate to civil and political rights. For example, Article 26 was used as the basis of a communication under the Optional Protocol to challenge a social security law that discriminated on the ground of sex in the case *Broeks v Netherlands*. Women have used the communication procedure under the Optional Protocol to complain to the Human Rights Committee of the UN about sex discrimination in a number of cases.

The ICCPR also has a Second Optional Protocol which advocates the abolition of the death penalty.

As of 9 June 2004, 152 countries had ratified the ICCPR, 104 had ratified the Optional Protocol, and 50 had ratified the Second Optional Protocol. The United States is notably absent from the list of member states. Namibia acceded to the ICCPR and to both Optional Protocols on 28 November 1994, without any reservations or objections.

An example of a Namibian case brought to the Human Rights Committee under the Covenant is that of *Michael Müller v The President of Namibia and the Minister of Home Affairs*. Michael Müller wished to change his surname to that of his wife, Engelhard. He was informed that he could do so by completing the formalities prescribed in section 9(1) of the *Aliens Act*. However, a wife wishing to change her surname to that of her husband could do so without formality. Mr Müller unsuccessfully challenged the constitutionality of this provision in both the High Court and Supreme Court of Namibia, on the basis that this requirement was discriminatory on the basis of sex and violated his right to equality in marriage.

Mr Müller and his wife brought a communication to the UN Human Rights Committee, claiming that they were victims of violations by Namibia of Articles 17(1) (right to privacy), 23(4) (right to equality in marriage), and 26 (prohibition of sexual discrimination) of the ICCPR. The Committee agreed. In a decision dated 26 March 2002, it noted that the reasons for justifying sexual discrimination must be weighty, creating a heavy burden for the state to explain the differential treatment. The Committee failed to see how the gender-based approach of the legislation created greater security for the State. Further, long-standing tradition is not sufficient justification for differential treatment between the sexes. The finding that there was a violation of the ICCPR obliged Namibia, as a party, to bring an effective and enforceable remedy for all individuals within the state and to report back to the Committee. Namibia allowed Mr Müller to change his name without the prescribed formalities, but as of November 2004 has made no changes to the legislation in question. This case shows that, even with a favourable decision from the Human Rights Committee, it is often difficult to ensure that the state responds in a timely and effective manner.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

The *International Covenant on Economic, Social and Cultural Rights* was adopted by the UN General Assembly on 16 December 1966. Like the ICCPR, it entered into force ten years later, in January 1975, after 35 Member States had ratified it.

The Covenant requires states parties to promote the well-being of their citizens (Art. 4). It includes the right to work and professional training (Art. 6), the right to form and join trade unions (Art. 8), the right to social security (Art. 9), the right to health (Art. 12) and the right to education (Art. 13).

With respect to women, the Covenant once again emphasises equality and non-discrimination (Arts. 2-3) and includes the principle of equal pay for equal work (Art. 7). It provides for the protection of motherhood (Arts. 10, 12), and calls for paid maternity leave or leave with adequate social security benefits (Art. 10).

The body which oversees the implementation of the Covenant is the Committee on Economic, Social and Cultural Rights, which was established by the UN's Economic and Social Council in 1985. It is composed of eighteen independent experts nominated and elected by states parties to the Covenant, who serve in their personal capacities. It monitors compliance with the Covenant by examining periodic reports submitted by states parties.

Paralleling what took place under the ICCPR, an Optional Protocol to the ICESCR which would give individuals and groups the right to submit communications concerning non-compliance with the Covenant is under consideration. A draft protocol was completed in 1996 and submitted to the Commission on Human Rights in 1997. However, as of November 2004, no protocol had been adopted.

As of June 9, 2004, 149 countries had ratified the ICESCR with the United States once again being notably absent. Namibia acceded to the ICESCR on 28 November 1994, without any reservations or objections.

Some information for this section came from Elissavet Stamatopoulou, "Women's Rights and the United Nations" in Julie Peters and Andrea Wolpe, eds, *Women's Rights Human Rights: International Feminist Perspectives* (1995)

It is important not to overemphasize the power of international treaties and covenants like the ICCPR. Countries that do not ratify or sign onto international instruments have no obligation to comply with the established rules. Even those countries which do ratify international instruments retain their sovereign power and are the ultimate decision-makers as to whether or not to comply with the... standards laid out in a given document. One observer of United States foreign policy, David Forsythe, writes, "The place of human rights in U.S. foreign policy depends mainly on considerations of power and policy and only tangentially on law. In the interplay of politics and law, politics is the more determinative factor. Little is ever done merely because a legal rule requires action . . .".

Anne M Burton in 3 *Indiana Journal of Global Legal Studies*, 177-207 (1995).

**excerpts from the
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966),
999 U.N.T.S. 171, entered into force Mar. 23, 1976.

PREAMBLE

THE STATES PARTIES TO THE PRESENT COVENANT,

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

RECOGNIZING that these rights derive from the inherent dignity of the human person,

RECOGNIZING that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

CONSIDERING the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

REALIZING that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

AGREE upon the following articles:

PART 1

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; to ensure that any person claiming such a remedy shall have his rights thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (b) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of

the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;
(b) Paragraph 3(a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
(c) For the purpose of this paragraph the term “forced or compulsory labour” shall not include:
 - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize

to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The remainder of the Covenant deals with reporting by nations that have agreed to follow the Covenant ("states parties") and establishes a Human Rights Committee to consider and comment on these reports. Article 41 makes it possible for states parties to declare that they recognize the competence of the Committee to receive and consider communications from state parties alleging that another state party is not fulfilling its obligations under the Covenant. Articles 41 and 42 set forth a procedure for dealing with such communications by means of an ad hoc Conciliation Commission if the matter cannot be otherwise resolved.

Optional Protocol to International Covenant on Civil and Political Rights

**Adopted by General Assembly Resolution 2200 A (XXI)
of 16 December 1966**

Entry into force 23 March 1976 in accordance with Article 9

PREAMBLE

THE STATES PARTIES TO THE PRESENT COVENANT,

CONSIDERING that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementations of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

HAVE AGREED AS FOLLOWS:

Article 1

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to have been victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provisions of the Covenant.
2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.
2. The Committee shall not consider any communication from an individual unless it has ascertained that:

- (a) The same matter is not being examined under another procedure of international investigation or settlement;
 - (b) The individual has exhausted all domestic remedies. This shall not be the rule where the applications of the remedies is unreasonably prolonged.
3. The Committee shall hold closed meetings when examining communications under the present Protocol.
4. The Committee shall forward its views to the State Party concerned and the individual.

Article 6

The Committee shall include in its annual report under Article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514 (XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Covenant is open for signature by any State which has signed the Covenant.
2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. 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 which has ratified or acceded to the Covenant.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, 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 instrument of accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without limitations or expectations.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of

considering and voting upon the proposals. In the event that at least one third of all States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendments 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 which have accepted them, other States Parties still being bound by the provisions of the present Protocol and earlier amendments which they have accepted.

Article 12

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 three 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 3 before the effective date of the denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1 of the Covenant of the following particulars:

- (a) Signatures, ratifications and accessions under article 8;
- (b) The date of the entry into force of the present Protocol under article 9 and the date of entry into force of any amendments under article 11;
- (c) Denunciation under article 12.

Article 14

1. The present Protocol, of which the 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 48 of the Covenant.

Human Rights Committee, General Comment 28

Equality of rights between men and women (article 3)

U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000)

1. The Committee has decided to update its General Comment on Article 3 of this Covenant and to replace General Comment 4 (thirteenth session 1981), in the light of the experience it has gathered in its activities over the last 20 years. This revision seeks to take account of the important impact of this article on the enjoyment by women of the human rights protected under the Covenant.
2. Article 3 implies that all human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality. The full effect of this provision is impaired whenever any person is denied the full and equal enjoyment of any right. Consequently, States should ensure to men and women equally the enjoyment of all rights provided for in the Covenant.
3. The obligation to ensure to all individuals the rights recognized in the Covenant, established in articles 2 and 3 of the Covenant, requires that State parties take all necessary steps to enable every person to enjoy those rights. These steps include the removal of obstacles to the equal enjoyment each of such rights, the education of the population and of state officials in human rights and the adjustment of domestic legislation so as to give effect to the undertakings set forth in the Covenant. The State party must not only adopt measures of protection but also positive measures in all areas so as to achieve the effective and equal empowerment of women. States parties must provide information regarding the actual role of women in society so that the Committee may ascertain what measures, in addition to legislative provisions, have been or should be taken to give effect to these obligations, what progress has been made, what difficulties are encountered and what steps are being taken to overcome them.
4. State parties are responsible for ensuring the equal enjoyment of rights without any discrimination. Articles 2 and 3 mandate States parties to take all steps necessary, including the prohibition of discrimination on the ground of sex, to put an end to discriminatory actions both in the public and the private sector which impair the equal enjoyment of rights.
5. Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of pre-natal sex selection and abortion of female foetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights. States parties should furnish appropriate information on those aspects of tradition, history, cultural practices and religious attitudes which jeopardise, or may jeopardise, compliance with article 3, and indicate what measures they have taken or intend to take to overcome such factors.
6. In order to fulfil the obligation set forth in article 3 States parties should take account of the factors which impede the equal enjoyment by women and men of each right specified in the Covenant. To enable the Committee to obtain a complete picture of the situation of women in each State party as regards the implementation of the rights in the Covenant, this general comment identifies some of the factors affecting the equal enjoyment by women of the rights under the Covenant, and spells out the type of information that is required with regard to these various rights.
7. The equal enjoyment of human rights by women must be protected during a state of emergency (article 4). States parties which take measures derogating from their obligations under the Covenant in time of public emergency, as provided in article 4, should provide information to the Committee

with respect to the impact on the situation of women of such measures and should demonstrate that they are non-discriminatory.

8. Women are particularly vulnerable in times of internal or international armed conflicts. States parties should inform the Committee of all measures taken during these situations to protect women from rape, abduction and other forms of gender based violence.
9. In becoming parties to the Covenant, States undertake, in accordance with article 3, to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant, and in accordance with article 5, nothing in the Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights provided for in article 3, or at limitations not covered by the Covenant. Moreover, there shall be no restriction upon or derogation from the equal enjoyment by women of all fundamental human rights recognized or existing pursuant to law, conventions, regulations or customs, on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.
10. When reporting on the right to life protected by article 6, States parties should provide data on birth rates and on pregnancy and childbirth-related deaths of women. Gender-disaggregated data should be provided on infant mortality rates. States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undertake life-threatening clandestine abortions. States parties should also report on measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings. The Committee also wishes to have information on the particular impact on women of poverty and deprivation that may pose a threat to their lives.
11. To assess compliance with article 7 of the Covenant, as well as with article 24, which mandates special protection for children, the Committee needs to be provided information on national laws and practice with regard to domestic and other types of violence against women, including rape. It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States parties should also provide the Committee information on measures to prevent forced abortion or forced sterilization. In States parties where the practice of genital mutilation exists information on its extent and on measures to eliminate it should be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.
12. Having regard to their obligations under article 8, States parties should inform the Committee of measures taken to eliminate trafficking of women and children, within the country or across borders, and forced prostitution. They must also provide information on measures taken to protect women and children, including foreign women and children, from slavery, disguised inter alia as domestic or other kinds of personal service. States parties where women and children are recruited, and from which they are taken, and States parties where they are received should provide information on measures, national or international, which have been taken in order to prevent the violation of women's and children's rights.
13. States parties should provide information on any specific regulation of clothing to be worn by women in public. The Committee stresses that such regulations may involve a violation of a number of rights guaranteed by the Covenant, such as: article 26, on non-discrimination; article 7, if corporal punishment is imposed in order to enforce such a regulation; article 9, when failure to comply with the regulation is punished by arrest; article 12, if liberty of movement is subject to such a constraint; article 17, which guarantees all persons the right to privacy without arbitrary

or unlawful interference; articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.

14. With regards to article 9 States parties should provide information on any laws or practices which may deprive women of their liberty on an arbitrary or unequal basis, such as by confinement within the house. (See General Comment No 8 paragraph 1.)
15. As regards articles 7 and 10, States parties must provide all information relevant to ensuring that the right of persons deprived of their liberty are protected on equal terms for men and women. In particular, States parties should report on whether men and women are separated in prisons and whether women are guarded only by female guards. States parties should also report about compliance with the rule that accused juvenile females shall be separated from adults and on any difference in treatment between male and female persons deprived of liberty, such as, for example, access to rehabilitation and education programmes and to conjugal and family visits. Pregnant women who are deprived of their liberty should receive humane treatment and respect for their inherent dignity at all times surrounding the birth and while caring for their newly-born children; States parties should report on facilities to ensure this and on medical and health care for such mothers and their babies.
16. As regards article 12, States parties should provide information on any legal provision or any practice which restricts women's right to freedom of movement as, for example, the exercise of marital powers over the wife or parental powers over adult daughters, legal or de facto requirements which prevent women from travelling such as the requirement of consent of a third party to the issuance of a passport or other type of travel documents to an adult woman. States parties should also report on measures taken to eliminate such laws and practices and to protect women against them, including reference to available domestic remedies (See General Comment No 27 paragraphs 6 and 18)
17. States parties should ensure that alien women are accorded on an equal basis the right to submit reasons against their expulsion, and to have their case reviewed as provided in article 13. In this regard, they should be entitled to submit reasons based on gender specific violations of the Covenant such as those mentioned in paragraphs [10 and 11] above.
18. State parties should provide information to enable the Committee to ascertain whether access to justice and the right to a fair trial, provided for in article 14, are enjoyed by women on equal terms to men. In particular States parties should inform the Committee whether there are legal provisions preventing women from direct and autonomous access to the courts (Case 202/1986, *Ato del Avellanal v. Peru* (views of 28 October 1988); whether women may give evidence as witnesses on the same terms as men; and whether measures are taken to ensure women equal access to legal aid, in particular in family matters. States parties should report on whether certain categories of women are denied the enjoyment of the presumption of innocence under article 14, paragraph 2, and on the measures which have been taken to put an end to this situation.
19. The right of everyone under article 16 to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies that the capacity of women to own property, to enter into a contract or to exercise other civil rights may not be restricted on the basis of marital status or any other discriminatory ground. It also implies that women may not be treated as objects to be given together with the property of the deceased husband to his family. States must provide information on laws or practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment.

20. States parties must provide information to enable the Committee to assess the effect of any laws and practices that may interfere with women's right to enjoy privacy and other rights protected by article 17 on the basis of equality with men. An example of such interference arises where the sexual life of a woman is taken into consideration to decide the extent of her legal rights and protections, including protection against rape. Another area where States may fail to respect women's privacy relates to their reproductive functions, for example, where there is a requirement for the husband's authorization to make a decision in regard to sterilization, where general requirements are imposed for the sterilization of women, such as having a certain number of children or being of a certain age, or where States impose a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion. In these instances, other rights in the Covenant, such as those of articles 6 and 7, might also be at stake. Women's privacy may also be interfered with by private actors, such as employers who request a pregnancy test before hiring a woman. States parties should report on any laws and public or private actions that interfere with the equal enjoyment by women of the rights under article 17, and on the measures taken to eliminate such interference and to afford women protection from any such interference.
21. States parties must take measures to ensure that freedom of thought, conscience and religion, and the freedom to adopt the religion or belief of one's choice – including the freedom to change religion or belief and to express one's religion or belief – will be guaranteed and protected in law and in practice for both men and women, on the same terms and without discrimination. These freedoms protected by article 18, must not be subject to restrictions other than those authorized by the Covenant, and must not be constrained by, *inter alia*, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion; States parties should therefore provide information on the status of women as regards their freedom of thought, conscience and religion, and indicate what steps they have taken or intend to take both to eliminate and prevent infringements of these freedoms in respect of women and to protect their rights against any discrimination.
22. In relation to article 19 States parties should inform the Committee of any laws or other factors which may impede women from exercising the rights protected under this provision on an equal basis. As the publication and dissemination of obscene and pornographic material which portrays women and girls as objects of violence or degrading or inhuman treatment is likely to promote these kinds of treatment of women and girls, States parties should provide information about legal measures to restrict the publication or dissemination of such material.
23. States are required to treat men and women equally in regard to marriage in accordance with article 23, which has been elaborated further by General Comment 19 (1990). Men and women have the right to enter into marriage only with their free and full consent, and States have an obligation to protect the enjoyment of this right on an equal basis. Many factors may prevent women from being able to make the decision to marry freely. One factor relates to the minimum age for marriage. That age should be set by the State on the basis of equal criteria for men and women. These criteria should ensure women's capacity to make an informed and uncoerced decision. A second factor in some States may be that either by statutory or customary law a guardian, who is generally male, consents to the marriage instead of the woman herself, thereby preventing women from exercising a free choice.
24. A different factor that may affect women's right to marry only when they have given free and full consent is the existence of social attitudes which tend to marginalize women victims of rape and put pressure on them to agree to marriage. A woman's free and full consent to marriage may also be undermined by laws which allow the rapist to have his criminal responsibility extinguished or mitigated if he marries the victim. States parties should indicate whether marrying the victim

extinguishes or mitigates criminal responsibility and in the case in which the victim is a minor whether the rape reduces the marriageable age of the victim, particularly in societies where rape victims have to endure marginalization from society. A different aspect of the right to marry may be affected when States impose restrictions on remarriage by women as compared to men. Also the right to choose one's spouse may be restricted by laws or practices that prevent the marriage of a woman of a particular religion with a man who professes no religion or a different religion. States should provide information on these laws and practices and on the measures taken to abolish the laws and eradicate the practices which undermine the right of women to marry only when they have given free and full consent. It should also be noted that equality of treatment with regard to the right to marry implies that polygamy is incompatible with this principle. Polygamy violates the dignity of women. It is an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.

25. To fulfill their obligations under article 23, paragraph 4, States must ensure that the matrimonial regime contains equal rights and obligations for both spouses, with regard to the custody and care of children, the children's religious and moral education, the capacity to transmit to children the parent's nationality, and the ownership or administration of property, whether common property or property in the sole ownership of either spouse. States should review their legislation to ensure that married women have equal rights in regard to the ownership and administration of such property, where necessary. Also, States should ensure that no sex-based discrimination occurs in respect of the acquisition or loss of nationality by reason of marriage, of residence rights and of the right of each spouse to retain the use of his or her original family name or to participate on an equal basis in the choice of a new family name. Equality during marriage implies that husband and wife should participate equally in responsibility and authority within the family.
26. States must also ensure equality in regard to the dissolution of marriage, which excludes the possibility of repudiation. The grounds for divorce and annulment should be the same for men and women, as well as decisions with regard to property distribution, alimony and the custody of children. The need to maintain contact between children and the non-custodian parent, should be based on equal considerations. Women should also have equal inheritance rights to those of men when the dissolution of marriage is caused by the death of one of the spouses.
27. In giving effect to recognition of the family in the context of article 23, it is important to accept the concept of the various forms of family, including unmarried couples and their children and single parents and their children and to ensure the equal treatment of women in these contexts (General Comment 19 paragraph 2 last sentence). Single parent families frequently consist of a single woman caring for one or more children, and States parties should describe what measures of support are in place to enable her to discharge her parental functions on the basis of equality with a man in a similar position.
28. The obligation of states to protect children (article 24) should be carried out equally for boys and girls. States should report on measures taken to ensure that girls are treated equally to boys in education, in feeding and in health care, and provide the Committee with disaggregated data in this respect. States should eradicate, both through legislation and any other appropriate measures, all cultural or religious practices which jeopardize the freedom and well-being of female children.
29. The right to participate in the conduct of public affairs is not fully implemented everywhere on an equal basis. States must ensure that the law guarantees to women article 25 rights on equal terms with men and take effective and positive measures to promote and ensure women's participation in the conduct of public affairs and in public office, including appropriate affirmative action. Effective measures taken by States parties to ensure that all persons entitled to vote are able to exercise that right should not be discriminatory on the grounds of sex. The Committee requires States parties to provide statistical information on the percentage of women in publicly

elected offices including the legislature as well as in high-ranking civil service positions and the judiciary.

30. Discrimination against women is often intertwined with discrimination on other grounds such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. States parties should address the ways in which any instances of discrimination on other grounds affect women in a particular way, and include information on the measures taken to counter these effects.
31. The right to equality before the laws and freedom from discrimination, protected by article 26, requires States to act against discrimination by public and private agencies in all fields. Discrimination against women in areas such as social security laws – Case 172/84, *Broeks v. Netherlands* (views of 9 April 1987); Case 182/84, *Zwaan de Vries v. The Netherlands*, (views of 9 April 1987); Case 218/1986, *Vos v. The Netherlands* (views of 29 March 1989), as well as in the area of citizenship or rights of non-citizens in a country – Case 035/1978, *Aumeeruddy-Cziffra et al v. Mauritius* (views adopted 9 April 1981), violates article 26. The commission of so called “honour crimes” which remain unpunished, constitutes a serious violation of the Covenant and in particular of articles 6, 14 and 26. Laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment. The Committee has also often observed in reviewing States reports that a large proportion of women are employed in areas which are not protected by labour laws, that prevailing customs and traditions discriminate against women, particularly with regard to access to better paid employment and to equal pay for work of equal value. States should review their legislation and practices and take the lead in implementing all measures necessary in order to eliminate discrimination against women, in all fields, for example by prohibiting discrimination by private actors in areas such as employment, education, political activities and the provision of accommodation, goods and services. States parties should report on all these measures and provide information on the remedies available to victims of such discrimination.
32. The rights which persons belonging to minorities enjoy under article 27 of the Covenant in respect of their language, culture and religion do not authorize any State, group or person to violate the right to equal enjoyment by women of any Covenant rights, including the right to equal protection of the law. States should report on any legislation or administrative practices related to membership in a minority community that might constitute an infringement of the equal rights of women under the Covenant – Case 24/1977 *Lovelace v. Canada*, (views adopted July 1981) – and on measures taken or envisaged to ensure the equal right of men and women to enjoy all civil and political rights in the Covenant. Likewise, States should report on measures taken to discharge their responsibilities in relation to cultural or religious practices within minority communities that affect the rights of women. In their reports, States parties should pay attention to the contribution made by women to the cultural life of their communities.

**excerpts from the
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966),
993 U.N.T.S. 3, entered into force Jan. 3, 1976**

PREAMBLE

THE STATES PARTIES TO THE PRESENT COVENANT,

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

RECOGNIZING that these rights derive from the inherent dignity of the human person,

RECOGNIZING that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

CONSIDERING the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

REALIZING that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

AGREE upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights

recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

- (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:
 - (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
 - (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) Primary education shall be compulsory and available free to all;
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

The remainder of the Covenant deals with reporting by states parties and procedural matters.

6. DECLARATION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Between 1949 and 1959, the Commission of the Status of Women (CSW) prepared a number of treaties. These included 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 where the Commission considered these rights to be particularly vulnerable.

In 1965, the Commission embarked in the preparation of what became later, in 1967, the Declaration on the Elimination of Discrimination against Women approved by the UN General Assembly. This Declaration stated in a single legal instrument the international standards articulating the equal rights of women and men. A Declaration has no binding obligations for Member States, but it has a moral and political force.

The Declaration affirmed that “discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity”. Thus, it was a significant step forward in the conceptualization of women’s rights. The text of the Declaration was also a key source for the text of CEDAW.

Declaration on the Elimination of Discrimination against Women

**Proclaimed by General Assembly Resolution 2263(XXII)
of 7 November 1967**

The General Assembly,

Considering that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women, *Considering* that the Universal Declaration of Human Rights asserts the principle of non-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 any distinction as to sex,

Taking into account the resolutions, declarations, conventions and recommendations of the United Nations and the specialized agencies designed to eliminate all forms of discrimination and to promote equal rights for men and women,

Concerned that, despite the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other instruments of the United Nations and the specialized agencies and despite the progress made in the matter of equality of rights, there continues to exist considerable discrimination against women,

Considering that discrimination against women is incompatible with human dignity and with the welfare of the family and of society, prevents their participation, on equal terms with men, in the political, social, economic and cultural life of their countries and is an obstacle to the full development of the potentialities of women in the service of their countries and of humanity,

Bearing in mind the great contribution made by women to social, political, economic and cultural life and the part they play in the family and particularly in the rearing of children,

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 as well as men in all fields,

Considering that it is necessary to ensure the universal recognition in law and in fact of the principle of equality of men and women,

Solemnly proclaims this Declaration:

Article 1

Discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity.

Article 2

All appropriate measures shall be taken to abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women, in particular:

- (a) The principle of equality of rights shall be embodied in the constitution or otherwise guaranteed by law;
- (b) The international instruments of the United Nations and the specialized agencies relating to the elimination of discrimination against women shall be ratified or acceded to and fully implemented as soon as practicable.

Article 3

All appropriate measures shall be taken to educate public opinion and to direct national aspirations towards the eradication of prejudice and the abolition of customary and all other practices which are based on the idea of the inferiority of women.

Article 4

All appropriate measures shall be taken to ensure to women on equal terms with men, without any discrimination:

- (a) The right to vote in all elections and be eligible for election to all publicly elected bodies;
- (b) The right to vote in all public referenda;
- (c) The right to hold public office and to exercise all public functions.

Such rights shall be guaranteed by legislation.

Article 5

Women shall have the same rights as men to acquire, change or retain their nationality. Marriage to an alien shall not automatically affect the nationality of the wife either by rendering her stateless or by forcing upon her the nationality of her husband.

Article 6

1. Without prejudice to the safeguarding of the unity and the harmony of the family, which remains the basic unit of any society, all appropriate measures, particularly legislative measures, shall be taken to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular:
 - (a) The right to acquire, administer, enjoy, dispose of and inherit property, including property acquired during marriage;
 - (b) The right to equality in legal capacity and the exercise thereof;
 - (c) The same rights as men with regard to the law on the movement of persons.
2. All appropriate measures shall be taken to ensure the principle of equality of status of the husband and wife, and in particular:
 - (a) Women shall have the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent;
 - (b) Women shall have equal rights with men during marriage and at its dissolution. In all cases the interest of the children shall be paramount;
 - (c) Parents shall have equal rights and duties in matters relating to their children. In all cases the interest of the children shall be paramount.
3. Child marriage and the betrothal of young girls before puberty shall be prohibited, and effective 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.

Article 7

All provisions of penal codes which constitute discrimination against women shall be repealed.

Article 8

All appropriate measures, including legislation, shall be taken to combat all forms of traffic in women and exploitation of prostitution of women.

Article 9

All appropriate measures shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels, and in particular:

- (a) Equal conditions of access to, and study in, educational institutions of all types, including universities and vocational, technical and professional schools;
- (b) The same choice of curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality, whether the institutions are co-educational or not;
- (c) Equal opportunities to benefit from scholarships and other study grants;
- (d) Equal opportunities for access to programmes of continuing education, including adult literacy programmes;
- (e) Access to educational information to help in ensuring the health and well-being of families.

Article 10

1. All appropriate measures shall be taken to ensure to women, married or unmarried, equal rights with men in the field of economic and social life, and in particular:
 - (a) The right, without discrimination on grounds of marital status or any other grounds, to receive vocational training, to work, to free choice of profession and employment, and to professional and vocational advancement;
 - (b) The right to equal remuneration with men and to equality of treatment in respect of work of equal value;
 - (c) The right to leave with pay, retirement privileges and provision for security in respect of unemployment, sickness, old age or other incapacity to work;
 - (d) The right to receive family allowances on equal terms with men.
2. In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services, including child-care facilities.
3. Measures taken to protect women in certain types of work, for reasons inherent in their physical nature, shall not be regarded as discriminatory.

Article 11

1. The principle of equality of rights of men and women demands implementation in all States in accordance with the principles of the Charter of the United Nations and of the Universal Declaration of Human Rights.
2. Governments, non-governmental organizations and individuals are urged, therefore, to do all in their power to promote the implementation of the principles contained in this Declaration.

7. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

OVERVIEW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 by the UN General Assembly. It is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The need for CEDAW is explained in its Preamble, which notes that, despite the existence of other human rights instruments which promote the equal enjoyment of rights by men and women, “extensive discrimination against women continues to exist.” The Convention defines discrimination against women as

... 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.

By accepting the Convention, states commit themselves to undertake a series of measures to end discrimination against women in all forms, including commitments:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

In agreeing to CEDAW, States parties agree to take all appropriate measures, including legislation and “temporary special measures”, so that women can enjoy all their human rights and fundamental freedoms.

The Convention deals with areas which are not covered elsewhere – such as family law (including inheritance) and the reproductive rights of women. It gives explicit attention to culture and tradition as influential forces shaping gender roles and family relations. It also addresses trafficking in women, and the special problems of rural women.

Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports at least every four years on measures they have taken to comply with their treaty obligations. The Convention entered into force with 10 signatories on 3 September 1981. It had 177 states parties as of 9 June 2004. The United States is not among the signatories. Namibia acceded to CEDAW on 23 November 1992, without any reservations or objections.

information from the website of the UN Division for the Advancement of Women and from CHANGE, *Changing the Discourse: A Guide to Women & Human Rights* (1993)

Although CEDAW is listed among the major human rights instruments, applying to over half the world's population and containing constitutional requirements, as well as a far-reaching innovation within international and domestic law, it is still not treated as such by political scientists, lawyers, diplomats and planners, and is therefore given low priority in the development of jurisprudence, new constitutions, the interpretations of democracy or in technical assistance ...

CHANGE, *Changing the Discourse: A Guide to Women & Human Rights* (1993)

DRAFTING CEDAW – A CHRONOLOGY

- 1972** The Commission on the Status of Women asks the UN Secretary-General to solicit views of governments on the nature and content of a new international instrument on the human rights of women.
- 1973** Following on positive views from many governments, the UN Economic and Social Council accepts the Commission's proposal to appoint a 15-member working group to consider drafting a women's convention.
- 1974** The Commission on the Status of Women decides to prepare a draft convention on the elimination of discrimination against women, originally intended to be a contribution to International Women's Year (1975).
- 1975** The World Plan of Action adopted by the Conference on International Women's Year calls for a 'convention on the elimination of discrimination against women with effective procedures for its implementation'.
- 1976** The Commission on the Status of Women elaborates the draft convention. The draft is discussed by the UN Economic and Social Council and the Third (Legal) Committee of the UN General Assembly.
- 1977** The General Assembly appoints a Working Group of the Whole to continue work on the draft convention.
- 1978** The General Assembly recommends that the Working Group should complete its task.
- 1979** The General Assembly adopts the Convention and opens it for signature and ratification.
- 1981** The Convention comes into force after having received the required 20 ratifications.

Source: **Katarina Tomasevski**, *Women and Human Rights* (1993)

RESERVATIONS

The Convention permits ratification subject to reservations, provided that the reservations are not incompatible with the overall object and purpose of the Convention. CEDAW has the distinction of being subject to more reservations than any other major human rights convention – with the UK reportedly heading the list.

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 are not consistent with the CEDAW's principles. Some States enter a reservation to Article 2 on non-discrimination, even though their own national constitutions or laws prohibit discrimination. Some reservations are drawn so widely that their effect cannot be limited to specific provisions in the Convention.

The Committee which monitors CEDAW has expressed “grave concern at the number and extent of impermissible reservations”. It has also expressed concern that, even when other states object to these 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. The Committee has asked states to re-examine their reservations and re-consider them, particularly reservations to Articles 2 and 16 of CEDAW, which are considered to be core provisions.

Namibia can be proud to be one of the few countries in the world which has ratified CEDAW without any reservations.

COMMENTS ON CEDAW FROM NAMIBIA'S PARLIAMENTARIANS

The following comments are intended to give some indication of the range of views amongst Namibian policy-makers on equality between men and women.

“In these days when the emotional force of women power is overwhelming and their voting numbers are significant, who will ever dare to oppose our accession to a convention like this one?”

“This nation cannot be considered free as long as our womenfolk remain subordinate to the archaic and decadent traditional practices, both national and tribal, which treats them as mere extensions of their menfolk. Indeed, any nation that considers itself free while its female population bear the intolerable burden of sex discrimination, is a nation buried in fantasy. “

“The long-hidden fact is that women in general embody a much stronger constitution than men in general. Insurance statistics over the world are proof of that. Men just do not last as long as women notwithstanding the fact that most women uphold the dual function as parent and breadwinner for a lifetime.

“Women can compete with men even on the physical side. Have they not over the decades fought alongside men in wars all over the world? The many super athletes provide another proof to this fact.

On the brainy side I can think of many women who outclassed men over the centuries, like for instance Madame Curie, Queen Victoria, Joan of Arc, Margaret Thatcher, Golda Meir, Indira Gandhi, just to mention a few of them, and still women are always there for the men, be it their husbands or sons ...

It is a fact that discrimination against women is not in our laws but in our minds; the minds of men with the wrong attitude and the minds of women who have not been educated sufficiently to have the courage to insist upon their equal rights.”

“I see no reason why we cannot scrap all these forms of discrimination against women. But, and this is a very big but, if the women go and misuse this freedom, then they are looking for trouble. Seriously, if ‘ma’ wants to tell me that she is equal to me or she wants to be equal to me, then she must go to the Lord Jesus who said the husband is the head of the house as I, Jesus Christ, am the head of my church. As long as you womenfolk obey these words of the Lord, then there will be no problem ... But I warn again the women, don’t try to abuse and misuse your freedom by going around and saying: ‘My husband must wash my panty, he must wash my kids while I am going to the dance or while I am going to the bar or visiting my other girlfriend.’ You are looking for trouble.”

“How many of us men who are seated in this House really believe in the fact that women ought to be protected? How many of us? How many of us are only paying lip-service – and I truly believe that most of us are only paying lip-service. I really despair because I know that with the best of intentions, unless women themselves do not grab the bull by the horn, nothing serious will happen.”

from the Parliamentary debate on accession to CEDAW, June 1992

UNDERSTANDING CEDAW

CEDAW is not gender-neutral. It is a convention about *women’s* equality, to rectify the fact that general human rights standards have not catered adequately for the needs of women.

In order to analyse CEDAW, it is necessary to understand two different concepts of equality:

formal equality – treating women and men identically (such as ensuring that there are no laws which bar women from standing for public office)

substantive equality – taking steps that will make women and men equal in the conditions which apply to them in society (such as acknowledging that women’s biological differences create different health needs which go beyond women’s role in pregnancy and childbirth, or applying affirmative action for women)

Frankly, CEDAW is a badly-drafted convention. It was concluded hastily in order to produce a concrete result for International Women's Year. It is also twenty years old and much has happened to alter general understanding of the nature of discrimination and what is required to change entrenched patterns of subordination since it was written. There are two ways in which CEDAW is badly drafted:

- (1) Some of its provisions too easily lend themselves to a formal equality reading; and
- (2) The specificity of some provisions implies that issues that are not addressed are omitted on purpose.

Shelagh Day and Andree Cote, *CEDAW: Strategies for Implementation* (1998)
http://www.casac.ca/allies/strategies_1.htm!

Although some of CEDAW's provisions seem to advocate formal equality, there are others which indicate a broader commitment to substantive equality:

- The Preamble acknowledges that previous human rights instruments (which focus on formal equality) have not been adequate to stop discrimination against women.
- CEDAW refers to the "enjoyment of rights" which means the ability to experience the benefit of a right in the reality of one's own life.
- Article 2 refers to the "practical realisation" of the principle of equality, which commits states to be sure that they achieve results.
- Many of the articles call on states to "take all appropriate measures" to eliminate discrimination against women in specific areas. This emphasises the fact that legislation alone will not be sufficient. A range of actions is likely to be necessary to make equality a reality.
- CEDAW recognises the need for affirmative action to overcome the historical disadvantages experienced by women.

The multitude of human rights standard-setting efforts that the United Nations have undertaken has led to the realization that specific norms relating to women have to encompass three levels: 1. the formal affirmation of human rights and fundamental freedoms 2. the prohibition of discrimination, entailing equal opportunities irrespective of sex 3. the identification and elimination of the obstacles to the equal exercise of rights by women that are gender-specific.

Katarina Tomasevski, *Women and Human Rights* (1993)

CEDAW uses a range of terminology to express its concepts of equality — "equal rights with men", "on equal terms with men," and "on a basis of equality of men and women". These phrases are problematic. The first two in particular imply that what needs to be done is not to transform society as a whole, but simply to raise women to the level of men. The third phrase at least suggests the possibility that new benchmarks may be adopted for both sexes.

It is noteworthy that CEDAW contains elements of civil and political rights (as found in the International Covenant on Civil and Political Rights) and economic, social and political rights (as found in the International Covenant on Economic, Social and Cultural Rights), thus re-uniting those two different strands of fundamental rights.

Women's human rights mean what we make them mean. They are dynamic instruments, and their effectiveness depends almost entirely on our involvement. This is as true at the international level as it is at the national level.

Shelagh Day and Andree Cote, *CEDAW: Strategies for Implementation* (1998)
http://www.casac.ca/allies/strategies_1.htm

MONITORING

Monitoring implementation of CEDAW is primarily the responsibility of the Committee on the Elimination of Discrimination Against Women, which consists of 23 individuals nominated by their governments but serving in their personal capacities.

CEDAW provides for two methods of enforcement:

The reporting procedure: States parties have to submit a national report to the UN within one year of accession or ratification of CEDAW and thereafter every four years, or when the Committee requests. In these reports, States must indicate the measures they have adopted to give effect to the provisions of the CEDAW. The Committee discusses these reports with Government representatives and explores areas for further action in the country in question. This Committee has issued *Reporting Guidelines* to assist states parties with the preparation of their reports.

Reports are, of course, prepared by governments themselves and so may gloss over problems which women in the country experience. NGOs from the country in question have the opportunity to provide the Committee with alternate perspectives if they wish. The Committee welcomes NGO contributions and has taken steps in recent years to encourage NGOs to comment on their countries' national reports.

One of the biggest obstacles to state reporting as a monitoring mechanism is the fact that consideration of many state reports is overdue – because they were not submitted on schedule, or because the under-resourced Committee has suffered from work backlogs which stretch over several years.

The interstate procedure: Under Article 29 of CEDAW, two or more State parties can refer disputes about the interpretation and implementation of CEDAW to arbitration. If the dispute is not settled, it can be referred to the International Court of Justice. This procedure is subject to a large number of reservations and has never been used.

GENERAL RECOMMENDATIONS

The Committee on the Elimination of Discrimination Against Women issues *General Recommendations* from time to time. These serve as important guides to the interpretation of CEDAW. The General Recommendations show how some of the articles of CEDAW have been amplified, on what practical measures should be taken to implement them, and on what information state reports should include on specific articles.

As of June 1999, the CEDAW Committee had adopted 24 general recommendations. Those adopted during the Committee's first ten years were short and modest, addressing such issues as the content of reports, reservations to the Convention and resources.

At its tenth session in 1991, the Committee decided to adopt the practice of issuing general recommendations on specific provisions of the Convention and on the relationship between the Convention's articles and what the Committee described as "cross-cutting" themes. Following this decision, CEDAW issued more detailed and comprehensive general recommendations which offer States parties clear guidance on the application of the Convention in particular situations.

In 1997, the Committee adopted a three-stage process for the formulation of general recommendations. The first stage consists of an open dialogue between the Committee, non-governmental organizations and others regarding the topic of the general recommendation. A Committee member is then asked to draft the general recommendation, which is discussed at the next session of the Committee in one of its working groups. At the following session, the revised draft is adopted by the Committee.

The following general recommendations have been adopted by the Committee:

- No. 1, 1986: reporting guidelines
- No. 2, 1987: reporting guidelines
- No. 3, 1987: education and public information programmes
- No. 4, 1987: reservations
- No. 5, 1988: temporary special measures
- No. 6, 1988: effective national machinery and publicity
- No. 7, 1988: resources
- No. 8, 1988: article 8
- No. 9, 1989: statistical data
- No. 10, 1989: tenth anniversary of the adoption of CEDAW
- No. 11, 1989: technical advisory services for reporting
- No. 12, 1989: violence against women
- No. 13, 1989: equal remuneration for work of equal value
- No. 14, 1990: female circumcision
- No. 15, 1990: women and AIDS
- No. 16, 1991: unpaid women workers in rural and urban family enterprises
- No. 17, 1991: measurement and quantification of the unremunerated domestic activities of women and their recognition in the GNP
- No. 18, 1991: disabled women
- No. 19, 1992: violence against women
- No. 20, 1992: reservations
- No. 21, 1994: equality in marriage and family relations
- No. 22, 1995: article 20 of the Convention
- No. 23, 1997: women in political and public life
- No. 24, 1999: article 12 – women and health.

As of November 2004, the Committee had held 33 ordinary sessions and one special session. It had adopted no other general recommendations since No. 24 in 1999.

Information from <http://www.un.org/womenwatch/daw/cedaw/>;
Philip Alston and James Crawford (eds)
The Future of UN Human Rights Treaty Monitoring, (2000).

OPTIONAL PROTOCOL TO CEDAW

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women makes it possible for individuals and groups to bring complaints about non-compliance with CEDAW to the attention of the Committee.

The Optional Protocol also empowers the Committee to conduct inquiries into grave or systematic abuse of women's human rights in countries that have become party to the Optional Protocol. This procedure is modelled on an existing human rights inquiry procedure, Article 20 of the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The inquiry procedure has the following positive features:

- It allows investigation of substantial abuses of women's human rights by an international body of experts.
- It can be useful where individual communications fail to reflect the systemic nature of widespread violations of women's rights.
- It allows widespread violations to be investigated where individuals or groups may be unable to make communications (for practical reasons or because of fear of reprisals);
- It gives the Committee an opportunity to make recommendations regarding the structural causes of violations;
- It allows the Committee to address a broad range of issues in a particular country.

The Optional Protocol has the following functions:

1. To improve on and add to existing enforcement mechanisms for women's human rights.
2. *To improve States' and individuals' understanding of CEDAW, by focusing on individual cases to help states better understand the meaning of CEDAW.* The Committee's views on communications amount to what is called jurisprudence. (Jurisprudence is the term used for a body of case law about any particular subject. It is used for guidance in interpreting laws.) Jurisprudence from communications will provide clarification and guidance for states and for individuals about states' obligations under CEDAW. (This has occurred with the ICCPR in regard to the publication of the Human Rights Committee's views on the cases that have been brought to it under the Optional Protocol to the ICCPR.)
3. *To stimulate States to take steps to implement CEDAW.* The Optional Protocol should encourage States to implement CEDAW to avoid complaints being made against them. The possibility of complaints being made might also be an incentive for States to provide more effective local remedies.
4. *To stimulate changes in discriminatory laws and practices.* Under the Optional Protocol, the Committee can request the state party concerned to take specific measures to remedy violations of CEDAW. Requests might include the amendment of legislation, stopping discriminatory practices, or implementing affirmative action measures.
5. *To enhance existing mechanisms for the implementation of human rights within the UN system.* The Optional Protocol to CEDAW is the first gender specific international complaints procedure. As well as putting CEDAW on a par with other human rights treaties which have complaints procedures, it enhances existing mechanisms by specifically incorporating practices and procedures that have been developed under other complaints procedures.

6. *To create greater public awareness of human rights standards relating to discrimination against women.* The Optional Protocol requires States to publicize the Optional Protocol and its procedures. Communications and inquiries under the Optional Protocol will receive publicity which will increase public awareness of CEDAW and the Optional Protocol. This has been the case with communications submitted under existing complaints procedures, particularly communications under the first Optional Protocol to the ICCPR.

The Optional Protocol came into force on 22 December 2000. Namibia had the distinction of being the very first signatory. As of February 2002, there were 30 states parties to the Optional Protocol.

adapted from the website of the UN Division for the Advancement of Women

USING CEDAW IN NAMIBIA

There are five ways that CEDAW can be utilised in Namibia:

1. **As a political advocacy tool.** The government's commitment to CEDAW can be cited for lobbying purposes on relevant issues.
2. **As an instrument for reviewing Namibia's performance in advancing the equality of women.** Namibia's period reports under CEDAW will provide an opportunity to assess the country's progress in advancing women's rights, and to highlight strengths and weaknesses.
3. **As an aid to interpreting Namibia's Constitutional guarantee of equality.** Because Namibia's Constitution has been influenced by international human rights norms, these same norms can be used as legitimate guide to Constitutional interpretation.
4. **As a source of law directly enforceable in Namibia.** In terms of Article 144 of the Namibian Constitution, CEDAW (as an international agreement which is binding on Namibia) forms part of the domestic law of Namibia.
5. **As an additional legal forum for appeal of a case that has failed in the domestic courts.** Because Namibia is a party to the Optional Protocol, individual complaints could be referred to the CEDAW Committee.

CEDAW has already been popularised in Namibia by the publication of a booklet explaining what it means in simple language. This booklet was published in 1992 by the Department of Women Affairs, in English, Afrikaans, Damara/Nama, Rukwangali, Lozi, Oshiwambo and Otjiherero.

Namibia presented its first country report in terms of CEDAW to the CEDAW Committee in New York in 1997. The Committee's comments on the situation of women in Namibia at that stage are reproduced in full below. As of November 2004, the Ministry of Women Affairs and Child Welfare was in the process of preparing Namibia's second report in terms of CEDAW.

Convention on the Elimination of All Forms of Discrimination against Women

**G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46,
entered into force September 3, 1981.**

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 rights 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,

Noting also the resolutions, declarations and recommendations adopted by 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 contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, 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, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, 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 purposes 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 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.

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 of 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 non-governmental 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 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 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 to help to ensure the health and well-being 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 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.

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 post-natal 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 non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present 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 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 organize 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.

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 the 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 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.

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 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 elected 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;
 - (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 of the United Nations 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 the present 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 the present 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.

Optional Protocol to the Convention on the Elimination of Discrimination against Women

**Adopted by General Assembly resolution A/54/4 on 6 October 1999
and opened for signature on 10 December 1999, Human Rights Day**

entry into force 22 December 2000

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 Resolution 217 A (III). 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 Resolution 2200 A (XXI), annex. 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 Women⁴ ("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;
 - (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.

GENERAL RECOMMENDATIONS
made by the
COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN
(1-24)

General Recommendation No. 1 (5th session, 1986)

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 (6th session, 1987)

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:

“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.”
- (c) 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 (6th session, 1987)

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 States 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 (6th session, 1987)

The Committee on the Elimination of Discrimination against Women,

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 (7th 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 implement fully 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 (7th session, 1988)

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 (7th session, 1988)

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 resolution 42/105 and, in particular paragraph 11, which requests the Secretary-General to strengthen co-ordination 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,

Recommends to the States parties:

1. That they continue to support proposals for strengthening the co-ordination 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 (7th session, 1988)

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 (8th session, 1989)

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 (8th session, 1989)

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 Members,

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;
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 specialized 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

General Recommendation No. 11 (8th session, 1989)

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 co-operate 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 (8th session, 1989)

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 work place 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 work place 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 (8th session, 1989)

Equal remuneration for work of equal value

The Committee on the Elimination of Discrimination against Women,

Recalling International Labour Organization 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 five 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 on 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 of against Women, those States 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 (9th session, 1990)

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, and bodies of the United Nations system, such as the World Health Organization and 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,

Taking note with interest the study of the Special Rapporteur on Traditional Practices Affecting the Health of Women and Children, and of 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 that States parties:

- (a) 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;
 - (iv) The introduction of appropriate educational and training programmes and seminars based on research findings about the problems arising from female circumcision;
- (b) 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) 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) 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 (9th session, 1990)

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 on 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 programmes 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 (10th session, 1991)

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,

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 (10th session, 1991)

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-fifth session, on the current revision of the System of National Accounts on 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 (10th session, 1991)

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),

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 (11th session, 1992)

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 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;
 - (h) The right to just and favourable conditions of work.
8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations 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.

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 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 the 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 demand, 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 grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working 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 forms 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 recommendation

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that:
 - (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 ensure that 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 and promote respect for women;
- (e) States parties in their reports 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 on the measures that they have undertaken to overcome violence and the effect 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 that 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 in 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 or coercion in the workplace;
- (k) States parties should establish or support services for victims of family violence, rape, sexual 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 effect;
- (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 risks 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 cases 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, including 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) 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) States parties should report on all forms of gender-based violence, and 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) 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 (11th session, 1992)

Reservations to the Convention

1. The Committee recalled the decision of the fourth meeting of States parties on reservations 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.

General Recommendation No. 21 (13th session, 1994)

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 conventions and declarations also confer great significance on the family and woman's status within it. These include the Universal Declaration of Human Rights (General Assembly resolution 217/A (III)), the International Covenant on Civil and Political Rights (resolution 2200 A (XXI), annex), the Convention on the Nationality of Married Women (resolution 1040 (XI), annex), the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (resolution 1763 A (XVII), annex) and the subsequent Recommendation thereon (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 tradition 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 analyze three articles in the Convention that have special significance for the status of women in the family:

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.

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.

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, on the basis of 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 preferment and in others women's poverty forces them to marry foreign nationals for financial security. Subject to reasonable restrictions based for example on 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 of 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) of the Convention. Moreover, each partner should have the right to choose his or her name, thereby preserving individuality and identity in the community 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 (l) 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 D (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. That provision has not been generally implemented.
35. There are many countries where the law and practice concerning inheritance and property result in serious discrimination against women. As a result of this uneven treatment, 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.

Article 16 (2)

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 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 eighteen 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 19 (eleventh session) 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 that 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 its 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 that 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, 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 (14th session, 1995)

Amending article 10 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,

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,

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 (16th session, 1997)

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-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 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, the International Covenant on Civil and Political Rights, the Convention on the Political Rights of Women, the Vienna Declaration, paragraph 13 of the Beijing Declaration and Platform for Action, general recommendations 5 and 8 under the Convention, general comment 25 adopted by the Human Rights Committee, the recommendation adopted by the Council of the European Union on balanced participation of women and men in the decision-making process and the European Commission’s “How to Create a Gender Balance in Political Decision-making”.

5. Article 7 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 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 nations, 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 nations, 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 States parties' reports 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 in order 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 professional 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, 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. In order 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 assure 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.

The right to vote and to be elected (article 7, para. (a))

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 nations 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 nations, 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;²
 - (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.

The right to participate in formulation of government policy (article 7, para. (b))

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) also requires States parties to ensure that women have the right to participate fully in 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 in order to ensure equal participation by women in senior cabinet and administrative positions and as members of government advisory bodies include: 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; and 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 in order 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 these organizations to nominate qualified and suitable women for membership in these bodies.

The right to hold public office and to perform all public functions (article 7, para. (b))

30. The examination of the reports of States parties demonstrates that women are excluded from top-ranking positions in cabinets, the civil service and in 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.

The right to participate in non-governmental and public and political organizations (article 7, para. (c))

32. An 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 (NGOs).

Article 8 (international level)

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, and 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.

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 to:
 - (a) Achieve a balance between women and men holding publicly elected positions;
 - (b) Ensure that women understand their right to vote, the importance of this right and how to exercise it;

- (c) Ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women's freedom of movement;
 - (d) 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 to:
- (a) Ensure that effective legislation is enacted prohibiting discrimination against women;
 - (b) 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 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 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 international conferences and nominations for peacekeeping or conflict resolution roles, and their seniority in the relevant sector;
 - (b) Describe efforts to establish objective criteria and processes for 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 (20th session, 1999)

Article 12: Women and health

Introduction

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 Discrimination against Women, determined at its 20th 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, 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.
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 also 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 which other United Nations instruments place on the right to health and to the conditions which 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 which 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 which are determinative of the health status of women and men and which 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 life span by means of a food supply that is safe, nutritious and adapted to local conditions. Towards 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

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.
8. States parties are encouraged to address the issue of women's health throughout the woman's lifespan. For the purposes of this general recommendation, therefore, *women* includes girls and adolescents. This 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 legally provide 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 which differ for women in comparison to men, such as:
 - (a) Biological factors which differ for women in comparison with men, such as their menstrual cycle and their reproductive function and menopause. Another example is the higher risk of exposure to sexually transmitted diseases which 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 which 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 between 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 which 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 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 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;
 - (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 which 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 at 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, 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 disease 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 and discrimination, the right to sexual health information, education and services for all women and girls, including those who have been trafficked, 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 rights 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 gaining *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 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 which 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 which 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.
24. The 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 parties 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 students' drop-out rates, which are often due to premature pregnancy; article 10(h) which provides that States parties provide to women and girls specific educational information to help ensure the 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 (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 (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 information, education and means to enable them to exercise these rights. Article 16 (2) also 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 throughout 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 could be amended to remove punitive provisions 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.

(Footnotes omitted.)

SUMMARY OF COMMENTS OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN ON NAMIBIA'S INITIAL COUNTRY REPORT UNDER CEDAW

14 July 1997

Namibia's initial report (CEDAW/C/NAM/1) was considered by the Committee at its July 1997 session. The report prepared by the government is detailed and contains information on, *inter alia*: social, economic, political and legal structures; constitutional provisions related to women; the scope of discrimination; the protection of women against discrimination; discrimination by public authorities and institutions; steps to eliminate discrimination by any person, organization or enterprise; and repeal of national Penal provisions which discriminated against women. Sections dealing with specific provisions of the Convention include commentary on, for example: rape and other sexual offences; domestic and other forms of violence against women; women and child abuse centres; the General Sectoral Committee on Violence against Women; affirmative action in various sectors; sex role stereotyping; prostitution and trafficking in women; women in political and public life – including the Parliament, law enforcement, the administration of justice, the media, trade unions, the churches and NGOs; provisions in law related to nationality, education, labour development, health care, and economic and social life; legal capacity and domicile; and marriage and family relations.

The Committee's concluding observations and comments (CEDAW/C/1997/II/L.1/Add.2) noted that women in Namibia continue to face persistent discrimination which arose out of some traditional and customary laws. The general lack of knowledge relating to human and legal rights was also identified as an obstacle to the implementation of the Convention. The Committee also noted that the majority of people living in poverty are women living in a country where most of the population is poor. The Committee considered that women's poverty made it difficult for them to fulfil their aspirations as guaranteed by the Convention.

The Committee commended the government for ratifying the Convention without reservations so soon after achieving independence and noted with satisfaction that non-governmental organizations had been involved in the preparation and in the presentation of the report. The Committee also commended: the establishment of the Department of Women Affairs and the upgrading of the Department to cabinet level; the establishment of the Law Reform and Development Commission; the legal measures that had been put in place following ratification of the Convention and the subsequent progress made towards gender equality; the adoption of the Married Persons Equality Act; the proposed enactment of the Children's Act; the appointment in December 1996 of a woman as the first Ombudsperson; the establishment of women and child abuse centres; the appointment of the first woman judge; the government's focus on affirmative action as a means of closing the gap in gender equality; and, the establishment of nine gender-sectoral committees and the programme of sensitization of parliamentarians and public officers with respect to the Convention.

The areas of concern identified by the Committee included: the lack of a time-frame in the implementation of affirmative action programmes; the lack of programmes to sustain the objectives and achievements of these programmes; the lack of human rights education, as well as education for legal literacy, and advocacy programmes to achieve *de facto* equality; the prevalence of domestic violence and the persistence of certain traditional practices which reinforce stereotypical attitudes and strengthen discrimination against women; the fact that, despite new laws, women, and in particular those in the rural areas, are unable to own land; the decision of the government to deal with maternity leave under article 4 of the Convention (affirmative action) since, in the Committee's view, the granting of maternity leave is not a measure of affirmative action; the failure of the Married Person's Equality Act sufficiently to address discrimination in the family; that the health of prostitutes is not taken into account and that, unlike other women, they do not have access to health care; the low level of participation of women in higher education and the high drop-out rate of girls from the

formal education system; the present inadequacy of the law on rape and other forms of violence against women; the fact that pregnant teenage girls are punished by expulsion from school; the incidence of discrimination against women in the labour market; the prevalence of polygamous marriages and the non-registration of customary marriages; the high number of illegal abortions, the high rate of maternal mortality and the fact that the inadequacy of the existing law on abortion contributed to this problem; and, the fact that although the position of the Director-General of the Department of Women Affairs had been upgraded to cabinet level, she did not have the right to vote in the Cabinet.

