



UNITED NATIONS

# The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol

Handbook for Parliamentarians

CONFRONTING DISCRIMINATION

INTER-PARLIAMENTARY UNION





United Nations

# **The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol**

**Handbook for Parliamentarians**



Inter-Parliamentary Union

**2003**

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## Foreword

Few causes defended by the United Nations have generated more intense and widespread support than the campaign to promote and protect the equal rights of women. The Charter of the United Nations prominently reaffirmed the equal rights of men and women. Since then, the United Nations has helped to build a structure of internationally agreed strategies, standards, programmes and goals to advance the status of women worldwide.

The cornerstone of that structure is the Convention on the Elimination of All Forms of Discrimination against Women adopted by the United Nations General Assembly in 1979. Often described as the international bill of rights for women, this Convention defines the meaning of discrimination against women, and establishes legal obligations for States parties to end such discrimination. As at 6 March 2003, 171 States were party to the Convention, thus pledging to make equality between men and women a reality by providing equal opportunities in all fields, whether political, civil, economic, social or cultural, as well as in family life. Those States also committed themselves to reporting to the Committee on the Elimination of Discrimination against Women on steps taken to fulfil their obligations.

10 December 1999, the last Human Rights Day of the twentieth century, also held special significance for all those who work to advance women's enjoyment of their human rights. That day, the Optional Protocol to the Convention was opened for signature, ratification and accession by States already party to the Convention. In States which are party to the Protocol, women whose rights have been violated and who have exhausted national remedies, are able to seek redress from an independent international body – the Committee on the Elimination of Discrimination against Women. The Protocol also empowers the Committee to inquire of its own volition into grave or systematic violations of the Convention's terms.

Parliaments and their members have a vital role to play in ensuring respect of the principles of the Convention. They have an impressive range of tools at their disposal to do so. They can encourage their State to become party to the Convention and the Protocol. They can also debate and adopt national legislation that conforms with the international standards set out by the Convention and monitor its implementation. In discharging their traditional duty of overseeing the work of Governments, Parliaments can ensure that States parties comply fully with the reporting obligation in the Convention. Parliamentarians are also key players in raising awareness of the Convention and its Protocol. Finally, they are entrusted with overseeing the practical implementation of the rights set out in the Convention.

Against that backdrop, the United Nations Division for the Advancement of Women and the Inter-Parliamentary Union, the world organization of parliaments, joined efforts to produce a user-friendly Handbook for Parliamentarians on the Convention and its Optional Protocol. The publication reflects the resolve of the General Assembly expressed in the Millennium Declaration in September 2000 to strengthen cooperation between the United Nations and the Inter-Parliamentary Union. The IPU strives to bring a parliamentary dimension to international cooperation and the work of the United Nations. Working in conjunction with UN specialized agencies, funds and programmes, and other international organizations, the IPU has produced a series of Handbooks for Parliamentarians on major issues on the international agenda. These Handbooks are designed to help parliaments and their members act as a bridge between international cooperation and the implementation of international instruments in their own countries.

This Handbook, which is the fourth in the series of Handbooks for Parliamentarians produced by the IPU in collaboration with different entities, this time with the UN Division for the Advancement of Women, is designed to familiarize men and women members of Parliament with the Convention and its Protocol. It presents the background to and content of the Convention and the Optional Protocol. It describes the role of the Committee on the Elimination of Discrimination against Women, the treaty body established by the Convention to secure implementation at the national level. The Handbook also focuses on what parliamentarians can do to ensure effective implementation of the Convention and encourage use of the Protocol. It seeks to encourage parliamentarians to take measures to ensure that national laws, policies, actions, programmes and budgets reflect the principles and obligations in the Convention.

The preparation of the Handbook benefited from the guidance of IPU's Coordinating Committee of Women Parliamentarians, a group of 26 women parliamentarians from around the world, and from suggestions made by Ms. Françoise Gaspard, the member of the Committee on the Elimination of Discrimination against Women tasked with the role of focal point to the Inter-Parliamentary Union. The Handbook would not have been possible without the financial support of the Government of Canada provided through the Canadian International Development Agency (CIDA) and of the Government of Sweden provided through the Swedish International Development Cooperation Agency (Sida). Our thanks go to all of them, as well as to all those who contributed to the production of this Handbook which, it is hoped, will be useful to those who promote gender equality and aim to make it a living reality.



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“The combination of efforts on the part of all of society's components is indispensable to tackle and resolve the problems facing society. Emphasis should thus be placed on two complementary concepts: the concept of parity which reflects the fact that persons of one or the other sex are different but nonetheless equal; and the concept of partnership, which shows that a creative synergy can be created between men and women so as to tackle and resolve the community's problems effectively.”

IPU Plan of Action to Correct Present Imbalances in the Participation of  
Men and Women in Political Life, 1994

“Heads of State and Government consider equal rights and opportunities of women and men and the right of women and men to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice as fundamental values essential to international relations in the twenty-first century, and resolve to combat all forms of discrimination against women and to implement the Convention on the Elimination of All Forms of Discrimination against Women.”

United Nations Millennium Declaration, 8 September 2000

“...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”

Preamble of the Convention on the Elimination  
of All Forms of Discrimination against Women, 1979

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### **Note for the reader:**

The Convention on the Elimination of All Forms of Discrimination against Women is often referred to as “CEDAW”. The same acronym is used for the Committee on the Elimination of Discrimination against Women. Throughout this publication the Convention on the Elimination of All Forms of Discrimination against Women will be referred to as the “Convention”, while the Committee on the Elimination of Discrimination against Women will be referred to as the “Committee”.

The information contained in the publication is correct as at 6 March 2003.

# Chapter 1

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

### Why a Convention on discrimination against women?

The 1948 Universal Declaration of Human Rights constitutes the first international instrument to detail the rights and freedoms of individuals, and contains 30 articles covering the integrity of the individual, political and civil rights (such as freedom of thought, expression, religion, association and access to the political process) and economic rights (such as the right to employment, education, social security, and full participation in society). Echoing the Charter of the United Nations which encourages respect for human rights and fundamental freedoms for all people “without distinction as to race, sex, language or religion” the Declaration proclaims that everyone is entitled to the rights and freedoms it sets forth without distinction of any kind, including that of sex.

Since its adoption, the United Nations has worked to translate the principles of the Universal Declaration into international treaties that protect specific rights. Today, over 60 treaties address concerns such as slavery, genocide, humanitarian law, the administration of justice, the status of refugees and minorities, and human rights. Each of these treaties is grounded in the concepts of equality and non-discrimination contained in the Universal Declaration, and many explicitly provide that the rights that they establish shall be available to men and women on a basis of equality. For example, both the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, adopted in 1966, provide that States parties to each instrument undertake to ensure the equal right of men and women to the enjoyment of all the rights set out in those treaties. In its article 26, the International Covenant on Civil and Political Rights also provides a free-standing guarantee of equality before the law, whereby States parties undertake to ensure that their law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds, including sex. The Convention on the Rights of the Child, adopted in 1989, similarly makes it explicit that the rights it contains apply equally to male and female children.

The Charter's vision of equality and non-discrimination, and the many international legal provisions which guarantee these values, proved insufficient to ensure women's equal enjoyment of international human rights.



In 1967, the international community adopted the Declaration on the Elimination of Discrimination against Women, which expressed concern that despite progress which had been made in human rights, considerable discrimination against women continued to exist.

The non-binding Declaration set the stage for the elaboration and adoption in 1979 of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention brings together, in a single legally binding instrument, provisions requiring the elimination of discrimination on the basis of sex in the enjoyment of civil, political, economic, social and cultural rights, and specific rights of particular concern to women and girls.

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

Vienna Declaration and Programme of Action, 1993, paragraph 18

## History of the Convention

The adoption of the Convention on the Elimination of All Forms of Discrimination against Women by the UN General Assembly on 18 December 1979 was the culmination of decades of international efforts to protect and promote the rights of the world's women. It resulted from initiatives taken within the UN Commission on the Status of Women (CSW), the body established within the United Nations system in 1946 to consider and make policy recommendations to improve the status of women.

Building on provisions of the United Nations Charter, which expressly affirms the equal rights of men and women, and the Universal Declaration of Human Rights, which proclaims that all human rights and freedoms are to be enjoyed equally by men and women without distinction of any kind, between 1949 and 1962, the Commission prepared a number of treaties including the Convention on the Political Rights of Women (1952), the Convention on the Nationality of Married Women (1957) and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962), which protected and promoted the rights of women in areas where the Commission considered these rights were particularly vulnerable.

In 1965, the Commission embarked on the preparation of what was to become in 1967 the Declaration on the Elimination of Discrimination against Women. This Declaration assembled in a single legal instrument the international standards which articulated the equal rights of men and women. The Declaration, however, was not a treaty. Although it had moral and political force, it did not establish binding obligations for States.

In 1972, the Commission on the Status of Women considered the possibility of preparing a treaty which would give binding force to the Declaration. The preparation of such a treaty was encouraged by the World Plan of Action adopted by the 1975 World Conference of the United Nations International Women's Year which called for "a convention on the elimination of discrimination against women, with effective procedure for its implementation". This work was also encouraged by the General Assembly, which proclaimed the period 1976 to 1985 as the United Nations Decade for Women.

The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. In the resolution adopting the Convention, the General Assembly expressed the hope that it would come into force at an early date.

Sixty-four States signed the Convention and two States submitted their instruments of ratification at a special ceremony at the mid-Decade World Conference of the United Nations Decade for Women in Copenhagen in 1980. On 3 September 1981, thirty days after the twentieth member nation had ratified it, the Convention entered into force, thus bringing to fruition United Nations efforts to codify comprehensively international legal standards for women.

As of 6 March 2003, 171 States were party to the treaty. Two additional States have signed, but not ratified the Convention – thus binding themselves to do nothing that contravenes its terms. A full status of the Convention as at 6 March 2003 is contained in Box N°8.

## Contents of the Convention

The Convention moves beyond guarantees of equality and equal protection before the law in existing legal instruments and sets out measures for the achievement of equality between men and women, regardless of their marital status, in all aspects of political, economic, social and cultural life.

States parties have an obligation to eliminate discrimination against women through legal, policy and programmatic measures. The obligation applies to all spheres of life, as well as matters relating to marriage and family relations, and includes obligations to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

The rights and major provisions of the Convention are presented in Chapter 2.

# Mechanisms to ensure implementation of the Convention

## The Convention's implementation procedures

The Convention provides for two procedures:

### ▷ The Reporting Procedure

Article 18 of the Convention imposes a reporting obligation on States parties. States are obliged to submit a report on implementation of the Convention within one year of entry into force of the Convention for the State concerned, and thereafter every four years or when the monitoring body established by the Convention, the Committee on the Elimination of Discrimination against Women, requests. In these reports, States must indicate the measures they have adopted to give effect to the provisions of the Convention. The Committee discusses these reports with representatives of the State party and explores with them areas for further action. The reporting procedure under the Convention is described in Chapter 6, while the functions of the Committee are described in Chapter 3.

### ▷ The Inter-State Procedure

Article 29 of the Convention provides that two or more States parties can refer disputes about the interpretation and implementation of the Convention to arbitration, and if the dispute is not settled, it can be referred to the International Court of Justice. The Convention explicitly entitles States parties to declare on signature, ratification or accession that they are not bound by this provision. A number of States have submitted such reservations and, to date, the Inter-State procedure has never been used.

*“This ‘Women’s Bill of Rights’ stands as a milestone. It reflects the principle of universal and indivisible rights shared by all nations, foreign to no culture and common to both genders.”*

Mr. Kofi Annan, Secretary-General of the United Nations, 10 December 1999

## **Other implementation procedures provided by the Optional Protocol to the Convention**

The Optional Protocol to the Convention also provides two implementation procedures which are available where a State is a party to both the Convention and the Protocol: the individual communications procedure and the inquiry procedure.

The procedures established by the Optional Protocol are described in Chapter 9.

## **The Committee on the Elimination of Discrimination against Women**

The Convention establishes the Committee on the Elimination of Discrimination against Women, an expert body to oversee its implementation. The Committee, which met for the first time in 1982, is composed of 23 members from around the world who are responsible for monitoring the progress made by States in implementing the Convention.

The Committee's functions are described in Chapter 3. It monitors the progress in the status of women made in those countries that are parties to the Convention through the consideration of reports. Since the adoption of the Optional Protocol to the Convention, the Committee is also able to receive and consider individual complaints or complaints by groups of individual women from States that have accepted the Protocol. The Protocol also enables the Committee to initiate inquiries into situations of grave or systematic violations of the Convention in States that have accepted this procedure.

# Chapter 2

## Rights and provisions set out in the Convention

The following chapter summarizes the major provisions of the Convention. The full text of the Convention can be found in Annex 1.

### Preamble

The preamble recalls that the Charter of the United Nations, and other international treaties proclaim that the elimination of discrimination against women and the promotion of their equality with men are amongst the central principles of the United Nations.

It reminds the international community that despite the existence of these instruments extensive discrimination against women continues to exist and that this violates the principles of equality of rights and respect for human dignity.

It also underlines that discrimination against women is an obstacle to women's participation 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 stands in the way of the full and complete development of a country, the welfare of the world and the cause of peace.

### Part I

*In articles 1 to 6, States parties agree to take all appropriate measures to bring about the advancement of women. These take the form of constitutional, legislative, administrative and other measures, including temporary special measures, such as affirmative action, modification of social and cultural patterns of conduct and suppression of traffic in women and the exploitation of prostitution of women.*

#### The definition of discrimination against women

**Article 1** 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.”

## **Obligations of States parties to eliminate discrimination**

**Article 2** obliges States parties:

- to condemn discrimination against women;
- to embody the principle of equality of men and women in their national constitutions, or other legislation;
- to adopt legislative measures, including sanctions, to prohibit discrimination against women;
- to establish legal protections against discrimination through national tribunals and other institutions;
- to refrain from any act which discriminates against women and to ensure that public authorities and institutions also act accordingly;
- to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- to introduce legislation or other appropriate measures to modify or abolish laws, regulations, customs, and practices which constitute discrimination against women and repeal penal provisions which amount to discrimination against women.

**Article 3** requires States parties to take all appropriate measures in all fields to ensure the full development and advancement of women.

## **Temporary special measures**

**Article 4** provides that temporary special measures accelerating de facto equality between men and women, such as affirmative action measures, will not be considered discriminatory.

Such measures may last for as long as inequalities exist, but may not lead to the maintenance of unequal or separate standards, and must be discontinued when equality of both opportunity and treatment have been achieved. Special measures aimed at the protection of maternity are non-discriminatory.

## **Prejudices, customary and other practices based on the idea of stereotyped roles for men and women**

**Article 5** requires States parties to modify social and cultural patterns of men and women to eliminate practices based on the idea of sex role stereotyping or the inferiority or superiority of either of the sexes.

States parties must also ensure that family education incorporates a proper understanding of maternity as a social function and the common responsibility of men and women with respect to their children.

## **Traffic in women and exploitation of prostitution**

**Article 6** requires States parties to take appropriate measures, including legislation, to suppress traffic in women and the exploitation of prostitution in women.

## Part II

*In articles 7 to 9, States parties undertake to protect women's rights in public and political life.*

### Women's rights in public and political life

**Article 7** requires States parties to eliminate discrimination against women in public and political life. Women must be entitled to vote and be eligible for election on equal terms with men, to participate in the formulation of Government policy, and hold public office.

They must also be able to participate on an equal basis with men in non-governmental organizations and public and political associations, such as trade unions and professional associations.

**Article 8** states that women are also to be given equal opportunity to represent their Governments and participate in the work of international organizations, such as the United Nations, and its associated organizations, specialized agencies, funds and programmes.

#### Box N° 1

### Women in power and decision-making: how much progress for women?

- Despite the long-standing recognition of the fundamental right of women and men to participate in political life, in practice the gap between *de jure* and *de facto* equality in the area of power and decision-making remains wide.
- Women remain largely excluded from the Executive in their countries although there has been some progress here. Between 1994 and 1998, the number of countries where women held at least 15 per cent of ministerial positions increased from 16 to 28, and the number of countries where women held at least 20 per cent of ministerial positions increased from 8 to 16.
- Women account for a world average of 15 per cent of members of national parliaments. This represents a certain progress. It is still far from the 30 per cent seen as a critical mass required to ensure that the interests of women are fully taken into account and reflected.
- As at March 2003, Nordic countries have the highest average of women in Parliament while countries in the Arab region have the lowest. However, recently some Arab countries have introduced specific measures aimed at bridging the gap. (see Box N° 10).

#### Sources:

- *The World's Women 2000, Trends and Statistics*, United Nations, 2000
- The Inter-Parliamentary Union, *Statistics and press releases*, [www.ipu.org](http://www.ipu.org)

## **Nationality**

**Article 9** requires States parties to grant women equal rights with men to acquire, change or retain their nationality. States must ensure that a woman's nationality will not be automatically affected by her marriage to an alien nor by the fact that her husband changes his nationality. Marriage should not entail compulsory adoption of the husband's nationality nor render women stateless. States are also required to ensure that women have equal rights with men with respect to the nationality of their children.