The Committee recommended that the government:

- establish time frames for the implementation of affirmative action measures and include in them educational and other programmes that will sustain the objectives and achievements of existing affirmative action programmes;
- adopt an integrated programme for the full implementation of the Convention;
- intensify educational and advocacy programmes to achieve de facto equality;
- design and implement programmes that redefine the roles of women and men in the family;
- introduce, at all levels, more educational programmes on human rights and legal literacy for women;
- ensure through the Department of Women Affairs that research is done to identify the customary laws that contravene the letter and spirit of the Convention;
- take steps to replace such customary laws;
- ensure the effective monitoring of the implementation of all affirmative action policies and programmes;
- take immediate action to combat domestic violence, including through legal measures such as amending the law on rape and extending it to include marital rape;
- assign to the state courts sole jurisdiction in cases of sexual violence;
- ensure that victims of violence are given better privacy and protection during court proceedings;
- take measures to improve the economic empowerment of women and reduce their dependence on men and their vulnerability to domestic violence;
- introduce awareness-raising programmes for health professionals, the police and the judiciary to improve their understanding of the problem that violence poses for women;
- introduce measures and programmes, including affirmative action, to increase women's participation at all levels of the judiciary;
- endeavour to bring about legal change with regard to land ownership by women, especially in rural areas;
- address the issue of polygamous marriages and, through the Department of Women Affairs, introduce an intensive programme to discourage polygamy;
- ensure, as soon as feasible, the registration of all customary marriages so as to ensure that women can enjoy all rights that accrue as a result of marriage;
- recognizing the need to sustain traditional courts, ensure that these courts comply with the principles of the Convention in all respects;
- adopt the necessary measures to review the laws containing punitive measures against women who have undergone illegal abortions;
- continue its collaboration with non-governmental organizations in implementing the Convention and reporting under it; and
- encourage the political participation of women and take all appropriate measures in that regard.

summary from "For the Record 1997: The UN Human Rights System",
<http://www.hri.ca/fortherecord1997/vol2/namibia.htm>

8. WORLD CONFERENCES ON WOMEN

INTRODUCTION

An increasingly common international mechanism to advance human rights and other objectives is large inter-governmental conferences organised around specific themes. These conferences provide opportunities for governments to discuss issues of global concern and, perhaps, to agree on common strategies for action. Examples from the 1990s include the 1990 World Summit for Children, the 1992 Rio de Janeiro Conference on Environment and Development, the 1993 Second World Conference on Human Rights at Vienna, the 1994 Cairo Conference on Population and Development, the 1995 Copenhagen World Summit for Social Development and the 1995 Fourth World Conference on Women in Beijing.

These conferences are by no means identical in structure or flavour; the character of each is influenced by the particular purpose or issue at hand. Nonetheless, recent conferences have tended to follow a similar format. Apart from publicizing the member states' recognition of the importance of the subject under consideration, the main object of the conference is often to obtain agreement on a draft document, such as a declaration or charter, and on a related programme of action.

Much of the difficult work in identifying the nature of the issue and proposing solutions to particular problems is accomplished prior to the opening of the conference. An initial draft may be drawn up by a branch of the UN Secretariat. Expert group meetings are often convened around specific issues or areas of concern. Through a series of regional and global preparatory meetings attended by delegations of the member states, the draft document may be refined or significantly altered. By the time the conference opens, normally a significant portion of the text or program has been agreed upon. At this point it becomes a 'battle of the brackets', so called because of the practice of bracketing clauses in the text that are not yet agreed on – that is to say, an exercise in resolving the parts of the program that have remained contentious.

Throughout this process, sometimes at parallel meetings designed to facilitate it, NGOs engage in an attempt to influence the substance of the document, by providing relevant information to the Secretariat, lobbying member states or publicizing issues of concern in the press. Reflecting NGOs' increasing influence and activity, it is becoming more common for member states to consult with them – at least ones from their own countries – prior to establishing their positions, and even to include NGO representation in their official delegations to the preparatory and world conferences.

from **Henry J Steiner & Philip Alston**, *International Human Rights in Context* (1996)

THE UN DECADE FOR WOMEN

The UN General Assembly declared 1975 as International Women's Year, and the following ten years were earmarked as the UN Decade for Women. Two primary factors have been identified as being the catalysts for these developments. The first was the expansion of the international women's movement. The second was the aggravation of two major international problems: population and food. International policy-makers realised that these two global problems could not be tackled without involving women in developing countries.

It is said that the idea for the International Women's Year came from a Finnish NGO. Theme years were proliferating at the UN, and there was some reluctance in UN circles to add another one – along with some reluctance to single out women for special attention. But at the same time, the UN was being criticised for the absence of women in its own posts – the proportion of women in senior UN positions was very low, and no women had yet been appointed to any top post. The recommendation concerning International Women's Year was nevertheless unanimously adopted in 1972, and the first female Assistant Secretary-General was appointed in that same year.

FIRST WORLD CONFERENCE ON WOMEN, MEXICO CITY, 1975

The first World Conference on Women was planned for Mexico City in 1975, to coincide with International Women's Year. The time for planning and preparing a draft Plan of Action was short, as the decision to hold the conference was taken only in early 1974. But despite the short time frame, 133 governments sent some 1 200 delegates to the Conference, and a World Plan of Action was adopted, along with Regional Plans of Action for Africa and Asia.

This conference was the first in which a majority of the delegates (73%) were women. Most government delegations were headed by women, in another UN first. However, it is interesting to note that the proportion of *male* delegates at Mexico City (27%) was higher than the usual percentage of women who participated in other UN conferences at this time.

To participate in the Conference was, in itself, a great experience for many women, most of whom had no previous experience and knowledge of the proceedings of such intergovernmental gatherings.

Hilkka Pietila & Jeanne Vickers,
Making Women Matter: The Role of the United Nations (1990)

About 4 000 delegates took part in a parallel NGO meeting, with the unprecedentedly high numbers of participants showing a strong global level of commitment to women's issues.

In the wake of the Mexico City conference, the UN General Assembly declared 1976-1985 as the UN Decade for Women. The increasing momentum around women's issues helped to ensure that the women's perspective was recognised in some of the other world conferences held in the 1970s, and in the UN's various specialised agencies. The UN also undertook systemic collection of data on the situation and circumstances of women all over the world, thereby amassing a wealth of new information relevant to women.

SECOND WORLD CONFERENCE ON WOMEN, COPENHAGEN, 1980

The Second World Conference on Women was intended as a follow-up meeting to review and appraise the targets set in Mexico City, and to refine plans for the second half of the Decade for Women. The revised Plan of Action adopted at the 1980 conference gave special emphasis to women's viewpoints on employment, health and education. The emphasis on women's issues helped to speed up work on CEDAW, and 60 nations signed it during the

Copenhagen conference. The conference also took a decision to convene a Third World Conference on Women in 1985.

Not surprisingly, debates were shaped by traditional political blocs. Developed countries with market economies stressed equality between men and women as the key factor, while developing countries emphasised overall social and economic development as being necessary to improve the status of women. Some of the debate at the conference was occupied with general political issues such as apartheid and conflict in the Middle East. Some argued that the conference had been hijacked for a discussion of controversial political issues, while others claimed that it would be impossible to deal with women's issues in isolation from their political context. The government delegations were dominated by women, but they were still government delegations which expressed an official government view. Thus, some found the outcome disappointing.

The official Conference was accompanied by another parallel NGO forum which drew some 7 000 delegates – almost all of them women. Free of the constraints which hemmed in government policy, debate at the parallel forum about women's problems, fears and worries was probably even more representative of the true voice of the world's women.

Within a decade a new self-confidence and common sense of purpose emerged among women everywhere as they reached out to each other across frontiers. Global sisterhood is becoming a reality. Women have found new bonds between themselves, connecting them in ways they had never dreamed of, and new networks are being created through which they can work together.

Hilkka Pietila & Jeanne Vickers

Making Women Matter: The Role of the United Nations (1990)

THIRD WORLD CONFERENCE ON WOMEN, NAIROBI, 1985

The Third World Conference on Women was intended to review and assess the achievements of the Women's Decade, and then to map out a way forward to the year 2000. It followed the pattern which had already been set, with an official UN Conference and a parallel NGO forum alongside it.

Two major surveys were undertaken as part of the preparation for this Conference – a World Survey on the Role of Women in Development, and a Review and Appraisal of Progress in the last decade, based on replies by governments to an extensive questionnaire. The technique of using such questionnaires has proved to be a useful inspiration to action, as governments must do something positive in order to have something to report.

The official Conference was attended by more than 2 000 delegates from 157 countries, along with several hundred NGO representatives accredited as observers. It was clear from all the evaluations and assessments that the goals of the UN Decade for Women had been achieved only in part. So the Nairobi meeting focussed on strategies for overcoming the obstacles to the achievements of those goals.

The result of the conference was the **Forward-Looking Strategies for the Advancement of Women**. It was a very broad document, which expressed women's views on world

affairs. The central concepts of the document were the same as the themes for the Women's Decade: *Equality, Development and Peace*. This document defined women in a new way – as policy-makers, decision-makers, planners and contributors – as actors in the world, rather than as objects to be acted upon. The document stated:

The need for women's perspective on human development is critical, since it is in the interest of human enrichment and progress to introduce and weave into the social fabric women's concept of equality, their choices between alternative development strategies and their approach to peace, in accordance with their aspirations, interests and talents. These things are not only desirable in themselves but are also essential for the attainment of the goals and objective of the Decade.

As at the previous two conferences, there was some divisive debate about more general political issues, including Zionism, colonialism, foreign occupation and apartheid. But, in contrast to the situation at Mexico City and Copenhagen, the outcome document at Nairobi was adopted unanimously.

The parallel NGO Forum '85 was marked by unusually thorough preparation, with more effective networking and lobbying tactics. This forum drew an astonishing 14 000 women from over 150 countries. Some 125 workshops and meetings were on each day's schedule, supplemented by all sorts of spontaneous gatherings and discussion. According to one observer, it was like "a women's world fair in the richness of its arts and handicrafts, its inventions and inspiration, its research and achievements".

VIENNA WORLD CONFERENCE ON HUMAN RIGHTS, 1993

This conference was not aimed at women specifically, but was intended rather as a general reassessment of the state of human rights in the world. In fact, the initial call for the conference did not mention women, and no gender-specific issues were included in the proposed agenda. However, a broad, loosely-organised international effort known as the Global Campaign for Women's Human Rights sought to integrate women's concerns into the conference agenda. A petition signed by over half a million people focused on two principal demands: (1) the integration of women throughout the agenda of the conference, so that consideration of each human right would include consideration of its specific effects on women; and (2) recognition of gender-based violence against women as an international human rights abuse. This issue was, unbelievably, completely absent from human rights discourse at this stage in history.

By the time the conference began, the idea that "women's rights are human rights" had become the rallying cry of advocates all over the world. The key demands which were put forward by women around the world were met. The **Vienna Declaration and Programme of Action**, which was signed by 171 governments, gave unequivocal endorsement to this principle:

The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in the political, civil, economic, social and cultural life at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex, are priority objectives of the international community.

The Vienna Declaration also stated explicitly that gender-based violence is "incompatible with the dignity and worth of the human person, and must be eliminated". Specific strategies

for addressing gender-based violence were identified in the document. Another important outcome was the appointment of a Special Rapporteur on Violence against Women reporting to the UN Commission on Human Rights. This Rapporteur's task is to compile information on such violence and to make recommendations on how the United Nations and state governments should address it as a human rights issue.

This recognition of women's rights proved to be a watershed. Subsequent thematic conferences have given more recognition to women's human rights. For example, the 1994 Cairo Conference on Population and Development recognised reproductive rights as human rights, and the Statute for the International Criminal Court adopted at Rome in 1998 includes rape, forced pregnancy and sexual slavery as crimes against humanity. The integration of women's issues into general human rights discourse has improved markedly since 1993, but it continues to pose challenges.

A closer look at the Vienna Declaration, however, reveals that it is easier to achieve recognition of women's human rights in specific sections of the document than it is to integrate women and gender-conscious perspectives throughout the document and the entire process. This revelation poses one of our challenges for the future: we have successfully exposed women's issues as separate concerns, yet we are still struggling to show how women and gender issues pervade all aspects of human rights.

Charlotte Bunch, 69 *St John's Law Review* 171 (1995)

FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, 1995

The General Assembly decided in 1990 to convene a Fourth World Conference on Women in 1995. This decision was spurred by the UN's growing concern about the uneven pace of implementation of the Nairobi Forward-Looking Strategies for the Advancement of Women. Progress had been seen in some areas, but there were key objectives where the pace was lagging – such as achieving equality for women, preventing violence against women and increasing women's participation in economic and political decision-making.

The official conference and the parallel NGO forum, held in September 1995, drew almost 50 000 people from 181 countries. It was preceded by a series of preparatory meetings at national, regional and international levels.

In advance of the Conference, the Namibian government and Namibian NGOs held meetings in each of our nation's 13 regions to collect information about women's concerns. Namibia was represented at the Conference by an official delegation of 30 people –including women from all 13 regions of Namibia, Members of Parliament, a youth representative, officials from several Ministries and from UNAM, two NBC staff members and representatives of two NGOs. Namibia co-ordinated the Africa Group during the negotiations around the Platform for Action, and Hon Netumbo Nandi-Ndaitwah was elected to serve as Rapporteur-General of the entire Conference.

Namibia also participated in the NGO Forum, which was also preceded by preparatory meetings at every level. The delegates to the NGO forum included six women from Ecumenical Women of Namibia who borrowed money to pay for their plane tickets.

The pilot project chosen as a focus by the NGO contingent was Affirmative Action for the Girl Child, which eventually led to the establishment of the Namibian Girl Child Organisation. According to the Report of the Non-Governmental Preparatory Committee, “The activities surrounding the preparations for Beijing have had a very positive effect on the Namibian Women’s Movement, which prior to the formation of the NGO Prepcom was in the doldrums. Namibian women who in the past found it difficult to work together are now co-operating in their preparations for the Fourth World Conference in Beijing ...”.

The goal of the official Conference was to adopt a **Platform for Action** containing strategies for the future. Some of the most controversial debates concerned the issues of sexual and reproductive rights, inheritance, sexual orientation and new and additional resources.

Some delegates interpreted sexual and reproductive rights as including a right to abortion. The challenge was to come up with a formulation which provides for freedom of choice without necessarily sanctioning abortion. The compromise was a commitment to the “review of laws containing punitive measures against women who have undergone illegal abortions”, whilst at the same time emphasising that “In no case should abortion be promoted as a method of family planning” and that “every attempt should be made to eliminate the need for abortion”.

Inheritance aroused debate because so many countries have laws which discriminate against girl-children. However, in the end, consensus was reached on equal rights to inheritance for both boys and girls. Government promised to “eliminate the injustice and obstacles in relation to inheritance faced by the girl child so that all children may enjoy their rights without discrimination”.

A proposed clause stating that women should not be discriminated against on the basis of sexual orientation was extensively debated, and deleted altogether during the final hours of the conference.

On the question of resources, developing countries motivated the reallocation of world resources to help eliminate discrimination, while developed countries opposed any wording which might commit them to increasing their foreign aid. However, a phrase referring to “new and additional resources” was in the end accepted by consensus. The final document states that “The success of the Platform for Action will also require adequate mobilization of resources at the national and international levels as well as new and additional resources to the developing countries from all available funding mechanisms, including multilateral, bilateral and private sources.”

The Platform for Action is divided into six chapters: the Mission Statement; the Global Framework; Critical Areas of Concern; Strategic Objectives and Actions; Institutional Arrangements; and Financial Arrangements. The Platform is defined in its own terms as “an agenda for women’s empowerment. It aims ... at removing all the obstacles to women’s active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making.”

The Platform for Action identified 12 critical areas of concern:

- The persistent and **increasing burden of poverty on women**
- Inequalities and inadequacies in and unequal access to **education and training**

- Inequalities and inadequacies in and unequal access to **health care and related services**
- **Violence against women**
- The **effects of armed or other kinds of conflict on women**, including those living under foreign occupation
- **Inequality in economic structures and policies**, in all forms of productive activities and in access to resources
- Inequality between men and women in the **sharing of power and decision-making at all levels**
- **Insufficient mechanisms** at all levels **to promote the advancement of women**
- Lack of respect for and inadequate promotion and protection of the **human rights of women**
- **Stereotyping of women and inequality in women's access to and participation in all communication systems**, especially in the media
- **Gender inequalities in the management of natural resources**
- Persistent discrimination against and violation of the rights of **the girl-child**.

A summary of the Platform for Action is reproduced below.

I am making a special appeal to you men that they should not look at these issues as women's issues, but consider them as national problems which need everybody's concrete efforts for the betterment of us all.

Press Statement, **Hon Netumbo Nandi-Ndaitwah**, 27 October 1995

World conferences provide a forum where UN member states can adopt common approaches to shared problems. But a key function of the longer-term conference process is to highlight the progress of individual nations by reviewing their national plans, policies and commitments. Aware of such scrutiny – and the opportunity to draw attention to their efforts regarding women in particular – over one hundred countries promised specific actions in Beijing. These national commitments have become an intrinsic part of the follow-up, providing the UN, governments, NGOs and society at large with benchmarks to gauge progress in the advancement of women. These commitments also serve as powerful advocacy tools that NGOs in each country can monitor and discuss with their country representatives.

International Women's Tribune Centre

Namibia's specific commitments at Beijing included the following:

- Increase subsistence agricultural output, labour productivity and non-traditional crop and livestock output by 10% by the year 2000.
- Provide potable water to 80% of rural areas.
- Attain the goal of 94% primary school age enrolment and 80% literacy by the year 2000.
- Continue efforts of the Ministry of Basic Education and Culture to remove all forms of discrimination based on gender.

"LOOK AT THE WORLD THROUGH WOMEN'S EYES"

sign at the entrance to the NGO Forum in Beijing

Commitments at the Beijing Women's Conference:

The Big If

The Fourth World Conference on Women was the largest United Nations Conference ever held. Together with the parallel NGO Forum on Women, the Conference was attended by almost 50000 people, over two-thirds of them women. A total of 181 UN Member States, including all from Africa, participated.

The centrepiece of the Conference was the Platform for Action. Secretary-General of the Conference, Gertrude Mongella, a former diplomat and cabinet minister from Tanzania, described the action plan as “our legitimate basis to demand change”. It represents a global consensus for social change, she said, and it “cannot now be hidden away and allowed to collect dust”.

The 362-paragraph document covers twelve “critical areas of concern” considered to be the main obstacles to women's advancement. With clear identification of the obstacles, strategic objectives and actions to be taken by governments and the private sector, the Platform provides a comprehensive guideline to enhance the social, economic and political empowerment of women, improve their health, advance their education and training, promote their marital and sexual rights and end gender-based violence.

Building on the gains made since the UN held the first women's conference in Mexico City in 1975, the Beijing Conference set some new benchmarks. For the first time, it was agreed that women had the right to control their own sexual expression. It recognized the connection between women's status in society and violence against women in all its forms. Most important, “the connection is made between advancement for individual women and progress for the whole society.”

OLD DEBATES: NEW DECISIONS

The Draft Platform for Action, which was negotiated in three preparatory committee meetings and numerous informal consultations, was presented in Beijing with nearly 25% of its text still disputed. A pre-Conference consultation failed to resolve differences on such issues as women's reproductive and sexual rights, the question of inheritance, parental responsibility, the role of family, culture and religion and the issue of resources for the implementation of the Platform. While the delegates presented national positions on these and other issues at the Conference's Main Committee, two working groups and two informal groups were formed to hammer out the differences. All the negotiating bodies were headed by women, including two Africans: Merwat Tallawy from Egypt and Nana Ama Yeboa from Ghana.

WHAT DID THEY SAY THEY WERE GOING TO DO?

In the end, both the Beijing Declaration and the Platform for Action were adopted by consensus. About 40 countries entered their reservations, mostly in the areas of health. Through their acceptance of the Platform, the governments agreed to recognise:

- Women's rights as human rights
- Women's right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health. They also agreed to consider reviewing laws containing punitive measures against women who had undergone illegal abortion. However, in no case should abortion be promoted as a method of family planning, they stressed.
- Women's equal right to inheritance. Governments agreed to enact and enforce legislation that guaranteed women's and girls' equal right to succession and equal right to inherit.
- Develop methods for assessing the value of women's unremunerated work, especially in agriculture and household work.
- Recognise rape in armed conflicts as a war crime and, under certain circumstances, an act of genocide.

The Platform also recommends actions aimed at promoting the rights and status of women and girls and lifting the obstacles to their advancement. They include:

- Ensuring, by the year 2000, access to basic education and completion of primary education by at least 80% of young children; closing the gender gap in primary- and secondary-school education by the year 2005; and universal primary education in all countries before the year 2015.
- Reducing maternal mortality by at least 50% of the 1990 levels by the year 2000 and a further one-half by the year 2015.
- Converting military resources to peaceful purposes to reduce the impact of armed conflict on women.
- Adopting and implementing legislation to end violence against women.
- Guaranteeing women equal pay for equal work.
- Ensuring gender balance in government bodies and political parties and installing mechanisms to promote women's advancement
- Ratifying the 1979 Convention on the Elimination of Discrimination against Women and limiting or withdrawing reservations.
- Giving women full and equal participation in control over resources.

The first and perhaps the most detailed critical area of concern in the Platform is the question of poverty. Though households as a whole are affected by poverty, women bear a disproportionate burden because of gender division of labour and responsibilities. The Platform calls for developing strategies that address the needs and efforts of women in poverty and recommends providing them with access to savings and credit mechanisms and institutions.

In no other region has poverty been so overwhelmingly "feminized" as in Sub-Saharan Africa, where, according to a UNICEF report, almost 50% of the population now live in absolute poverty, surviving on less than US\$1 (N\$3.67) a day. Recent UN data show that the poor as a percentage of the population continue to rise in Sub-Saharan Africa – from 47.6% in 1985 to 49.7% in 1990. In North Africa, too, this percentage has gone up from 30.6% to 33.1%.

At the Beijing Conference, governments agreed to pursue a three-fold policy to fight against feminization of poverty; to provide adequate special safety nets and strengthen state and community-based support systems; to formulate and implement specific economic, agricultural and related policies in support of female-headed households; and to revise laws and practices that limit disadvantaged women's access to ownership of land, credit, inheritance, natural resources and appropriate technology.

The key to the success of this policy is mobilization of resources. Delegates from several African countries argued that in the current global economic climate, without financial resource mobilization at both the national and international level, the success of the Platform could not be guaranteed.

African delegates were both frank and forthcoming about describing the current state of their economy. Said the Mozambican head of delegation, Dr Alcinda de Abreu: "Out of the 16 million inhabitants, about 60% are living below absolute poverty. The country's GNP is about 80% per capita and a third of the population is undergoing a process of resettlement. The illiteracy rate is 72%, of which 77.6% are women.

The questions of foreign debt and structural adjustment programmes (SAPs) were injected time and again into the general debate. Developing countries, especially those that have seen vital social services eroded as a result of SAPs, underlined how this has come to undermine women's advancement. The Platform in its global framework acknowledges that macro- and microeconomic policies and programmes, including SAPs, have not always taken into account their impact on women and girls, especially those living in poverty. Some Western countries, giving their initial opposition to a paragraph on excessive military expenditures, debt and structural adjustment, consented to the Platform's call for ensuring that SAPs were designed to minimize their negative impact on vulnerable groups, and international financial institutions were asked to seek durable solutions to problems of external debt.

The issue of the girl-child unified many African delegations who pushed hard for its inclusion as the last of the 12 "critical areas of concern". In developing countries, especially those in Asia and Africa, girls often face discrimination even before they are born and throughout their life-cycle. Delegates agreed that the discrimination and neglect that girls face in childhood could initiate a lifelong downward spiral of deprivation and exclusion from the social mainstream.

TWO MILLION GIRLS MUTILATED EVERY YEAR

Take education, for example. In 1990, 130 million children had no access to primary school, of whom 81 million were girls. Girls are also subjected to harmful traditional practices, including female infanticide and early marriage. WHO estimates that more than two million girls undergo the ritual of genital mutilation every year, many of them in Africa.

A call for an end to discrimination against the girl-child was heard very early on at the Conference. The First Lady of Ghana, Nana Konadu Agyeman, described the girl-child as “a special concern for Africa”, calling for giving her an education that empowers.

Equally emphatic was Netumbo Nandi-Ndaitwah, Deputy Minister for Foreign Affairs of Namibia. “If we provide girls with equal opportunities, we enable them to become the leaders of the 21st century,” she observed. “We must not abandon her,” she said.

Governments agreed to a set of actions that would promote the rights of the girl-child. They agreed to enact laws to ensure that marriage was entered into only with free and full consent. They also agreed to take steps to abolish traditional practices harmful to girls, including female genital mutilation; pre-natal sex selection; sexual exploitation and discrimination in food allocation.

AFRICA CLASHES OVER INHERITANCE

The girl-child was also at the centre of attention when opposing views of some African and Islamic countries clashed at the Conference on the question of inheritance rights of girls and women. African delegates, who felt that traditional legal structure often discriminated against women in land rights, supported the equal rights of women and girls to inheritance. On the other hand, delegates from some Islamic countries, including those in Africa, felt that their religious inheritance laws, based on the principle of equity, mandated a distribution of assets that gave a woman half the amount that her brother inherited. Going beyond the semantics, governments agreed to underline the discrimination girls face and to recognise their “equal rights to inheritance”. They agreed to call for “enacting, as appropriate, and enforcing legislation that guarantees equal rights to succession and ensures equal rights to inherit, regardless of the sex of the child”.

COMMITMENTS, COMMITMENTS: THE BIG IF

The Beijing Conference, as almost everyone agreed, was a great boost towards universal recognition of women's rights. The presence of thousands of women provided them with a forum for networking and strengthened their sense of global sisterhood. More importantly, the Platform for Action put forth a practical global blueprint which, if implemented, will make great strides towards achieving the goal of full equality between men and women.

Obviously, the primary responsibility for implementing the plan lies with national governments, though NGOs and international organisations are important players. But will all governments go along with the Plan of Action and carry it out as they agreed?

That many countries are not entirely comfortable with it was obvious from the rising voice of opposition heard at the final day's meeting of the Main Committee. Delegation after delegation stood up, expressed their opposition to one or other provision and told the meeting they would formally enter their reservations. One of the most controversial sections concerned a footnote in the health section which said that because of different cultural and religious practices, it was up to the governments to decide to what extent they would implement the plan. Inclusion of the footnote, many delegates said, would encourage them to drop reservations. Others, however, argued that inclusion of the footnote would weaken the document.

After a final round of late-night negotiations, the chairperson ruled that the footnote be dropped. Its contents, however, remained intact in the Platform's global framework. Delegates agreed that the implementation of the Platform of Action is “the sovereign responsibility of each state, in conformity with all human rights and fundamental freedoms”. They also recognized the “significance of and full respect for various religious and cultural values and cultural backgrounds and philosophical convictions of individuals and their communities” in achieving gender equality.

UN Bulletin, December 1995

Beijing Declaration and Platform for Action (Summary)

United Nations Fourth World Conference on Women Beijing, China 1995

Since the United Nations held the first world conference on women 20 years ago (Mexico City, 1975), important progress has been made towards achieving equality between women and men. Women's access to education and proper health care has increased, their participation in the paid labour force has grown and legislation that promises equal opportunities for women and respect for their human rights has been adopted in more countries. As a result, important changes have occurred in the relationship between women and men.

Yet discrimination against women is still widespread. Violence against women remains a global phenomenon. Women's equal access to resources is still restricted and their opportunities for higher education and training are concentrated in limited fields. A "glass ceiling" continues to bar women's advancement in business, government and politics. Women are an overwhelming majority of the 1 billion people living in abject poverty and among illiterates. Decisions that affect women continue to be made largely by men.

The Beijing Declaration and Platform for Action, adopted unanimously at the Fourth World Conference on Women (4-15 September 1995) by representatives from 189 countries, reflect a new international commitment to the goals of equality, development and peace for all women everywhere.

The Platform, divided into six chapters, identifies 12 "critical areas of concern" considered to represent the main obstacles to women's advancement. It defines strategic objectives and spells out actions to be taken over the next five years by Governments, the international community, non-governmental organizations and the private sector for the removal of the existing obstacles.

The Platform was further reinforced in the Beijing Declaration. It reaffirmed the commitment of Governments to eliminate discrimination against women and to remove all obstacles to equality. Governments also recognized the need to ensure a gender perspective in their policies and programmes.

Mission Statement & Global Framework

Since the 1985 Nairobi Conference on Women, the world has experienced profound changes, with both positive and negative effects on women. A worldwide movement towards democratization has opened up the political process in many nations. The growing strength of women's organizations and feminist groups has become a driving force for change.

At the same time, widespread economic recession, political instability, heavy military spending, poorly designed structural adjustment programmes, the servicing of the external debt burden and continuing environmental degradation have had a disproportionately negative impact on women.

The Platform for Action, an agenda for women's empowerment, seeks to reverse this trend. It seeks to promote and protect the full enjoyment of all human rights and the fundamental freedoms of all women throughout their life cycle. It also calls for establishing the principle of shared power and responsibility between women and men at home, in the workplace and in the wider national and international communities.

The success of the Platform for Action will require a strong commitment on the part of Governments, international organizations and institutions at all levels. It will also require adequate mobilization of resources at all levels as well as new and additional resources for the developing countries.

Poverty

Today, more than 1 billion people live in extreme poverty; the overwhelming majority of them are women. In the past decade the number of women living in poverty has increased disproportionately to the number of men, and the risk for falling into poverty is higher for women than for men. Poverty is particularly acute among women living in rural households.

Women are poorer because they have fewer economic opportunities and less autonomy than men. Their access to economic resources, education and training, and support services is limited. They also have very little participation in the way decisions are made. The rigidity of socially prescribed roles for women and the tendency to scale back social services have increased the burden of poverty on women.

The Platform recommends action to:

Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty;

Revise laws and administrative practices in order to ensure women's equal rights and access to economic resources;

Provide women with access to savings and credit mechanisms and institutions;

Develop gender-based methodologies and conduct research to address the feminization of poverty.

Education & Training

Education is a human right and an essential tool for achieving equality, development and peace. Though overall progress has been achieved in girls' enrolment at primary and secondary levels, girls in many countries still face discrimination due to customary attitudes, early marriages and pregnancies, lack of accessible schools, and inadequate and gender-biased teaching and educational materials. Girls continue to be denied quality education, especially at higher levels and in science and technology.

Investing in formal and non-formal education and training for girls and women has proved to be one of the best means of achieving sustainable development and economic growth.

The Platform recommends action to:

Ensure equal access to education. Governments are to commit themselves, by the year 2000, to universal access to basic education and completion of primary education by at least 80 per cent of primary-school-age children.

They also agree to close the gender gap in primary- and secondary-school education by the year 2000, and to achieve universal education in all countries before the year 2015;

Eradicate illiteracy among women. Governments are to reduce the female illiteracy rate at least to half its 1990 level;

Improve women's access to vocational training, science and technology, and continuing education;

Develop non-discriminatory education and training;

Allocate sufficient resources for and monitor the implementation of educational reforms;

Promote lifelong education and training for girls and women.

Health

Women's health involves their emotional, social and physical well-being. It is determined by the social, political and economic context of their lives, as well as by biology. The enjoyment of the highest attainable standard of physical and mental health is vital for the life and well-being of women. It is also crucial to their ability to participate in all areas of public and private life. This right must be secured throughout their whole life cycle in equality with men.

The Platform defines reproductive health as a state of complete physical, mental and social well-being and sexual health whose purpose is the enhancement of life and personal relations. Equal relationships between men and women in matters of sexual relations and reproduction require mutual respect, consent and shared responsibility. The Platform recognizes that reproductive rights rest on the recognition of the basic human rights of all couples and individuals to decide freely and responsibly how many children they want to have, and when. They also have the right to obtain information and make decisions on reproduction free of discrimination, coercion and violence.

The Platform recommends actions to:

Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services;

Reduce maternal mortality by at least 50 per cent of the 1990 levels by the year 2000 and a further one half by the year 2015;

Encourage both women and men to take responsibility for their sexual and reproductive behaviour;

Undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS and sexual and reproductive health issues;

Increase resources and monitor follow-up for women's health.

Violence

In all societies, to a greater or lesser degree, women and girls are subject to physical, sexual and psychological abuse that cuts across lines of income, class and culture, in both public and private life. They often face rape, sexual abuse, sexual harassment and intimidation in the workplace. They are particularly vulnerable to systematic violence during war. Sexual slavery, forced pregnancy, sterilization and forced abortion, prenatal sex selection and female infanticide are also acts of violence. All such acts of violence violate and impair or nullify women's enjoyment of human rights and fundamental freedoms. Such groups of women as migrant workers require special attention because they are particularly vulnerable to violence.

Lack of preventive and protective laws, and lack of access or ineffective enforcement by public authorities of such laws where they exist, only perpetuate and increase violence against women.

The Platform recommends actions to:

Adopt and implement legislation to end violence against women;

Work actively to ratify and implement all international agreements related to violence against women, including the UN Convention on the Elimination of all Forms of Discrimination against Women;

Adopt new laws and enforce existing ones to punish members of security forces and police or any other State agents for acts of violence against women;

Set up shelters, provide legal aid and other services for girls and women at risk, and provide counselling and rehabilitation for perpetrators of violence against women;

Step up national and international cooperation to dismantle networks engaged in trafficking in women.

Armed Conflict

Peace is a prerequisite for the attainment of equality between women and men. Unfortunately, armed and other types of conflict still persist in many parts of the world. Aggression, foreign occupation and ethnic and other conflicts are an ongoing reality affecting women and men in nearly every region, aided by excessive military expenditures and the arms trade.

Though women rarely have any role in the decisions leading to armed conflicts, they work to preserve social order in the midst of the conflicts. They also make an important contribution as peace educators and resolvers of conflicts.

The Platform recognizes that rape, which is common during armed conflicts, is a crime, and under certain circumstances is an act of genocide. It condemns “ethnic cleansing” as a strategy of war and rape as one of its consequences. Such practices must be stopped and their perpetrators punished, it asserts.

The Platform recommends action to:

Increase the participation of women in conflict resolution at decision-making levels;

Reduce excessive military expenditures and control the availability of armaments;

Work towards the universal ratification of the anti-mine Convention and Protocol by the year 2000;

Recognize the important roles and contributions of women in peace movements throughout the world;

Recognize the need to protect women living in situations of armed and other conflict or under foreign occupation, or who have become refugees or displaced.

Economy

Women contribute significantly to economic life everywhere. Their share in the labour force continues to rise, they are becoming more involved in micro-, small and medium enterprises and their income is becoming increasingly necessary to all households.

However, women are largely excluded from economic decision-making. They face low wages, poor working conditions and limited employment and professional opportunities. Though women contribute to development through paid as well as unpaid work, their unpaid work, such as domestic and community work, is not measured in quantitative terms and not valued in national accounts.

Discrimination in education and training, hiring, and remuneration and promotion, as well as inflexible working conditions, lack of access to productive resources and inadequate sharing of family responsibilities, contribute to restricted employment, economic and professional opportunities for women.

The Platform recommends action to:

Promote women’s economic rights and independence, including access to employment and appropriate working conditions and control over economic resources;

Facilitate women's equal access to resources, employment, markets and trade;

Provide business services, training and access to markets, information and technology, particularly to low-income women;

Strengthen women's economic capacity and commercial networks;

Eliminate occupational segregation and all forms of employment discrimination;

Promote harmonization of work and family responsibilities for women and men.

Decision-making

Women's equal participation in decision-making is not only a demand for simple social justice or democracy. It is essential for achieving transparent and accountable government. It will also provide a balance that more accurately reflects the composition of society.

Despite the widespread movement towards democratization in most countries, women remain largely underrepresented at most levels of government, especially in ministerial and other executive bodies or in reaching the target of having 30 per cent of decision-making positions held by women by 1995, as endorsed by the UN Economic and Social Council. They have achieved little progress in attaining political power in legislative bodies. Globally, only 10 per cent of legislative positions, and a lower percentage of ministerial positions, are held by women.

Similarly, the under-representation of women in decision-making positions in the arts, culture, sports, the media, education, religion and law have prevented women from having a significant impact on many key institutions and policies.

The Platform recommends action to:

Ensure women's equal access to and full participation in power structures and decision-making in governmental bodies and public administration entities, including the judiciary, international and non-governmental organizations, political parties and trade unions;

Increase women's capacity to participate in decision-making and leadership positions.

Institutional Mechanisms

Most countries have established institutions for the advancement of women. These are diverse in form and uneven in their effectiveness. They are often marginalized in national government structures, without a clear mandate, and lack adequate staff and resources as well as support from national political leadership. At the regional and international levels, mechanisms and institutions for the advancement of women encounter similar problems.

Many organizations have developed methodologies for gender-based policy analysis. Unfortunately, they are applied either sporadically or not at all.

The Platform recommends action to:

Create or strengthen national machineries and other governmental bodies; ensure that responsibility for the advancement of women is vested in the highest possible level of Government;

Integrate gender perspectives in legislation, public policies, programmes and projects; ensure that before policy decisions are taken, an analysis of their impact on women and men is carried out.

Generate and disseminate gender-disaggregated data and information for planning and evaluation; measure, in quantitative terms, unremunerated work that is outside national accounts.

Human Rights

All human rights are universal, indivisible, interdependent and interrelated. Their full and equal enjoyment by women and girls is a priority for Governments and the United Nations and is essential for the advancement of women. Governments must not only refrain from violating the human rights of all women but work actively to promote and protect these rights.

Recognition of the importance of women's human rights is reflected in the fact that three quarters of the UN Member States have become parties to the Convention on the Elimination of All Forms of Discrimination against Women. However, the gap between the existence of rights and their effective enjoyment derives from a lack of commitment by Governments in promoting and protecting those rights and the failure of Governments to inform women and men alike about them.

The Platform recommends action to:

Promote and protect the human rights of women by fully implementing all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women;

Review national laws to ensure implementation of all international human rights agreements;

Ensure equality and non-discrimination under the law and in practice;

Achieve legal literacy.

Media

Today, many women work in the media, but few have reached positions at decision-making levels. In most countries, the media continue to project a negative and degrading image of women and do not reflect women's diverse lives and contributions to society. Violent and degrading or pornographic media products in particular affect women negatively.

Everywhere the media have the potential to make a far greater contribution to the advancement of women. They can create self-regulatory mechanisms that can help eliminate gender-biased programming. Women can also be empowered by having greater skills, knowledge and access to information technology.

The Platform recommends action to:

Increase women's participation in and access to expression and decision-making in and through the media and new technologies of communication; Governments should aim at gender balance through the appointment of women and men to all advisory, management, regulatory or monitoring bodies;

Promote a balanced and non-stereotyped portrayal of women in the media. The media organizations, NGOs and the private sector should promote the equal sharing of family responsibility and produce materials that portray diverse roles of women leaders;

Develop within mass media and advertising organizations professional guidelines and codes of conduct and other forms of self-regulation to promote the presentation of non-stereotyped images of women, consistent with freedom of expression.

Environment

Through their management and use of natural resources, women provide sustenance to their families and communities. As consumers and producers, caretakers of their families and educators, women play an important role in promoting sustainable development.

The deterioration of natural resources results in negative effects on the health, well-being and quality of life of the population at large, especially girls and women of all ages.

However, women, who are rarely formally trained as natural-resource managers, remain largely absent from decision-making and have their experience and skills too often marginalized. Despite the leadership role played by women's organizations, institutional coordination with national bodies is very weak.

The Platform recommends action to:

Involve women actively in environmental decision-making at all levels, including as managers, designers and planners, and as implementers and evaluators of environmental projects;

Integrate gender concerns and perspectives in policies and programmes for sustainable development;

Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environment policies on women.

The Girl-Child

In many countries, the girl-child faces discrimination from the earliest stages of life, through childhood and into adulthood. Due to harmful attitudes and practices, such as female genital mutilation, son preference, early marriage, sexual exploitation and practices related to health and food allocation, fewer girls than boys survive into adulthood in some areas of the world. Due to lack of protective laws, or failure to enforce such laws, girls are more vulnerable to all kinds of violence, particularly sexual violence. In many regions, girls face discrimination in access to education and specialized training.

More than 15 million girls aged 15 to 19 each year give birth and face pregnancy-related complications. Girls are also more vulnerable than boys to the consequences of unprotected and premature sexual relations, including HIV/AIDS.

The Platform recommends action to:

Eliminate all forms of discrimination against the girl-child; enact and enforce appropriate legislation that guarantees equal right to succession and ensures equal right to inherit, regardless of the sex of the child;

Eliminate negative cultural attitudes and practices against girls;

Eliminate discrimination against girls in education, skills development and training;

Eliminate discrimination against girls in health and nutrition;

Eliminate the economic exploitation of child labour and protect young girls at work;

Strengthen the role of the family in improving the status of the girl-child.

Institutional & Financial Arrangements

The Platform for Action establishes a set of actions that should lead to fundamental change. Immediate action and accountability are essential if the targets are to be met by the year 2000.

Governments are primarily responsible for their implementation. However, success depends also on various national, regional and international institutions, public and private, which require clear and strong mandates, authority and resources.

At the national level, commitment at the highest political level is essential for the successful implementation of the Platform. By the end of 1996, all Governments should have their own national strategies or plans of action. Governments should establish or improve effectiveness of national machineries for the advancement of women, and seek the active support of a broad range of other actors.

At the regional and sub-regional levels, the regional commissions of the United Nations should promote and assist national institutions. Regional institutions should develop and publicize regional plans of action for implementing the Platform within given time-frames and resources.

At the international level, all entities of the United Nations system should have the necessary resources and support to carry out follow-up activities. International financial institutions are encouraged to review and revise policies to ensure that their investments and programmes benefit women.

To ensure system-wide implementation of the Platform and to advise on gender issues, the Secretary-General of the United Nations is invited to establish a high-level post in his office. The Platform also calls for committing adequate financial resources from all sources and across all sectors.

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THE IMPACT OF BEIJING

In order to assess the impact of the Fourth World Conference for Women, an international NGO called the Women's Environment & Development Organization (WEDO) undertook periodic surveys of governments and NGOs around the world. What follows is a brief overview of what they found.

In the first six months following the 1995 Beijing conference, the most common follow-up action by governments was the organisation of meetings and forums to discuss the conference. Many countries also translated the Beijing Platform for Action into more popular versions, and upgraded their observance of International Women's Day.

The second-most-common follow-up action was the creation or upgrading of mechanisms to coordinate and monitor implementation of the Platform for Action – usually some form of inter-ministerial commission. Some of these commissions include representatives of women's groups, NGOs and civil society.

The world conference was also clearly energising and motivating for many of the individuals who attended, causing them to return home with a renewed commitment to the advancement of women's issues.

Here are some examples of specific government actions which appear to have been inspired, at least in part, by the momentum from Beijing:

- In the United States, the government announced a US\$1.6 billion initiative to end domestic violence, including a 24-hour national telephone hotline. President Clinton asked all men to take a pledge never to commit domestic violence against women, and to teach their children to do the same.
- In Colombia, all government ministers took part in a televised public debate, in which they set forth their plans for implementing the Platform for Action.
- In Brazil, "contracts" containing concrete steps based on the Platform were signed with the heads of five ministries. For example, the contract with the Ministry of Health provides for free breast cancer screening for all women.
- In Japan, a Family Care Leave law was passed which requires all employers to give employees up to three months leave to care for sick or injured dependents, as well as up to three months work at reduced hours.
- In Canada, Trinidad and Tobago, steps were taken to find ways to count women's unpaid work in the home as part of the national economy.

However, despite the announcement of many new activities and programmes, few countries reported allocating any new financial resources to the advancement of women. This is a signal that, while women's issues have acquired increased visibility as a result of the conference, many governments are unlikely to get past the stage of good intentions.

One year later, NGOs in countries which had participated in Beijing were surveyed to find out if they felt that their government were moving forward on women's issues, and 76% said yes.

Two and a half years after the Beijing conference, 157 governments had drawn up national action plans relating to Beijing. However, money was still the most limiting factor, with plans of action still not being matched by sufficient mechanisms and resources to take them forward in many countries. On the bright side, one-third of the countries surveyed reported that their budgets for women's programmes had been increased since Beijing, and 22 countries reported that they had adopted laws or policies to advance the equal participation of women in decision-making. Another 28 countries reported that they had adopted new laws and policies on domestic violence since Beijing, and there were signs of slow advancement in efforts to outlaw female genital mutilation. Some countries also reported taking steps to give women equal opportunity in employment, and to make sure that educational policies reflected the needs of the girl child.

WEDO found that progress tended to be most dramatic in countries with strong democratic institutions, a vigorous civil society, and a background of peace accompanied by low levels of expenditure on defence. The impacts of globalisation and war were serious debilitating factors in many parts of the world – in the words of WEDO, “even while the building blocks of Beijing are going up, the edifice is on shaky ground”.

At the international level, in the five years following Beijing, the key developments were the adoption of the Optional Protocol to CEDAW and the Statute of the International Criminal Court, which explicitly recognises gender-related crimes (such as rape) amongst war crimes.

BEIJING +5

Beijing +5 was a mid-term review of the implementation of the Beijing Platform for Action in the year 2000. It took the form of a Special Session of the General Assembly entitled “Women: 2000: Gender Equality, Development and Peace for the Twenty-First Century”, held from 5-9 June 2000 at UN Headquarters in New York. This meeting included governments, the international community, non-governmental organizations and the private sector.

The Special Session reviewed and assessed the progress achieved in the implementation of the 1985 Nairobi Forward-looking Strategies for the Advancement of Women, and the 1995 Beijing Platform for Action. It also considered actions and initiatives for the year 2000 and beyond.

Unlike the previous world conferences on women, which were global events attracting thousands of participants to the various host countries, the Special Session of the General Assembly was a much smaller meeting held at UN Headquarters in New York. The Special Session provided an opportunity for all concerned to share and compare experiences, to renew old commitments and to make new ones, and to examine successes and obstacles encountered in implementing the Platform for Action.

The Economic Commission for Africa (ECA) based in Addis Ababa, Ethiopia, was responsible for coordinating the Beijing +5 Review Process in Africa. This Review Process involved government departments, civil society, NGOs, United Nations agencies, bilateral agencies and other stakeholders, which completed questionnaires on progress in implementing the African and Beijing Platforms for Action.

based on information from WomenWatch and FLAMME websites

...We have just adopted a document to move the global agenda for the advancement of women beyond the Platform for Action adopted at the 1995 Fourth World Conference on Women...

There was no backward movement on any of the Beijing language and commitments. That Platform, with its numerous proposals for action, remains fully valid for national and international actions. Indeed, the text we have just adopted updates the Beijing Platform, further strengthening the document in the areas of violence against women; trafficking in women; health, including the right to sexual and reproductive health, education; human rights; poverty, debt relief and globalization; armed conflict; sovereignty; land and inheritance rights for women; political participation and decision-making.

In the many statements heard in this august hall, delegates drew attention to the obstacles and challenges remaining for the achievement of women's empowerment and gender equality. We also heard many innovative proposals for implementing the next phase effectively. By adopting this outcome document today, governments have committed themselves to the Beijing Platform for action and the way forward.

We gathered at United Nations Headquarters, 5 to 9 June 2000, with a single purpose, namely, to further the global agenda for the advancement of women through inclusive governance, empowerment and gender equality. If governments demonstrate the necessary political will and allocate the human and financial resources required, I am convinced that the goals of gender equality, development and peace will become a reality very early in the twenty-first century.

Organizations of the United Nations system, the Bretton Woods institution, the World Trade Organization, other international and regional intergovernmental bodies, parliaments, civil society, including the private sector and the non-governmental organizations (NGOs), and other entities are called upon to support government efforts and develop complementary programmes of their own to achieve full and effective implementation of the platform for action. It is clear that all of us are stakeholders in this common endeavour.

In their various statements, governments, observers, the heads of United Nations programmes and agencies, NGOs and other reviewed and appraised the progress made towards women's advancement by implementing the Beijing Platform. In all, we heard a total of 207 speakers in the plenary – 178 Member States, three non-Member States, 16 observers, four heads of United Nations programmes and specialized agencies, one United Nations Committee and 5 NGOs – 77 per cent of whom were women. Additional statements were made in the Ad Hoc Committee of the Whole.

Attendance at the special session was impressive. Some 2300 delegates, not including the staff of Permanent missions, participated. Both this special session and the 1995 Beijing Conference benefited immensely from the involvement and participation of NGOs, of which there were 2043 representing 1036 accredited organizations from throughout the world, not to mention the 2000 plus NGOs sponsored by the host country and other governments. That number would have been far greater had the United Nations Building been able to accommodate more people. The document we have just adopted acknowledges the vital role which NGOs must continue to play, as active partners with governments and the United Nations system, in the promotion of gender equality, development, and peace everywhere...

In closing, let me express appreciation to everyone present for your commitment and dedication towards advancing the rights of women...

excerpts from the closing statement of the
President of the General Assembly, Theo-Ben Gurirab (Namibia),
at the 23rd Special Session of the UN, on 9 June 2000

The Beijing Declaration and Platform for Action is one of the most remarkable documents to emerge from any inter-governmental conference. And since its creation, women have made remarkable gains. They live longer and healthier lives. They are more economically active and their work is recognised. Their human rights are being increasingly respected. More girls go to school and finish school. In most countries of the world, women have the right to vote and hold office. And violence against women is now an illegal act in almost every country.

And yet, women continue to bear a disproportionate burden of poverty, illiteracy, ill health, malnutrition and violence. In some societies their basic rights are still denied. It is clear that despite the very real progress achieved, much remains to be done to achieve equality between women and men.

...The Beijing +5 special session renewed commitments to gender equality, and served as a forum to share and compare experiences with a focus on examples of good practices, positive action and lessons learned. It identified key remaining challenges to the implementation of the platform and drew up new and improved strategies to overcome them.

UN Secretary-General Kofi Annan, "Beyond Beijing: realizing gender equality in the twenty-first century", 2001

Information in this section is drawn primarily from

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- Elizabeth Larsen, "United Nations Fourth World Conference On Women: Action For Equality, Development, And Peace", <http://www.law.emory.edu/EILR/volumes/win96/larson.html>
- the WEDO website <http://www.wedo.org/>.

SUMMARY OF BEIJING + 5 OUTCOME DOCUMENT

UN General Assembly Resolution S-23/3 – Further actions and initiatives to implement the Beijing Declaration and Platform for Action

Introduction

The year 2000 marked five years since the Beijing conference and the United Nations General Assembly met in special session for a comprehensive review and appraisal of the implementation of the Beijing Platform for Action. The Special Session, entitled 'Women 2000: Gender Equality, Development and Peace for the Twenty-first Century' took place in June 2000.

The Special Session was the culmination of a long preparatory process at national, regional and international levels. The governments that came together at the Special Session reaffirmed their commitment to the goals and objectives contained in the Beijing Declaration and the Platform for Action.

The Special Session was undertaken on the basis of, and with full respect for, the Platform for Action and it remains the basic and guiding programme for future progress. The Special Session adopted a Political Declaration and Outcome Document. The Political Declaration reaffirms that governments have the responsibility to implement the Platform for Action. The Outcome Document reaffirms the Beijing Declaration and Platform for Action and gives a new impetus to accelerate implementation of the goals and objectives established in 1995.

Achievements and obstacles in the implementation of the twelve critical areas of the Platform for Action

Assessment of achievements and obstacles was made in relation to the commitments made in the Beijing Platform for Action and its 12 Critical Areas of Concern. These assessments showed that, even though significant positive developments can be identified, barriers remain and there is still the need to further implement the goals and commitments made in Beijing. The summary of achievements and of persistent or new obstacles constitute a global framework for the identification of further actions and initiatives to overcome obstacles and to achieve the full and accelerated implementation of the Platform for Action at all levels and in all areas.

The Outcome Document identifies achievements and obstacles for each of the Critical Areas of Concern, i.e.

Women and poverty
Education and training of women
Women and health
Violence against women
Women and armed conflict
Women and the economy
Women in power and decision-making
Institutional mechanisms for the advancement of women
Human rights of women
Women and the media
Women and the environment
The girl-child.

Current challenges affecting the full implementation of the Beijing Declaration and the Platform for Action

The Outcome Document examines challenges affecting the full implementation of the Platform for Action.

The review and appraisal of the implementation of the Beijing Declaration and the Platform for Action occurred in a rapidly changing global context. Since 1995, a number of issues gained prominence and acquired new dimensions, posing additional challenges to the full and accelerated implementation of the Platform for Action. It recognised that continued political commitment to gender equality, at all levels, is needed for the full implementation of the Platform for Action.

Globalization is one area that has presented new challenges for the fulfillment of the commitments made and the realisation of the goals of the Beijing Conference. The Outcome Document emphasises the gender dimension of the challenges presented by globalization. It stresses the gender effects of changing patterns of production, work and accelerated technological advances in information and communication, pointing to their uneven effects on women. While globalization has brought greater opportunities to some women there has been deepening inequalities within and among countries.

The agreed target of 0.7 % of the gross national product of developed countries for overall official development assistance has not been achieved.

In some countries, current demographic trends, with lowered fertility rates, increased life expectancy and lower mortality rates, have contributed to aging of the population, and have implications for health care systems and spending and informal care systems. Given the gap between male and female life expectancy, the number of widows and older single women has increased considerably, often leading to their social isolation and other social challenges.

The rapid progression of the HIV/AIDS pandemic, particularly in the developing world, has had a devastating impact on women. HIV/AIDS is an urgent public health issue, is outstripping efforts to contain it and, in many countries, is reversing hard won gains of development. The burden of care for people living with HIV/AIDS and for children orphaned by HIV/AIDS falls particularly on women, as infrastructures are inadequate to respond to the challenges being posed. Women with HIV/AIDS often suffer from discrimination and stigma and are often victims of violence.

Growing drug and substance abuse among young women and girls, both in developed and developing countries, has raised the need for increased efforts towards demand reduction and fight against illicit production, supply and trafficking of narcotic drugs, and psycho tropic substances.

Although in many countries the level of participation of women in the labour force has risen, in other cases, the application of certain economic policies has had a negative impact such that increases in women's employment often have not been matched by improvements in wages, promotions and working conditions. In many cases, women continue to be employed in low paid, part-time and contract jobs marked by insecurity and by safety and health hazards. In many countries women, especially new entrants into the labour market, continue to be among the first to lose jobs and the last to be rehired.

There is a need for balanced participation between women and men in remunerated and unremunerated work. Failure to recognise and measure in quantitative terms unremunerated work of women has meant that women's full contribution to social and economic development remains underestimated and undervalued. As long as there is insufficient sharing of tasks and responsibilities with men, the combination of remunerated work and care-giving will lead to the continued disproportionate burden for women in comparison to men.

Actions and initiatives to overcome obstacles and to achieve the full and accelerated implementation of the Beijing Platform for Action

The Outcome Document identifies and proposes actions and initiatives to overcome obstacles and to achieve the full and accelerated implementation of the Beijing Platform for Action. Governments recommit themselves to the Beijing Declaration and Platform for Action and also commit to further actions and initiatives.

The Outcome Document strongly reaffirms the commitment to mainstreaming as the key strategy for promoting gender equality. Political will and commitment at all levels are crucial to ensure mainstreaming of a gender perspective in the adoption and implementation of comprehensive and action oriented policies in all areas. The Outcome Document recognizes that gender equality implies that women's as well as men's needs, interests, concerns, experiences and priorities are an integral dimension of the design, implementation, monitoring, follow-up and evaluation of all actions in all areas.

A gender perspective should be incorporated into the design, development, adoption and execution of all budgetary processes to support gender equality and development programmes which enhance women's empowerment.

Strong emphasis is placed on the gender aspects of the HIV/AIDS pandemic, sexually transmitted infections, malaria and tuberculosis, pointing out the disproportionate impact on women's and girls' health. Proper measures and policies to address these challenges are called for. The situation of the girl child affected by HIV/AIDS is specifically addressed, as an infected person, care provider and orphan. It also recommends the promotion of women and girls' mental health, its integration into health care services and programmes and, in this context, gender sensitive training of health workers to recognise and address gender based violence. The document also contains provisions on aging and the need for programmes for healthy, active aging, aimed at ensuring the independence, equality, participation and security of older women.

Governments are called on to promote safe motherhood and give priority attention to measures to prevent, detect and treat breast, cervical and ovarian cancer and osteoporosis, and sexually transmitted infections, including HIV/AIDS. The Outcome Document reaffirms the agreement of previous world conferences in relation to reproductive health and rights, including sexual health. Reproductive rights embrace certain human rights that rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health.

The document reaffirms paragraph 8.25 of the Programme of Action of the International Conference on Population and Development, which states: 'In no case should abortion be promoted as a method of family planning ... Prevention of unwanted pregnancies must always be given the highest priority and every attempt should be made to eliminate the need for abortion. Any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process. In circumstances where abortion is not against the law, such abortion should be safe ...'

The Outcome Document focusses on the need to promote an environment that does not tolerate violations of the rights of women and girls. Discriminatory provisions in legislation should be removed before 2005 and legislative gaps that leave women and girls without effective legal protection and recourse against gender based discrimination should be eliminated. More specific provisions are introduced to address issues not directly mentioned in the Platform for Action, such as marital rape, crimes committed in the name of honour and passion, racism and racially motivated violence against

women and girls. New measures to combat the violations of human rights of women are formulated, including zero tolerance campaigns against violence against women, laws and measures to address negative traditional practices, mainstreaming gender into national immigration policies and the recognition of gender related persecution and violence as grounds for asylum and refugee status.

Trafficking in women and girls, and the associated forms of violence, are addressed in an holistic manner. Measures to combat trafficking in women and girls range from addressing the root factors to a comprehensive anti-trafficking strategy that includes legislative and preventive measures, exchange of information, assistance, protection and reintegration of victims and prosecution of offenders. Another measure proposed is the establishment of a national rapporteur or interagency body to collect and exchange information and to report on data, causes, factors and trends in violence against women, in particular trafficking. Trafficked women and girls should not be prosecuted for illegal entry or residence in the country to which they are trafficked.