## **Part III**

*In articles 10 to 14, States parties make commitments to eliminate discrimination in education, employment, health, economic, social and cultural life*

### **Elimination of discrimination in education, health, economic, social and cultural life**

#### ***Education***

**Article 10** requires States parties to eliminate discrimination against women in education, in respect of access to studies at the pre-school, general, technical, professional, higher, technical and vocational training levels.

Women and girls are to be provided, in both urban and rural areas, with access to the same curricula, examinations, and qualified teaching staff, premises, and equipment of the same quality as men and boys.

Stereotyping shall be eliminated from education, including through encouraging co-education and the revision of textbooks and programmes.

Women and girls shall be given the same opportunity for scholarships and study grants as men and boys, and the same access to continuing education, especially those programmes aimed at reducing the education gap between men and women.

Efforts are to be made to reduce the number of female students who drop out, and programmes should be provided for girls and women who have left school prematurely.

Girls and women should be provided with the same opportunities as men and boys to participate actively in sports and physical education, as well as the same access to specific educational information to help ensure the health and well-being of families, including information and advice on family planning.



## Box N° 2

# Women and education: how much progress for women?

### *School enrolment*

- The gender gap in primary and secondary schooling is closing but women and girls still lag behind men and boys in some countries of Africa and Southern Asia.

### *Illiteracy*

- Despite significant progress in school enrolment, nearly two-thirds of the world's 876 million illiterates are women.

### *Higher education*

- Women have made significant gains in higher education enrolment in most regions of the world
- In the Caribbean and Western Asia, there are more women than men enrolled in higher education.

### *Training in new technologies*

- More women than men lack the basic literacy and computer skills needed to enter “new media” professions.
- In many countries, women represent a rapidly increasing share of internet users.

### *Sources:*

- *The World's Women 2000, Trends and Statistics*, United Nations, 2000
- *Fact sheets*, UNDP, May 2000
- [www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm](http://www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm)

## **Employment**

**Article 11** obliges States parties to take all appropriate measures to eliminate discrimination against women in employment.

Women are to be provided with the right to work on the basis of equality with men; the right to the same employment opportunities; to free choice of profession and employment; job security; benefits and vocational training and retraining, and apprenticeships.

Steps are to be taken to ensure women the right to equal remuneration, including benefits, and equal treatment to work of equal value, as well as equality of treatment in the evaluation of the equality of work.

Women are to be provided with the right to social security on the same basis as men, and the right to protection of health and safety at work, including in relation to reproduction.

Specific measures are to be taken to prevent discrimination against women in employment on the basis of marriage, or maternity. Dismissal on the grounds of pregnancy, maternity leave or marital status, is to be prohibited, subject to sanctions.

Maternity leave with pay or comparable social benefits without loss of former employment, seniority or social benefits is to be introduced.

States are also called on to encourage the provision of support to enable parents to combine work and family responsibilities, as well as participation in public life, through the establishment of a network of childcare facilities. Special protection must be provided to women during pregnancy in types of work proved to be harmful to them.

**Article 11.3** requires States parties to review protective employment legislation in the light of scientific and technological knowledge with a view to its revision, repeal or extension.

### Box N° 3

## Women and the economy: how much progress for women?

- In 2000, women comprised an increasing share of the world's labour force - at least one-third in all regions except North Africa and Western Asia.
- Since 1980, the differential between women's and men's economic activity rate - i.e. the proportion of the working-age population in the labour force - has narrowed from region to region, as well as within regions.
- Self-employment and part-time and home-based work have expanded opportunities for women's participation in the labour force, but remain characterized by lack of security, lack of benefits and low income.
- More women than before are in the labour force throughout their reproductive years, although obstacles to combining family responsibilities and employment persist.
- Women, especially younger women, experience more unemployment than men and for a longer period of time than men.
- Women remain at the lower end of a segregated labour market and continue to be concentrated in a few occupations, to hold positions of little or no authority and to receive less pay than men.
- Rural women and migrant workers are particularly hard hit during times of economic downturn when they are much more vulnerable to unemployment and are often forced to carry an even larger burden of unpaid work.

#### Sources:

- *The World's Women 2000, Trends and Statistics*, United Nations, 2000
- *Fact sheets*, UNDP, May 2000
- [www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm](http://www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm)

## Health

**Article 12** requires States parties to take measures to eliminate discrimination against women in health care in order to ensure that women have access to health care services, on the same basis as men, including those relating to family planning.

States are also required to ensure that women have appropriate, and where necessary, free services with regard to pregnancy, confinement, and the post-natal period. They should also be provided with adequate nutrition during pregnancy and lactation.

**Article 13** requires States parties to eliminate discrimination against women in economic and social life. They are to be granted the same rights as men to social benefits, bank loans, mortgages, and other forms of financial credit. They are also to enjoy the same rights as men to participate in recreational activities, sports, and all aspects of cultural life.

### Box N° 4

#### Women and health: how much progress for women?

- According to the World Health Organization (WHO), the annual global estimated death toll from pregnancy-related causes is close to 600,000 deaths while eight million cases of disability result from such causes.
- Lack of access to health services and especially life-saving obstetric care is one of the main reasons for the high death rate among women experiencing complications during pregnancy and childbirth.
- Women account for almost half of all cases of HIV/AIDS and, in countries with high HIV prevalence, young women are at higher risk of contracting HIV than young men.
- In some African countries, and despite legislative measures outlawing the practice, more than half of all women and girls have undergone female genital mutilation.

*Sources:*

- *The World's Women 2000, Trends and Statistics*, United Nations, 2000
- *Fact sheets*, UNDPI, May 2000
- [www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm](http://www.un.org/womenwatch/daw/followup/session/presskit/presskit.htm)

## Discrimination against rural women

**Article 14**, the only international treaty obligation which deals with the specific needs of rural women, requires States parties to take account of their particular problems, and the significant roles they play in the economic survival of their families, including their work in the non-monetized sectors of the economy.

States parties are called on to ensure that the Convention as a whole is applied to rural women, and to ensure that they participate in and benefit from rural development on the same basis as men.

They are to have the same right to participate in the elaboration and implementation of development planning, have access to adequate health-care facilities, including family planning, to benefit from social security programmes, obtain all types of training and education, to organize self-help groups and cooperatives and to participate in community activities.

Rural women are also to have equal access with men to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform and land resettlement schemes.

Rural women are also to be accorded equal rights with men to enjoy adequate living conditions, including housing sanitation, electricity, water supply, transport and communications

## Part IV

*Final substantive provisions are found in Part IV, where States parties agree to accord women equality with men before the law, in the exercise of legal rights, and in marriage and family law.*

### **Equality before the law and in marriage and family law**

**Article 15** guarantees women equality with men before the law. Women are to have identical legal capacity to that of men; they are to have the right to conclude contracts, administer property and they shall be treated on the same basis as men at all stages of court and tribunal proceedings.

Any contracts and private instruments of any kind directed to restricting women's legal capacity shall be deemed null and void, while men and women are to be granted the same rights to freedom of movement, and choice of residence and domicile.

**Article 16** obliges States to eliminate discrimination against women with respect to marriage and family relations. Women are to be given the same right as men to enter marriage, on the basis of full and free consent and choose a spouse. They will have the same rights and responsibilities during marriage and on its dissolution, the same rights and responsibilities as parents, and 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 exercise these rights.

Women will have the same personal rights as husband and wife, including with regard to choice of family name, profession and occupation and with respect to their property. States parties also agree that the betrothal and marriage of a child shall have no legal effect and that steps, including legislation, shall be taken to specify a minimum age for marriage and to make the official registration of marriages compulsory.

## Part V

*In Part V, the Convention establishes the Committee on the Elimination of Discrimination against Women for the purpose of considering the progress made in the implementation of the Convention; outlines the reporting obligation of States parties; and addresses the Committee's meeting time, venue and reporting obligations.*

### **The Committee on the Elimination of Discrimination against Women**

The Committee, which is established to consider the implementation of the Convention, is created by **article 17** of the Convention. It is composed of 23 experts of high moral standing and competence in the fields covered by the Convention.

Although nominated and elected by the States parties to the Convention, Committee members serve in their personal capacity, and not as government representatives. **Articles 19 to 22** of the Convention concern the functioning of the Committee, with **article 21** providing that the Committee may make suggestions and general recommendations based on the examination of reports and information received from States parties.

### **The reporting obligation**

**Article 18** creates the reporting obligation of States parties to the Convention, with States parties undertaking to submit to the Secretary-General, for consideration by the Committee, a report on measures to give effect to the Convention within one year of entry into force of the Convention for the State party concerned, and every four years thereafter, or whenever the Committee calls for such a report.

### **National provisions more conducive to the achievement of equality between men and women**

**Articles 23 and 24** provide that the Convention will have no effect on any provisions in domestic legislation or international agreements in force for a State party which may be more conducive to the achievement of equality between men and women, and oblige States parties to adopt all necessary measures at national level to achieve the full realization of the rights in the Convention.

## Part VI

### **Final provisions: participation in the treaty, reservations, dispute resolution mechanism and authentic texts**

**Articles 25 to 27** include provisions on participation in the treaty, and procedures for revision and designate the Secretary-General as depository.

**Article 28** entitles States parties to accept the Convention subject to reservations, but provides that reservations which are incompatible with its object and purpose are not permitted. Reservations may be withdrawn at any time by notification to the Secretary-General.

**Article 29** provides that disputes between two or more States parties about the interpretation of the Convention which cannot be settled by negotiation, may be submitted to arbitration, and where the parties are unable to agree referred to the International Court of Justice for determination. Reservations to article 29 are permissible, and the other States parties are not bound by that provision with respect to any State party which has made such a reservation.

**Article 30** provides for the authenticity of the Arabic, Chinese, English, French, Russian and Spanish texts of the Convention and that these shall be deposited with the Secretary-General.

## Chapter 3

# The Committee on the Elimination of Discrimination against Women

Article 17 of the Convention on the Elimination of All Forms of Discrimination against Women establishes the Committee on the Elimination of Discrimination against Women. Its purpose is to consider the progress made in the implementation of the Convention's provisions. As one of the six existing United Nations human rights treaty bodies, the Committee is financed through the regular budget of the United Nations and provided by the Secretary-General with the staff and facilities required for it to function effectively.

### Composition of the Committee

The Committee is composed of 23 experts who are elected by secret ballot from a list of persons *"of high moral standing and competence in the field covered by the Convention"*. Experts are nominated by States parties which may nominate one person from amongst their nationals. In the election of members, the Convention calls for consideration of equitable geographical distribution and the representation of *"different forms of civilization as well as the principal legal systems"*. Although nominated by their own Governments, and elected by States parties, Committee members serve in their personal capacities as independent experts and not as delegates or representatives of their countries.

Experts are elected for four-year terms which begin on the first day of January of the year after their election and end on the thirty-first day of December four years later. They can be re-elected. Elections take place at meetings of States parties to the Convention which are convened every two years by the Secretary-General at United Nations Headquarters in New York, during which States parties vote for half the Committee's membership. Where casual vacancies occur, the State party whose expert has ceased to function as a Committee member is entitled to appoint another expert from among its nationals, subject to the approval of the Committee.

A total of 97 experts have served as members of the Committee since its initial session in 1982.

At 6 March 2003, members had been drawn from the following States parties:

Algeria, Argentina, Australia, Bangladesh, Barbados, Benin, Brazil, Bulgaria, Burkina Faso, Canada, China, Colombia, Croatia, Cuba, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, Germany, Ghana, Greece, Guyana, Hungary, Indonesia, Israel, Italy, Japan, Mali, Mauritius, Mexico, Mongolia, Netherlands, New Zealand, Nigeria, Norway, Panama, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Serbia and Montenegro, South Africa, Spain, Sri Lanka, Sweden, Togo, Tunisia, Turkey, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, and Zimbabwe.

Unlike in the case of the five other treaty bodies, most members of the Committee have been women. As at 6 March 2003, only three men had been members. Most members have been active in promoting gender equality or women's human rights, and have usually had access to networks and communities outside the structure of Government. They also come from diverse professional backgrounds. Experts have included judges, lawyers, physicians, parliamentarians, psychologists, academics, economists, sociologists and educationalists.

## Committee officers

The Committee's rules of procedure provide that the Committee shall elect a Chairperson, three Vice-Chairpersons and a Rapporteur with due regard to equitable geographical representation. These officers, who constitute the Bureau of the Committee, are elected for two-year terms, and may be re-elected "*provided that the principle of rotation is upheld*".

In addition to controlling the proceedings of the Committee, and overseeing its work inter-sessionally, the Chairperson represents the Committee at United Nations meetings in which the Committee is officially invited to participate. Each year, the Chairperson participates on behalf of the Committee in the Commission on the Status of Women, the Commission on Human Rights and the Third Committee of the General Assembly. She also participates in the annual meeting of Chairpersons of United Nations human rights treaty bodies, which reports to the General Assembly. The Chairperson, or her nominee, is frequently called on to represent the Committee at United Nations world conferences, summits and other events, as well as activities organized by Governments, intergovernmental and non-governmental organizations (NGOs).

As of 6 March 2003, the following experts had served as the Committee's Chairperson:

Ms. Luvsandanzangyn Ider (Mongolia); Ms. Desirée Bernard (Guyana); Ms. Elizabeth Evatt (Australia); Ms. Mervat Tallawy (Egypt); Ms. Ivanka Corti (Italy); Ms. Salma Khan (Bangladesh); Ms. Aída González Martínez (Mexico); Ms. Charlotte Abaka (Ghana); and Ms. Ayse Feride Acar (Turkey).



## Box N° 5

### The UN human rights treaty bodies

In 1966, the General Assembly adopted the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. The two Covenants translated the principles set forth in the Universal Declaration of Human Rights into specific rights, stipulated the measures that States must take to give effect to those rights and established the obligation for States parties to report regularly on their efforts to implement them.

Other United Nations human rights treaties, aimed at providing increased protection to particularly vulnerable groups or against particularly heinous violations and requiring States parties to report on their efforts, have also been adopted and entered into force:

- the International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- the Convention of the Elimination of All Forms of Discrimination against Women (1979);
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- the Convention on the Rights of the Child (1989).
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (1990). It will enter into force on 1 July 2003.

The implementation of these human rights treaties is monitored by committees, known as “treaty monitoring bodies”.

The legal basis for most of these treaty bodies can be found in the treaties themselves although the monitoring body for the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights, was established by a resolution of the Economic and Social Council. Treaty bodies are composed of independent experts of recognized competence in the field of human rights who are nominated and elected by States parties.

In addition to the Committee on Economic, Social and Cultural Rights, there are currently five other treaty bodies: the Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights; the Committee against Torture; the Committee on the Elimination of All Forms of Racial Discrimination; the Committee on the Rights of the Child; and the Committee on the Elimination of Discrimination against Women. When the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families enters into force, a seventh UN human rights treaty body will begin its work.

## Functions of the Committee

The Convention foresees that the bulk of the Committee's task in considering implementation of its provisions will consist of examining reports that every State party is legally bound to submit on the legislative, judicial and administrative measures it has adopted to give effect to the provisions of the Convention.

The Committee is also empowered by article 21 of the Convention to make suggestions and recommendations based on the examination of reports and information received from States parties. Suggestions are usually addressed to United Nations entities, while general recommendations are normally directed at States parties and usually elaborate the Committee's view of the content of the obligations assumed by States as party to the Convention.

By virtue of the Optional Protocol to the Convention, the Committee's functions also include receiving and considering individual petitions as well as investigating reliable indications of grave or systematic violations of the rights in the Convention by a State party to the Protocol: see Box N°25.

## The Committee at work

Article 20.1 of the Convention provides that the Committee shall normally meet for a period of not more than two weeks annually, but subsequent decisions of the General Assembly have expanded the Committee's meeting time.

Currently, the Committee meets for two sessions of three weeks annually, usually in January and in June or July. As an exceptional measure, and in order to clear the backlog of reports which had been awaiting review by the Committee, at its fifty-sixth session in 2001, the General Assembly approved exceptionally, a third session of the Committee for 2002 which took place in August of that year.

Since 1991, a **pre-session working** group composed of four to five Committee members has met prior to the following session in order to prepare lists of issues and questions on second and periodic reports of States parties which will be considered by the Committee at that session. The lists of issues and questions prepared by the pre-session working group are transmitted to those States parties which are required to submit them in writing to the secretariat in advance so that they can be translated into the official languages of the United Nations and provided to Committee members prior to the session at which the relevant reports will be considered.

At its twenty-fourth session in January 2001, the Committee adopted revised rules of procedure, which include rules governing the Committee's procedures with regard to the

Optional Protocol. These provide for the establishment of working groups and rapporteurs to assist it in its functions under the Protocol, including with regard to requests to States parties for interim measures, and admissibility of communications. At its twenty-fourth session, the Committee appointed a five-member standing Working Group on the Optional Protocol, which met in parallel with the Committee's twenty-fifth session in July 2001, and its pre-session working group in February 2002.

### Box N° 6

## The Committee's focal points

For a number of years the Committee has adopted the practice of appointing “focal points” to streamline its work with other treaty bodies, and mechanisms, such as Special Rapporteurs, specialized agencies, funds and programmes of the United Nations system, and other interested organizations.

Focal points have been appointed to work with the five other treaty bodies, the Special Rapporteur on Violence against Women, and the Special Rapporteur on the Right to Adequate Housing, as well as many United Nations entities, including ILO, FAO, UNESCO, UNFPA, UNICEF, UNIFEM, and WHO. The Committee also nominates a focal point to liaise with the IPU.

Currently, the focal point for IPU is Ms. Françoise Gaspard of France. The IPU focal point follows the work of the IPU, and encourages its input into the work of the Committee.

As the Convention and its Optional Protocol have become more widely accepted, the restriction on the Committee's meeting time in article 20.1 has become a matter of concern. In 1995, the Committee drew attention to the fact that it was the only United Nations human rights treaty body whose meeting time was limited by its treaty, and that this had become a serious obstacle to its work.

On the basis of a recommendation by the Committee, in May 1995, the eighth meeting of States parties to the Convention amended the article by providing that the Committee should normally meet annually, but that the duration of its meeting would be determined by a meeting of States parties, subject to the approval of the General Assembly.

The amendment, which was noted with approval by the General Assembly in 1995, will enter into force after it has been accepted by a two-thirds majority of the States parties to the Convention. As at 6 March 2003, only 38 of the 171 States parties to the Convention had accepted the amendment.

## States parties having deposited instruments of acceptance of the amendment to article 20.1 of the Convention

State party	Date
Andorra	14 Oct 2002
Australia	4 Jun 1998
Austria	11 Sep 2000
Bahamas	17 Jan 2003
Brazil	5 Mar 1997
Canada	3 Nov 1997
Chile	8 May 1998
China	10 Jul 2002
Cyprus	30 July 2002
Denmark	12 Mar 1996
Egypt	2 Aug 2001
Finland	18 Mar 1996
France	8 Aug 1997
Germany	25 Feb 2002
Guatemala	3 Jun 1999
Iceland	8 May 2002
Italy	31 May 1996
Jordan	11 Jan 2002
Lesotho	12 Nov 2001
Liechtenstein	15 Apr 1997
Madagascar	19 Jul 1996

State party	Date
Maldives	7 Feb 2002
Mali	20 Jun 2002
Malta	5 Mar 1997
Mauritius	29 Oct 2002
Mexico	16 Sep 1996
Mongolia	19 Dec 1997
Netherlands	10 Dec 1997
New Zealand	26 Sep 1996
Niger	1 May 2002
Norway	29 Mar 1996
Panama	5 Nov 1996
Portugal	8 Jan 2002
Republic of Korea	12 Aug 1996
Sweden	17 Jul 1996
Switzerland	2 Dec 1997
Turkey	9 Dec 1999
United Kingdom of Great Britain and Northern Ireland	19 Nov 1996

Since 1995, three States parties to the Convention have provided the Committee with the opportunity to meet informally. Informal meetings of the Committee have taken place in Madrid, Spain in 1995, Berlin, Germany in 2000 and Lund, Sweden in 2002. The Committee:

- Finalized its contribution to the Fourth World Conference on Women at the Madrid meeting;
- Completed the revision of its rules of procedure at the Berlin meeting; and
- Adopted modifications to its working methods at the Lund meeting.

## The Committee's secretariat

The Committee on the Elimination of Discrimination against Women, unlike the five other United Nations human rights treaty bodies, which are supported by the Office of the High Commissioner for Human Rights in Geneva, Switzerland, is serviced by the Division for the Advancement of Women (DAW), which is part of the Department of Economic and Social Affairs (DESA) based at United Nations Headquarters in New York. The DAW functions as the technical and substantive secretariat for the Committee. The Division provides technical and advisory services to States parties to the Convention on its implementation. It also facilitates the interaction of United Nations agencies and other bodies and non-governmental organizations (NGOs) with the Committee, and acts in an advisory capacity to those wishing to make use of the procedures established by the Convention's Optional Protocol.

### Contact information:

Division for the Advancement  
of Women - United Nations  
2 UN Plaza, DC2-12th Floor  
New York, NY 10017 - USA  
Fax: +1 212 963 3463  
E-mail: [daw@un.org](mailto:daw@un.org)

More information about the DAW can be found  
on its website:

[www.un.org/womenwatch/daw/](http://www.un.org/womenwatch/daw/)

# What you can do as a parliamentarian

## Follow-up the Committee's work and ensure that Parliament makes a contribution

Parliamentarians, as representatives of the people, should be aware and informed of the Committee's work so that they can take it into account in their legislative activities and relay it to their constituencies and to the public at large.

With this in mind, you may wish to:

- ▷ Verify the status of cooperation between your State and the Committee by requesting information from your Government. You may wish to put a question to your Government on the subject.
- ▷ Ensure that Parliament is informed of the work of the Committee.
  - Make sure that relevant information is made available to Parliament on a regular basis by parliamentary support services. The latest information on the Committee's work can be found on the following website:  
[www.un.org/womenwatch/daw/cedaw/index.html](http://www.un.org/womenwatch/daw/cedaw/index.html)
  - Seek to ensure that information received by Government on its obligations as a State party and other matters of concern are brought to the attention of Parliament. You can put questions to your Government, if appropriate.
  - You may also wish to establish contact with the Committee's secretariat, should you require guidance or information on its work, and, if one of the experts on the Committee is a national of your country, seek her/his guidance or assistance.
  - In order to facilitate cooperation between your State and the Committee, you may also wish to enquire about the possibility and recommend, if appropriate, that the Permanent Mission of your country in New York follow the work of the Committee. You may also wish to ensure that information forwarded by the Permanent Mission is relayed to Parliament.

### Reporting obligations

It is important that the reports are submitted to the Secretary General in accordance with the periodicity established in the Convention and that they comply with the Committee's guidelines for reports and contain comprehensive information.

The role of Parliament in this context is further developed in Chapter 5. Nevertheless, a few brief recommendations are listed below:

You may wish to:

- ▷ Ensure that your State's reports to be submitted in accordance with the provisions of the Convention are presented to the Secretary-General in a timely fashion and in accordance with the Committee's guidelines;
- ▷ Verify that Parliament (through its relevant committees) is involved in the preparation of the report or is in any case aware of its contents;
- ▷ Ensure that your State presents its report to the Committee, in accordance with the timetable for consideration established by the Committee;
- ▷ Ensure that the concluding comments of the Committee on the report are presented to Parliament, and, if appropriate, debated.

### Support and facilitate the Committee's work

Parliamentarians may see to it that their Government provides the Committee with all possible assistance and facilities to ensure its proper functioning. In this regard, acceptance of the amendment to article 20.1 on the Committee's meeting time would need to be secured.

Consequently, you may wish:

- ▷ If your State is a party to the Convention, to determine whether it has submitted its instrument of acceptance to the amendment to article 20.1 of the Convention relating to the Committee's meeting time.
- ▷ If it has not accepted the amendment:
  - Consider putting an oral or written question to your Government to determine why the amendment has not been accepted;
  - Consider using your right to submit a private Member's bill on the matter;
- ▷ General information on how to accede to international conventions and their amendments can be found in the publication *Treaty Handbook* prepared by the UN Treaty Section of the Office of Legal Affairs, available through the Permanent Mission of your country in New York and on the website of the Treaty Section of the Office of Legal Affairs (<http://untreaty.un.org>).

## Chapter 4

### Becoming party to the Convention

Becoming party to the Convention sends a clear signal to the international community and stakeholders at the domestic level that a country is committed to the elimination of discrimination against women and the achievement of equality between men and women, as well as the introduction and implementation of laws, policies and programmes to achieve those goals. It also indicates that the State is prepared to submit its laws, policies and programmes for scrutiny by the Committee on the Elimination of Discrimination against Women.

A State becomes party to the Convention by ratifying or acceding to it, thereby indicating to the international community its commitment to undertake the legal obligation to take all measures to eliminate discrimination against women. Article 25 of the Convention provides that the Convention is open for signature by all States, and that it is subject to ratification. It also provides that it is open to accession by all States.

### Signing the Convention

A State which signs the Convention is not legally bound to give effect to its provisions. The signature is nonetheless evidence of the intention to move in the direction of consenting to be bound by the treaty. The signature also creates an obligation to refrain in good faith from acts that would defeat the object and purpose of the treaty. The interval between signature and ratification enables a State to seek approval of the Convention at the national level, and to make any changes to its laws and policies which may be necessary to implement the Convention's provisions.

*“The 103<sup>rd</sup> Inter-Parliamentary Conference urges all States that have not yet done so urgently to ratify or accede to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and comply unreservedly with the consequent obligations, and to ratify the CEDAW Optional Protocol.”*

Dialogue among Civilizations and Cultures: Resolution adopted by the 103<sup>rd</sup> Conference of the Inter-Parliamentary Union (Amman, Jordan, May 2000)



## Ratifying the Convention

Ratification is effected by the deposit of an instrument of ratification with the Secretary-General of the United Nations.

Ratification at the international level should not be confused with ratification at the national level which a State may be required to undertake in accordance with its own constitutional provisions before it expresses its consent to be bound at the international level. Ratification at the national level – which is usually the responsibility of Parliament – is not in itself sufficient to establish a State's intention to be bound at the international level. This requires the deposit of an instrument of ratification or accession with the Secretary-General.

## Acceding to the Convention

Accession is effected through the deposit of an instrument of accession with the Secretary-General. Unlike ratification, accession need not be preceded by signature.

Ratification and accession have the same legal effect: a State becomes a party to the Convention and is legally bound to implement its obligations.

## Succession

“Successor States” may deposit an instrument of succession with the Secretary-General where the Convention and/or the Optional Protocol were applicable by virtue of ratification or accession by their “Predecessor States”.

## Guidance from the UN

Practical information on how to sign, ratify or accede to international conventions can be found in the publication *Treaty Handbook* prepared by the UN Treaty Section of the Office of Legal Affairs, available through the Permanent Mission of your country in New York and on the website of the Treaty Section of the Office of Legal Affairs (<http://untreaty.un.org>). Model instruments of accession and ratification are found in Annex 3.

## States parties to the Convention as of 6 March 2003

State	Date of signature	Date of receipt of instrument of ratification, accession or succession
Afghanistan	14.08.1980	05.03.2003
Albania		11.05.1994 a
Algeria		22.05.1996 a
Andorra		15.01.1997 a
Angola		17.09.1986 a
Antigua and Barbuda		1.08.1989 a
Argentina	17.07.1980	15.07.1985
Armenia		13.09.1993 a
Australia	17.07.1980	28.07.1983
Austria	17.07.1980	31.03.1982
Azerbaijan		10.07.1995 a
Bahamas		8.10.1993 a
Bahrain		18.06.2002 a
Bangladesh		6.11.1984 a
Barbados	24.07.1980	16.10.1980
Belarus	17.07.1980	4.02.1981
Belgium	17.07.1980	10.07.1985
Belize	7.03.1990	16.05.1990
Benin	11.11.1981	12.03.1992
Bhutan	17.07.1980	31.08.1981
Bolivia	30.05.1980	8.06.1990
Bosnia and Herzegovina		1.09.1993 b
Botswana		13.08.1996 a
Brazil	31.03.1981	1.02.1984
Bulgaria	17.07.1980	8.02.1982
Burkina Faso		14.10.1987 a
Burundi	17.07.1980	8.01.1992
Cambodia	17.10.1980	15.10.1992 a
Cameroon	6.06.1983	23.08.1994
Canada	17.07.1980	10.12.1981
Cape Verde		5.12.1980 a
Central African Republic		21.06.1991 a
Chad		9.06.1995 a
Chile	17.07.1980	7.12.1989
China	17.07.1980	4.11.1980
Colombia	17.07.1980	19.01.1982
Comoros		31.10.1994 a
Congo	29.07.1980	26.07.1982
Costa Rica	17.07.1980	4.04.1986
Côte d'Ivoire	17.07.1980	18.12.1995
Croatia		9.09.1992 b
Cuba	6.03.1980	17.07.1980
Cyprus		23.07.1985 a
Czech Republic		22.02.1993 b

State	Date of signature	Date of receipt of instrument of ratification, accession or succession
Democratic People's Republic of Korea		27.02.2001 a
Democratic Republic of the Congo	17.07.1980	17.10.1986
Denmark	17.07.1980	21.04.1983
Djibouti		2.12.1998 a
Dominica	15.09.1980	15.09.1980
Dominican Republic	17.07.1980	2.09.1982
Ecuador	17.07.1980	9.11.1981
Egypt	16.07.1980	18.09.1981
El Salvador	14.11.1980	19.08.1981
Equatorial Guinea		23.10.1984 a
Eritrea		5.09.1995 a
Estonia		21.10.1991 a
Ethiopia	8.07.1980	10.09.1981
Fiji		28.08.1995 a
Finland	17.07.1980	4.09.1986
France	17.07.1980	14.12.1983
Gabon	17.07.1980	21.01.1983
Gambia	29.07.1980	16.04.1993
Georgia		26.10.1994 a
Germany	17.07.1980	10.07.1985
Ghana	17.07.1980	2.01.1986
Greece	2.03.1982	7.06.1983
Grenada	17.07.1980	30.08.1990
Guatemala	8.06.1981	12.08.1982
Guinea	17.07.1980	9.08.1982
Guinea-Bissau	17.07.1980	23.08.1985
Guyana	17.07.1980	17.07.1980
Haiti	17.07.1980	20.07.1981
Honduras	11.06.1980	3.03.1983
Hungary	6.06.1980	22.12.1980
Iceland	24.07.1980	18.06.1985
India	30.07.1980	9.07.1993
Indonesia	29.07.1980	13.09.1984
Iraq		13.08.1986 a
Ireland		23.12.1985 a
Israel	17.07.1980	3.10.1991
Italy	17.07.1980	10.06.1985
Jamaica	17.07.1980	19.10.1984
Japan	17.07.1980	25.06.1985
Jordan	3.12.1980	1.07.1992
Kazakhstan		26.08.1998 a
Kenya		9.03.1984 a

State	Date of signature	Date of receipt of instrument of ratification, accession or succession
Kuwait		2.09.1994 a
Kyrgyzstan		10.02.1997 a
Lao People's Democratic Republic	17.07.1980	14.08.1981
Latvia		14.04.1992 a
Lebanon		16.04.1997 a
Lesotho	17.07.1980	22.08.1995
Liberia		17.07.1984 a
Libyan Arab Jamahiriya		16.05.1989 a
Liechtenstein		22.12.1995 a
Lithuania		18.01.1994 a
Luxembourg	17.07.1980	2.02.1989
Madagascar	17.07.1980	17.03.1989
Malawi		12.03.1987 a
Malaysia		5.07.1995 a
Maldives		1.07.1993 a
Mali	5.02.1985	10.09.1985
Malta		8.03.1991 a
Mauritania		10.05.2001 a
Mauritius		9.07.1984 a
Mexico	17.07.1980	23.03.1981
Mongolia	17.07.1980	20.07.1981
Morocco		21.06.1993 a
Mozambique		21.04.1997 a
Myanmar		22.07.1997 a
Namibia		23.11.1992 a
Nepal	5.02.1991	22.04.1991
Netherlands	17.07.1980	23.07.1991
New Zealand	17.07.1980	10.01.1985
Nicaragua	17.07.1980	27.10.1981
Niger		8.10.1999 a
Nigeria	23.04.1984	13.06.1985
Norway	17.07.1980	21.05.1981
Pakistan		12.03.1996 a
Panama	26.06.1980	29.10.1981
Papua New Guinea		12.01.1995 a
Paraguay		6.04.1987 a
Peru	23.07.1981	13.09.1982
Philippines	15.07.1980	5.08.1981
Poland	29.05.1980	30.07.1980
Portugal	24.04.1980	30.07.1980
Republic of Korea	25.05.1983	27.12.1984
Republic of Moldova		1.07.1994 a
Romania	4.09.1980	7.01.1982
Russian Federation	17.07.1980	23.01.1981
Rwanda	1.05.1980	2.03.1981
Saint Kitts and Nevis		25.04.1985 a

State	Date of signature	Date of receipt of instrument of ratification, accession or succession
Saint Lucia		8.10.1982 a
Saint Vincent and the Grenadines		4.08.1981 a
Samoa		25.09.1992 a
São Tomé and Príncipe	31.10.1995	
Saudi Arabia	7.09.2000	7.09.2000
Senegal	29.07.1980	5.02.1985
Serbia and Montenegro		12.03.2001 b
Seychelles		5.05.1992 a
Sierra Leone	21.09.1988	11.11.1988
Singapore		5.10.1995 a
Slovakia		28.05.1993 a
Slovenia		6.07.1992 b
Solomon Islands		6.05.2002 a
South Africa	29.01.1993	15.12.1995
Spain	17.07.1980	5.01.1984
Sri Lanka	17.07.1980	5.10.1981
Suriname		1.03.1993 a
Sweden	7.03.1980	2.07.1980
Switzerland	23.01.1987	27.03.1997
Tajikistan		26.10.1993 a
Thailand		9.08.1985 a
The former Yugoslav Republic of Macedonia		18.01.1994 b
Togo		26.09.1983 a
Trinidad and Tobago	27.06.1985	12.01.1990
Tunisia	24.07.1980	20.09.1985
Turkey		20.12.1985 a
Turkmenistan		1.05.1997 a
Tuvalu		6.10.1999 a
Uganda	30.07.1980	22.07.1985
Ukraine	17.07.1980	12.03.1981
United Kingdom of Great Britain and Northern Ireland	22.07.1981	7.04.1986
United Republic of Tanzania	17.07.1980	20.08.1985
United States of America	17.07.1980	
Uruguay	30.03.1981	9.10.1981
Uzbekistan		19.07.1995 a
Vanuatu		8.09.1995 a
Venezuela	17.07.1980	2.05.1983
Viet Nam	29.07.1980	17.02.1982
Yemen		30.05.1984 a
Zambia	17.07.1980	21.06.1985
Zimbabwe		13.05.1991 a

a Accension b Succession

## Reservations

Article 28 of the Convention permits ratification or accession subject to reservations – a formal declaration that the State does not accept as binding on it a part or parts of the treaty. However, article 28.2 enshrines the impermissibility principle contained in the Vienna Convention on the Law of Treaties and precludes any reservation which is incompatible with the Convention's object and purpose.