Other stakeholders, including parliaments, civil society, social partners and NGOs, are called upon to support government efforts and, where appropriate, develop complementary programmes of their own to achieve full and effective implementation of the Platform for Action.

The complementary role of NGOs in ensuring the effective implementation of the Platform for Action is recognised. Partnerships between Governments and NGOs in the implementation of commitments made at the Fourth World Conference on Women and at other United Nations World Conferences and Summits, in order to promote gender equality, development and peace in the twenty-first century, are encouraged.

By adopting the Platform for Action governments and the international community agreed to a common development agenda with gender equality and women's empowerment as underlying principles. The efforts towards ensuring women's participation in development have expanded and need to combine a focus on women's conditions and basic needs with an holistic approach based on equal rights and partnerships, promotion and protection of all human rights and fundamental freedoms. Policies and programmes should be formulated to achieve the goal of people-centred sustainable development, to secure livelihoods and adequate social protection measures, to strengthen support systems for families and to ensure equal access to and control over financial and economic resources, and to eliminate disproportionate poverty among women. All economic policies, institutions and resource allocation should adopt a gender perspective to ensure that development dividends are shared on equal grounds.

Men and boys should be actively involved and encouraged in all efforts to achieve the goals of the Platform for Action and its implementation. Policies and programmes for men and boys should promote gender equality and positive attitudes and behaviours.

The Outcome Document reaffirms that women play a critical role in the family and that the family is the basic unit of society, is a strong force for social cohesion and integration and as such should be strengthened. The continued inadequate attention to women's social and economic contributions to the welfare of the family and the social significance of maternity is recognised. Motherhood and fatherhood and the role of parents in the family and in the raising of children is acknowledged. The inadequate support to women and insufficient protection and support to their respective families undermine efforts to achieve gender equality. In different cultural, political and social systems, various forms of the family exist and the rights, capabilities and responsibilities of family members must be respected. In order to achieve full partnership, both in public and private spheres, both women and men must be enabled to reconcile and share equally work responsibilities and family responsibilities.

The Outcome Document calls for strong national machineries for the advancement of women and promotion of gender equality, with political commitment at the highest level and all necessary human

and financial resources. Institutional and conceptual changes are a strategic and important aspect of creating an enabling environment for the implementation of the Platform for Action.

Clear knowledge on the situation of women and girls and data disaggregated by sex, short and long-term time-bound targets and measurable goals and follow-up mechanisms to assess progress are required for effective and co-ordinated plans and programmes for the full implementation of the Platform for Action. The Outcome Document identifies the need to collect, compile and disseminate data disaggregated by sex, age, and other factors as appropriate, in formats that are accessible to the public and to policy-makers. In areas where information is particularly lacking new statistics and indicators should be developed.

Governments are called on to set and encourage the use of explicit short and long-term time bound targets or measurable goals to promote progress towards gender balance, including women's equal access to and full participation in all areas and at all levels of public life, especially in decision and policy making positions.

Education policies should guarantee equal access to education and elimination of gender disparities in education, including vocational training, science and technology, opportunities for continuing education at all levels for all women and girls, the reduction of adult illiteracy and equitable access to basic and continuing education for all adults.

Programmes should provide social services and support to pregnant adolescents and adolescent mothers, in particular to enable them to continue and complete their education.

Environmental and agricultural policies should incorporate a gender perspective and women farmers and those living in rural areas should be supported with education and training programmes. Measures to ensure that the work of rural women, including home-based work, especially in the informal sector, is recognised and valued should be adopted.

Governments are called on to strive to reduce the disproportionate presence of women living in poverty, particularly rural women, by implementing national poverty eradication programmes from a gender perspective, including short and long-term goals. These programmes should be evaluated, and improvements introduced in the light of that evaluation.

The Outcome Document identifies the need to strengthen efforts to fully implement national action plans developed for the implementation of the Beijing Platform for Action and to adjust or develop national plans for the future.

Promotion and protection of the rights of women workers and action to remove structural and legal barriers as well as stereotypical attitudes to gender equality at work are needed. Action is needed to increase women's participation and to bring about a balanced representation of women and men in all sectors and occupations in the labour market.

posted on the Internet by the **Irish Department of Justice, Equality and Law Reform**
[www.justice.ie/802569B20047F907/vWeb/fIMJDE52NERG/\\$file/word+pro+-+the+political+declaration+and+outcome+document+summary.pdf](http://www.justice.ie/802569B20047F907/vWeb/fIMJDE52NERG/$file/word+pro+-+the+political+declaration+and+outcome+document+summary.pdf)

PART B: REGIONAL COMMITMENTS

1. INTRODUCTION TO REGIONAL SYSTEMS

There are three regional human rights systems supported by three regional treaties:

- (1) **the European Convention system** supported by the European Convention on Human Rights (adopted in 1950 and entered into force in 1953);
- (2) **the Inter-American system** supported by the American Convention on Human Rights (adopted in 1969 and entered into force in 1978), and
- (3) **the African system** supported by the African Charter on Human and Peoples' Rights (adopted in 1982 and entered into force in 1986).

The move towards regionalism was initially unpopular at the United Nation, as there were fears that this might detract from the universality of human rights. However, attitudes at the UN changed once the two basic covenants on human rights (the two International Covenants) had finally come into force. In 1977, the UN General Assembly formally adopted a resolution appealing to states in areas without regional human rights systems “to consider agreements with a view to the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights”.

Here are some of the arguments which have been put forward *for* and *against* regional approaches to human rights:

Regionalism is sometimes put forward as an alternative to globalism... Emphasis is placed on the bigness and heterogeneity of the wide world, and the conclusion is drawn that only within limited segments of the globe can we find the cultural foundation of common loyalties, the objective similarity of national problems, and the potential awareness of common interests which are necessary for the effective functioning of multilateral institutions. The world is too diverse and unwieldy, the distances – physical, economic, cultural, administrative, and psychological – between peoples at opposite end of the earth are too formidable to permit development of a working sense of common involvement and joint responsibility. Within a region, on the other hand, adaptation of international solutions to real problems can be intelligently carried out, and commitments by states to each other can be confined to manageable proportions and sanctioned by clearly evident bonds of mutuality...

from Inis Claude, *Swords into Plowshares* (1984)

[Other arguments which have been put forward in favour of regional systems include the following:] (1) *the existence of geographic, historical, historical, and cultural bonds among States of a particular region*; (2) *the fact that recommendations of a regional organization may meet with less resistance than those of a global body*; (3) *the likelihood that publicity about human rights will be wider and more effective*; and (4) *the fact that there is less possibility of ‘general, compromise formulae’ which is global bodies are more likely to be based on ‘considerations of a political nature’.*

“Regional Promotion and Protection of Human Rights”

Twenty-Eighth Report of the Commission to Study the Organization of Peace (1980)

Opposition to the establishment of regional human rights commissions has been expressed by the Eastern European States and other Members of the United Nations, on several grounds. First, they argue that human rights, being global in nature and belonging to everyone, should be defined in global instruments and implemented by global bodies. 'The African and the Asian should have the same human rights as the European or the American.' Second, regional bodies in the human rights field would, at best, duplicate the work of United Nations bodies and, at worst, develop contradictory policies and procedures... Third, ...any cooperation between regional commissions and the United Nations would add to the financial burdens of the latter. Fourth, ...preoccupation with regional arrangements might deflect official and public attention from the two International Covenants...

...It may also be argued that the regional approach involves certain possible risks. First, a regional or sub-regional commission might serve to insulate the area from outside influences and encourage it to ignore the global standards and institutions of the United Nations system. Second, institutions of one region or sub-region might become involved in competition or conflict with those of another area... The further question arises whether if human rights commissions were established in certain regions, they might interpret international standards too narrowly and thus adversely affect the work of global bodies in this field.

"Regional Promotion and Protection of Human Rights"
Twenty-Eighth Report of the Commission to
Study the Organization of Peace (1980)

* * *

It may be argued that the global approach and the regional approach to promotion and protection of human rights are not necessarily incompatible; on the contrary, they are both useful and complementary. The two approaches can be reconciled on a functional basis: the normative content of all international instruments, both global and regional, should be similar in principle, reflecting the Universal Declaration of Human Rights, which was proclaimed 'as a common standard of achievement for all peoples and all nations'. The global instrument would contain the minimum normative standard, whereas the regional instrument might go further, add further rights, refine some rights, and take into account special differences within the region and between one region and another.

"Regional Promotion and Protection of Human Rights"
Twenty-Eighth Report of the Commission to
Study the Organization of Peace (1980)

2. AFRICA

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

The idea of forming an African Commission on Human Rights was first put forward long before the UN began promoting regional systems, at a 1961 conference on the rule of law in Lagos. The conference adopted a declaration which declared that “in order to give full effect to the Universal Declaration of Human Rights, this Conference invites the African governments to study the possibility of adopting an African Convention on Human Rights”. The idea was discussed at a range of forums over the years.

In the meantime, the Organization of Africa Unity (OAU) was established on 25 May 1963 at Addis Ababa, Ethiopia. The Charter of the OAU was signed on that occasion by the leaders of 32 independent African states. The purposes of the OAU were

- to promote the unity and solidarity of the African States;
- to defend the sovereignty of members;
- to eradicate all forms of colonialism;
- to promote international cooperation having due regard for the Charter of the United Nations and the Universal Declaration of Human Rights; and
- to coordinate and harmonize Member States economic, diplomatic, educational, health, welfare, scientific and defence policies.

In 1979 the members of the OAU decided to organise a meeting of experts to prepare a draft African Charter on Human and Peoples' Rights. The OAU emphasised its view that human rights “are not confined to civil and political problems but cover economic, social and cultural problems” and that “economic and social development is a human right”.

A draft was prepared by a group of experts which met in Dakar later in 1979. This draft was intensely examined by OAU ministerial conferences in 1980 and 1981. The final draft was approved by an OAU summit held in Nairobi in 1981. The African Charter was opened for signature on 26 June 1981, and it came into force on 21 October 1986. All of the members of the OAU (which has now been transformed into the African Union) have become parties to the African Charter.

The civil and political rights covered by the African Charter resemble those in the International Covenant on Civil and Political Rights as well as those in other regional conventions. Some of the rights in the African Charter are defined in less detail, but Article 60 of the African Charter says that the African Commission will draw inspiration from international law, including the Universal Declaration of Human Rights and other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights.

In the area of economic, social and cultural rights, the African Charter does not duplicate the International Covenant on Economic, Social and Cultural Rights, but rather covers much ground which is unique – such as the duty of the state to promote and protect morals and traditional values, and to assist the family as the custodian of these morals and values. This part of the African Charter protects the right of the aged and disabled to special measures of protection, and commits states parties to “the elimination of every discrimination

against women” and to “the protection of the rights of the woman and the child as stipulated in international declarations and conventions”.

The African Charter is also noteworthy for its emphasis on the collective rights of “peoples” (Arts 19-24) and for its elaboration of the duties to family, community, state and other individuals (Arts 27-29). For example, Article 28 states that every individual has a duty “to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance”. No other human rights instrument gives so much emphasis to the principles of solidarity and interconnection.

It is sometimes asked whether the African Charter’s emphasis on historical traditions and values mitigates against gender equality, since there was a strict separation of gender roles in pre-colonial times, accompanied by discriminatory treatment of women with respect to marriage, property ownership and inheritance. But the African Charter itself guarantees the equal rights of women, unambiguously and without qualification, thus leaving no room for the justification of discriminatory treatment. (See Articles 2, 3 and 18.)

In the West, the language of rights primarily developed along the trajectory of claims against the state; entitlements which imply the right to seek an individual remedy for a wrong. The African language of duty, however, offers a different meaning for individual/state-society relations: while people had rights, they also bore duties. The resolution of a claim was not necessarily directed at satisfying or remedying an individual wrong. It was an opportunity for society to contemplate the complex web of individual and community duties and rights to seek a balance between the competing claims of the individual and society.

Makau Mutua, “The Banjul Charter and the African Cultural Fingerprint::
An Evaluation of the Language of Duties”,
35 *Virginia Journal of International Law* 339 (1995)

The African Charter is a regional human rights instrument specifically designed to reflect the history, values, traditions and development of Africa. Accordingly, the Charter seeks to combine African values with international norms by not only promoting internationally recognized individual rights, but also by proclaiming collective rights and individual duties. These include the right to self-determination and to full sovereignty over natural resources, the right to peace and to a satisfactory environment favourable to a people’s development, and the duty of individuals to their family, community and state...

Women in Law and Development in Africa (WILDAF)

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Charter establishes the African Commission on Human and Peoples' Rights, which consists of 11 individual members elected by secret ballot at the Assembly of Heads of State and Government for six-year renewable terms.

One of the key functions of the Commission is the promotion of human rights. Its mandate in this area includes the duty:

- to collect documents,
- to undertake studies and researches on African problems in the field of human and peoples' rights,
- to organize seminars, symposia and conferences
- to disseminate information; and
- to encourage national and local institutions concerned with human and peoples' rights.

The Commission is also charged with the protection of human rights, by means of several monitoring functions. There is a *reporting procedure* whereby states members are expected to report every two years on the steps they have taken to implement the African Charter. However, according to the Commission, only 34 of the 53 States which have ratified the African Charter had submitted reports to the Commission as of May 2003, and none have reported on a regular basis.

Namibia should have provided the African Commission with its first report in July 1994, but instead handed in a report combining the 1994-1998 reports in November 1997. This report was reviewed by the Commission in April 1998, at the 23rd ordinary session. Namibia submitted another report in May 2000, which was discussed at the 29th ordinary session.

There is also a procedure for *interstate complaints* and a procedure for *individual complaints*, which may come from individual persons or from groups such as NGOs. Complaints from individuals or bodies other than states are considered only at the request of a majority of the members of the Commission. In both categories of complaints, the Commission will, after studying the complaint and exhausting all means to reach an amicable solution to the matter, submit a report with its recommendations to the Assembly of Heads of State and Government, which takes the final decision.

The African Commission on Human and Peoples' Rights is younger than the Commissions of the other two systems, and it has a much smaller output – despite the fact that the African regional human rights system involves more countries than either of the other two regional systems. The procedure for interstate complaints has never been used. In the Commission's first 10 years of existence (1987-1997), it dealt with 200 individual communications, of which 101 were decided, 75 were pending, and 24 had been closed without consideration. Of the 101 cases which were decided, only 21 were dealt with on their merits (with most of the remainder being deemed inadmissible, or found to be in the process of amicable resolution). In these first ten years, the Commission also undertook five fact-finding missions and organised one extraordinary session on the situation of human rights in Nigeria. The Commission reported to the OAU's Council of Ministers in 1998 that it was hampered by a "paucity of human, financial and material resources". There has been greater activity on the part of the Commission in recent years.

Most States have the misconception that the state reporting system is a forum to embarrass them. However, those that have presented reports before the Commission have realised that it is the best way for States to build confidence in, and a strong partnership with, the Commission. The guidelines adopted in 1988 outline the aim of National State Reporting as “... the urgent desire ... to create a channel for constructive dialogue”. This was reiterated by the Chairman of the Commission, Dr. I Badawi (at the 9th Ordinary Session of the commission when the report of Libya – the maiden report submitted to the commission – was being examined) that the discussion was “not going to take place as a confrontation ... but as a dialogue in the framework of cooperation. The questions to be addressed to the representatives of the State(s) must not be understood as a challenge to the State(s) but as a positive criticism or a positive dialogue which aims at completion of the facts and the legislation in the State(s)”.

African Commission website, www.achpr.org

PROTOCOL ON THE RIGHTS OF WOMEN IN AFRICA

Although the African Charter recognizes the need to combat gender discrimination, it does not give much specific attention to women’s rights. In 1995, the African Commission on Human Rights, working in collaboration with Women in Law and Development in Africa (WiLDAF), organised a two-day seminar on the African Charter on Human and People’s Rights and the Human Rights of Women in Africa. This seminar recommended an additional instrument to make the African Charter more responsive to the needs and concerns of women. The seminar put forward recommendations for a protocol to the African Charter on the rights of women. The African Commission submitted these recommendations to the OAU Conference of Heads of State and Government for study and approval. Once the recommendations were approved, experts were appointed to draw up the draft protocol.

The subsequent expert meeting brought together 15 participants, including members of the African Commission, representatives of African NGOs and international observers, to prepare the first draft of the proposed protocol. This draft was submitted to the African Commission in October 1997 for consideration and comments, and circulated to African NGOs for their comments as well.

After that, the draft evolved through several versions on the basis of discussions at a number of expert meetings and other consultations. Women activists made significant contributions to the text, expanding the meaning of terms used as well as broadening the nature and scope of rights in the draft protocol. The evolution of the document through its different versions is an interesting subject of study in itself. For example, the successive changes in the provisions on marriage, inheritance and the rights of widows illustrate the fact that these are still hotly-debated topics in the area of gender equality in Africa. The subject of polygamy was a particular point of disagreement.

The final text was adopted on 11 July 2003, at the 2nd Ordinary Session of the Assembly of the African Union. The Protocol will become binding on individual states 30 days after the 15th ratification. As of November 2004, only five states had ratified the Protocol. Namibia is one of these five, having ratified the Protocol on 26 August 2004 (excluding the provisions of Article 6(d), until such time as Namibia has enacted legislation regarding the recording and registration of customary marriages).

The Protocol makes reference to the major international human rights documents, but attempts to elaborate on them in a way that is specific to the struggles and concerns of African women. For example, it elaborates on specific issues important to African women such as female genital mutilation and the rights of widows, elderly women and women with disabilities. It also includes the rights to peace, food security, adequate housing, a healthy and sustainable environment, sustainable development, a positive cultural context and equitable inheritance.

African women are absolutely essential to the survival of their families, communities and nations. Not only do they form more than 50 per cent of the African population, but they also constitute the majority of entrepreneurs in the informal sector, they head more than half of African rural households, and they perform the bulk of the agricultural labour. It follows that a lack of investment in the well-being of women undermines efforts to achieve broader social, political and economic goals. This means that the protection of women's rights is absolutely crucial.

The African Charter recognizes the importance of women's rights through three main provisions: Article 18(3), which concerns the protection of the family, promises to "ensure the elimination of every discrimination against women and also ensure protection of the rights of women;" Article 2, the non-discrimination clause, provides that the rights and freedoms enshrined in the Charter shall be enjoyed by all irrespective of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status; and Article 3, the equal protection clause, states that every individual shall be equal before the laws and shall be entitled to the equal protection of the laws.

Women's groups and other organisations working in the human rights sphere do not regard these provisions as adequate to address the rights of women. For example, while Article 18 prohibits discrimination against women, it does so only in the context of the family. In addition, explicit provisions guaranteeing the right of consent to marriage and equality of spouses during and after marriage are completely absent. These omissions are compounded by the fact that the Charter places great emphasis on traditional African values and traditions without explicitly addressing concerns that many customary practices, such as female genital mutilation, forced marriage, and wife inheritance, can be harmful or life-threatening to women. It follows that by ignoring critical issues such as custom and marriage, many believe that the Charter inadequately defends women's human rights...

As a result of this gender bias, a number of activists and organisations have aimed at transforming African human rights discourse to more closely reflect women's experiences. The first major step toward this goal was taken in April 1997, when the first draft of the Additional Protocol on Women's Rights was created. The significance of this document rests in the fact that it goes one step beyond the African Charter by exposing the specific inequalities that plague women's lives. In doing so, the Additional Protocol explicitly acknowledges what the African Charter does not: that women's rights as human rights must be respected and observed.

Wildaf news (<http://site.mweb.co.zw/wildaf/news5.html>)

SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN

Another step taken by the African Commission on Human Rights to advance the rights of women was the appointment of a Special Rapporteur on the Rights of Women. In 1998, the African Commission endorsed the appointment of Mrs. Julienne Ondziel-Gnelenga in this post. Dr Angelo Melo took over the post in 2001.

The original mandate of the Special Rapporteur in respect of the member states of the OAU included the following duties:

1. To undertake a study examining the situation of women's rights in Africa.
2. To facilitate the development and examination of states parties' reports on the rights of women in Africa.
3. To ensure that states parties uphold their obligations as outlined in the African Charter. This requires the Special Rapporteur to report on situations in which violations against women occur and propose recommendations to the Commission.
4. To work toward the adoption of the Additional Protocol on Women's Rights.
5. To assist African governments in the development and enactment of policies that promote and protect the rights of women in Africa.
6. To encourage and work with NGOs who are involved in the promotion and protection of the rights of women.
7. To serve as a liaison between the Commission and intergovernmental and NGOs at the regional and international level in order to harmonise initiatives on the rights of women.
8. To collaborate with United Nations Special Rapporteurs and other regional systems.
9. To inform each session of the Commission of the advancement of her work and the difficulties she has encountered.
10. To submit an annual report that will be annexed to the report of the Commission at the Conference of State Heads and Government of the OAU.

JOINT INTERNATIONAL WOMEN'S DAY DECLARATION BY THREE SPECIAL RAPPORTEURS FOR WOMEN'S RIGHTS

Three Special Rapporteurs on Women's Rights (from the UN Commission on Human Rights, Inter-American Commission on Human Rights and African Commission on Human and People's Rights) met for the first time in Montreal on 28 February and 1 March 2002, under the auspices of the International Centre for Human Rights and Democratic Development (Rights & Democracy), to identify avenues of collaboration on issues of common concern. The three Special Rapporteurs then issued the following Joint Declaration for International Women's Day, 8 March 2002.

Recalling that women's rights are human rights, we, the Special Rapporteurs, reaffirm our commitment to international standards of women's rights contained in, inter alia:

- *The Universal Declaration of Human Rights;*
- *The International Covenant on Civil and Political Rights;*
- *The International Covenant on Economic, Social and Cultural Rights;*
- *The UN Declaration on the Elimination of Violence against Women;*
- *The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol;*
- *The Rome Statute of the International Criminal Court;*
- *The American Convention on Human Rights and its Additional Protocol in the Area of Economic, Social and Cultural Rights;*
- *The American Declaration of the Rights and Duties of Man;*
- *The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para);*
- *The African Charter on Human and Peoples' Rights, and*
- *The 1999 Grand Baie Declaration and Plan of Action on human rights.*

We affirm that these international and regional instruments provide comprehensive protection against gender-based violence and discrimination against women. We call on all States that have not yet done so to ratify the relevant treaties and to ensure compliance with international norms.

We emphasize that violence against women is understood as violence perpetrated by any person within the home and the family, and within the community, as well as that perpetrated or condoned by the State, including during armed conflict. Violence against women is a manifestation of discrimination based on gender. We reaffirm that the right of every woman to be free from violence includes the right to be free from such discrimination and to enjoy equal protection under the law.

We recognize the diversity among women and the right of people in community and with other members of their group to enjoy their own culture. We recognize the particularities in the different regions regarding the application of women's rights. However, States must not invoke any custom, tradition or religious consideration to avoid their obligations with respect to the elimination of violence and discrimination against women. All women have the right to live in freedom, equality and dignity.

Violence against women and girls is perpetrated in every country in the world. This occurs in situations of peace and conflict. However, the State agents and private actors responsible are not held to account. This climate of impunity encourages the persistence of such violations. We urge States to take immediate action to end such impunity and to bring perpetrators to justice.

We reiterate that international standards of human rights protect women from violence and discrimination by private non-State actors. States have a duty to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

States are held to a due diligence standard to prevent, prosecute and punish those who commit violence against women and to take measures to permanently eradicate violence against women in their societies.

While the international and regional communities have established standards to prevent, punish and eradicate violence and discrimination against women, many States have yet to take the steps necessary to implement these standards in domestic legislation and practices. We urge States to take appropriate action to bring their laws and practices into conformity with these standards.

We highlight the fact that women who have been subjected to violence and discrimination generally lack access to effective judicial protection and remedies. Strategies must be implemented that involve law reform and, in particular, reform of the criminal justice system. Training is required for policy makers, police, judges, and prosecutors. There must also be provision of legal, medical and psychological counseling and adequate social services for the victims. States should use the education system and awareness-raising campaigns aimed at the general public to assist them in implementing international standards at the national level.

In light of these shared concerns we undertake to coordinate our efforts to achieve greater effectiveness in our work through:

- (a) exchange of information, including on laws and cases, as well as mission-related information;
- (b) sharing ideas and strategies on how to approach emerging issues and the violation of women's rights;
- (c) harmonizing our recommendations to States;
- (d) communicating regularly with regional and international NGOs, women's organizations and other representatives of civil society for whom the promotion and protection of women's human rights are central objectives. We undertake to keep each other informed of the latest developments.

Signed

Ms. Radhika COOMARASWAMY

Special Rapporteur on violence against women, its causes and its consequences,
UN Commission on Human Rights

Ms. Marta ALTOLAGUIRRE

Special Rapporteur on Women's Rights
Inter-American Commission on Human Rights

Ms. Angela MELO

Special Rapporteur on the Rights of Women in Africa,
African Commission on Human and People's Rights
IWTC Women's Globalnet #187, www.iwtc.org

FROM THE OAU TO THE AFRICAN UNION

In March 2001, the African Union was established by a unanimous decision of the member states of the OAU, and the process of transforming the OAU into the African Union began.

The Constitutive Act of the African Union, which replaces the Charter of the OAU, has been signed by all members of the OAU. It entered into force on 26 May 2001, after being ratified by the 36th member state, although the Charter of the OAU remained operational for a transitional period of one year (from 11 July 2001 to 10 July 2002). South Africa hosted the inaugural Summit of the Assembly of the African Union in July 2002. By July 2003, the Constitutive Act had been ratified by all 53 countries that were members of the OAU.

The new body is intended to have stronger political and economic teeth than the OAU. Following a model loosely based on the European Union, the African Union will eventually have a Pan-African Parliament, an African Central Bank, an African Monetary Fund, an African Investment Bank and a Court of Justice. It is a step towards the realization of the vision of African unity laid out by Kwame Nkrumah, first president of Ghana, in 1963.

The objectives of the African Union, as articulated in the Constitutive Act, are to:

- (a) achieve greater unity and solidarity between the African countries and the peoples of Africa;
- (b) defend the sovereignty, territorial integrity and independence of its Member States;
- (c) accelerate the political and socio-economic integration of the continent;
- (d) promote and defend African common positions on issues of interest to the continent and its peoples;
- (e) encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;
- (f) promote peace, security, and stability on the continent;
- (g) promote democratic principles and institutions, popular participation and good governance;
- (h) promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
- (i) establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;
- (j) promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;
- (k) promote co-operation in all fields of human activity to raise the living standards of African peoples;
- (l) coordinate and harmonize the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;
- (m) advance the development of the continent by promoting research in all fields, in particular in science and technology;
- (n) work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.

It is noteworthy that the Constitutive Act endorses the Universal Declaration of Human Rights as well as the African Charter on Human and Peoples' Rights.

Article 4(1) of the Constitutive Act mandates the African Union to function in accordance with the “*promotion of gender equality*”. Article 12(3) of the Constitutive Act provides for the creation of a mechanism to execute this mandate. The “Women, Gender and Development Directorate” is this mechanism. The objective of the Gender Directorate (as it is called in practice) is to redress gender inequities and ensure that women have equal access to factors necessary for their full participation in development processes. Some of the core functions of the Gender Directorate are gender mainstreaming, coordination, advocacy, policy, performance tracking, monitoring and evaluation, gender training and capacity building, research, communication, networking and liaison.

Where not otherwise indicated, information in this section comes primarily from:

- the former website of the OAU, now defunct (www.oau-oua.org)
- the website of the African Commission on Human and Peoples’ Rights (www.achpr.org)
- the website of the African Union (www.african-union.org)
- the website of the International Labour Organization (<http://www.ilo.org/public/english/employment/gems/eeo/au/law/directorate.htm>)
- AH Robertson and JG Merrills, *Human Rights in the World: An introduction to the study of the international protection of human rights* (4th edition) (1996)
- Henry J Steiner & Philip Alston, *International Human Rights in Context* (1996).

African [Banjul] Charter on Human and Peoples' Rights,

**adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982),
entered into force Oct. 21, 1986: [excerpts]**

PREAMBLE

The African States members of the Organization of African Unity, parties to the present convention entitled "African Charter on Human and Peoples' Rights",

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights";

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and on the other hand that the reality and respect of peoples rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone;

Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions;

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

Firmly convinced of their duty to promote and protect human and people' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa;

Have agreed as follows:

PART I: RIGHTS AND DUTIES

Chapter I – Human and Peoples’ Rights

Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7

1. Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defence, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.
2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 13

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.
2. Every individual may freely, take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.
2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.
3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.
4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.
2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: (a) any individual enjoying the right of asylum under 12 of the

present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter; (b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

Article 24

All peoples shall have the right to a general satisfactory environment favorable to their development.