### Nature and scope of reservations

States have entered many reservations to the Convention. The texts of reservations and declarations entered by States Parties can be found in the UN publication *Multilateral Treaties deposited with the Secretary-General*. Copies of this annual publication are sent to the Ministries of Foreign Affairs of Member States through their Permanent Missions to the UN in New York. The daily updated version of this publication is available on the website of the Treaty Section of the Office of Legal Affairs (<http://untreaty.un.org>).

Some of the matters on which States have expressed reservations are **procedural** or relate to matters which are **not fundamental to the object and purpose of the treaty**.

However, a number of reservations are far-reaching and some commentators have suggested that they may be inconsistent with the Convention's object and purpose, with several appearing to **challenge the fundamental principles of the Convention**. General reservations which subject the implementation of the Convention to national law, tradition or culture, reservations to article 2, the core provision of the treaty, and those which relate to areas fundamental to the elimination of discrimination against women, such as family law, legal capacity and citizenship, are viewed by these commentators amongst the most problematic reservations.

Although article 29 provides for referral to the International Court of Justice of disputes between States parties over its interpretation, the Convention does not include a process for the rejection of incompatible reservations. Article 29 is itself the subject of many reservations, and no State party has invoked it to challenge the validity of reservations.

*“Of those States which have ratified the Convention, many have expressed reservations. Considering that such reservations considerably limit the scope of the Convention, the Inter-Parliamentary Council urges MPs of States having expressed reservations at the time of accession to CEDAW to inquire about the continued validity of those reservations and, if need be, endeavour to have them lifted.”*

Cooperation with the United Nations system: Parliamentary action for national follow-up to international agreements and treaties regarding women; 162<sup>nd</sup> session of the Council of the Inter-Parliamentary Union (Windhoek, Namibia, April 1998)

The number and scope of reservations is a matter of concern to States parties, and a number have submitted objections or communications relating to the reservations of other States parties. United Nations conferences and summits, and the General Assembly, have also expressed concern at the large number of reservations to the Convention:

▷ Vienna Declaration and Programme of Action, 1993, paragraph 39

*“Ways and means of addressing the particularly large number of reservations to the Convention should be encouraged...the Committee... should continue its review of reservations to the Convention. States are urged to withdraw reservations that are contrary to the object and purpose of the Convention or which are otherwise incompatible with international treaty law.”*

▷ Outcome document of the twenty-third special session of the General Assembly “Women 2000: equality, development and peace for the twenty-first century” (Beijing + 5)

*“Actions to be taken at the national level by Governments: 68 (c): ...limit the extent of any reservations..., and withdraw reservations that are contrary to the object and purpose of the Convention or otherwise incompatible with international treaty law.”*

### **The Committee’s concern about reservations**

The Committee has often expressed concern about the nature and scope of reservations, urging States to take action with a view to reviewing them so as to ascertain their continued validity and remove them if possible. This has been expressed in its general recommendations 4, 20 and 21 and in a number of its contributions to United Nations conferences and summits, where it has expressed the view that some reservations divest women not only of the guarantees of the Convention, but also of guarantees of equality and non-discrimination in other international instruments. As its contribution to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights in 1998, the Committee adopted a statement on reservations in which it expressed the view that articles 2 and 16 were central to the object and purpose of the Convention and drew States parties’ attention to its grave concern over the number and extent of impermissible reservations.

The Committee has expressed appreciation to States parties which have objected to incompatible reservations, noting that such action not only served to exert pressure on reserving States, but also provided a useful guide to the Committee in its assessment of the permissibility of reservations.

The Committee’s statement highlights its role regarding reservations, and points out that it regularly discusses reservations with States parties when they present their reports, and routinely expresses concern in its concluding comments at the entry of reservations to **article 2 and 16**, as well as the failure of States parties to modify such reservations

The Committee's guidelines for States parties reports require States parties to explain any reservation or declaration relating to any article of the Convention and to justify their continued maintenance. The precise effect of any reservation or declaration in terms of national law and policy should be explained, and States parties which have entered general reservations directed at articles 2 and/or 3 should report on the effect and the interpretation of those reservations. They should also provide information on any reservations or declarations that they may have lodged with regard to similar obligations in other human rights treaties.

### **Withdrawals of reservations**

Any State which has ratified or acceded to the Convention subject to reservations may withdraw such reservations. Withdrawals must be formulated in writing, and signed by the Head of State, Head of Government or Minister for Foreign Affairs or person having full powers for that purpose. Like reservations, withdrawals are circulated by the Secretary-General of the United Nations.

# What you can do as a parliamentarian

## Ratification of the Convention

- ▷ If your State is not yet a party to the Convention, or if your State has signed but not yet ratified the Convention, you can:
  - Find out whether ratification/accession is under consideration;
  - Put an oral or written question to your Government to determine why the Convention has not yet been ratified or acceded to;
  - Consider using your right to submit a private member's bill on the matter;
  - Encourage a parliamentary debate on the question;
  - Mobilize public opinion in support of the Convention.
- ▷ Examples of ratification or accession instruments can be found in annex 3.
- ▷ Practical information on how to ratify or accede to international conventions can be found in the publication *Treaty Handbook* prepared by the UN Treaty Section of the Office of Legal Affairs available through the Permanent Mission of your country in New York and on the website of the Treaty Section of the Office of Legal Affairs (<http://untreaty.org>). The Treaty Section conducts regular workshops on this and related themes in New York and in the regions as necessary.

## Reservations or declarations of understanding

### *At the time of ratification or accession:*

- ▷ If the Government has sent your Parliament a request for ratification accompanied by any reservation(s) or declaration(s) of understanding which limit the Convention's scope, you can:
  - Verify that, as provided for in article 28 of the Convention – which states that “a reservation incompatible with the object and purpose of the present Convention shall not be permitted” – the suggested reservations or declarations of understanding are not contrary to the object and purpose of the Convention or do not undermine its substance;
  - Determine the validity of the suggested reservation(s);
  - Encourage a parliamentary debate on the matter of reservations;
  - Mobilize public opinion to encourage the Government to ratify or accede without any reservation(s) or declaration(s) of understanding.

*At a later stage:*

- ▷ If the Convention was ratified or acceded to with any reservation(s) or declaration(s), you can:
  - Inquire about the need to maintain the reservations/declarations;
  - Use parliamentary procedures to inquire about the Government's intentions to maintain or remove the reservation(s)/declaration(s), and about any time frame in this context;
  - Propose the modification or withdrawal of any reservation(s) or declaration(s) of understanding.
  
- ▷ The texts of reservations and declarations entered by States Parties can be found in the UN publication *Multilateral Treaties deposited with the Secretary-General*. Copies of this annual publication are sent to the Ministries of Foreign Affairs of Member States through their Permanent Missions to the UN in New York. The daily updated version of this publication is available on the website of the Treaty Section of the Office of Legal Affairs (<http://untreaty.un.org>).



# Chapter 5

## Implementing the Convention

Although constituting a commitment on the part of a country, becoming party to the Convention will not in itself ensure that women's rights are respected within the State party. Implementing the Convention is necessary to ensure respect for the principles and the rights set out in it.

### A State party's obligations

The 1969 Vienna Convention on the Law of Treaties provides that every treaty in force is binding on its parties and must be enforced by them in good faith. It also provides that a party to a treaty may not invoke the provisions of its internal law as a justification for its failure to comply with a treaty.

States parties to the Convention are accordingly bound to bring their domestic laws and policies into conformity with its terms. States parties commit themselves to de facto as well as de jure compliance with the whole range of civil, cultural, economic, social and political rights addressed by the Convention. They undertake to put in place a series of measures to end discrimination against women in all forms, including:

- ▷ Incorporating the principle of equality of men and women in their constitution and legal systems;
- ▷ Repealing all discriminatory laws and adopting laws prohibiting discrimination against women;
- ▷ Establishing tribunals and other public institutions to ensure the effective protection of women against discrimination;
- ▷ Ensuring elimination of all acts of discrimination against women by persons, organizations or enterprises;
- ▷ Reporting in accordance with the Convention to the Committee on the Elimination of Discrimination against Women on progress in implementing the Convention.

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## Implementation of the Convention on the Elimination of All Forms of Discrimination against Women: a preliminary assessment

*The World's Women 2000*, published by the United Nations, notes that since the Fourth World Conference on Women in 1995, a number of States parties to the Convention have:

- Prepared or strengthened national action plans of action for the advancement of women;
- Created the post of Secretary of State for Women to coordinate official policies, or formed ministries for women's affairs or assigned gender focal points in already existing ministries;
- Compiled statistics to monitor the impact of policies and programmes on girls and women;
- Amended or added provisions to their constitutions that guarantee the enjoyment of human rights without discrimination on the basis of sex;
- Adopted legislation that guarantee women's economic, social, civil and political rights; and,
- Introduced law reform and policy change regarding violence against women.

Source: *The World's Women 2000: Trends and Statistics*, United Nations, 2000

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## Incorporating the Convention in national legal systems

Ratification of or accession to the Convention imposes duties on States parties in international law, but the question of enforceability of its provisions at the national level depends on the place of international law in the domestic legal system of each State party. The constitutional law of individual States parties governs the way the Convention takes effect.

In many countries, the status of treaties at the domestic level is addressed in the national constitution, with some providing that treaties become part of domestic law as a result of ratification or accession. This is referred to as “automatic incorporation.” The constitutions of some of these countries provide that treaties take precedence over national law, while others indicate that treaties have the same status as domestic law.

Many countries that provide for the automatic incorporation of treaties into domestic law also require their proclamation or publication in the official gazette before treaties have the force of national law. Even in countries where treaties are automatically incorporated, national implementing legislation may be required before an individual is able to invoke the treaty provisions before a domestic court.

The constitutions of many countries make it clear that the provisions of treaties do not become part of the national legal system unless, and until, they have been enacted

by appropriate legislation. In those countries where treaty obligations must be incorporated by legislation in order to have domestic effect, an individual is unable to claim the benefit of provisions in the treaty which have not been legislated and those provisions will not prevail over inconsistent domestic law.

The constitutions of some other countries, including several which require legislative incorporation of treaties, provide that international standards should be considered in their interpretation. In cases where these countries are States parties to the Convention, its provisions must be considered when the constitution is interpreted. Judges in a number of countries, including those that require incorporation, have increasingly taken account of the Convention in decision-making. Examples of such decisions can be found in Box N°12.

## Including the principles of the Convention in the national constitution

The constitution or basic law of a country embodies the principles and laws that govern society and constitutes the fundamental charter which determines the form of Government and sets forth the general principles of the country's social contract.

The constitution serves as the framework for other legislation. Inclusion of the principle of equality between men and women in national constitutions or a country's basic law therefore provides the basis for the protection of women's rights and Government obligations in this context.

*“The constitution should therefore guarantee gender equality and the principle of equity in all sectors of the life of the nation. To achieve this goal, the principle of gender equality and the principle of the prohibition of gender-based discrimination must be clearly stated in this fundamental Charter, which will have to adopt wording that gives real meaning to these principles. In addition to the principle of gender equality and the condemnation of discrimination, the constitution should mention the obligation to eliminate by the law all discrimination, inter alia by affirmative action.”*

Guidelines adopted by participants to the IPU seminar on “The Process of Engendering a New Constitution for Rwanda” (Kigali, Rwanda, June 2001)

Incorporating the principles set out in the Convention in a country's national constitution or basic law can take place in several ways. In some cases, a constitutional review process has preceded incorporation of a guarantee of equality on the basis of sex in the constitution. In other cases, amendments were proposed and adopted. Consultations with the people and civil society organizations are crucial to gain popular support, raise awareness and more importantly, take into account the needs and concerns of the population. In some cases, consultations have been spearheaded by women parliamentarians in cooperation with non-governmental organisations (NGOs).

## The Convention in national constitutions

### Brazil

In 1988, Brazil revised its Constitution, which now includes extensive guarantees reflective of the Convention. It contains provisions on gender equality, gender-based violence, State responsibility for the prevention of domestic violence, equality of rights within marriage, family planning, and equality in employment. The constitution also revoked the principle of the husband's leadership ("chefia") of the family unit and established that "the rights and duties relating to the conjugal unit are exercised equally by the man and the woman" (article 16 of the Convention).

(Source: Bringing Equality Home: Implementing the Convention on the Elimination of All Forms of Discrimination against Women, UNIFEM, 1998)

### Rwanda

In Rwanda, the Forum of Rwandan Women Parliamentarians launched, in 2000, consultations amongst women to assess their needs and concerns and ensure that their rights are reflected in the country's new constitution. The results of these consultations were merged into a document which was submitted to the Legal and Constitutional Committee entrusted with the task of drafting the new Constitution, so as to be taken into account in the drafting process.

### South Africa

In February 1994, the Women's National Coalition, a large umbrella of over 90 women's groups countrywide, convened a convention which adopted the "Women's Charter for Effective Equality". The Charter was the culmination of an extensive participatory research and consultation project on the needs and demands of women.

Women presented the Charter to the parties then engaged in negotiating an end to apartheid. They also insisted that every party to the multiparty negotiations have at least one woman on their delegation.

As a result of the coalition's advocacy efforts, the South African Constitution contains a number of significant provisions guaranteeing women's equality. The new Constitution firmly entrenches equality in the country's value system. The founding provisions assert that the democratic state is founded on the values of:

- (a) Human dignity, the achievement of equality and advancement of human rights and freedoms; and
- (b) Non-racialism and non-sexism.

The Constitution also includes a clause which states that "legislative and other measures" may be taken to "protect or advance" people who have been disadvantaged. This is in accordance with article 4 of the Convention which deals with temporary special measures.

## **National implementing legislation**

Legislation translates the principles and objectives of the Convention into concrete legal provisions and sets out the principles, objectives and priorities for national action to establish equality between men and women. It is an essential element in ensuring proper implementation of the Convention.

*“The introduction of mechanisms for adapting the domestic juridical system to the norms of international law is essential in order to ensure that the rights guaranteed by international human rights texts, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ... can be safeguarded at the national level.”*

Guidelines adopted by participants to the IPU seminar on “The Process of Engendering a New Constitution for Rwanda” (Kigali, Rwanda, June 2001)

A number of steps are necessary in the introduction of such legislation.

### **Review of existing legislation**

Review all laws to:

- Identify those which are discriminatory. All laws must be included in the review (i.e. not only those which are discriminatory on their face, but also laws which appear to be “gender-neutral” but have a differential impact on men and women);
- Identify existing legal loopholes for full implementation of the Convention;
- Identify situations in which:
  - inconsistencies between different kinds of laws (constitutional, penal, civil, administrative) result in gender bias;
  - administrative procedures discriminating against women undermine the law; and
  - harmful traditional practices and negative customs run counter to existing law.

The review process should concern all the issues and sectors covered by the Convention (political rights, right to education, access to health, access to property etc.)

### **Review and drafting of new legislation**

Once this inventory is done:

- Review and reform laws that are discriminatory in order to remove inequalities.
- Draft new laws to fill legal loopholes. Affirmative action measures in order to eliminate and rectify inequalities should also be considered.

In some countries, commissions have been established to review legislation and propose reform. Uganda, for instance, established the Uganda Law Reform Commission: its first task was to propose amendments to the personal laws, which impacted negatively on women and girls.

## Temporary special measures: Affirmative action measures to enhance women's participation in politics

Article 4 of the Convention provides that States parties are allowed to adopt temporary special measures aimed at accelerating de facto equality between men and women, such as affirmative action, for as long as inequalities exist.

Such measures are considered to be non-discriminatory, but should not lead to the maintenance of unequal or separate standards, and must be discontinued when equality of opportunity and treatment have been achieved.

In the field of politics, many countries have introduced affirmative action measures to increase women's participation.

### **Recent affirmative action initiatives include:**

- Morocco: Introduction in 2002 of a quota of 30 reserved seats for women in Parliament;
- Djibouti: Adoption of a law in 2002 requiring each political party to ensure that at least 10 per cent of its candidates are women and at least 10 per cent are men;
- Niger: Adoption in 2001 of a law compelling political parties to make sure that their lists include both men and women candidates, so that each sex accounts for at least 10 per cent of the candidates elected;
- France: Introduction of a constitutional amendment in 1999 which requires all political parties to ensure that 50 per cent of their candidates are women, and includes financial penalties for non-compliance.

### ***Enforcement measures***

Legislation is meaningless if it is not enforced. In some cases, laws addressing discrimination against women are not respected due to the fact that enforcement measures have not been adequately incorporated. Thus, willingness to comply or the perception that promoting and respecting gender equality offers some advantage become the main factors which motivate respect for the law.

It is important to launch awareness-raising campaigns in order to strengthen efforts to pass or amend legislation. Women must be informed about their legal entitlements before they can claim them. The judiciary, the administrative and other Government officers and employees, including police departments, must also be informed and respect these new entitlements in order for these claims to be enforced.

## Box N° 11

### Strengthening measures to ensure the effectiveness of the law: The case of the Equal Employment Opportunity Law (EEOL) of Japan

Further to ratifying the Convention in 1985, Japan enacted a series of laws aimed at bringing existing Japanese legislation into conformity with the principles and obligations set out in the Convention. Amendments to the Equal Employment Opportunity Law (EEOL) in 1985 were significant, as they prohibited employment discrimination in the private sector.

In 1997 the law was further amended to strengthen its enforcement provisions, which had been criticized by NGOs as being too weak. Those measures included:

– **The disclosure of names of employers ignoring administrative guidance:**

The Minister of Labour or the Director of Prefectural Women's and Young Worker's Office provides administrative guidance in the form of advice or recommendations to employers who violate regulations prohibiting discrimination against women. The names of the employers not heeding such recommendations are to be made public.

– **Improvement of the mediation system:**

Under the previous legislation, an application for mediation filed by one party could not be acted upon without the consent of the other party. The revised law allows for the initiation of mediation upon application from only one party.

*Source: Fourth periodic reports of States parties: Japan, August 1998*

### Role of the judiciary in securing respect for the rights set out in the Convention

The judiciary has a key role in promoting and ensuring respect for the Convention's principles. International human rights standards, including those in the Convention, can be drawn on by national courts in their decision-making in relation to constitutional or statutory interpretation, and in the development of general legal concepts even in States where the Convention does not automatically become part of the national legal system as a result of ratification or accession.

Judges therefore need to be aware of the principles of international human rights law, generally and the provisions of the Convention in particular, to take these into account in their work. Including international human rights law and gender perspectives in the basic training and continuing legal education of judges and lawyers, as well as ensuring that they have access to recent developments in these areas, are critical strategies in providing judges and legal practitioners with the information they need to incorporate these areas into their work.

A number of cases in which judges have used the Convention in their decisions are described in *Bringing International Human Rights Law Home*, prepared by the Division for the Advancement of Women and published by the United Nations in 2000.

## How judges draw on the Convention in their decision-making: Some examples

In *The State v Godfrey Baloyi*, decided in 1999, the Constitutional Court of South Africa considered the constitutionality of the section 3(5) of the 1993 Prevention of Family Violence Act which provided that a person charged with breaching a family violence interdict was required to prove his innocence. Drawing on the Universal Declaration of Human Rights, the Declaration on the Elimination of Violence against Women and the Convention on the Elimination of All Forms of Discrimination against Women, which it noted imposed positive obligations on States to pursue policies of eliminating discrimination against women by, amongst other things, adopting legislative and other means which prohibit discrimination, the Court held that the provision was constitutional as it was necessary to ensure the right to equality and non-discrimination in the context of the gross denial of human rights resulting from pervasive domestic violence.

In *Dow v Attorney-General of Botswana*, decided by the Botswana Court of Appeal in 1992, judges relied on international treaties, including the Convention, which had not been ratified by Botswana at the time, to uphold a challenge to the provisions of Botswana's nationality law which did not permit a Botswanan woman married to a non-Botswanan national to pass on her nationality to the children of the marriage, although a Botswanan man married to a non-Botswanan woman was able to do so.

In 1995, in *Dhungana and another v the Government of Nepal*, the Supreme Court of Nepal relied on the Convention in deciding to order the Government to introduce a bill to Parliament to address discriminatory laws providing that while a son was entitled to a share of his father's property at birth, a daughter was able to obtain a share only when she reached the age of 35 and was still unmarried.

In 1996, the Constitutional Court of **Guatemala** upheld a challenge to provisions in the Penal Code which treated men and women differently on the basis that these contradicted the equality provisions in the Constitution, and amounted to a failure by Guatemala to fulfil its obligations under the Convention and other international instruments (Case No. 936-95) (Source: Andrew Byrnes, "The Convention on the Elimination of All Forms of Discrimination against Women" in *The Human Rights of Women: International Instruments and African Experiences*).

In 1999, the Supreme Court of **Canada** drew on the Convention and the Committee's general recommendation 19 on violence against women in *R v Ewanchuk*, a case of alleged sexual assault, to conclude that violence against women is as much a matter of equality as it is an offence against human dignity and a violation of human rights, and that stereotypical attitudes about the nature of sexual assault have created the myth that women are sexually accessible until they resist.



## Other mechanisms to protect women from discrimination

Several countries have developed other mechanisms to ensure effective protection of women's rights. These can take many forms as they correspond to the needs and practices of the countries concerned, often providing flexible systems focusing on women's rights.

Some countries have established an Ombudsman on gender equality issues, under the authority of Parliament. The function of this office is to hear and treat complaints of executive or bureaucratic incompetence or injustice (but not illegality) through mediation, and subsequently report to Parliament and make recommendations.

In some countries a specific Government section or office in charge of women's affairs has been created. The establishment of a post of Secretary of State for Women to coordinate official policies, or ministries for women's affairs or assigned gender focal points in already existing ministries have been other options that have been chosen.

Some countries have established a Commission on Gender Equality to oversee implementation of the Convention. In South Africa, for instance, the Commission is an independent body which reports to Parliament. Its functions include: monitoring and reviewing gender policies of all publicly-funded bodies; advocacy, information and education; reviewing legislation to ensure that it protects the equality of women; recommending new legislation; investigating complaints on any gender-related issue and, where necessary, referring them to the Human Rights Commission or the Public Protector; and monitoring and reporting on compliance with international conventions.

### Box N° 13

#### Other mechanisms: the example of Costa Rica

Within its work to implement the Convention and protect women's rights Costa Rica has introduced:

- **An Independent Commissioner for Women**

This is a specialized agency of the Office of the Public Commissioner of the Republic. It conducts a range of activities aimed at informing different sectors of the population about their rights and obligations, as well as the existing mechanisms for claiming and defending them. To do so, it uses communications media; community-based human rights events; public shows at community venue; mobile displays that move around from week to week, from one canton to another, and various educational materials. It also convenes discussions, workshops, and other awareness-raising and training activities.

- **Office of Women's Affairs**

The Office of Women's Affairs is an agency within the Ministry of Justice, which receives, reviews and refers complaints of domestic violence. The Office operates in four specific areas: a) Legal matters (complaints and legal counselling); b) Psychology (vocational training and individual therapy); c) Social reintegration (home visits and coordination with various institutions to secure food vouchers, housing, and other benefits; and d) Prevention (including training workshops held in schools, churches, and clubs as well as support groups).

*Source: Combined initial, second and third periodic reports of States parties: Costa Rica, December 2001*

## Government policies and national programmes

Government policies or national programmes aimed at implementing the rights set out in the Convention and redressing inequalities are also important.

Such policies or programmes often cover a period of several years. They set out commitments and objectives and elaborate measures to reach those goals. They can bring about important and sometimes immediate changes, especially when they include detailed recommendations and measures to be taken (budget allocations; quota laws, etc.) to redress a specific situation and often have a long term, sustainable impact.

Access to detailed data on the situation of women in various sectors of society can facilitate the policy-maker's work in developing appropriate programmes and subsequently assessing their impact. The Government's obligations under the Convention as well as the Committee's recommendations, should be taken into account, during the formulation of any policy or programme.

Finally, progress should be monitored, on a regular basis, in order to assess results and obstacles and determine what steps should be taken next.

Box N° 14

### Mainstreaming gender perspectives in national policies: the example of Fiji

In 1997, a document entitled Development Strategy for Fiji: Policies and Programmes for Sustainable Growth, stated that government policies and strategies of Fiji will include:

- Ensuring a gender-balanced partnership at all levels of decision-making;
- Striving for equal partnership in political, economic and social development;
- Promoting equal opportunity in employment;
- Assisting disadvantaged women and young women in their economic activities;
- Promoting safe domestic and workplace environments for women and children;
- Examining legislation with a view to safeguarding the human rights of women; and
- Integrating women's concerns into all planning and policy areas.

*Source: Initial reports of States parties: Fiji, March 2000*

## Gender-sensitive national budgets

The national budget is key to the implementation of all public projects. It combines the ambitions of an effective policy with financial means. It is therefore an essential tool for promoting equality between men and women and developing programmes and assistance to that effect.

Budgets are not neutral instruments. The strategic and policy orientations underpinning them reflect the interests and preoccupations of the people. Developing gender sensitive budgets is the best way of meeting the aspirations and needs of the majority of men and women, boys and girls.

Gender-sensitive budgets do not mean separate budgets for women. They are intended to break down, or disaggregate, the Government's entire budget according to its impact on different groups of men and women taking into account society's gender relations, and roles and opportunities to access and control resources.

Gender-sensitive budgets are, therefore, fundamentally about mainstreaming gender issues and ensuring that these issues are integrated into all national policies, plans and programmes rather than regarding women as a special "interest group" to be catered for separately. They are tools for providing financial support to meet the needs of women and girls and are instrumental in reducing gender gaps and inequalities.

### Box N° 15

#### Gender-sensitive budgets: Some pioneering initiatives

##### South Africa

In 1996, South Africa became the first pilot for the Commonwealth Gender Budget Initiative, located within Ministries of Finance. Members of the Women's Budget Initiative worked with the Department of Finance to prepare a gender analysis that was incorporated into the budget documents submitted to Parliament. Over the years, public awareness of gender issues has increased dramatically. Local level initiatives are springing up in municipalities and provincial legislatures, universities are incorporating gender budget analysis into their curricula and women's advocates are incorporating the tools in a wide range of policy proposals. In 2000, inspired by the World Budget Initiative, NGO researchers analysed the resources allocated to the Domestic Violence Act of 1998.

##### Sweden

In Sweden, every ministry, including the Ministry of Finance, is expected to set gender objectives and targets within their programmes. Once Parliament decides on the budget bill, the Government approval document reflects the required objectives and targets as well as the financial prerequisites for each of the agencies, including available appropriations. Each year, the Ministry of Finance includes an annex to the

budget bill on the distribution of income, which includes differences between women and men.

In addition, recognizing that gender analysis depends upon the availability of gender-disaggregated data, the Government has instructed the Statistics Department to collect all official statistics on that basis and endeavours to present such data and information in all of its policy documents.

One result of these efforts was Parliament's decision to reduce inequality in unpaid care work in the family sphere by prolonging the parental leave period from 12 to 13 months. Parents can determine how to divide the days of parental allowance, but fathers must take at least 30 days leave or forfeit them entirely.

### **The Philippines**

In 1994, the Philippines Government adopted a gender and development budget policy that requires every government agency to allocate at least 5 per cent of its budget for gender and development. The National Commission on the Role of Filipino Women (NCRFW) spearheaded the initiative, working closely with an active and supportive women's movement.

In 1999, the government introduced a performance based budgeting policy that reduced the budget of agencies not in compliance by a minimum of 5 per cent. Between 1995 and 1998, the number of reporting agencies rose from 19 to 69 (out of a total of 349) and the allocations to women tripled.

### **United Republic of Tanzania**

A gender-sensitive budget initiative was launched in 1997 and coordinated by a coalition of NGOs headed by the Tanzania Gender Networking Program (TGNP). The Gender Budget Initiative (GBI) was developed in response to cost cutting and fiscal austerity measures adopted as part of structural adjustment programmes in the 1980s. TGNP and other activists proposed an alternate process for formulating a national budget that would take into account the needs of disadvantaged groups, such as women and youth. As part of this process, data was collected on macro-level budgetary systems and allocations from four key ministries: Ministry of Education, Ministry of Finance, Ministry of Health and the Planning Commission.

This research involved ministry-level personnel, which increased the ownership and acceptability of the findings. Follow-up consultations with government officials, members of Parliament, and parliamentary committees, to encourage them to integrate gender concerns into their processes, gave TGNP access to strategic decision-making bodies. The Government subsequently invited TGNP to be part of the Public Expenditure Review (PER) that it conducts with the World Bank. The national budgetary guidelines developed by the Ministry of Planning for the year 2001 budget have specifically mandated that six sectors include consideration of gender in their budgets: agriculture, community development, education, health, local government, and water.

#### *Sources:*

- “*Gender Budget Initiatives*”, published by Commonwealth Secretariat, UNIFEM and IDRC
- *International Budget 2000*

## Raising awareness and mobilizing public opinion

Without public support and the backing of the main political, economic and social forces in society, public authorities can make very little progress in promoting and enforcing women's rights.

In order to mobilize public opinion, a communications strategy must be developed to convince all sectors of the population that respect for women's rights as enshrined in the Convention is beneficial to men and women alike. It is therefore essential for each and every member of society to be sensitized to women's rights and for everyone to contribute to the Convention's implementation. The establishment of a genuine partnership between men and women calls for action from all and awareness-raising in this field must be strengthened. Apart from awareness-raising campaigns, the development of a comprehensive human rights education programme to raise awareness among women of their human rights and raise awareness among others of the human rights of women could be very useful.

### Box N° 16

#### Disseminating the Convention and providing legal education: Some examples

- The Government of the **Republic of Korea** has issued a number of publications on the Convention, including, in 1990, a booklet containing the English and Korean versions of the Convention, and the Government's first two reports to the Committee. In 1995 and 1996, other publications on international conventions relating to women included information notes on the Convention. These materials were disseminated to the public at large and used by public employee training institutions and various social education establishments to sensitize such personnel as public prosecutors, police officers, prison administrators and guards...
- The Ministry of Gender, Labour and Social Development of **Uganda** pioneered a paralegal training programme in one district (Kamuli) to improve the delivery of legal services in communities. Simplified booklets and manuals, including on the Convention, were prepared by the Ministry on various laws to make them more accessible to the public. The Ministry's efforts to sensitize the population on their rights was subsequently supplemented by other governmental and non-governmental legal education and sensitizations programmes in other districts of the country.

#### Sources:

- *Fourth periodic report of States parties: Republic of Korea*, March 1998
- *Third periodic report of States parties: Uganda*, July 2000

*“... judges and lawyers, must be aware of and responsive to international human rights law. Judges and lawyers have a responsibility to familiarize themselves with the growing international jurisprudence of human rights, especially that on the protection and promotion of the rights of women...*

*... educational establishments, especially law schools and continuing education bodies (should ) include in their curricula education on the Convention, the Convention on the Rights of the Child and other international human rights instruments and their use domestically.”*

Communiqué, Judicial Colloquium on the Domestic Application of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, Vienna, 1999, *Bringing International Human Rights Law Home*, United Nations, New York, 2000, pp. 11-13

## **Developing cooperation at the international level**

The ideals of respect, protection and promotion for women's human rights enshrined in the Convention are agreed priorities of the international community. Particular violations of the Convention, such as trafficking in women, addressed in its article 6, require cooperation between and among countries, especially with border control, investigation and prosecution.

Cooperation between and amongst countries is also necessary for the support of international, regional and national programmes to promote and respect women's rights. It should also help to provide support to the work of United Nations specialized agencies, funds and programmes, and other international organizations working to defend women's rights.

## Box N° 17

### Key features of IPU's action vis-à-vis the Convention

IPU's general policy is to promote partnership between men and women in all fields. Its action is inspired by article 4 of its Universal Declaration on Democracy (1997) which states:

*“The achievement of democracy presupposes a genuine partnership between men and women in the conduct of the affairs of society in which they work in equality and complementarity, drawing mutual enrichment from their differences.”*

For many years now the IPU has promoted ratification and implementation of the Convention and, more recently, its Optional Protocol.

#### **Raising awareness amongst Members of Parliament (MPs)**

The IPU consistently promotes ratification and implementation of the Convention at each of its Statutory Conferences and during the Meetings of Women Parliamentarians.

At each Meeting of Women MPs an agenda item is dedicated to the Convention and, more recently to its Optional Protocol, in order to raise awareness and encourage discussion on and action in the implementation of these two legal instruments. Background documents on the Convention and the Optional Protocol, indicating each country's ratification status and reservations made, are also regularly distributed.

In close cooperation with the United Nations Division for the Advancement of Women, the IPU organized an information panel on the Optional Protocol to the Convention during the 105th IPU Conference in Havana, Cuba, in April 2001. The panel brought together Ms Yolanda Ferrer Gómez, the expert member of the Committee on the Elimination of Discrimination against Women from Cuba, the then Director of the Division for the Advancement of Women, Ms. Yakin Ertürk, as well as leading parliamentary figures and high-ranking IPU representatives. It offered an opportunity for men and women parliamentarians to learn about the Optional Protocol and its procedures, to gain an understanding of how it can be used and to clarify what steps parliaments need to take in order to improve action in the field in general, and with respect to the Optional Protocol in particular.

#### **Including the Convention in IPU's work**

Many IPU resolutions, addressing a variety of subjects, refer to the Convention and encourage Parliaments to secure its ratification and implementation, as well as the early removal of reservations, in particular, those which may be incompatible with the object and purpose of the Convention.