Article 25

States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

Chapter II – Duties

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. to preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. to serve his national community by placing his physical and intellectual abilities at its service;
3. not to compromise the security of the State whose national or resident he is;
4. to preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. to preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. to work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. to preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;
8. to contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

PART II: MEASURES OF SAFEGUARD

Chapter I – Establishment and Organization of the African Commission on Human and Peoples’ Rights

Article 30

An African Commission on Human and Peoples’ Rights, hereinafter called “the Commission”, shall be established within the Organization of African Unity to promote human and peoples’ rights and ensure their protection in Africa.

Article 31

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples’ rights; particular consideration being given to persons having legal experience.
2. The members of the Commission shall serve in their personal capacity. . . .

Article 41

The Secretary-General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services. ...

Chapter II – Mandate of the Commission

Article 45

The functions of the Commission shall be:

1. To promote Human and Peoples’ Rights and in particular:
 - (a) to collect documents, undertake studies and researches on African problems in the field of human and peoples’ rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples’ rights, and should the case arise, give its views or make recommendations to Governments.
 - (b) to formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples’ rights and fundamental freedoms upon which African Governments may base their legislations.
 - (c) co-operate with other African and international institutions concerned with the promotion and protection of human and peoples’ rights.
2. Ensure the protection of human and peoples’ rights under conditions laid down by the present Charter.
3. Interpret all the provisions of the present Charter at the request of a State party, an institution of the OAU or an African Organization recognized by the OAU.
4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

Chapter III – Procedure of the Commission

Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary General of the Organization of African Unity or any other person capable of enlightening it.

Communication from States

Article 47

If a State party to the present Charter has good reasons to believe that another State party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State, written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable, and the redress already given or course of action available.

Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other States involved.

Article 49

Notwithstanding the provisions of 47, if a State party to the present Charter considers that another State party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary General of the Organization of African Unity and the State concerned.

Article 50

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

Article 51

1. The Commission may ask the States concerned to provide it with all relevant information.
2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representation.

Article 52

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of Human and Peoples' Rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in 48, a report stating the facts and its findings. This report shall be sent to the States concerned and communicated to the Assembly of Heads of State and Government.

Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

Article 54

The Commission shall submit to each ordinary Session of the Assembly of Heads of State and Government a report on its activities.

Other Communications

Article 55

1. Before each Session, the Secretary of the Commission shall make a list of the communications other than those of States parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.
2. A communication shall be considered by the Commission if a simple majority of its members so decide.

Article 56

Communications relating to human and peoples' rights referred to in 55 received by the Commission, shall be considered if they:

1. Indicate their authors even if the latter request anonymity,
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter,
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity,
4. Are not based exclusively on news discriminated through the mass media,
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter, and
7. Do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.
2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations.
3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

Article 59

1. All measures taken within the provisions of the present Chapter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide. . . .
2. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

Chapter IV – Applicable Principles

Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal

Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights as well as from the provisions of various instruments adopted within the Specialized Agencies of the United Nations of which the parties to the present Charter are members.

Article 61

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by member states of the Organization of African Unity, African practices consistent with international norms on human and people's rights, customs generally accepted as law, general principles of law recognized by African states as well as legal precedents and doctrine.

Article 62

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter. ...

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA

The States Parties to this Protocol,

CONSIDERING that Article 66 of the African Charter on Human and Peoples' Rights provides for special protocols or agreements, if necessary, to supplement the provisions of the African Charter, and that the Assembly of Heads of State and Government of the Organization of African Unity meeting in its Thirty-first Ordinary Session in Addis Ababa, Ethiopia, in June 1995, endorsed by resolution AHG/Res.240 (XXXI) the recommendation of the African Commission on Human and Peoples' Rights to elaborate a Protocol on the Rights of Women in Africa;

CONSIDERING that Article 2 of the African Charter on Human and Peoples' Rights enshrines the principle of non-discrimination on the grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

FURTHER CONSIDERING that Article 18 of the African Charter on Human and Peoples' Rights calls on all States Parties to eliminate every discrimination against women and to ensure the protection of the rights of women as stipulated in international declarations and conventions;

NOTING that Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognise regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for the application and interpretation of the African Charter;

RECALLING that women's rights have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the African Charter on the Rights and Welfare of the Child, and all other international and regional conventions and covenants relating to the rights of women as being inalienable, interdependent and indivisible human rights;

NOTING that women's rights and women's essential role in development, have been reaffirmed in the United Nations Plans of Action on the Environment and Development in 1992, on Human Rights in 1993, on Population and Development in 1994 and on Social Development in 1995;

RECALLING ALSO United Nations Security Council's Resolution 1325 (2000) on the role of Women in promoting peace and security;

REAFFIRMING the principle of promoting gender equality as enshrined in the Constitutive Act of the African Union as well as the New Partnership for Africa's Development, relevant Declarations, Resolutions and Decisions, which underline the commitment of the African States to ensure the full participation of African women as equal partners in Africa's development;

FURTHER NOTING that the African Platform for Action and the Dakar Declaration of 1994 and the Beijing Platform for Action of 1995 call on all Member States of the United Nations, which have made a solemn commitment to implement them, to take concrete steps to give greater attention to the human rights of women in order to eliminate all forms of discrimination and of gender-based violence against women;

RECOGNISING the crucial role of women in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy;

BEARING IN MIND related Resolutions, Declarations, Recommendations, Decisions, Conventions and other Regional and Sub-Regional Instruments aimed at eliminating all forms of discrimination and at promoting equality between women and men;

CONCERNED that despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices against women, women in Africa still continue to be victims of discrimination and harmful practices;

FIRMLY CONVINCED that any practice that hinders or endangers the normal growth and affects the physical and psychological development of women and girls should be condemned and eliminated;

DETERMINED to ensure that the rights of women are promoted, realised and protected in order to enable them to enjoy fully all their human rights;

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purpose of the present Protocol:

- a) "African Charter" means the African Charter on Human and Peoples' Rights;
- b) "African Commission" means the African Commission on Human and Peoples' Rights;
- c) "Assembly" means the Assembly of Heads of State and Government of the African Union;
- d) "AU" means the African Union;
- e) "Constitutive Act" means the Constitutive Act of the African Union;
- f) "Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life;
- g) "Harmful Practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity;
- h) "NEPAD" means the New Partnership for Africa's Development established by the Assembly;
- i) "States Parties" means the States Parties to this Protocol;
- j) "Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war;
- k) "Women" means persons of female gender, including girls.

Article 2

Elimination of Discrimination Against Women

1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:
 - a) include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;

- b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
 - c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
 - d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
 - e) support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.
2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices 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 women and men.

Article 3

Right to Dignity

1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights.
2. Every woman shall have the right to respect as a person and to the free development of her personality.
3. States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women.
4. States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

Article 4

The Rights to Life, Integrity and Security of the Person

1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.
2. States Parties shall take appropriate and effective measures to:
 - a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
 - b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
 - c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
 - d) actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;
 - e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;
 - f) establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;

- g) prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk;
- h) prohibit all medical or scientific experiments on women without their informed consent;
- i) provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
- j) ensure that, in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women;
- k) ensure that women and men enjoy equal rights in terms of access to refugee status determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents.

Article 5

Elimination of Harmful Practices

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- a) creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes;
- b) prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them;
- c) provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting;
- d) protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

Article 6

Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

- a) no marriage shall take place without the free and full consent of both parties;
- b) the minimum age of marriage for women shall be 18 years;
- c) monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships, are promoted and protected;
- d) every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised;
- e) the husband and wife shall, by mutual agreement, choose their matrimonial regime and place of residence;
- f) a married woman shall have the right to retain her maiden name, to use it as she pleases, jointly or separately with her husband's surname;
- g) a woman shall have the right to retain her nationality or to acquire the nationality of her husband;
- h) a woman and a man shall have equal rights, with respect to the nationality of their children except where this is contrary to a provision in national legislation or is contrary to national security interests;

- i) a woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;
- j) during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

Article 7

Separation, Divorce and Annulment of Marriage

States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that:

- a) separation, divorce or annulment of a marriage shall be effected by judicial order;
- b) women and men shall have the same rights to seek separation, divorce or annulment of a marriage;
- c) in case of separation, divorce or annulment of marriage, women and men shall have reciprocal rights and responsibilities towards their children. In any case, the interests of the children shall be given paramount importance;
- d) in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.

Article 8

Access to Justice and Equal Protection before the Law

Women and men are equal before the law and shall have the right to equal protection and benefit of the law. States Parties shall take all appropriate measures to ensure:

- a) effective access by women to judicial and legal services, including legal aid;
- b) support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;
- c) the establishment of adequate educational and other appropriate structures with particular attention to women and to sensitise everyone to the rights of women;
- d) that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;
- e) that women are represented equally in the judiciary and law enforcement organs;
- f) reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

Article 9

Right to Participation in the Political and Decision-Making Process

1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that:
 - a) women participate without any discrimination in all elections;
 - b) women are represented equally at all levels with men in all electoral processes;
 - c) women are equal partners with men at all levels of development and implementation of State policies and development programmes .
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

Article 10

Right to Peace

1. Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace.
2. States Parties shall take all appropriate measures to ensure the increased participation of women:
 - a) in programmes of education for peace and a culture of peace;
 - b) in the structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels;
 - c) in the local, national, regional, continental and international decision making structures to ensure physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, in particular women;
 - d) in all levels of the structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular, women;
 - e) in all aspects of planning, formulation and implementation of post-conflict reconstruction and rehabilitation.
3. States Parties shall take the necessary measures to reduce military expenditure significantly in favour of spending on social development in general, and the promotion of women in particular.

Article 11

Protection of Women in Armed Conflicts

1. States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations, which affect the population, particularly women.
2. States Parties shall, in accordance with the obligations incumbent upon them under international humanitarian law, protect civilians including women, irrespective of the population to which they belong, in the event of armed conflict.
3. States Parties undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.
4. States Parties shall take all necessary measures to ensure that no child, especially girls under 18 years of age, take a direct part in hostilities and that no child is recruited as a soldier.

Article 12

Right to Education and Training

1. States Parties shall take all appropriate measures to:
 - a) eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;
 - b) eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination;
 - c) protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;
 - d) provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;

- e) integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.
2. States Parties shall take specific positive action to:
- a) promote literacy among women;
 - b) promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology;
 - c) promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely.

Article 13

Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:

- a) promote equality of access to employment;
- b) promote the right to equal remuneration for jobs of equal value for women and men;
- c) ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace;
- d) guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognised and guaranteed by conventions, laws and regulations in force;
- e) create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;
- f) establish a system of protection and social insurance for women working in the informal sector and sensitise them to adhere to it;
- g) introduce a minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children, especially the girl-child;
- h) take the necessary measures to recognise the economic value of the work of women in the home;
- i) guarantee adequate and paid pre- and post-natal maternity leave in both the private and public sectors;
- j) ensure the equal application of taxation laws to women and men;
- k) recognise and enforce the right of salaried women to the same allowances and entitlements as those granted to salaried men for their spouses and children;
- l) recognise that both parents bear the primary responsibility for the upbringing and development of children and that this is a social function for which the State and the private sector have secondary responsibility;
- m) take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.

Article 14

Health and Reproductive Rights

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:

- a) the right to control their fertility;
 - b) the right to decide whether to have children, the number of children and the spacing of children;
 - c) the right to choose any method of contraception;
 - d) the right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;
 - e) the right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognised standards and best practices;
 - f) the right to have family planning education.
2. States Parties shall take all appropriate measures to:
- a) provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas;
 - b) establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding;
 - c) protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.

Article 15 **Right to Food Security**

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

- a) provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;
- b) establish adequate systems of supply and storage to ensure food security.

Article 16 **Right to Adequate Housing**

Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

Article 17 **Right to Positive Cultural Context**

1. Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies.
2. States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels.

Article 18 **Right to a Healthy and Sustainable Environment**

1. Women shall have the right to live in a healthy and sustainable environment.

2. States Parties shall take all appropriate measures to:
 - a) ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;
 - b) promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in their control;
 - c) protect and enable the development of women's indigenous knowledge systems;
 - d) regulate the management, processing, storage and disposal of domestic waste;
 - e) ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

Article 19

Right to Sustainable Development

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:

- a) introduce the gender perspective in the national development planning procedures;
- b) ensure participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes;
- c) promote women's access to and control over productive resources such as land and guarantee their right to property;
- d) promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women;
- e) take into account indicators of human development specifically relating to women in the elaboration of development policies and programmes; and
- f) ensure that the negative effects of globalisation and any adverse effects of the implementation of trade and economic policies and programmes are reduced to the minimum for women.

Article 20

Widows' Rights

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- a) that widows are not subjected to inhuman, humiliating or degrading treatment;
- b) that a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;
- c) that a widow shall have the right to remarry, and in that event, to marry the person of her choice.

Article 21

Right to Inheritance

1. A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.
2. Women and men shall have the right to inherit, in equitable shares, their parents' properties.

Article 22

Special Protection of Elderly Women

The States Parties undertake to:

- a) provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training;
- b) ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

Article 23

Special Protection of Women with Disabilities

The States Parties undertake to:

- a) ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making;
- b) ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

Article 24

Special Protection of Women in Distress

The States Parties undertake to:

- a) ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs;
- b) ensure the right of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and the right to be treated with dignity.

Article 25

Remedies

States Parties shall undertake to:

- a) provide for appropriate remedies to any woman whose rights or freedoms, as herein recognised, have been violated;
- b) ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

Article 26

Implementation and Monitoring

1. States Parties shall ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realisation of the rights herein recognised.
2. States Parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognised.

Article 27

Interpretation

The African Court on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application or implementation of this Protocol.

Article 28

Signature, Ratification and Accession

1. This Protocol shall be open for signature, ratification and accession by the States Parties, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the AU.

Article 29

Entry into Force

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15) instrument of ratification.
2. For each State Party that accedes to this Protocol after its coming into force, the Protocol shall come into force on the date of deposit of the instrument of accession.
3. The Chairperson of the Commission of the AU shall notify all Member States of the coming into force of this Protocol.

Article 30

Amendment and Revision

1. Any State Party may submit proposals for the amendment or revision of this Protocol.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission of the AU who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.
3. The Assembly, upon advice of the African Commission, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly by a simple majority.
5. The amendment shall come into force for each State Party, which has accepted it thirty (30) days after the Chairperson of the Commission of the AU has received notice of the acceptance.

Article 31

Status of the Present Protocol

None of the provisions of the present Protocol shall affect more favourable provisions for the realisation of the rights of women contained in the national legislation of States Parties or in any other regional, continental or international conventions, treaties or agreements applicable in these States Parties.

Article 32

Transitional Provisions

Pending the establishment of the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application and implementation of this Protocol.

3. SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

The Southern African Development Community (SADC) was originally known as the Southern African Development Coordination Conference (SADCC). SADCC was formed for the purpose of economic cooperation in 1979 by the nine majority-ruled countries of Southern Africa (Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe). Namibia joined the OAU in 1990.

At a summit of SADCC leaders in 1989, a decision was taken to give the organization a formal legal status by means of a treaty. After four years of preparatory work and consultations, the SADCC nations signed a Declaration and Treaty in Windhoek 1992, establishing the Southern African Development Community (SADC). The Treaty is legally binding on the member states. There are 14 members of SADC as of 2004: Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

The objectives of SADC are to:

- achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa and support the socially disadvantaged through regional integration;
- evolve common political values, systems and institutions;
- promote and defend peace and security;
- promote self-sustaining development on the basis of collective self reliance, and the interdependence of member states;
- achieve complementarity between national and regional strategies and programs;
- promote and maximize productive employment and utilization of resources of the region;
- achieve sustainable utilization of natural resources and effective protection of the environment;
- strengthen and consolidate the long-standing historical, social and cultural affinities and links among the peoples of the region.

The Treaty commits member States to the following fundamental principles:

- sovereign equality of Member States
- solidarity, peace and security
- human rights, democracy and rule of law
- equity, balance and mutual benefit.

The supreme policy making organ of SADC is an annual summit of heads of state (or their representatives). The Council of Ministers – composed of ministerial-level representatives from member countries, usually those responsible for their country's economic planning or finance – meets at least twice a year to oversee the implementation of SADC policies. In addition special meetings are held to co-ordinate and develop regional policies in specific sectors. There are sector co-ordinating offices located in countries with appropriate expertise.

Following on the momentum of Beijing, the February 1997 meeting of the SADC Council of Ministers in Windhoek included a workshop on gender facilitated by regional gender

experts. This meeting focused on the importance of gender issues to development, and on the need to integrate and mainstream gender concerns into all SADC programmes.

After this workshop, the Council of Ministers resolved to:

- adopt a Declaration on Gender, establish a policy framework for including gender in all SADC activities and strengthen efforts by member states to achieve gender equality
- establish a *Standing Committee of Ministers responsible for Gender Affairs* in the region
- extend the existence of an *Advisory Committee* on gender, composed of one government and one NGO representative from each member state
- establish *Gender Focal Points* in each sector to ensure that gender is taken into account in all sectoral initiatives
- establish a *Gender Unit* in the SADC Secretariat

The **SADC Declaration on Gender and Development** was drafted at the first meeting of the Standing Committee of Ministers responsible for Gender Affairs, in September 1997, and it was subsequently adopted at the SADC Summit in Blantyre, Malawi in 1997. This Declaration has been signed by all 14 member states of SADC, but it is not a legally binding document. Ministers in the SADC region who are responsible for gender affairs have recommended that the declaration be transformed into a protocol with binding effect.

Among the commitments contained in the Declaration are:

- achieving at least 30% women in political and decision-making structures by 2005
- promoting women's full access to and control over productive resources to reduce the level of poverty among women
- repealing and reforming all laws, constitutions and social practices which still discriminate against women
- taking urgent measures to deal with the increasing levels of violence against women.

"Although it's not a legally binding instrument it is a useful working document... since we have signatures of our heads of state, it's a very important instrument that we have to make use of at all times as our guiding principles..."

Hon. Nandi-Ndaitwah, Minister of Women Affairs and Child Welfare

"Even though a declaration is not legally binding, it's a very useful document because it sets regional norms and standards ..."

Athalia Molokomme, head of the SADC Gender Unit,
quoted in "Time to replace the carrot with the stick?", 15 December 2000
www.genderlinks.org.za/docs/writerights/our-right-write/ourrightwrite4.pdf

In 1998, an **Addendum to the Declaration on the Prevention and Eradication of Violence against Women and Children** was signed by SADC heads of state in Mauritius. Like the Declaration, the Addendum is not legally binding, but it has been signed by all SADC members. The Addendum recognises that violence against women and children is a

violation of their fundamental human rights, defines the various forms of violence which occur in broad terms, and recommends the adoption of a number of specific measures. Like the Declaration, the Addendum is not legally binding on SADC members at this stage.

During 1998, SADC also adopted a **Plan of Action for Gender** which identified activities to be undertaken in the following areas:

- policy and institutional framework for gender
- women's human rights
- women in power and decision-making
- women's access to economic structures and resources
- peace and stability
- gender capacity building
- networking and information dissemination.

A gender mainstreaming framework was created in 1998, consisting of a Committee of Ministers responsible for Gender and Women's Affairs, a Regional Advisory Committee made up of government and NGO representatives, Gender Focal Points in the Sector Coordinating Units, and a Gender Unit at the SADC Secretariat. The primary objective of the Gender Unit was to facilitate the mainstreaming of gender into all SADC policies, plans and programmes.

Since the institutional framework of SADC was restructured in 2001, gender issues are now dealt with by the **Gender and Development Unit** located within the **Department of Strategic Planning, Gender Development and Policy Harmonisation** (referred to in some SADC documents simply as the "Gender Unit"). The Department of Strategic Planning, Gender and Development and Policy Harmonization is intended to strengthen the SADC Secretariat in executing its functions, including the function of gender mainstreaming.

According to the 2002/03 SADC Annual Report, the key functions of this new Gender Unit are:

- a) Ensuring gender mainstreaming in all policies, programmes, functions and activities of the organization;
- b) Ensuring development of an explicit SADC Gender Policy;
- c) Coordination and outreach programming in the areas of :
 - i. capacity building for national gender structures
 - ii. women in politics and decision-making in SADC;
 - iii. human rights of women and children;
 - iv. communication, networking, Information generation and dissemination;
 - v. coordination of the SADC position in regional and global meetings on gender equality issues;
- d) Monitoring and evaluation of progress in the implementation of the SADC Declaration on Gender and Development and other international instruments on women's empowerment, gender equality and the protection of the human rights of women.

In May 2002, a **Framework of Activities** on gender was adopted during a meeting in Namibia of all ministers in the SADC region responsible for gender or women's issues. This framework highlighted three objectives:

- gender mainstreaming;
- coordination and outreach, with an emphasis on capacity-building at the national level and networking at national, regional and international levels;
- monitoring the implementation of the SADC Declaration on Gender and Development and the Addendum on the Prevention and Eradication of Violence.

Following on the SADC restructuring, the **Regional Indicative Strategic Development Plan (RISDP) approved in 2003 provides direction for SADC programmes and activities over 15 years.** This strategic framework identifies “gender equality and development” as one of 13 “priority intervention areas”.

excerpt from **SADC Institutional Regional Indicative Strategic Framework**

4.4 GENDER EQUALITY AND DEVELOPMENT

4.4.1 INTRODUCTION

Women contribute a very significant share to the income of their households, especially in agriculture. Research shows that improved educational and income-earning opportunities for women reduce infant and maternal mortality; educated women have fewer and healthier children, who are more likely to attend school and perform well. Gender equality therefore contributes to the reduction of poverty and overall development.

Despite this evidence, pervasive inequalities exist between women and men in the SADC region. Women constitute the majority of the poor in the region, as a result of their limited access to, and control over productive resources such as land, livestock, credit and modern technology. In addition, women have limited access to adequate health facilities, formal education and employment, and are over represented in the informal sector where returns are extremely low and unreliable. Finally, laws exist in most Member states that restrict women’s legal capacity, and have a direct bearing on women’s income earning capacities.

These gender gaps undermine the contribution of women who should instead be seen as a powerful resource for development. SADC’s policies and strategies should therefore address these gender gaps in order to achieve its poverty reduction and eradication objectives.

4.4.2 OVERALL GOAL

To facilitate the achievement of substantive equality between women and men in the SADC region, through mainstreaming gender into all national and regional policies, programmes and activities, and the adoption of positive measures to accelerate progress in this regard.

4.4.3 FOCUS AREAS

- Gender policy and institutional frameworks;
- Women’s human and legal rights, including the elimination of violence against women;
- Gender mainstreaming;
- Access to, and control of resources; and
- Access to key political and decision making positions.

4.4.4 STRATEGIES

- Accelerate the development of explicit gender policies, and establish and strengthen national gender coordination machineries; harmonize them at regional level, and develop a regional gender policy;
- Ratify international instruments on gender equality, incorporate their provisions into national laws through constitutional and legislative reforms, and set up appropriate enforcement mechanisms and institutions to deliver necessary services.
- Mainstream gender into all sectoral policies, programmes and activities at national and regional level through gender responsive planning, policy development and implementation, gender capacity building and training, and the collection of gender disaggregated data.
- Adopt women's economic empowerment policies and strategies in order to address the inequalities in access to, and control of resources; develop specific programmes and put in place gender-responsive budgeting initiatives.
- Adopt deliberate and positive measures such as affirmative action, with a view to accelerating gender equality in political and decision-making positions;
- Implement gender capacity building and training programmes at national and regional levels, and disseminate best practices to ensure wide spread diffusion.
- Eradication and reduction of all forms violence against women and children

4.4.5 TARGETS

Target 1: Development and strengthening of national gender policies and institutional frameworks by end of 2003, harmonization by the Secretariat and development of a regional gender policy by the middle of 2004.

Target 2: Signature, accession, and ratification by Member States of international and regional human rights instruments on gender equality by the middle of 2004, and incorporation by end of 2004;

Target 3: Repeal of gender discriminatory provisions in member states' constitutions, laws, policies and any other sources by mid 2005, and enactment of provisions guaranteeing substantive gender equality by end 2005;

Target 4: Establishment of enforcement mechanisms and service delivery institutions by mid 2006.

Target 5: Adoption of gender responsive planning, budgeting and implementation processes, regular gender capacity building and training programmes; and mechanisms for the collection of gender disaggregated data by end 2006.

Target 6: Development, strengthening and implementation of specific programmes for the economic empowerment of women by end of 2007.

Target 7: The achievement by all Member States of:

- At least 30% women in decision-making positions in local government, parliament, cabinet and senior positions in the public sector by 2005, or affirmative action measures in place to accelerate the attainment of this target;
 - At least 40% women in decision-making positions in local government, parliament, cabinet and senior positions in the public sector by 2010, or affirmative action measures in place to accelerate the attainment of this target;
 - At least 50% women in decision-making positions in local government, parliament, cabinet and senior positions in the public sector by 2015, or affirmative action measures in place to accelerate the attainment of this target;
- and

- At least 20% women in decision making positions in large private sector firms as defined by Member States by 2005, 30% by 2010 and 40% by 2015.

Target 8: Eradication and reduction of all forms violence against women and children:

- *Reduction by at least 50 percent all acts of violence and abuse of women and children by 2007.*
- *Eradication of all forms of violence against women and children by 2015.*

www.sadc.int/

The Gender and Development programme has continued to constitute a key priority in SADC activities. The main tasks undertaken during 2002/2003 include gender mainstreaming at institutional level, capacity building and networking.

SADC Annual Report 2002/03

In 2002, SADC launched the **SADC Regional Women Parliamentarians Caucus**, which is an autonomous lobbying and advocacy structure. In 2004-2005, the Caucus is focussed on ensuring that countries that are holding elections in these two years meet the 30% target for women parliamentarians by engaging with political parties and politicians, and training women who are considering running for office.

SADC has also produced a number of **publications on gender issues**. Some examples include:

- *A Guide to Gender Dimensions in SADC Constitutions*, SADC Parliamentary Forum, 2003
- *The SADC MPs Companion on Gender and Development in Southern Africa*, SADC Parliamentary Forum, 2002.

The following are useful publications on SADC and gender produced by Southern African Research and Documentation Centre (SARDC) / Women in Development: Southern Africa awareness (WIDSAA) (www.sardc.net/Widsaa/Publications.htm):

- *Southern African Development Community Gender Monitor: Monitoring implementation of the Beijing Commitments by SADC member states*
- *Beyond Inequalities. Women in Southern Africa* (1999, being updated in 2004).

GenderLinks (www.genderlinks.org.za/pubs/) publishes the following:

- *Gender Resource Kit for SADC Decision-Makers.*

A book series co-published by the Southern African Research and Documentation Centre (SARDC) looks at the status of women and men in the SADC region. The 13-book series includes 12 national gender profiles and a regional gender assessment. The books are entitled *Beyond Inequalities: Women in Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe and Southern Africa*. The series is intended as an information tool for advocacy around gender issues.

SADC Gender Monitor, 1999

The Southern African Development Community (SADC) has since the adoption of various policies and instruments, made impressive achievements in the area of gender equality and mainstreaming:

- A regional programme of action on women in politics and decision-making has been adopted. It is now being implemented and is already showing signs of success. This is reflected for example in the increase in the numbers of women MPs (Members of Parliament) and Ministers in countries such as Botswana, Malawi and South Africa, which held elections during 1999. Heads of State in August 1999 committed themselves further to constitutional or legislated quotas and nominations to ensure the attainment of agreed targets.
- Regional training of trainers and empowerment of women in politics, as well as review conferences are planned to coincide with elections in various countries up until 2005. Commitment to fund these activities has been secured at regional level and member States have undertaken to ensure the funding for national level activities.
- A gender audit of policies, programmes and activities is presently being carried out, whose major output will be concrete, sector-specific intervention in SADC member States. Gender sensitisation and training workshops are being conducted at the SADC Secretariat and in the Sector Co-ordinating Units.
- A gender analysis of the SADC Trade Protocol has been carried out. It has been presented to the SADC Trade and Gender Ministers and to the Council of Ministers. The Gender Unit has been tasked with the responsibility of devising concrete regional programmes and activities to ensure increased access to resources and economic structures in all countries of the region.
- A Women in Business in SADC Trade Fair and Investment Forum, the brainchild of NGOs in the region was held in Namibia in May 2000. Preparations were overseen by a regional task force comprising governments, NGOs (non-governmental organisations) and other stakeholders. The Fair was launched by its patron, H.E. President Sam Nujoma of Namibia.
- Uniform reporting and accountability frameworks have been adopted by Gender Ministers and approved by Council to ensure the proper monitoring of member States' implementation of their commitments under the Gender Declaration and Addendum. Towards the end of 2000, a conference was held in Lesotho to review member states' progress in the implementation of the Addendum on the Prevention and Eradication of Violence Against Women and Children.
- It was also approved by Gender Ministers that reporting on implementation of SADC Declaration on Gender Development by member states will commence in February 2000.
- A strategic partnership framework in the field of gender equality and mainstreaming with the UNDP, UNIFEM and other UN agencies was adopted in 1999 by SADC Gender Ministers, to facilitate better coordination, avoid duplication and maximise the utilisation of resources.
- In close collaboration with UNIFEM's Sub-Regional Office for Southern Africa, initiatives on gender budgeting have taken root and are spreading throughout the region.
- Reports and other publications detailing these activities have been published and are available from the SADC Secretariat. One such document is the SADC Gender Monitor, an annual journal which is being produced in collaboration with the Southern African Research and Documentation Centre, based in Harare. The challenge for SADC will be to ensure the implementation of the Plan in a manner that will move the SADC region towards gender equality early in the next millennium.