**Encouraging timely and detailed reporting and adequate follow-up**

Pursuant to an IPU Council Recommendation of April 1998, the IPU Secretariat writes to the Parliament of every State party whose report is to be submitted to the Secretary-General of the United Nations in accordance with article 18 of the Convention to encourage it to ensure that these reports are submitted in accordance with the time frames established by that article.

The IPU Secretariat also invites parliamentarians to become involved in the preparation of reports, and to ensure that relevant information on parliamentary activities in the fields covered by the Convention are reflected in those reports.

It also invites parliamentarians to ensure that Parliament is informed of the Committee's recommendations and to oversee that appropriate follow-up action is taken. Such action is carried out in collaboration with the IPU's growing network in national parliaments throughout the world of Focal Points Relating to the Status of Women

**Offering access to information on the Convention**

IPU's bibliographic database "Women in Politics" ([www.ipu.org/bdf-e/BDFsearch.asp](http://www.ipu.org/bdf-e/BDFsearch.asp)) contains references to the relevant sections of States parties' reports which have been considered by the Committee.

**Cooperating with the Committee**

A member of the Committee on the Elimination of Discrimination against Women is designated to act as its focal point for IPU. The Committee's current focal point is Ms. Françoise Gaspard, a national of France. She may be contacted through the Division for the Advancement of Women (E-mail: [daw@un.org](mailto:daw@un.org)).



# What you can do as a parliamentarian

## Parliamentary mechanisms

Parliamentary mechanisms may be crucial in securing not only ratification or accession of the Convention and the development and implementation of corresponding national legislation, but also in ensuring timely reporting to the Committee and follow-up on its comments, recommendations and guidelines.

You may wish to keep in mind that some of the mechanisms which promote these objectives include the following, and also take action to have them instituted or developed, as appropriate and provided with the necessary resources:

- ▷ Due to the broad scope of the Convention, one or several standing or select parliamentary committees may be necessary. If there is more than one committee, the activities of these committees should be coordinated to ensure that the Convention is taken into account as a cross-sectoral element in the Parliament's work.
- ▷ A gender equality committee, representing all political parties, which uses the Convention as its reference instrument in all its activities and can generate regular parliamentary debate on its implementation;
- ▷ An all-party women's meeting or caucus or a gender partnership group involving both male and female parliamentarians, which can help raise parliamentary awareness of the importance of the Convention and its implementation;
- ▷ An informal group on the Convention which closely monitors action by the Government with regard to implementation of the Convention and liaises with civil society.

## National implementing legislation

National legislation is crucial to the implementation of the Convention as it translates the aims and principles of international standards into national law. Such legislation sets the principles, objectives and priorities for national action to combat discrimination against women and creates the machinery for carrying out that action.

It is therefore crucial that, once your State has become party to the Convention, you:

- ▷ Ensure that Parliament adopts national legislation that corresponds to the Convention's provisions;
- ▷ Ensure that existing legislation is reviewed – by the competent services of Government, a special parliamentary committee or other official body – to determine whether its provisions are consistent with the Convention;
- ▷ Where necessary, make use of parliamentary procedure to ensure that the Government sends draft legislation, or amendments to existing legislation, to Parliament;
- ▷ Ensure that the national budget, examined and adopted by Parliament, takes into account the needs of women and is gender sensitive in all areas.

## **Overseeing Government action with regard to implementation of legislation**

By virtue of the function of parliamentary oversight, you can ensure that:

- ▷ National legislation is accompanied by the corresponding rules and administrative measures to ensure adequate implementation;
- ▷ Information on the Convention, its Optional Protocol and gender issues as a whole is provided to government and parliamentary staff;
- ▷ Adequate funding is allocated for those activities, through the national budget procedure.

## **Ensuring that the rights in the Convention are enforced**

As Parliament monitors the administration of justice, you can:

- ▷ Ensure that members of the judiciary receive adequate information on the Convention;
- ▷ Ensure that law school curricula cover the Convention;
- ▷ Without interfering in the decision-making process, check that the judiciary has the means to discharge its mission with regard to issues of discrimination against women. You may wish to verify that the justice system functions well, is not subject to pressure and that justice is administered within a reasonable time.

## **Developing national programmes to ensure respect of women's rights**

As key political figures and as representatives of the people, parliamentarians naturally have an interest in major policy developments such as the launching of programmes to ensure respect for women's rights.

- ▷ Ensure that the programmes are time-bound and that they give precise target dates for the attainment of specific results;
- ▷ Ensure that adequate funding is allocated for the activities planned through the national budget procedure;
- ▷ Ensure that citizens are widely informed of the activities planned;
- ▷ Ensure that Parliament has an opportunity to review periodically the progress being made in implementing the national programme and therefore monitor progress made in the field. You may wish to call for public hearings to be organized to examine certain situations and take stock of developments.

## **Creation of an office of an ombudsman on gender issues**

- ▷ Consider setting up, with adequate funding, a public advocate or ombudsman's office that would report to Parliament and whose functions would be to inquire on violations of women's rights, either at the institutional or individual level. The office could report on such violations on an annual basis in order to provide an objective view on the situation of women and on required changes in legislation or administrative practices.

## Development of reliable information on the status of women

As key political figures who have the power to oversee government policies and programmes, and to modify them if need be, parliamentarians have a vested interest in ensuring that an effective system of data-gathering and a mechanism for monitoring the implementation of policies and programmes are in place.

You may wish to ensure that parliamentarians have access to:

- ▷ A legislative or research support service that can provide MPs with information on the Convention and advice with regard to its implementation. To this end, training of parliamentary staff with a view to raising awareness on the Convention and gender issues as a whole could be envisaged;
- ▷ A comprehensive information centre on gender issues to facilitate the work of MPs and parliamentary staff. You may wish to:
  - Enquire whether such a centre already exists in universities or other research centres in your country and facilitate communication/transfer of information to it.
  - If this is not the case, such a project could be launched by Parliament or with the support of Parliament together with, possibly, members of Government, the Judiciary and civil society.
- ▷ Reliable data on women.

To this end:

- Ascertain whether the national statistical office, or any other unit of Government in your country, is gathering information on women and that all data is sex-disaggregated. This information is crucial for an accurate appraisal of women's status in your country and the development of appropriate responses to their needs.

If there is no systematic collection and analysis of information on this question:

- Call for the national statistical officer or other competent government agency to be authorized to collect and analyse on a regular basis data relevant to the status of women;
- Suggest that the assistance of the United Nations Statistical Division of the Department of Economic and Social Affairs and/or the statistical divisions in the United Nations regional commissions can be sought to develop a methodology for collecting and analysing data and to develop the capacity of government services for this purpose.
- Ensure that reporting obligations are clearly outlined for enterprises, schools, local authorities, law enforcement agencies and other entities whose information can be useful for monitoring the situation of women in the country;
- Insist on full public disclosure of information gathered and the need for periodical evaluations.

## Public awareness

As representatives of the people, public figures and leaders of public opinion, parliamentarians have a key role to play in ensuring that the Convention is widely disseminated and publicized and in mobilizing public opinion.

Consider:

- ▷ Taking action to ensure that the Convention is available in the national language(s) you may wish to contact the DAW Secretariat to enquire about existing translations. UNESCO has also produced a *Passport to Equality*, which contains the text of the Convention and the Optional Protocol. The *Passport* exists in 19 languages. Information on this initiative can be found on UNESCO's website: [www.unesco.org](http://www.unesco.org);
- ▷ Ensuring that school curricula include a segment on women's rights and the Convention;
- ▷ Participating in campaigns to mobilize public opinion on the Convention. You may wish to:
  - Make public speeches on the Convention;
  - Organize or take part in public debates on the Convention on television and radio,
  - Write articles for newspapers on the Convention.
- ▷ Lending your support to local efforts to promote respect for the rights enshrined in the Convention. To this end, you may wish to:
  - Pay visits to programmes and projects which support and promote women's rights;
  - Visit local schools to encourage the efforts of teachers to explain and present the concepts of gender equality and women's rights;
  - Confer with local law enforcement agencies on the efforts they are making to identify cases of violations of women's rights and the problems they face;
  - Liaise with NGOs and other civil society actors working in the field of women's rights.
  - Write articles or speeches on what you have learned during your experience in the cases mentioned above.

## Promote international cooperation to foster and secure respect for the rights enshrined in the Convention

Parliamentarians should ensure that their Governments participate fully in international efforts to promote respect for women's rights as enshrined in the Convention.

To this end, you may wish to:

- ▷ Establish contacts with parliamentarians from other countries in order to:
  - Share experiences on success stories and lessons learned in promoting respect for women's rights;
  - Discuss possibilities of bilateral or multilateral cooperation, particularly regarding violation of rights that require cross-border cooperation (trafficking, violence against women, etc).

# Chapter 6

## The reporting procedure

### A State party obligation

Article 18 of the Convention obliges States parties to submit an **initial report** to the Committee within one year of the Convention coming into effect for the States concerned and thereafter **periodic reports** every four years and whenever the Committee so requests. Reports should indicate the legislative, judicial, administrative or other measures that they have adopted to give effect to the provisions of the Convention, and describe progress that has been made. Reports may also indicate factors and difficulties affecting the extent to which the Convention's obligations have been met.

### The purpose of reporting

The key purpose of reporting is to promote compliance by States parties with the obligations contained in the Convention.

The exercise of drafting the report provides an opportunity for the State party to clarify its obligations under the Convention and to take stock of the current situation of women and identify areas that require reform to ensure full compliance with the Convention.

- ✓ The consultations required within government structures and between Government and civil society in order to prepare a good report can improve understanding of the goals of the Convention, and the objectives of human rights generally.
- ✓ Publicity surrounding the preparation of a report draws attention to the level of the State party's compliance with its obligations and the ways individuals and groups can contribute to its further implementation.
- ✓ Consideration of the report by the Committee allows for dialogue between the State party and a group of impartial and highly experienced experts during which areas where further implementation is required can be identified, and suggestions for improvement proposed.
- ✓ The procedure also highlights good practices and lessons learned which may be used by other States as they seek to implement the Convention.
- ✓ The outcome of the reporting procedure, the Committee's concluding comments on the report of the State party, constitute an authoritative guide for future legislation, policies and programmes. Although directed at the State party, they can be used by all stakeholders, including parliamentarians, to encourage accelerated implementation.

## Reporting:

- ✓ Allows for a comprehensive review of national legislation, administrative rules and procedures and practices;
- ✓ Ensures that a State party regularly monitors the factual situation with respect to each provision of the Convention and becomes aware of the extent to which the various rights guaranteed are being enjoyed by all women in all areas;
- ✓ Provides States parties with a basis for the elaboration of clearly stated and targeted policies, which incorporate priorities consistent with the provisions of the Convention, aimed at accelerating women's de jure and de facto equality with men;
- ✓ Provides a framework for public scrutiny of government policies and encourages the involvement of various sectors, including civil society, in the formulation and review of these policies;
- ✓ Provides a baseline against which a State party and the Committee can evaluate the extent to which progress has been made towards the fulfilment of the Convention's obligations;
- ✓ Enables a State party to develop a better understanding of the factors and difficulties affecting fulfilment of the provisions of the Convention;
- ✓ Enables the Committee and all States parties to exchange information, develop a better understanding of the common problems faced by States and a fuller appreciation of the types of measures which might be taken to promote effective fulfilment of the obligations in the Convention. This enables the Committee to identify the most appropriate ways in which the international community might assist implementation in individual States parties, and in States parties as a whole.

## Preparation of reports

In the interest of reducing requests for further information on examining a report, and to ensure consideration of the situation in every State party on an equal basis, the Committee has adopted reporting guidelines which apply to all initial and subsequent periodic reports submitted after 31 December 2002.

These guidelines – the full text of which is reproduced in Annex 4 – provide that:

- ✓ In preparing reports, the terms of all articles, together with the Committee's general recommendations, should be taken into account;
- ✓ Detailed information should be provided on any reservations or declarations that the State party may have lodged;
- ✓ Any factors or difficulties affecting the fulfilment of the obligations under the Convention should be explained, and information on the steps being taken to overcome these provided;
- ✓ Sufficient data and statistics disaggregated by sex should be included in order to enable the Committee to assess progress in the Convention's implementation.

## Box N° 18

### Training in reporting

The United Nations Division for the Advancement of Women provides technical assistance to States parties on implementation of the Convention, and particularly the fulfilment of the reporting obligation set out in article 18 of the Convention.

In collaboration with the Government of New Zealand, the Secretariat of the Pacific Community, UNDP Fiji, ESCAP and the UNIFEM regional office, the Division organized in Auckland, New Zealand from 13-15 February 2001, a sub-regional training workshop on “Support to the Preparation of State party reports to be submitted to the Committee on the Elimination of Discrimination against Women). A similar workshop was conducted in Palau, and staff of the Division participated in a reporting workshop held in Sarajevo, Bosnia and Herzegovina in May 2002. In November 2002, another reporting workshop was held at ESCAP Headquarters in Bangkok for States parties of the Asian region which had not submitted their initial reports.

#### Initial report

As the initial report provides the first opportunity for the State party to present to the Committee the extent to which its laws, policies and practices comply with the Convention, it should be a detailed and comprehensive description of the status of women in the country at the time of submission. This can then provide a benchmark against which progress can be measured.

The report should:

- ✓ Establish the constitutional, legal and administrative framework for the implementation of the Convention;
- ✓ Explain the legal and practical measures adopted to give effect to its provisions;
- ✓ Demonstrate the progress made in ensuring enjoyment of its provisions by individuals within the State and subject to its jurisdiction.

#### Second and subsequent periodic reports

These reports should cover the period between consideration of the previous report and submission of the current report. They should:

- ✓ Focus on the concerns raised by the Committee and the recommendations made in the concluding comments of the previous report;
- ✓ the progress made towards and current implementation of the Convention within the State party's territory or jurisdiction and the enjoyment by individuals of the provisions of the Convention;
- ✓ Highlight any remaining obstacles to the participation of women on an equal basis with men in the political, social, economic and cultural life of the State party.

The reporting guidelines require any State party which is also party to the Optional Protocol to provide information on any follow-up if the Committee has adopted views on any communication relating to that State party, or conducted an inquiry under article 8 of the Protocol.

States parties are also expected to include information on the implementation of the 1995 Beijing Declaration and Platform for Action, and the further actions and initiatives adopted by the five-year review of the Platform of the twenty-third special session of the General Assembly in 2000. They should also include information on the implementation of gender-related aspects of the outcome documents of other United Nations world conferences and summits which are of particular relevance to the Convention. .

*“The Inter-Parliamentary Council urges the MPs of States that have not yet submitted an initial report or one or more of the subsequent reports to the CEDAW Committee: (i) To inquire about the reasons for this delay; (ii) To arrange for the Government to present the report as soon as possible in the coming months; (iii) To ensure that the Government’s report is detailed and complete and complies with the standards laid down by the CEDAW Committee.”*

Cooperation with the United Nations system: Parliamentary action for national follow-up to international agreements and treaties regarding women; 162<sup>nd</sup> session of the Council of the Inter-Parliamentary Union (Windhoek, Namibia, April 1998)

## Consideration by the Committee

At each of its sessions, the Committee selects the States parties whose reports it will consider at its next three sessions. The States parties concerned are asked to confirm their agreement to attend the relevant session to present their report. If a State party declines, another State party will be approached. Although the Committee’s rules of procedure provide that if a State party fails to respond to an invitation to present its report on two occasions the Committee may proceed to examine the report in the absence of its representative, the Committee has never considered a report without the presence of a delegation from the State party.

States parties may consolidate overdue reports, and also submit additional information three months prior to their consideration by the Committee. The Committee may also consider more than one report of the State party simultaneously. Reports are processed as United Nations documents and are publicly available in the six official languages of the Organization.

Consideration of States parties’ reports by the Committee takes place in a public meeting in the presence of representatives of the reporting State. The relationship the Committee seeks to establish when reports are considered is one of “constructive dialogue”, during which information, experiences, ideas and suggestions are exchanged in a joint effort to encourage full implementation in the reporting State.



Regarding **initial reports**, the State party's representative presents the report to the Committee in a forty-five minute intervention. Often there is a time lag between the date the report is submitted and its consideration by the Committee. Where this is the case, the State party is encouraged to provide a written addendum to the original report and highlight the most important developments since the original submission in its oral presentation. After the State party's presentation, individual members of the Committee make general observations and comments on the report, and then proceed to an article-by-article consideration of the report. At the end of the process, the representative of the reporting State may decide to reply immediately to some of the questions asked. Typically, however, consideration of the report is adjourned, and the State representative returns a week later to respond to those questions. Answers and any supporting material are usually presented in writing. At this stage, Committee members may pose further questions. It also has the power, which it rarely exercises, to request the State to send further information to the Secretariat.

Since 1991, **second and subsequent periodic reports** have been reviewed by the pre-session working group of Committee members. The working group draws up a list of issues and questions to guide the full Committee's examination of the report. The list of issues and questions is submitted to the State party about five months in advance of the Committee's consideration. The State party is required to submit written replies to the secretariat which are translated and made available to the Committee prior to the session. The report is presented by a representative of the State party in a thirty-minute intervention. Committee members then take the floor to pose questions relating to implementation of the substantive provisions of the Convention. The State party's representatives are expected to respond to questions within the time allocated for consideration of the report.

Following consideration of the reports, the Committee formulates **concluding comments**, which it drafts and adopts in private session. The comments outline factors and difficulties affecting the implementation of the Convention for that State, positive aspects, principal subjects of concern, and suggestions and recommendations aimed at enhancing implementation of the Convention. These concluding comments represent the collective view of the Committee on the situation in the reporting State. Once adopted, they are sent to the State party and become publicly available. They are an important resource for the State party in shaping future national policy and a useful tool for other stakeholders, such as parliamentarians, NGOs and other parts of civil society in their monitoring role.

Each concluding comment includes a request by the Committee that they be widely disseminated so that the people in the State concerned, in particular, government administrators and politicians are aware of the steps that have been taken to ensure *de jure* and *de facto* equality for women and the further steps that are required. In its general recommendation 6, the Committee also recommends that appropriate steps be taken to ensure dissemination of the Convention, the reports of the States parties and the Committee in the language of the State party. States parties are also invited to include information on steps to comply with general recommendation 6 in their reports. Parliamentarians should seek to ensure compliance with these requests.

## Information used by the Committee as background to report consideration: Working with UN entities, and NGOs

The Committee's consideration of States parties' reports is based primarily on information in the reports and the knowledge of individual members. The Convention provides that the Committee may invite specialized agencies of the United Nations to submit reports on the implementation of the Convention in areas falling within the scope of their activities. The United Nations Educational, Scientific and Cultural Organization (UNESCO), the Food and Agriculture Organization (FAO), the International Labour Organization (ILO) and the World Health Organization (WHO) routinely provide such reports to the Committee

The Committee also takes advantage of information available in the United Nations system generally. In addition to the specialized agencies, UN bodies generally are invited to provide oral information to the Committee as a whole in a private meeting on States parties which will attend the session. They are also invited to provide oral information to the pre-session working group when it is drawing up the list of issues and questions on reports.

Although NGOs do not have formal standing under the reporting procedure, the Committee also welcomes information from them, its rules of procedure providing that representatives of NGOs may be invited to provide the Committee with oral or written information. The Committee sets aside time during each of its sessions and pre-session working groups to hear from NGOs, during which it particularly welcomes the participation of national-level NGOs. NGOs can submit written information to the Division for the Advancement of Women which in turn will transmit it to Committee members. Members are usually pleased to meet informally with NGO representatives, who can arrange further briefings for individual members or the Committee as a whole.

The Committee not only appreciates NGO information about States parties, but also encourages cooperation between NGOs and Governments in the preparation of reports. States parties have come to expect questions from the Committee on whether women's groups and NGOs generally have been consulted in the preparation of reports and what opportunities they have been given to provide their input and views.

## Exceptional reports

On five occasions, the Committee has called on States parties to present exceptional reports. In 1999, the Committee defined the purpose of an exceptional report as being to enable it to obtain and examine information on an actual or potential violation of women's human rights, where there is special cause for concern about such violation.

The criteria for an exceptional report are listed below:

- ✓ There should be reliable and adequate information indicating grave or systematic violations of women's human rights; and
- ✓ The violations should be gender-based or directed at women because of their sex.

The Committee determines the sessions at which the exceptional reports are presented. Its rules of procedure indicate that such reports should be limited to those areas on which the State party has been requested to focus its attention. Unless the Committee decides otherwise, exceptional reports are not to be submitted as a substitute for the State party's initial or periodic reports. In those cases where exceptional reports have been presented, they have been brief, and have focused on the gender-based violation involved. The Committee has engaged the State party in dialogue, and short concluding comments have been adopted.

## Other reports under article 18

Article 18 empowers the Committee to call for a report at any time. At its exceptional session in August 2002, the Committee requested Argentina, which had presented its fourth and fifth periodic reports at that session, to submit a further report on the current situation which would be considered by the Committee in 2004. The Committee indicated that this report would not replace Argentina's sixth periodic report which is due in August 2006.

### Box N° 20

#### Good practices in reporting

- When adopting national legislation on the Convention, the **Netherlands Parliament** incorporated a provision into the law that requires the Government to report to Parliament every four years on the implementation of the Convention before the State party's report is submitted to the Committee. The concluding comments of the Committee are also presented to Parliament.
- Some Parliaments, such as in **Uruguay**, organize a session in Parliament on follow-up to the Committee recommendations and call on members of the Government to come and discuss them in Parliament.
- In **Trinidad and Tobago**, reports to the Committee are prepared by the Human Rights Unit, created within the Ministry of the Attorney-General for the preparation of reports required under international instruments. The Unit is assisted by a Human Rights Committee which comprises representatives of the some 13 ministries of the Government and one representative of Parliament. Upon the completion of the report, the Attorney-General tables it before Parliament.

- Some States parties, such as **Mexico**, convene seminars to discuss the Committee's concluding comments. A special meeting on the Committee's concluding comments took place at the Swedish Parliament, in April 2002. It brought together parliamentarians, NGOs and the Chair of the Committee.
- A number of States involve NGOs in the preparation of reports in order to present a comprehensive picture of the current status of women. Some States parties, such as **Denmark**, annex NGO reports to their reports.
- Many States parties publish their reports, together with the Committee's concluding comments, in order to give wide publicity to the Convention and its implementation.
- Frequently, national NGOs prepare so-called "shadow reports" to complement the State party's report.

## General recommendations

The Committee elaborates general recommendations on the articles and cross-cutting themes of the Convention. Most of these outline matters which the Committee wishes to see addressed in the reports of States parties, and seek to provide detailed guidance to States parties on their obligations and the steps that are required for compliance.

As at 6 March 2003, the 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 for the Committee. 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 articles and what the Committee described as "cross-cutting" themes. Following this decision, the Committee issued more detailed and comprehensive general recommendations which offer States parties clear guidance on the application of the Convention in particular situations.

For example, in 1992, the Committee adopted general recommendation 19, which requires States parties' reports to include statistical data on the incidence of violence against women, information on the provision of services for victims, and legislative and other measures taken to protect women against violence in their everyday lives, such as harassment at the workplace, abuse in the family and sexual violence. Comprehensive general recommendations have also been adopted on equality in marriage and family relations, women in public life and access to health care. A full list of general recommendations can be found in the following Box (Box N° 21).

## Box N° 21

### General recommendations of the Committee

As at 6 March 2003, the following general recommendations had been adopted by the Committee:

- No. 1: Reporting guidelines
- No. 2: Reporting guidelines
- No. 3: Education and public information programmes
- No. 4: Reservations
- No. 5: Temporary special measures
- No. 6: Effective national machinery and publicity
- No. 7: Resources
- No. 8: Women's representation of Government at the international level
- No. 9: Statistical data
- No. 10: Tenth anniversary of the adoption of the Convention
- No. 11: Technical advisory services for reporting
- No. 12: Violence against women
- No. 13: Equal remuneration for work of equal value
- No. 14: Female circumcision
- No. 15: Women and AIDS
- No. 16: Unpaid women workers in rural and urban family enterprises
- No. 17: Measurement and quantification of the unremunerated domestic activities of women and their recognition in the GNP
- No. 18: Disabled women
- No. 19: Violence against women
- No. 20: Reservations
- No. 21: Equality in marriage and family relations
- No. 22: Number of annual meetings of the Committee
- No. 23: Women in political and public life
- No. 24: Women and health

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 (NGOs) and others on the topic of the general recommendation. Specialized agencies and other United Nations bodies, as well as NGOs are encouraged to participate in this discussion, as well as to submit informal background papers. A Committee member is then asked to draft the general recommendation, which is discussed at the next session of the Committee. Resource persons may be invited to participate in the discussion. At the following session, the revised draft is adopted by the Committee.

## Use of general recommendations of the Committee by judges in their decision-making

In *Vishaka and others v State of Rajasthan*, decided in 1997, in a case of alleged gang-rape of a Government social worker who had been campaigning against child marriage, and the failure of officials to investigate her complaint, the Supreme Court of India recalled that India had ratified the Convention and that it was obliged to take all appropriate measures to eliminate discrimination against women in the field of employment and adopt all necessary measures at the national level aimed at achieving the full realization of the rights in the Convention. The Court drew on the provisions of the Convention and the Committee's general recommendation 19 on violence against women to expand its interpretation of the human rights guarantees in the Indian Constitution, and to establish guidelines and norms to be observed at all workplaces to prevent and address sexual harassment.

The Committee's power to formulate general recommendations has enabled it to require States parties to address issues which are only implicitly addressed in the Convention as they implement its terms. For example, three of the Committee's general recommendations (12, 14 and 19) deal with violence against women, which with the exception of article 6, which concerns traffic in women and the exploitation of prostitution, is not explicitly covered by the Convention. General recommendation 19 clearly defines gender-based violence against women, whether perpetrated by State officials or private individuals, in private or public life as sex discrimination and a violation of internationally guaranteed human rights. By so doing, the Committee has made it clear that the legal obligation of States parties to implement the Convention requires them to eliminate violence against women through a set of preventive, punitive, protective and rehabilitative measures which are outlined in the general recommendation.

The Committee's annual reports to the General Assembly provide information on the Committee's programme of work on general recommendations.

## Box N° 23

### Female genital mutilation

The Committee's general recommendation 14 specifically deals with female circumcision and recommends taking a series of measures including:

- (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 cooperate 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.

It further recommends including in 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.

General recommendation 19 on violence against women, which defines gender-based violence as discrimination against women, also deals with female genital mutilation in its paragraphs 19 and 20. It calls on States parties to take measures to overcome this and other harmful traditional practices and report on these measures to the Committee. Similar recommendations are made in general recommendation 24 on women and health.

As at 6 March 2003, at least 33 countries have introduced legislation to prevent and punish harmful traditional practices. The text of the existing laws as well as references to the sections of international treaties dealing with the question can be found on the Inter-Parliamentary Union's website at the following address: [www.ipu.org/wmn-e/fgm.htm](http://www.ipu.org/wmn-e/fgm.htm).

# What you can do as a parliamentarian

As the overseer of the Government's work, Parliament has an important role to play in ensuring that the State fully complies with its reporting obligation as a party to the Convention.

## Ensuring timely reporting

Reporting in accordance with the obligations imposed by article 18 of the Convention is a vital tool in securing full and effective implementation of the Convention.

Once your country has become party to the Convention, you can ensure that:

- ▷ An initial report and subsequent periodic reports are prepared in accordance with article 18;
- ▷ Reports are submitted in accordance with the periodicity established in the Convention; you should inquire about your country's reporting timetable and, ensure that the Government respects this;
- ▷ In cases where reporting is delayed, you may request an explanation and, if necessary, use parliamentary procedures to urge the Government to comply with its reporting obligations as soon as possible and mobilize public opinion.

## Ensuring that the report prepared by the Government is complete

Parliamentarians have an important role to play in contributing to proper and comprehensive collection of information, relaying facts and information from their constituencies to the Executive branch of Government and ensuring that the report is complete and representative of action taken at the national and local level.

You may wish to ensure that:

- ▷ Parliament (through its relevant committees) is involved in the preparation of the report, provides input in terms of information, or is in any case informed about its contents;
- ▷ Parliament's action is properly included and reflected in the report;
- ▷ The report complies with the Committee's Reporting Guidelines and takes into account the Committee's general recommendations, together with the Committee's concluding comments on any preceding report, with lessons learned thereof;
- ▷ Your State introduces and presents its report to the Committee, in accordance with the timetable for consideration established by it.



## Organize follow-up to the report

Following the consideration of the report by the Committee, as a parliamentarian you can ensure appropriate national follow-up through oversight of Government action. You may wish to:

- ▷ Ensure that the concluding comments of the Committee are presented to Parliament and debated by it;
- ▷ Approach the relevant minister(s) on action taken to implement the Committee's recommendations; if appropriate, put an oral or written question to them;
- ▷ Organize or participate in public debates on the implementation of the concluding comments in order to raise awareness on the steps that need to be taken to accelerate full implementation of the Convention. States parties' reports can be found, together with the Committee's concluding comments, recommendations, guidelines and other relevant information on the DAW website:

[www.un.org/womenwatch/daw/cedaw/index.html](http://www.un.org/womenwatch/daw/cedaw/index.html).

# Chapter 7

## The Optional Protocol

The Optional Protocol to the Convention came into force on 22 December 2000. It contains two procedures: a communications procedure whereby individuals or groups of individuals may submit claims of violations of rights enshrined in the Convention to the Committee and an inquiry procedure, whereby the Committee may initiate inquiries into situations of grave or systematic violations of rights under the Convention.

### Why an Optional Protocol relating to the Convention?

An Optional Protocol is a legal instrument related to an existing treaty, which addresses issues not covered by or insufficiently developed in the treaty. It is usually open to ratification or accession only by States that are party to the related treaty. It is described as “optional” because States are not obliged to become party to it, even if they have ratified or acceded to the related convention.

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women is a procedural protocol which introduces two new procedures to implement the Convention and thereby address violations of women’s rights: an individual complaints procedure and an inquiry procedure.

As stated in its Preamble, the Optional Protocol is a reaffirmation of States’ *“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.”*

*“The adoption of this Optional Protocol is one of the commitments made by States at both the Vienna Conference on Human Rights and the Fourth World Conference on Women in Beijing in 1995. It thus represents one of the major accomplishments in the realization of the objectives set out in the Platform for Action.”*

Ms Angela E.V. King, Special Adviser on Gender Issues and Advancement of Women to the UN Secretary-General, 10 December 1999

## Why a separate complaints procedure for the Convention?

The idea of introducing a complaints procedure for the Convention came about in the early 1990s with the emergence of the international women's rights movement, which called for the strengthening of the existing United Nations human rights machinery for the advancement of women.

Highlighting the fact that existing human rights treaties and procedures had not given sufficient attention to gender-specific human rights violations, the international women's rights movement focused on the World Conference on Human Rights in Vienna in 1993. This activism was instrumental in bringing about an open acknowledgement on the part of the Conference that human rights of women had not been properly taken into account in existing international human rights law and implementation mechanisms.

International complaints procedures exist under other human rights treaties including:

- ✓ The First Optional Protocol to the International Covenant on Civil and Political Rights;
- ✓ The International Convention on the Elimination of All Forms of Racial Discrimination;
- ✓ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- ✓ The International Convention on the Protection of All Migrant Workers and Members of their Families (not yet in force).

Although these treaties elaborate rights which are available to men and women on a basis of equality, they are not targeted explicitly at the elimination of discrimination against women or men and the achievement of equality between them. Moreover, the human rights treaty bodies which receive and consider complaints under these procedures, unlike the Committee on the Elimination of Discrimination against Women, do not comprise gender specialists with long-standing expertise in implementation of the Convention. Thus, while women can and should file complaints under these other procedures, the Optional Protocol to the Convention provides a targeted procedure to address discrimination against women on the basis of sex.

*“In the course of the twentieth century, we have made great strides in defining universal norms of gender equality. As we enter the twenty-first century, it is time to implement those norms. The Optional Protocol we have opened for signature today will be an invaluable tool for doing that. In States that have ratified it, women whose rights have been violated will henceforth be able, once they have exhausted national remedies, to seek redress from an international body – the Committee on the Elimination of Discrimination against Women.”*

Mr. Kofi Annan, Secretary-General of the United Nations, 10 December 1999

## The contents of the Optional Protocol

The following section summarizes the major provisions of the Optional Protocol. The full text of the Protocol can be found in Annex 2.

**The preamble** to the Protocol notes that the United Nations Charter reaffirms faith in fundamental human rights, the dignity and worth of the human person and the equal rights of men and women, and that the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international human rights instruments prohibit discrimination on the basis of sex. It recalls the Convention on the Elimination of All Forms of Discrimination against Women, in which States parties 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. It reaffirms the determination of States parties which adopt the Protocol to ensure “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.”

By virtue of **article 1**, States which become party to the Optional Protocol recognize the competence of the Committee on the Elimination of Discrimination against Women to receive and consider communications submitted in accordance with article 2 of the Protocol.

**Article 2** entitles individuals or groups of individuals, under the jurisdiction of a State party to the Protocol, who claim to be victims of any violations of rights in the Convention to submit individual complaints to the Committee. Communications may also be submitted on behalf of individuals or groups of individuals, with their consent, unless the author can justify acting on their behalf without their consent.

**Articles 3 and 4** outline the admissibility criteria for communications. **Article 3** provides that communications must be submitted in writing and may not be anonymous. No communication may be received by the Committee if it concerns a State party to the Convention that is not a party to the Protocol. **Article 4** states that the Committee shall not consider a communication unless it has ascertained that all domestic remedies have been exhausted, or that the application of such remedies would be unnecessarily prolonged or unlikely to bring effective relief to the complainant. The Committee is also called on to declare a communication inadmissible if the same matter has already been examined by the Committee or has been or is being considered by another international investigation or settlement procedure. It must also declare a communication inadmissible if it is incompatible with the Convention; manifestly ill-founded or not sufficiently substantiated; an abuse of the right to petition; or if the subject of the communication occurred prior to the entry into force of the Optional Protocol for the State party concerned, unless those facts continued after that date.

**Article 5** provides the Committee with an express power to recommend interim measures to the State party at any time between the receipt of a communication and its final decision on the communication’s merits in order to avoid possible irreparable harm to the alleged victim or victims of the alleged violation.