SADC Gender Sector Report 2000

Except where otherwise indicated, information in this section is from:

- the SADC website: <http://www.sadc.int/index.php>
- the SADC Gender Monitor (Issue 1, February 1999).

GENDER AND DEVELOPMENT

A Declaration by Heads of State or Government of the Southern African Development Community (SADC)

PREAMBLE

WE the Heads of State or Government of the Southern African Development Community,

A. NOTING THAT:

- i. Member States undertook in SADC Treaty and in the Declaration to the Treaty, and in the Protocol on immunities and privileges SADC not to discriminate against any person on the grounds of gender, among others;
- ii. All SADC member states have signed and ratified or acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), or are in the final stages of doing so;

B. CONVINCED THAT:

- i. Gender equality is a fundamental human right;
- ii. Gender is an area in which considerable agreement already exists and where there are substantial benefits to be gained from closer regional co-operation and collective action.
- iii. The integration and mainstreaming of gender issues into the SADC Programme of Action and Community Building Initiative is key to the sustainable development of the SADC region.

C. DEEPLY CONCERNED THAT:

- i. While some SADC member states have made some progress towards gender equality and gender mainstreaming, disparities between women and men still exist in the areas of legal rights, power sharing and decision making, access to and control over productive resources, education and health among others,
- ii. women constitute the majority of the poor;
- iii. Efforts to integrate gender considerations in SADC sectoral programmes and projects have not sufficiently mainstreamed gender in a coordinated and comprehensive manner.

D. RECOGNISING THAT:

- i. The SADC Council of Ministers in 1990 mandated the SADC Secretariat to explore the best ways to incorporate gender issues in the SADC Programme of Work, and approved in 1996 that gender issues at the regional level be coordinated by the Secretariat;
- ii. In execution of this mandate, the SADC Secretariat has developed and maintained working relations with key stakeholders in the area of gender, which resulted in the approval and adoption of the SADC Gender Programme by the SADC Council of Ministers in February 1997,

WE THEREFORE:

- E. REAFFIRM** our commitment to the Nairobi Forward Looking Strategies, the Africa Platform of Action and the Beijing Declaration and Platform for Action.

F. ENDORSE the decision of Council on:

- i. The establishment of a policy framework for mainstreaming gender in all SADC activities, and in strengthening the efforts by member countries to achieve gender equality .
- ii. Putting into place an institutional framework for advancing gender equality consistent with that established for other areas of co-operation, but which ensures that gender is routinely taken into account in all sectors.

- iii. The establishment of a Standing Committee of Ministers responsible for Gender Affairs in the region.
- iv. The adoption of the existing Advisory Committee consisting of one representative from Government and one member from Non- Governmental Organisations in each member state whose task is to advise the Standing Committee of Ministers and other Sectoral Committees of Ministers on gender issues.
- v. The establishment of Gender Focal Points whose task would be to ensure that gender is taken into account in all sectoral initiatives, and is placed on the agenda of all ministerial meetings.
- vi. The establishment of a Gender Unit in the SADC Secretariat consisting of at least two officers at a senior level.

G. RESOLVE THAT: As leaders, we should spearhead the implementation of these undertakings and ensure the eradication of all gender inequalities in the region:

AND

H. COMMIT ourselves and our respective countries to, inter alia,

- i. Placing gender firmly on the agenda of the SADC Programme of Action and Community Building Initiative;
- ii. Ensuring the equal representation of women and men in the decision making of member states and SADC structures at all levels, and the achievement of at least 30 percent target of women in political and decision making structures by year 2005;
- iii. Promoting women's full access to, and control over productive resources such as land, livestock, markets, credit, modern technology, formal employment, and a good quality of life in order to reduce the level of poverty among women;
- iv. Repealing and reforming all laws, amending constitutions and changing social practices which still subject women to discrimination, and enacting empowering gender sensitive laws;
- v. Enhancing access to quality education by women and men, and removing gender stereotyping in the curriculum, career choices and professions;
- vi. Making quality reproductive and other health services more accessible to women and men;
- vii. Protecting and promoting the human rights of women and children;
- viii. Recognising, protecting and promoting the reproductive and sexual rights of women and the girl child;
- ix. Taking urgent measures to prevent and deal with the increasing levels of violence against women and children;
- x. Encouraging the mass media to disseminate information and materials in respect of the human rights of women and children.

IN WITNESS WHEREOF, We, the Heads of State or Government of the Southern African Development Community, **HAVE SIGNED THIS DECLARATION.**

DONE at Blantyre on this 8th day of September 1997, in two original texts, in English and Portuguese languages, both texts being equally authentic.

The 1998 Addendum to the Declaration on the Prevention and Eradication of Violence against Women and Children which has been added to the 1997 Declaration on Gender and Development is reproduced in full in the following section.

PART C: VIOLENCE AGAINST WOMEN

1. INTERNATIONAL COMMITMENTS

This section focuses on international commitments in the area of violence against women. This issue has been singled out because violence against women is one of Namibia's foremost human rights problems.

Initially the development of policy within the United Nations with regard to violence against women was concentrated on violence against women in the family. The World Plan of Action adopted by the first World Conference on Women in Mexico in 1975 did not refer explicitly to violence, but drew attention to the need for the family to ensure dignity, equality and security of each of its members. The 1980 Conference in Copenhagen, adopted a resolution on "battered women and violence in the family" and referred to violence in the home in its final report. It was only at the 1985 Nairobi World Conference (and at the parallel NGO forum which accompanied it) that violence against women truly emerged as a serious international concern.

Nairobi Forward-Looking Strategies (1985)

The pervasiveness of violence against women was recognised in the Nairobi Forward-Looking Strategies:

Violence against women exists in various forms in everyday life in all societies. Women are beaten, mutilated, burned, sexually abused and raped. Such violence is a major obstacle to the achievement of peace and the other objectives of the Decade and should be given special attention. Women victims of violence should be given particular attention and comprehensive assistance. To this end, legal measures should be formulated to prevent violence and to assist women victims. National machinery should be established in order to deal with the question of violence against women within the family and society. Preventative policies should be elaborated, and institutionalized forms of assistance to women victims provided.

The Nairobi Conference cited violence as a major obstacle to the achievement of development, equality and peace, which were the three overarching objectives of the UN Decade for Women. It also identified a number of areas of special concern, including "abused women", "women victims of trafficking and involuntary prostitution" and "women in detention and subject to penal law". Governments were urged to intensify efforts to establish or strengthen forms of assistance to victims of violence through the provision of shelter, support, legal and other services and to increase public awareness of violence against women as a societal problem.

CEDAW (text adopted in 1979, came into force in 1981)

Astonishingly CEDAW makes no explicit reference to violence against women. In 1989, the Committee which monitors CEDAW published General Recommendation 12 which made it clear that gender-based violence falls within the meaning of discrimination against women and directed signatories to include information in their periodic CEDAW reports.

In 1992, General Recommendation 19 gave detailed consideration to the problem of violence against women. This document announced more emphatically that “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”. It defined gender-based violence as “*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.*” General Recommendation 19 also examined the specific linkages between violence and a range of other rights, such as the right to health and the right to equality in the workplace. It warned that “states may be ...responsible for private acts if they fail with due diligence to prevent violations of rights or to investigate and punish acts of violence” and to provide for compensation. It noted that “family violence is one of the most insidious forms of violence against women,” and concluded by putting forward a set of recommendations for combating all forms of gender-based violence.

Violence against women in the family drew further comment in General Recommendation 21, issued in 1994, on equality in marriage and family relations. Here the Committee stressed that “the provisions of General Recommendation 19... concerning violence against women have great significance for women’s abilities to enjoy rights and freedoms on an equal basis with men,” and urged signatories to ensure that women will be free of such violence in both public and family life.

The interpretation of CEDAW as covering violence against women means that individual complaints about violence against women in Namibia could be brought to the attention of the United Nations under the Optional Protocol to CEDAW if all available domestic remedies have been exhausted without success.

All of the CEDAW General Recommendations are reproduced in full in the previous section.

UN General Assembly Resolution 40/36 (29 November 1985)

In the wake of the Nairobi Conference, the UN General Assembly passed its first resolution on violence against women in 1985, focusing solely on domestic violence. This resolution urged member states to take a range of steps to make their criminal and civil justice systems more effective in their responses to domestic violence.

Expert Group Meeting on Violence in the Family (1986)

The implementation of this resolution led to a 1986 Expert Group Meeting on Violence in the Family, with special emphasis on its effects on women. This Meeting adopted further concrete recommendations with regard to legal reform, police, prosecutor and health sector training, and social and resource support for victims. It also noted that domestic violence was a global phenomenon which was significantly underreported.

Publication on Violence against Women in the Family (1989)

This publication described the manifold contexts and manifestations of violence against women, and showed that violence may be tolerated and, indeed, condoned, by the community or the State. It also examined the range of societal factors which can contribute to violence against women.

From these early beginnings, there was a growing understanding of the link between gender and violence at the international level. The United Nations began to acknowledge that violence in the family was not the only form of violence against women, and to recognise the connections between violence against women and the broader inequalities between women and men. These developments eventually led to the categorization of violence against women as a matter of human rights.

UN General Assembly Declaration on Domestic Violence 45/114 (1990)

International concern about domestic violence was re-iterated in a 1990 Resolution of the UN General Assembly, in preparation for the International Year of the Family (proclaimed for 1994). The thrust of this statement was to urge nations to develop multi-disciplinary strategies to combat domestic violence, including assistance to both victims and offenders. This Declaration also urged government to work together with NGOs and asked the Secretary-General of the UN to convene a working group of experts to prepare a manual on domestic violence. It should be noted that a declaration of the UN General Assembly is a resolution which has no legal force on its own. However, a “declaration” is defined by the United Nations as “a formal and solemn instrument, suitable for rare occasions when principles of great and lasting significance are being enunciated”. Declarations from the United Nations may become part of international customary law by virtue of their wide acceptance. The text of this declaration appears below.

Vienna World Conference on Human Rights (1993)

This forum was key to the recognition of gender-based violence as a central human rights issue. In the Vienna Declaration and Programme of Action, the adoption of a UN Declaration on the Elimination of Violence against Women was made a priority, and it was decided that a Special Rapporteur on Violence against Women should be appointed by the UN. The following provision was contained in the chapter of the Programme of action on the equal status and human rights of women:

38. In particular, the World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural and religious extremism. The World Conference on Human Rights calls upon the General Assembly to adopt the draft declaration on violence against women and urges States to combat violence against women in accordance with its provisions. Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular, murder, systematic rape, sexual slavery, and forced pregnancy, require a particularly effective response.

UN General Assembly Declaration on the Elimination of Violence against Women 48/104 (1993)

This Declaration defines violence against women as “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 private life.” It also elaborated on what is encompassed in this definition:

Article 2: 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 perpetuated or condoned by the State, wherever it occurs.

The Declaration outlines the steps States and the United Nations should take to address gender-based violence against women, and says that States should not invoke any custom, tradition, or religious consideration to avoid their obligations in this regard. The text of this declaration appears below.

“Strategies for Confronting Domestic Violence: A Resource Manual” (1993)

This resource manual on strategies for confronting domestic violence was prepared under the supervision of the United Nations Centre for Crime Prevention and Criminal Justice, in response to the directive contained in the 1990 UN General Assembly Resolution on domestic violence. It contains suggestions about law reform, improving the operation of the criminal justice system, multi-disciplinary approaches, victim support services and treatment programmes for perpetrators, training of relevant personnel, preventative strategies and information-gathering.

Special Rapporteur on Violence against Women, its Causes and Consequences (1994)

In 1994, the Commission on Human Rights created the first gender-specific human rights mechanism and appointed Ms. Radhika Coomaraswamy of Sri Lanka as the first Special Rapporteur on Violence against Women. Her mandate was to seek and receive information on violence against women and to recommend measures to eliminate violence.

She has covered a wide range of violence-related topics in her annual thematic reports, reports, including sexual slavery in wartime, domestic violence, trafficking and forced prostitution of women, women’s reproductive rights, cultural practices in the family that are violent towards women and the connections between race, gender and violence.

She has also embarked on missions to Member States of the United Nations to investigate gender-based violence and to propose strategies for addressing it. For example, in 1997 she published a report on rape in South Africa. Another example is a report on violence against women in prisons in the USA, published in 1999.

Among the other publications of the Special Rapporteur is a framework for model legislation on domestic violence (1996), which was one of the sources for Namibia's Combating of Domestic Violence Act.

Ms Yakin Ertürk of Turkey was appointed as the second Special Rapporteur on Violence against Women In August 2003.

The texts of many of the publications of the Special Rapporteurs are available at www.ohchr.org/english/issues/women/rapporteur/annual.htm.

It is possible to submit individual complaints about gender-based violence to the Special Rapporteur. These may concern one or more individuals or may convey information about a general situation which is condoning or perpetrating violence against women. In cases involving an imminent threat to a woman's life or safety, the Special Rapporteur will appeal to the Government concerned to provide effective protection. Complaints involving violations that have already occurred or general patterns of violence – including a country's legal framework and its application to violence against women – are dealt with by sending allegation letters requiring clarification from the Government concerned. An individual complaint form is available at www.ohchr.org/english/issues/women/rapporteur/complaints.htm. The Special Rapporteur publishes annual reports which summarise the complaints received and the responses from the relevant Governments.

Fourth World Conference on Women in Beijing (1995)

The Beijing Platform for Action names violence against women as “an obstacle to the achievement of the objectives of equality, development and peace”. It identifies violence against women as one of 12 critical areas of concern which require urgent action to achieve the goal of gender equality. The Platform adopts the definition of violence against women contained in the UN Declaration, but also highlights forms of violence against women not explicitly mentioned there, such as violations of the rights of women in situations of armed conflict, particularly murder, systematic rape, sexual slavery and forced pregnancy, forced sterilization and forced abortion, coercive or forced use of contraceptives, female infanticide and pre-natal sex-selection.

Three strategic objectives are established by the Platform for the elimination of violence against women: (1) integrated measures to prevent and eliminate violence against women; (2) the study of the causes and consequences of violence against women, as well as the effectiveness of preventive measures; (3) the elimination of trafficking in women, and the provision of assistance of victims of violence due to prostitution.

The Platform for Action highlights a number of specific actions to be taken by governments, including the enactment and implementation of effective legislation, the allocation of resources, the training of law enforcement agents and the formulation of plans of action to eliminate violence against women. The relevant section is reproduced below.

Beijing +5 (2000)

The wide-ranging impact of violence against women was re-acknowledged in the “Beijing +5” document, which is formally entitled “Further action and initiatives to implement the

Beijing Declaration and the Platform for Action” (UN General Assembly Resolution S-23/3, 2000).

Violence against women and girls is a major obstacle to the achievement of the objectives of gender equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. Gender-based violence, such as battering and other domestic violence, sexual abuse, sexual slavery and exploitation, international trafficking in women and children, forced prostitution and sexual harassment, as well as violence against women resulting from cultural prejudice, racism and racial discrimination, xenophobia, pornography, ethnic cleansing, armed conflict, foreign occupation, religious and anti-religious extremism and terrorism are incompatible with the dignity and worth of the human person and must be combated and eliminated.

Amongst the achievements in implementation recognized by governments at the Beijing +5 assessment was the fact that many forms of violence against women and girls, whether occurring in public or private life, have become the subject of national legislation, policies and programmes. Governments recommended more specific or focussed actions than those of the Platform and also addressed areas which had emerged or become more prominent since the Beijing Conference, including marital rape, crimes of honour and crimes of passion, racially motivated violence and strategies to address the growing incidence of trafficking in women. An international zero tolerance campaign on violence against women, as well as support for public campaigns to enhance public awareness of the unacceptability and social costs of such violence were also advocated. The relevant sections are reproduced below.

War crimes and the International Criminal Court (2002)

Particular progress has been made with regard to gender-based violence against women in armed conflict. Rape as a war crime has only recently been given attention, despite the fact that it is a crime that has historically been committed against women during times of war. According to “Ambassador-at-Large for War Crimes Issues” David J Scheffer, “In many conflicts, some soldiers, perpetrators, and world leaders viewed rape as a fringe benefit of war, an unspoken perk. While some observers have dismissed incidents of rape, with the reason that men, or as so often seen, boys, simply get out of hand or out of control after a rough day on the battlefield, recent history has shown that organized, systematic patterns of rape are a component of deliberate ethnic cleansing. The world community, on occasion, ignored the truth that these acts are not simply acts of recklessness, but acts of torture.”

This state of affairs has now changed. Sexual violence was the subject of several indictments issued by the International Criminal Tribunals for the Former Yugoslavia and Rwanda. In September 1998, the latter Tribunal issued a conviction on crimes against humanity and genocide, including through acts of sexual violence, and thus adopted the first definition of rape in international law.

Women now have recourse to an international body with a broader mandate to examine these issues. The International Criminal Court is a permanent judicial institution mandated to prosecute persons who have committed genocide, war crimes and other crimes against humanity. The Statute of the International Criminal Court adopted in Rome in June 1998 recognizes gender-based crimes and makes provision for the application of gender-sensitive justice both through the selection of judges and the establishment of a Victims and Witnesses

Unit which must be staffed by individuals with expertise in trauma, including trauma related to crimes of sexual violence.

Article 7 of the Rome Statute deals with crimes against humanity. Included in this group of crimes are “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity.” Article 8 of the Rome Statute deals with war crimes. The list is very comprehensive and includes a variety of different war crimes against humanity. Article 8(2)(e)(vi) is of particular importance to women as it concerns the “committing of rape, sexual slavery, enforced prostitution, forced pregnancy ... enforced sterilisation, and any other form of sexual violence. ...”

The 60th instrument of ratification of the Rome Statute was deposited on 11 April 2002, meaning that the Rome Statute entered into force on 1 July 2002. Crimes committed after this date which fall under the Rome Statute can be prosecuted by the International Criminal Court. It is a point of pride that 13 out of 14 SADC states have already signed or ratified the Rome Statute (with Swaziland being the sole hold-out at present). Namibia signed the Rome Statute on 27 October 1998, and ratified it on 25 June 2002.

General Assembly
A/RES/45/114
68th plenary meeting
14 December 1990
Domestic violence

The General Assembly,

Reaffirming its resolution 40/36 of 29 November 1985 on domestic violence and resolution 6 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, concerning the fair treatment of women by the criminal justice system,

Taking into account the recommendations made at the Expert Group Meeting on Violence in the Family with Special Emphasis on its Effects on Women, held at Vienna from 8 to 12 December 1986,

Also taking into account the recommendations made on the subject of domestic violence by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, the resolution on domestic violence against women submitted to the Second Committee of the Conference, and the recommendations and conclusions arising from the first review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000,

Commending the efforts of the United Nations, inter alia, through the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, to guarantee the human rights of women and children,

Recognizing the need for further work to be undertaken with respect to violence against all members of the family unit,

Welcoming the report of the Secretary-General on domestic violence,

Recalling that, in its resolution 44/82 of 8 December 1989, it proclaimed 1994 the International Year of the Family,

Bearing in mind the serious lack of information and research on domestic violence globally and the need for exchange of information on ways of dealing with this problem,

Recognizing the concern of Member States about domestic violence as an urgent problem deserving focused attention and concerted action,

Aware that domestic violence is a critical problem that has serious physical and psychological effects on individual family members and jeopardizes the health and survival of the family unit,

Recognizing that domestic violence may take many forms, both physical and psychological,

Convinced of the necessity of improving the situation of the victims of domestic violence,

Recognizing the need to focus on all victims of domestic violence and to consider common policies and specialized approaches regarding women, children, the elderly and those especially vulnerable because of disability,

Noting that exposure to domestic violence, especially during childhood, may produce long-term effects on attitudes and behaviour, such as increased tolerance to violence in society as a whole,

Aware of the fact that many offenders, including those convicted of offences relating to domestic violence, and many victims were themselves abused as children,

Recognizing the fact that domestic violence is often a recurring phenomenon and that an effective early response, as part of a crime prevention policy, may prevent the occurrence of future incidents,

Convinced that the problem of domestic violence is prevalent and affects all segments of society regardless of class, income, culture, gender, age or religion,

Conscious that the complex problem of domestic violence is viewed differently in various cultures of different countries and that at the international level it must be addressed with sensitivity to the cultural context in each country,

1. Urges Member States to begin or continue to explore, develop and implement multidisciplinary policies, measures and strategies, within and outside of the criminal justice system, with respect to domestic violence in all its facets, including legal, law enforcement, judicial, societal, educational, psychological, economic, health-related and correctional aspects and, in particular:
 - (a) To take all possible steps to prevent domestic violence;
 - (b) To ensure fair treatment of and effective assistance to the victims of domestic violence;
 - (c) To increase awareness and sensitivity concerning domestic violence, in particular by fostering the education of criminal justice and other professionals in regard to this issue;
 - (d) To provide appropriate treatment for the offenders;
2. Recommends that Member States ensure that their systems of criminal justice and the competent bodies for juveniles and their families provide an effective and equitable response to domestic violence and that they take appropriate steps towards achieving this goal;
3. Urges Member States to exchange information, experience and research findings between governmental and non-governmental organizations regarding domestic violence, and, in this regard, recommends the use of the United Nations Criminal Justice Information Network and other available means to facilitate the exchange of information concerning domestic violence and the means of curtailing it;
4. Invites Member States, the Secretary-General and concerned intergovernmental and non-governmental organizations to include the problem of domestic violence in the preparations for and observance of the International Year of the Family, within the crime prevention and criminal justice area;
5. Requests the Secretary-General to convene a working group of experts, within existing or with extra budgetary resources, to formulate guidelines or a manual for practitioners concerning the problem of domestic violence for consideration at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its regional preparatory meetings, taking into account the conclusions of the report of the Secretary-General on domestic violence;
6. Requests the Committee on Crime Prevention and Control to consider placing the topic of domestic violence on the agenda of the Ninth Congress, as a matter of priority.

Declaration on the Elimination of Violence Against Women

G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993)

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 beings,

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

Recognizing that 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, set forth in 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, in which a set of measures to combat violence against women was recommended, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

Affirming that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of 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 the full advancement of women, 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 the conclusion in paragraph 23 of the annex to Economic and Social Council resolution 1990/15 of 24 May 1990 that the recognition that violence against women in the family and society was pervasive and cut across lines of income, class and culture 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,

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

Alarmed that opportunities for women 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 to 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 2

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;
- (b) The right to equality;
- (c) The right to liberty and security of person;
- (d) The right to equal protection under the law;
- (e) The right to be free from all forms of discrimination;
- (f) The right to the highest standard attainable of physical and mental health;
- (g) The right to just and favourable conditions of work;
- (h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

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, ratifying 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 that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly those concerned with the issue of violence against women;
- (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 laws insensitive to gender considerations, 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, and 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 towards 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 of 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 issue of violence against women 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 referred to in the present Declaration;
- (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 the issue of 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.

**excerpt on violence against women from
BEIJING PLATFORM FOR ACTION
(1995)**

D. Violence against women

113. Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed. Knowledge about its causes and consequences, as well as its incidence and measures to combat it, have been greatly expanded since the Nairobi Conference. In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The low social and economic status of women can be both a cause and a consequence of violence against women.
114. 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 private life. Accordingly, violence against women encompasses but is not 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.
115. Other acts of violence against women include violation of the human rights of women in situations of armed conflict, in particular murder, systematic rape, sexual slavery and forced pregnancy.
- 115 bis. Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives, prenatal sex selection and female infanticide.
116. Some groups of women, such as women belonging to minority groups, indigenous women, refugee women, women migrants, including women migrant workers, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, displaced women, repatriated women, women living in poverty and women in situations of armed conflict, foreign occupation, wars of aggression, civil wars, terrorism, including hostage-taking, are also particularly vulnerable to violence.
117. Acts or threats of violence, whether occurring within the home or in the community, or perpetrated or condoned by the State, instil fear and insecurity in women’s lives and are obstacles to the achievement of equality and for development and peace. The fear of violence, including harassment, is a permanent constraint on the mobility of women and limits their access to resources and basic activities. High social, health and economic costs to the individual and society are associated with violence against women. Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. In many cases, violence

against women and girls occurs in the family or within the home, where violence is often tolerated. The neglect, physical and sexual abuse, and rape of girl children and women by family members and other members of the household, as well as incidences of spousal and non-spousal abuse, often go unreported and are thus difficult to detect. Even when such violence is reported, there is often a failure to protect victims or punish perpetrators.

118. Violence against women is a manifestation of the 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 women's full advancement. Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society. Violence against women is exacerbated by social pressures, notably the shame of denouncing certain acts that have been perpetrated against women; women's lack of access to legal information, aid or protection; the lack of laws that effectively prohibit violence against women; failure to reform existing laws; inadequate efforts on the part of public authorities to promote awareness of and to enforce existing laws; and the absence of educational and other means to address the causes and consequences of violence. Images in the media of violence against women, in particular those that depict rape or sexual slavery as well as the use of women and girls as sex objects, including pornography, factors contributing to the continued prevalence of such violence, adversely influencing the community at large, in particular children and young people.
119. Developing a holistic and multidisciplinary approach to the challenging task of promoting families, communities and States that are free of violence against women is necessary and achievable. Equality, partnership between women and men and respect for human dignity must permeate all stages of the socialization process. Educational systems should promote self-respect, mutual respect, and cooperation between women and men.
120. The absence of adequate gender-disaggregated data and statistics on the incidence of violence makes the elaboration of programmes and monitoring of changes difficult. Lack of or inadequate documentation and research on domestic violence, sexual harassment and violence against women and girls in private and in public, including the workplace, impede efforts to design specific intervention strategies. Experience in a number of countries shows that women and men can be mobilized to overcome violence in all its forms and that effective public measures can be taken to address both the causes and the consequences of violence. Men's groups mobilizing against gender violence are necessary allies for change.
121. Women may be vulnerable to violence perpetrated by persons in positions of authority in both conflict and non- conflict situations. Training of all officials in humanitarian and human rights law and the punishment of perpetrators of violent acts against women would help to ensure that such violence does not take place at the hands of public officials in whom women should be able to place trust, including police and prison officials and security forces.
122. The effective suppression of trafficking in women and girls for the sex trade is a matter of pressing international concern. Implementation of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 18/ as well as other relevant instruments, needs to be reviewed and strengthened. The use of women in international prostitution and trafficking networks has become a major focus of international organized crime. The Special Rapporteur of the Commission on Human Rights on violence against women, who has explored these acts as an additional cause of the violation of the human rights and fundamental freedoms of women and girls, is invited to address, within her mandate and as a matter of urgency, the issue of international trafficking for the purposes of

the sex trade, as well as the issues of forced prostitution, rape, sexual abuse and sex tourism. Women and girls who are victims of this international trade are at an increased risk of further violence, as well as unwanted pregnancy and sexually transmitted infection, including infection with HIV/AIDS.

123. In addressing violence against women, Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes so that before decisions are taken an analysis may be made of their effects on women and men, respectively.

Strategic objective D.1. Take integrated measures to prevent and eliminate violence against women

Actions to be taken

124. By Governments:

- (a) Condemn violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination as set out in the Declaration on the Elimination of Violence against Women;
- (b) Refrain from engaging in violence against women and 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;
- (c) Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society;
- (d) Adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders; take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators;
- (e) Work actively to ratify and/or implement international human rights norms and instruments as they relate to violence against women, including those contained in the Universal Declaration of Human Rights, 19/ the International Covenant on Civil and Political Rights, 12/ the International Covenant on Economic, Social and Cultural Rights, 12/ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; 20/
- (f) Implement the Convention on the Elimination of All Forms of Discrimination against Women, taking into account general recommendation 19 adopted by the Committee on the Elimination of Discrimination against Women, at its eleventh session; 21/ (g) Promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes related to violence against women and actively encourage, support and implement measures and programmes aimed at increasing the knowledge and understanding of the causes, consequences and mechanisms of violence against women among those responsible for implementing these policies, such as law enforcement officers, police personnel and judicial, medical and social workers, as well as those who deal with minority, migration and refugee issues, and develop strategies to ensure that the revictimization of women victims of violence does not occur because of gender-insensitive laws or judicial or enforcement practices;
- (h) Provide women who are subjected to violence with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm they have suffered and inform women of their rights in seeking redress through such mechanisms;

- (i) Enact and enforce legislation against the perpetrators of practices and acts of violence against women, such as female genital mutilation, prenatal sex selection, infanticide and dowry-related violence and give vigorous support to the efforts of non-governmental and community organizations to eliminate such practices;
- (j) Formulate and implement, at all appropriate levels, plans of action to eliminate violence against women;
- (k) 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;
- (l) Create or strengthen institutional mechanisms so that women and girls can report acts of violence against them in a safe and confidential environment, free from the fear of penalties or retaliation, and file charges;
- (m) Ensure that women with disabilities have access to information and services in the field of violence against women;
- (n) Create, improve or develop as appropriate, and fund the training programmes for judicial, legal, medical, social, educational and police and immigrant personnel, in order to avoid the abuse of power leading to violence against women and sensitize such personnel to the nature of gender-based acts and threats of violence so that fair treatment of female victims can be assured;
- (o) Adopt laws, where necessary, and reinforce existing laws that punish police, security forces or any other agents of the State who engage in acts of violence against women in the course of the performance of their duties, review existing legislation and take effective measures against the perpetrators of such violence;
- (p) Allocate adequate resources within the government budget and mobilize community resources for activities related to the elimination of violence against women, including resources for the implementation of plans of action at all appropriate levels;
- (q) Include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments, information pertaining to violence against women and measures taken to implement the Declaration on the Elimination of Violence against Women;
- (r) Cooperate with and assist the Special Rapporteur of the Commission on Human Rights on violence against women in the performance of her mandate and furnish all information requested; cooperate also with other competent mechanisms, such as the Special Rapporteur of the Commission on Human Rights on torture and the Special Rapporteur of the Commission on Human Rights on summary, extrajudiciary and arbitrary executions, in relation to violence against women;
- (s) Recommend that the Commission on Human Rights renew the mandate of the Special Rapporteur on violence against women when her term ends in 1997 and, if warranted, to update and strengthen it.

125. By Governments, including local governments, and community organizations, non-governmental organizations, educational institutions, the public and private sectors, particularly enterprises, and the mass media, as appropriate:

- (a) Provide well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid, where it is needed, as well as appropriate assistance to enable them to find a means of subsistence;
- (b) Establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence;

- (c) Recognize the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers, whose legal status in the host country depends on employers who may exploit their situation;
 - (d) Support initiatives of women's organizations and non-governmental organizations all over the world to raise awareness on the issue of violence against women and to contribute to its elimination;
 - (e) Organize, support and fund community-based education and training campaigns to raise awareness about violence against women as a violation of women's enjoyment of their human rights and mobilize local communities to use appropriate gender-sensitive traditional and innovative methods of conflict resolution;
 - (f) Recognize, support and promote the fundamental role of intermediate institutions, such as primary-health-care centres, family-planning centres, existing school health services, mother and baby protection services, centres for migrant families and so forth in the field of information and education related to abuse;
 - (g) Organize and fund information campaigns, educational and training programmes in order to sensitize girls and boys and women and men to the personal and social detrimental effects of violence in the family, community and society; teach them how to communicate without violence; promote training for victims and potential victims so that they can protect themselves and others against such violence;
 - (h) Disseminate information on the assistance available to women and families who are victims of violence;
 - (i) Provide, fund and encourage counselling and rehabilitation programmes for the perpetrators of violence, and promote research to further efforts concerning such counselling and rehabilitation so as to prevent the recurrence of such violence;
 - (j) Raise awareness of the responsibility of the media in promoting non-stereotyped images of women and men, as well as in eliminating patterns of media presentation that generate violence, and encourage those responsible for media content to establish professional guidelines and codes of conduct, consistent with freedom of expression; and also raise awareness of the important role of the media in informing and educate people about the causes and effects of violence against women and in stimulating public debate on the topic.
126. By Governments, employers, trade unions, community and youth organizations and non-governmental organizations, as appropriate:
- (a) Develop programmes and procedures to eliminate sexual harassment and other forms of violence against women in all educational institutions, workplaces and elsewhere;
 - (b) Develop programmes and procedures to educate and raise awareness of acts of violence against women that constitute a crime and a violation of the human rights of women;
 - (c) Develop counselling, healing and support programmes for girls, adolescents and young women who have been or are involved in abusive relationships, particularly those who live in homes or institutions where abuse occurs;
 - (d) Take special measures to eliminate violence against women, particularly those in vulnerable situations, such as young women, refugee, displaced and internally displaced women, women with disabilities and women migrant workers, including enforcing any existing legislation and developing, as appropriate, new legislation for women migrant workers in both sending and receiving countries.
127. By the Secretary-General of the United Nations: Provide the Special Rapporteur of the Commission on Human Rights on violence against women with all necessary assistance, in particular staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all treaty bodies.

128. By Governments, international organizations and non-governmental organizations: Encourage the dissemination and implementation of the UNHCR Guidelines on the Protection of Refugee Women and the UNHCR Guidelines on the Prevention of and Response to Sexual Violence against Refugees.

Strategic objective D.2. Study the causes and consequences of violence against women and the effectiveness of preventive measures

Actions to be taken

129. By Governments, regional organizations, the United Nations, other international organizations, research institutions, women's and youth organizations and non-governmental organizations, as appropriate:
- (a) 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 into the causes, nature, seriousness and consequences of violence against women and the effectiveness of measures implemented to prevent and redress violence against women;
 - (b) Disseminate findings of research and studies widely;
 - (c) Support and initiate research on the impact of violence, such as rape, on women and girl children, and make the resulting information and statistics available to the public;
 - (d) Encourage the media to examine the impact of gender role stereotypes, including those perpetuated by commercial advertisements which foster gender-based violence and inequalities, and how they are transmitted during the life cycle and take measures to eliminate these negative images with a view to promoting a violence-free society.

Strategic objective D.3. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

Actions to be taken

130. By Governments of countries of origin, transit and destination, regional and international organizations, as appropriate:
- (a) Consider the ratification and enforcement of international conventions on trafficking in persons and on slavery;
 - (b) Take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labour in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures;
 - (c) Step up cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks in trafficking;
 - (d) Allocate resources to provide comprehensive programmes designed to heal and rehabilitate into society victims of trafficking including through job training, legal assistance and confidential health care and take measures to cooperate with non-governmental organizations to provide for the social, medical and psychological care of the victims of trafficking;
 - (e) Develop educational and training programmes and policies and consider enacting legislation aimed at preventing sex tourism and trafficking, giving special emphasis to the protection of young women and children.

**excerpts on violence against women from
BEIJING +5 OUTCOME DOCUMENT
(2000)**

D. Violence against women

13. *Achievements.* It is widely accepted that violence against women and girls, whether occurring in public or private life, is a human rights issue. It is accepted that violence against women, where perpetrated or condoned by the State or its agents, constitutes a human rights violation. It is also accepted that States have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the State or by private persons, and provide protection to victims. There is increased awareness of and commitment to preventing and combating violence against women and girls, including domestic violence, which violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms, through, *inter alia*, improved legislation, policies and programmes. Governments have initiated policy reforms and mechanisms, such as interdepartmental committees, guidelines and protocols, national, multidisciplinary and coordinated programmes to address violence. Some Governments have also introduced or reformed laws to protect women and girls from all forms of violence and laws to prosecute the perpetrators. There is an increasing recognition at all levels that all forms of violence against women seriously affect their health. Health-care providers are seen to have a significant role to play in addressing this matter.

Some progress has been made in the provision of services for abused women and children, including legal services, shelters, special health services and counselling, hotlines and police units with special training. Education for law enforcement personnel, members of the judiciary, health-care providers and welfare workers is being promoted. Educational materials for women and public awareness campaigns have been developed as well as research on the root causes of violence. Research into and specialized studies on gender roles are increasing, in particular on men's and boys' roles, and all forms of violence against women, as well as on the situation of and impact on children growing up in families where violence occurs. Successful cooperation has been achieved between governmental and non-governmental organizations in the field of preventing violence against women. The active support of civil society, in particular women's organizations and non-governmental organizations, has had an important role, *inter alia*, in promoting awareness-raising campaigns and in the provision of support services to women victims of violence.

Efforts towards the eradication of harmful traditional practices, including female genital mutilation, which is a form of violence against women, have received national, regional and international policy support. Many Governments have introduced educational and outreach programmes, as well as legislative measures criminalizing these practices. In addition, this support includes the appointment of the Special Ambassador for the Elimination of Female Genital Mutilation by the United Nations Population Fund.

14. *Obstacles.* Women continue to be victims of various forms of violence. Inadequate understanding of the root causes of all forms of violence against women and girls hinders efforts to eliminate violence against women and girls. There is a lack of comprehensive programmes dealing with the perpetrators, including programmes, where appropriate, which would enable them to solve problems without violence. Inadequate data on violence further impedes informed policy-making and analysis. Sociocultural attitudes which are discriminatory and economic inequalities reinforce women's subordinate place in society. This makes women and girls vulnerable to many forms of violence, such as 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. In many countries, a coordinated multidisciplinary approach to responding to violence which includes the health system, the workplace, the media, the education system, as well as the justice system, is still limited. Domestic violence, including sexual violence in marriage, is still treated as a private matter in some countries. Insufficient awareness of the consequences of domestic violence, how to prevent it and the rights of victims still exists. Although improving, the legal and legislative measures, especially in the criminal justice area, to eliminate different forms of violence against women and children, including domestic violence and child pornography, are weak in many countries. Prevention strategies also remain fragmented and reactive and there is a lack of programmes on these issues. It is also noted that, in some countries, problems have arisen from the use of new information and communication technologies for trafficking in women and children and for purposes of all forms of economic and sexual exploitation.

59. Violence against women and girls is a major obstacle to the achievement of the objectives of gender equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. Gender-based violence, such as battering and other domestic violence, sexual abuse, sexual slavery and exploitation, international trafficking in women and children, forced prostitution and sexual harassment, as well as violence against women resulting from cultural prejudice, racism and racial discrimination, xenophobia, pornography, ethnic cleansing, armed conflict, foreign occupation, religious and anti-religious extremism and terrorism are incompatible with the dignity and worth of the human person and must be combated and eliminated.

69. (a) As a matter of priority, review and revise legislation, where appropriate, with a view to introducing effective legislation, including on violence against women, and take other necessary measures to ensure that all women and girls are protected against all forms of physical, psychological and sexual violence, and are provided recourse to justice;
- (b) Prosecute the perpetrators of all forms of violence against women and girls and sentence them appropriately, and introduce actions aimed at helping and motivating perpetrators to break the cycle of violence and take measures to provide avenues for redress to victims;
- (c) Treat all forms of violence against women and girls of all ages as a criminal offence punishable by law, including violence based on all forms of discrimination;
- (d) Establish legislation and/or strengthen appropriate mechanisms to handle criminal matters relating to all forms of domestic violence, including marital rape and sexual abuse of women and girls, and ensure that such cases are brought to justice swiftly;
- (e) Develop, adopt and fully implement laws and other measures, as appropriate, such as policies and educational programmes, to eradicate harmful customary or traditional practices, including female genital mutilation, early and forced marriage and so-called honour crimes, which are violations of the human rights of women and girls and obstacles to the full enjoyment by women of their human rights and fundamental freedoms, and intensify efforts, in cooperation with local women's groups, to raise collective and individual awareness on how these harmful traditional or customary practices violate women's human rights;
- (f) Continue to undertake research to develop a better understanding of the root causes of all forms of violence against women in order to design programmes and take measures towards eliminating those forms of violence;
- (g) Take measures to address through policies and programmes, racism and racially motivated violence against women and girls;

- (h) Take concrete steps, as a priority and with their full and voluntary participation, to address the impact of violence on indigenous women in order to implement appropriate, effective programmes and services to eliminate all forms of violence;
- (i) Promote women's and girls' mental well-being, integrate mental health services into primary health-care systems, develop gender-sensitive supportive programmes and train health workers to recognize gender-based violence and provide care for girls and women of all ages who have experienced any form of violence;
- (j) Adopt and promote a holistic approach to respond to all forms of violence and abuse against girls and women of all ages, including girls and women with disabilities, as well as vulnerable and marginalized women and girls in order to address their diverse needs, including education, provision of appropriate health care and services and basic social services;
- (k) Approve and promote a holistic approach to combat violence against women during all their life cycle and circumstances.

78. ...

- (d) Provide gender-sensitive training to all actors, including police, prosecutors and the judiciary, in dealing with victims of violence, particularly women and girls, including sexual violence.

92. ...

- (b) Develop with the full participation of all countries an international consensus on indicators and ways to measure violence against women, and consider establishing a readily accessible database on statistics, legislation, training models, good practices, lessons learned and other resources with regard to all forms of violence against women, including women migrant workers...

- 96. (a) Increase cooperation, policy responses, effective implementation of national legislation and other protective and preventive measures aimed at the elimination of violence against women and girls, especially all forms of commercial sexual exploitation, as well as economic exploitation, including trafficking in women and children, female infanticide, crimes committed in the name of honour, crimes committed in the name of passion, racially motivated crimes, abduction and sale of children, dowry-related violence and deaths, acid attacks and harmful traditional or customary practices, such as female genital mutilation, early and forced marriages;
- (b) Increase awareness and knowledge of the Rome Statute of the International Criminal Court,⁷ which affirms that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence constitute war crimes and, in defined circumstances, crimes against humanity, with the aim of preventing such crimes from occurring, and take measures to support the prosecution of all persons responsible for such crimes and provide avenues for redress to victims; also increase awareness of the extent to which such crimes are used as a weapon of war;
- (c) Provide support to non-governmental organizations, in collaboration with the United Nations system, *inter alia*, through regional and international cooperation, including women's organizations and community groups, in addressing all forms of violence against women and girls, including for programmes to combat race and ethnic-based violence against women and girls;
- (d) Encourage and support public campaigns, as appropriate, to enhance public awareness of the unacceptability and social costs of violence against women, and undertake prevention activities to promote healthy and balanced relationships based on gender equality.

2. REGIONAL COMMITMENTS

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

The Protocol will become binding on individual states 30 days after the 15th ratification. As of November 2004, only five states had ratified the Protocol, including Namibia.

This Protocol defines “violence against women” in Article 1 as

all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.

The Protocol promises that states will treat sexual abuse and violence against women in times of conflict or war as war crimes or crimes against humanity (Article 11.3), and devotes one article entirely to the topic of violence against women:

Article 4

The Rights to Life, Integrity and Security of Person

1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.
2. State Parties shall take appropriate and effective measures to:
 - a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
 - b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
 - c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
 - d) actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimize and exacerbate the persistence and tolerance of violence against women;
 - e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;
 - f) establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;
 - g) prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk;
 - h) prohibit all medical or scientific experiments on women without their informed consent;
 - i) provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
 - j) ensure that, in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women;

- k) ensure that women and men enjoy equal rights in terms of access to refugee status determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents.

SADC – Addendum on the Prevention and Eradication of Violence against Women and Children (1998)

Ministers, legislators, government officials and NGO representatives from the SADC region who participated in a meeting in March 1998 in Durban adopted an Addendum to the 1997 Declaration on Gender and Development on the Prevention and Eradication of Violence against Women and Children. This Addendum defines violence as including

physical and sexual violence, as well as economic, psychological and emotional abuse

- (a) occurring in the family, in such forms as threats, intimidation, battery, sexual abuse of children, economic deprivation, marital rape, femicide, female genital mutilation, and traditional practices harmful to women;
- (b) occurring in the community, in such forms as threats, rape, sexual abuse, sexual harassment and intimidation, trafficking in women and children, forced prostitution, violence against women in armed conflict; and that
- (c) perpetrated or condoned by the agents of the state ...

It recommends the adoption of various measures to respond to and to prevent violence, including:

- the enactment of adequate laws to protect victims and to punish offenders
- the eradication of gender bias in the legal system
- access to counselling, restitution and reparation
- the eradication of elements of traditional norms, religious beliefs and stereotypes which legitimise violence against women and children
- adequate legal, educational, health, social welfare, counselling and other services
- gender sensitisation of service providers
- research on the causes, incidence and consequences of violence against women and children.

This Addendum stresses the need for an integrated approach to these measures, and for the allocation of adequate resources to ensure the implementation and sustainability of the programmes.

Although not legally binding, the Addendum has been signed by all SADC Heads of State and Government. It suggests that urgent consideration be given to a binding SADC instrument on violence against women and children to ensure that government commitments are translated into concrete action.

The Addendum also mandates SADC states to convene a regional conference before the end of the year 2000 to review progress in the implementation of the Declaration. That meeting took place in Lesotho in December 2000, where it was decided that SADC member states should “prepare national action plans based on an integrated approach to gender violence, for presentation to the 2001 meeting of SADC Ministers Responsible for Gender/Women’s Affairs”.

The Addendum is reproduced below.

**THE PREVENTION AND ERADICATION OF VIOLENCE AGAINST
WOMEN AND CHILDREN**
AN ADDENDUM
**TO THE 1997 DECLARATION ON GENDER AND DEVELOPMENT BY
SADC HEADS OF STATE OR GOVERNMENT**

RECALLING THAT:

1. We signed the SADC Declaration on Gender and Development at our Summit in Blantyre, Malawi on 8 September 1997, committing ourselves and our respective countries to take 'urgent measures to prevent and deal with the increasing levels of violence against women and children'.
2. In furtherance of this commitment, SADC Ministers of Justice, Gender/Women's Affairs, Legislators, Government Officials and Representatives of Non-Governmental Organisations convened a SADC Conference on the Prevention of Violence Against Women in Durban, South Africa, on 5 to 8 March 1998, which recommended the adoption of certain measures:

REAFFIRMING our commitment to the prevention and eradication of violence against women and children in our region;

RECOGNISING THAT VIOLENCE AGAINST WOMEN AND CHILDREN:

3. Reflects the unequal relations of power between women and men, resulting in the domination and discrimination of women by men;
4. Is acknowledged by the Vienna Declaration and Programme of Action of 1993 as a serious violation of fundamental human rights;
5. Includes physical and sexual violence, as well as economic, psychological and emotional abuse;
 - a. occurring in the family, in such forms as threats, intimidation, battery, sexual abuse of children, economic deprivation, marital rape, femicide, female genital mutilation, and traditional practices harmful to women;
 - b. occurring in the community, in such forms as threats, rape, sexual abuse, sexual harassment and intimidation, trafficking in women and children, forced prostitution, violence against women in armed conflict; and that
 - c. perpetrated or condoned by the agents of the state;

DEEPLY CONCERNED THAT:

6. The levels of cases of the various forms of violence against women and children continue to increase;
7. Existing measures to protect women and children against violence have proved inadequate, ineffective and biased against the victims.

WE STRONGLY CONDEMN violence against women and children in all its forms, and resolve that the following measures be adopted:

Legal

8. Enacting laws such as sexual offences and domestic violence legislation making various forms of violence against women clearly defined crimes, and taking appropriate measures to impose penalties, punishment and other enforcement mechanisms for the prevention and eradication of violence against women and children;
9. Adopting legislative measures to ensure the protection and removal of all forms of discrimination against, and empowerment of women with disabilities, the girl-child, the aged, women in armed conflict and other women whose circumstances make them especially vulnerable to violence;
10. Reviewing and reforming the criminal laws and procedures applicable to cases of sexual offences, to eliminate gender bias and ensure justice and fairness to both the victim and accused;
11. Introducing, as a matter of priority, legal and administrative mechanisms for women and children subjected to violence, effective access to counselling, restitution, reparation and other just forms of dispute resolution;

12. Adopting such other legislative and administrative measures as may be necessary to ensure the prevention and eradication of all forms of violence against women and children;

Social, Economic, Cultural and Political

13. Promoting the eradication of elements in traditional norms and religious beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women and children;
14. Introducing and supporting gender sensitisation and public awareness programmes aimed at eradicating violence against women and children;
15. Encouraging the media to play a constructive role in the eradication of violence against women and children by adopting guidelines which ensure sensitive coverage of the issue and avoid the perpetuation of stereotypes;

Services

16. Providing easily accessible information on services available to women and children victims/survivors of violence, including women and children with disabilities;
17. Ensuring accessible, effective and responsive police, prosecutorial, health, social welfare and other services, and establishing specialised units to redress cases of violence against women and children;
18. Providing accessible, affordable and specialised legal services, including legal aid, to ensure the just and speedy resolution of matters regarding violence against women and children;
19. Providing easily accessible, affordable and, where possible, free social, and administrative services for the empowerment of women and children victims/survivors of violence;

Education, Training and Awareness Building

20. Introducing and promoting gender sensitisation and training of all service providers engaged in the administration of justice, such as judicial officers, prosecutors, police, prison, welfare and health officials;
21. Undertaking and sharing research of the gathering of statistics and other information on the causes, prevalence and consequences of violence against women and children;
22. Encouraging the exchange of national, regional and international best practices for the eradication of violence against women and children;

Integrated Approaches

23. Ensuring that all these measures are implemented in an integrated manner by all stakeholders;

Budgetary Allocations

24. Allocating the necessary resources to ensure the implementation and sustainability of the above programmes;

WE FURTHER RESOLVE THAT:

25. Regional policies, programmes and mechanisms to enhance the security and empowerment of women and children, be adopted and their implementation monitored;
26. Urgent consideration be given to the adoption of legally binding SADC Instruments on Preventing Violence Against Women and Children, and to ensure that these commitments are translated into tangible actions;
27. SADC convene a Regional Conference, before the end of the Year 2000, to review progress made in the implementation of the above measures and recommendations.
28. This addendum is an integral part of the 1997 SADC Declaration on Gender in Development.

IN WITNESS WHEREOF, WE, the Heads of State or Government, or duly authorised Representatives of SADC Member States, have signed this Addendum.

DONE at Grand Baie this 14th day of September 1998 in two (2) original texts in the English and Portuguese languages, both texts being equally authentic.

3. NAMIBIA

UN Response to Namibia's First CEDAW Report (1997)

In 1997, the Committee which monitors CEDAW expressed concern about “the inadequacy of Namibia’s law on rape” (since remedied by the Combating of Rape Act, 2000) and “the prevalence of domestic violence”. It made the following recommendation:

The Committee recommends that the Government take immediate action to combat domestic violence. This should include such legal measures as amending the law on rape as well as introducing awareness-raising programmes. The Committee stresses the importance of women’s economic empowerment so as to avoid their total dependency on men and their increased vulnerability to domestic violence.

Namibia National Gender Policy

The National Gender Policy states that violence against women and children violates Article 8 of the Namibian Constitution, which protects against “torture” and “cruel, inhuman or degrading treatment or punishment”. The National Gender Policy adopts the definition of violence against women put forward in the Beijing Platform for Action:

Violence against women and children’ 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 and children.

It also quotes the Beijing elaboration of this definition:

- 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.

The National Gender Policy then lists 23 strategies for combating violence, ranging from law reform to awareness-raising, to the provision of shelters and other services. These strategies are given more specific content in the National Gender Plan of Action (1998-2003).

4. CONCLUSION

Gender-based violence against women is now viewed as a matter of serious concern by the international community, and the international concerns have been mirrored in declarations and plans at the regional and national levels. The global recognition of the problem of gender-based violence has given impetus to action to prevent and combat it. However, there is a danger of having too many blueprints and not enough action.

One recent news article stated:

Judging by the numerous conventions to end violence against women which governments in Southern Africa have signed and committed to, the region ought to have posted huge success in uplifting the position of women and protecting the rights of children — it has not.

“Southern African women want action against violence”, 12 December 2000
www.afrol.com/Categories/Women/wom019_sadc_violence.htm.

In an article published in May 2000, Professor Amina Mama offers this assessment of the African track record:

Simultaneously straddling modernisation with masculinist memory and nostalgia, African governments have often created and sustained the sexual and economic conditions of gender inequality that facilitate the abuse of women. There is no reason for, or rationality to, this prolonging of gender-based abuse. African governments have made particular efforts to present themselves as concerned with the advancement of women, if not full gender equality. They have by and large removed constitutional and legally-enshrined discriminations, and ensured that a higher proportion of girls go to school in most African countries. Yet almost all African governments have maintained a deafening silence on the subject of gender-based violence. As a result of their silence, tolerance remains enshrined in legal, policing and medical policies and practices. Where there have been significant legislative innovations and policies, these have not been implemented, nor has their implementation even been budgeted for.

Dr Amina Mama, “Transformation Thwarted: Gender-based Violence in Africa’s New Democracies”, African Gender Institute, May 2000

Dr Mama attributes African attitudes about gender-based violence in part to the effects of centuries of oppression, to a high general tolerance for violence in the context of postcolonial militarisation, and to a misguided aspect of the desire to uphold “tradition” against “Western influences”.

Namibia is fortunate to have a government that is not silent about the problem. At Independence Day celebrations in 2001, President Nujoma stated that “the whole nation is disturbed by the increase of violence against women and children in our society”:

Our mothers, sisters and daughters must have their wishes respected by all members of our society. They must be able to move freely at any time of the day or night without fear of being attacked and their rights and freedoms being violated by any single individual or groups of men in the length and breadth of Namibia.

CONCLUDING ISSUES

1. OTHER GENDER SPECIFIC TREATIES

There are many other international agreements which deal with specific issues relating to gender. The list below is not comprehensive, but it gives some indication of the many international efforts to deal with specific gender concerns.

- International Convention Respecting the Prohibition of Night Work for Women in Industrial Employment, 1906
- Convention Concerning the Employment of Women Before and After Childbirth, 1919 (ILO)
- Convention Concerning the Employment of Women During the Night, 1919 (ILO)
- International Convention for the Suppression of Traffic in Women and Children, 1921
- International Convention for the Suppression of Traffic in Women of Full Age, 1933
- Convention Concerning the Employment of Women During the Night (Revised 1934) (ILO)
- Convention Concerning the Employment of Women on Underground Work in Mines of All Kinds, 1935 (ILO)
- Convention Concerning Night Work of Women Employed in Industry (Revised 1948) (ILO)
- Convention Concerning Migration for Employment (Revised 1949) (ILO)
- Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950
- Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (ILO)
- Convention Concerning Maternity Protection (Revised 1952) (ILO)
- Convention on the Political Rights of Women, 1952
- Convention on the Nationality of Married Women, 1957
- Convention Concerning Discrimination in Respect of Employment and Occupation, 1958 (ILO)
- UNESCO Convention on Discrimination in Education, 1960
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962
- Migrant Workers (Supplementary Provision) Convention, 1975 (ILO)
- Workers with Family Responsibilities Convention, 1981 (ILO)
- Convention on the Rights of the Child, 1990, and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000
- Convention Against Transnational Organised Crime, 2000, and Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000
- Convention on the Worst Forms of Child Labour, 2000 (ILO).

2. WOMEN'S HUMAN RIGHTS RESOURCES ON THE INTERNET

You can keep up with international and regional developments in the field of human rights and gender most easily by checking key internet sites such as the ones listed in the following table:

Organisation	Homepage
African Union	http://www.africa-union.org
African Commission on Human and People's Rights	http://www.achpr.org/
Human Rights Internet, For the Record 1997: The UN Human Rights System	http://www.hri.ca/fortherecord1997/index.htm
International Human rights Instruments- Women's Human Rights	http://www.umn.edu/humanrts/instree/auoe.htm
International Labour Organization – Gender	http://www.ilo.org/public/english/gender.htm
International Women's Tribune Centre	http://www.iwtc.org/
Office of the United Nations High Commissioner for Human Rights	http://www.ohchr.org/
Southern African Development Community	http://www.sadc.int
United Nations: Commission on the Status of Women	www.un.org/womenwatch/daw/csw/
United Nations: Committee on the Elimination of Discrimination Against Women (CEDAW)	www.un.org/womenwatch/daw/cedaw/
United Nations: Division for the Advancement of Women	www.un.org/womenwatch/daw/
United Nations Inter-Agency Network on Women and Gender Equality	http://www.un.org/womenwatch/
Women's Environment and Development Organization	http://www.wedo.org/
Women's Human Rights	http://www.law-lib.utoronto.ca/diana/
WomensNet	http://www.igc.apc.org/womensnet/