**Articles 6 and 7** outline the Committee’s procedures for dealing with complaints, with **article 6** providing that unless the Committee considers a communication to be

inadmissible without reference to the State party concerned, and provided the complainant or complainants consent to the disclosure of their identity to that State party, the Committee shall confidentially bring the communication to the State party's attention. The State party is given six months to submit to the Committee written explanations or statements clarifying the matter and outlining any remedy it may have provided.

**Article 7** requires the Committee to consider communications in the light of information made available to it by the complainant(s) and the State party, which must be transmitted to the parties concerned. Communications are considered in closed meetings. After examination, the Committee's views and any recommendations are transmitted to the parties concerned. The State party is obliged to give due consideration to the views and any recommendations of the Committee and is required, within six months to submit to it a written response, including information on any action taken in light of the Committee's views and recommendations. The Committee may invite the State party to submit further information on measures taken in response to its views and recommendations, including in its subsequent reports under article 18 of the Convention.

**Articles 8, 9 and 10** govern the “**inquiry procedure**” established by the Optional Protocol. **Article 8** provides that if the Committee receives reliable information indicating grave or systematic violations by a State party of rights in the Convention, the Committee shall invite that State party to cooperate in the examination of that information through the submission of observations. Taking into account the State party's observations, and any other reliable information, the Committee may designate one or more of its members to conduct an inquiry and report to it on an urgent basis. Where warranted and with the consent of the State party, this inquiry may include a visit to its territory. After examining the findings of the inquiry, the Committee must transmit these, as well as its comments, to the State party which has six months to submit its observations to the Committee. All stages of the inquiry are to be conducted confidentially and with the full cooperation of the State party.

After the six-month period in which it may submit its observations, the State party may be invited to include details of any measures taken in response to an inquiry in its report under article 18 of the Convention. The Committee is also entitled to submit a further request for information on this matter to the State party. States that ratify or accede to the Protocol are entitled to “opt-out” of the inquiry procedure, with **article 10** providing that each State party may at the time of signature, ratification or accession of the Protocol declare that it does not recognize the competence of the Committee to initiate and conduct an inquiry. Such a declaration may be withdrawn at a later time by notification to the Secretary-General.

The remaining articles of the Protocol relate to both the **communication and inquiry procedures**, with **article 11** providing that a State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill-treatment or intimidation if they use the Protocol's procedures, and **article 12** obliging the Committee to include a summary of its activities relating to the Protocol in its annual report to the General Assembly. **Article 13** requires each State party to make the Convention and the Protocol widely known, and to give them publicity and to facilitate access to information about the views and recommendations of the Committee, particularly on matters involving that State party.

**Article 14** requires the Committee to develop its own rules of procedure with regard to the functions devolved on it by the Protocol, and **articles 15, 16, 18, 19, 20 and 21** address signature, ratification and accession criteria and procedures, entry into force, procedures for amendment, denunciation and the depository functions of the Secretary-General of the United Nations.

**Article 17** provides that no reservations to the Protocol shall be permitted, thereby requiring all States parties to the instrument to accept the communications procedure unreservedly.

## Mechanisms established by the Optional Protocol

The Optional Protocol creates new mechanisms to ensure implementation of the Convention through the following procedures:

### The communications procedure:

- ✓ Provides an opportunity for specific redress in individual cases when a State violates women's rights;
- ✓ Provides the possibility of international recourse for women who have been denied access to justice at the national level;
- ✓ Allows the Committee to highlight the need for more effective remedies at the national level;
- ✓ Allows the Committee to develop a new body of jurisprudence on how to guarantee women's rights;
- ✓ Assists States parties in determining the content of their obligations under the Convention and thus assists them in implementing those obligations.

### The inquiry procedure:

- ✓ Enables the Committee to address systematic and widespread violations;
- ✓ Allows the Committee to recommend measures to combat the structural causes of discrimination against women;
- ✓ Provides the Committee with an opportunity to set out a broad range of recommendations to achieve equality between men and women.

## Box N° 24

### History of the Optional Protocol

The adoption of an Optional Protocol to the Convention to provide a right to petition was one of the commitments made by Member States of the United Nations at the 1993 Conference on Human Rights in Vienna and the 1995 Fourth World Conference on Women in Beijing.

#### 1973-1976

During the drafting of the Convention by the Commission on the Status of Women, Canada, the Netherlands and Sweden make suggestions concerning a complaints procedure, and Belgium submits an unsuccessful proposal which would commit States to examine the question of complaints procedures within a short time after the Convention entered into force.

#### 1977

During consideration of the draft Convention in the Third Committee of the General Assembly, the Netherlands suggests that serious consideration should be given to including in the draft Convention the right of individual petition

#### 1979

The General Assembly adopts, and opens for signature, ratification and accession, the Convention without an individual complaints procedure.

#### 1991

In a report on strengthening the communications procedure of the Commission on Human Rights, the United Nations Secretary-General recommends that consideration be given to the development of an optional protocol to the Convention which would allow the Committee to receive and examine complaints alleging violations of the Convention. A similar recommendation is made by a United Nations expert group meeting on violence against women held in November.

#### 1993

The World Conference on Human Rights acknowledges the need for new procedures to strengthen implementation of women's rights and calls on the Commission on the Status of Women and the Committee to "quickly examine the possibility of introducing the right of petition through the preparation of an Optional Protocol to the Convention."

#### 1994

The Committee on the Elimination of Discrimination against Women agrees to examine the feasibility of introducing the right to petition through the preparation of an Optional Protocol to the Convention. The Commission on the Status of Women (CSW) recommends that an expert group meeting be convened to prepare a draft Optional Protocol. An independent expert group meeting is held at the Maastricht Centre for Human Rights and formulates a draft Optional Protocol.

### **1995**

At its fifteenth session, the Committee adopts suggestion number 7 which identifies the desirable “elements” of an optional protocol. The CSW recommends that the Economic and Social Council request the UN Secretary-General to seek the views of Governments, intergovernmental organizations and non-governmental organizations (NGOs) on an optional protocol. It also recommends that the Council establish an in-session open-ended working group on the Optional Protocol to meet in parallel with the Commission on the Status of Women in 1996. The Beijing Platform for Action supports the elaboration of the Optional Protocol.

### **1996**

The working group of the CSW on the Optional Protocol meets for the first time in 1996, and elects Ms. Aloisia Wörgetter of Austria as its Chairperson. The working group holds an exchange of views, and recommends that its mandate be renewed. The working group also recommends that the Commission invite the Secretary-General to seek further views from Governments, intergovernmental and non-governmental organizations (NGOs) on an Optional Protocol.

### **1997**

The in-session open-ended working group of the CSW meets for the second time and discusses a draft Optional Protocol prepared by its Chairperson. A member of the Committee on the Elimination of Discrimination against Women, Ms Silvia Cartwright, participates as a resource person. The working group recommends the renewal of its mandate for two further sessions.

### **1998**

The in-session open-ended working group of the CSW completes a second reading of the Chairperson's draft.

### **1999**

The fourth session of the in-session open-ended working group of the CSW completes its drafting of the optional protocol, and recommends its adoption by the Commission. The Commission transmits the draft for adoption by the General Assembly through the Economic and Social Council. By its resolution 54/4, the General Assembly adopts the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women on 6 October 1999 and calls on all States parties to the Convention to become party to the new instrument as soon as possible. The Optional Protocol is opened for signature, ratification and accession on 10 December 1999, Human Rights Day. Twenty-three States parties to the Convention sign the Optional Protocol on that day.

### **2000**

On 22 December 2000, three months after the deposit of the tenth instrument of ratification, the Optional Protocol enters into force.

### **2003**

A full ratification status of the Optional Protocol, as at 6 March 2003 can be found in Box N° 25.



## Special features of the Optional Protocol

The Optional Protocol has several special features, namely:

- ✓ No reservations can be entered to the Protocol's terms thereby precluding States parties isolating areas within the Convention from the reach of the communications procedure;
- ✓ There is an explicit follow-up procedure so the Committee can determine whether its recommendations have been complied with States have an obligation to publicize the Convention, the Optional Protocol and views adopted under the procedure;
- ✓ States have an obligation to take appropriate steps to ensure that individuals under its jurisdiction are not subjected to intimidation or ill-treatment as a result of using the Optional Protocol.

*The Optional Protocol "... will act as an incentive for Governments to take a fresh look at the means of redress that are currently available to women at the domestic level. This is perhaps the most important contribution of the Optional Protocol. It is action at the national level which will create the environment in which women and girls are able to enjoy all their human rights fully and where their grievances will be addressed with the efficiency and speed they deserve."*

Mary Robinson, United Nations High Commissioner for Human Rights, 22 December 2000

## Chapter 8

# Becoming party to the Optional Protocol

### Why should a State become party to the Optional Protocol?

The Optional Protocol encourages States to implement the Convention to avoid complaints being made against them. It provides an incentive for States to provide more effective local remedies and remove discriminatory laws and practices.

The Optional Protocol is a tool for States to:

- ✓ Improve on and add to existing enforcement mechanisms for women's rights;
- ✓ Enhance State and individual understanding of the Convention;
- ✓ Encourage States to take additional steps to implement the Convention;
- ✓ Foster changes in discriminatory laws and practices;
- ✓ Enhance existing mechanisms for the implementation of human rights within the United Nations system;
- ✓ Create greater public awareness of human rights standards relating to discrimination against women.

*“... the greatest value of instruments like the one before us today is their influence at the national level. I am convinced that the Optional Protocol will inspire Governments to look closely at the remedies available in their countries for preventing and redressing violations of the rights of women protected under the Convention. For ultimately, it is action at the national level that will create an environment where women and girls can enjoy all their human rights fully, and where their grievances will be addressed swiftly and seriously.”*

Mr. Kofi Annan, Secretary-General of the United Nations, 10 December 1999

## Box N° 25

### States parties having signed, ratified or acceded to the Optional Protocol to the Convention as at 6 March 2003

State	signature	Ratification (a) Accession
Andorra	9.07.2001	14.10.2002
Argentina	28.02.2000	
Austria	10.12.1999	6.09.2000
Azerbaijan	6.06.2000	1.06.2001
Bangladesh	6.09.2000	6.09.2000
Belarus	29.04.2002	
Belgium	10.12.1999	
Belize		9.12.2002 a
Benin	25.05.2000	
Bolivia	10.12.1999	27.09.2000
Bosnia and Herzegovina	7.09.2000	4.09.2002
Brazil	13.03.2001	28.06.2002
Bulgaria	6.06.2000	
Burkina Faso	16.11.2001	
Burundi	13.11.2001	
Cambodia	11.11.2001	
Canada		18.10.2002 a
Chile	10.12.1999	
Colombia	10.12.1999	
Costa Rica	10.12.1999	20.09.2001
Croatia	5.06.2000	7.03.2001
Cuba	17.03.2000	
Cyprus	8.02.2001	26.04.2002
Czech Republic	10.12.1999	26.02.2001
Denmark	10.12.1999	31.05.2000
Dominican Republic	14.03.2000	10.08.2001
Ecuador	10.12.1999	5.02.2002
El Salvador	4.04.2001	
Finland	10.12.1999	29.12.2000
France	10.12.1999	9.06.2000
Georgia		1.08.2002a
Germany	10.12.1999	15.01.2002
Ghana	24.02.2000	
Greece	10.12.1999	24.01.2002
Guatemala	7.09.2000	9.05.2002
Guinea-Bissau	12.09.2000	
Hungary		22.12.2000 a
Iceland	10.12.1999	6.03.2001
Indonesia	28.02.2000	
Ireland	7.09.2000	7.09.2000
Italy	10.12.1999	22.09.2000
Kazakhstan	6.09.2000	24.08.2001
Kyrgyzstan		22.07.2002 a
Lesotho	6.09.2000	
Liechtenstein	10.12.1999	24.10.2001
Lithuania	8.09.2000	
Luxembourg	10.12.1999	
Madagascar	7.09.2000	
Malawi	7.09.2000	
Mali		5.12.2000 a
Mauritius	11.11.2001	
Mexico	10.12.1999	15.03.2002
Mongolia	7.09.2000	28.03.2002
Namibia	19.05.2000	26.05.2000

State	signature	Ratification (a) Accession
Nepal	18.12.2001	
Netherlands	10.12.1999	22.05.2002
New Zealand	7.09.2000	7.09.2000
Nigeria	8.09.2000	
Norway	10.12.1999	5.03.2002
Panama	9.06.2000	9.05.2001
Paraguay	28.12.1999	14.05.2001
Peru	22.12.2000	9.04.2001
Philippines	21.03.2000	
Portugal	16.02.2000	26.04.2002
Romania	6.09.2000	
Russian Federation	8.05.2001	
São Tomé and Príncipe	6.09.2000	
Senegal	10.12.1999	26.05.2000
Seychelles	22.07.2002	
Sierra Leone	8.09.2000	
Slovakia	5.06.2000	17.11.2000
Slovenia	10.12.1999	
Solomon Islands		6.05.2002 a
Spain	14.03.2000	6.07.2001
Sri Lanka		15.10.2002 a
Sweden	10.12.1999	
Tajikistan	7.09.2000	
Thailand	14.06.2000	14.06.2000
The former Yugoslav Republic of Macedonia	3.04.2000	
Turkey	8.09.2000	29.10.2002
Ukraine	7.09.2000	
Uruguay	9.05.2000	26.07.2001
Venezuela	17.03.2000	13.05.2002

**Declarations and Reservations** (Unless otherwise indicated, the declarations and reservations were made upon ratification or accession.)

Bangladesh: Declaration: "The Government of the People's Republic of Bangladesh declares in accordance with article 10 (1) thereof, that it would not undertake the obligations arising out of articles 8 and 9 of the said Optional Protocol."

Belgium: Upon signature, Declaration: The Flemish, French and German-speaking Communities of Belgium are equally bound by this signature.

Belize: Declaration: "WHEREAS, Article 10 of the Optional Protocol declares that at the time of acceding to the Optional Protocol, a State Party may declare that it does not recognize the competence of the Committee provided for in Articles 8 and 9 of the Optional Protocol. NOW THEREFORE, BELIZE, after having carefully considered Articles 8 and 9 of the Optional Protocol, hereby declares that it does not recognize the competence of the Committee provided for in Articles 8 and 9."

Cuba Upon signature: Declaration: The Government of the Republic of Cuba declares that it does not recognize the competence of the committee established by virtue of articles 8 and 9 of the Protocol.

## How does a State become party to the Optional Protocol?

The Optional Protocol may only be ratified or acceded to by a State party to the Convention.

As the Optional Protocol creates further legal obligations, States parties to the Convention must express their consent to be bound to its terms by signature and ratification or accession. Ratification at the national level is insufficient, as the State party must deposit its instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations (see Chapter 4).

Although the Protocol does not allow for reservations, it includes a provision (article 10), allowing States upon ratification or accession to declare that they do not accept the inquiry procedure. Any State party which decides to “opt-out” of this procedure can withdraw this declaration at a later stage.

The Optional Protocol requires States to publicize the Optional Protocol and its procedures. Publicity for communications and inquiries will increase public awareness of the Convention and the Optional Protocol. This has been the case with communications submitted under existing human rights complaints procedures and in particular, communications considered by the Human Rights Committee under the First Optional Protocol to the International Covenant on Civil and Political Rights.

The Committee is empowered under the Optional Protocol to formulate “views” on communications, which may include recommendations. These recommendations may include a request to the State party concerned to take specific measures to remedy violations of the Convention.

Requests could include the following elements:

- ✓ The amendment or repeal of discriminatory legislation;
- ✓ The discontinuance of discriminatory practices, policies or programmes;
- ✓ Implementation of affirmative action measures;
- ✓ Provision of compensation to victims of sex discrimination.

# What you can do as a parliamentarian

As legislators, overseers of Government action, political leaders and representatives of the people, parliamentarians have a role to play to ensure ratification or accession of the Optional Protocol to the Convention.

## Ratification of the Optional Protocol to the Convention

If your State has not yet taken any steps to ratify or accede to the Optional Protocol to the Convention, even though it may have signed it, you can consider:

- ▷ Determining whether the Government intends to initiate action to become party to it and, if not, inquire as to why;
- ▷ Taking action, including in the form of an oral or a written question, to ascertain whether the Government has already initiated action with a view to ratification or accession, or is intending to do so;
- ▷ Submitting a private member's bill on the matter;
- ▷ Encouraging a parliamentary debate on the Optional Protocol;
- ▷ Mobilizing public opinion.

## The “opt-out-clause”

As previously indicated, according to article 17 of the Optional Protocol, no reservations can be entered. However, the Protocol entitles States parties to “opt-out” (article 10) of the inquiry procedure on ratification or accession.

**Pre-ratification:** If the Government has sent your Parliament a request for ratification or accession of the Protocol subject to a declaration of “opting-out” of the inquiry procedure, you can:

- ▷ Request detailed information on the reasons;
- ▷ Initiate a parliamentary debate on the question;
- ▷ Mobilize public opinion to encourage the Government to reconsider;
- ▷ Propose ratification or accession without “opting-out” of the procedure.

**Post-ratification:** If your State “opted-out” of the inquiry procedure at the time of ratifying or acceding to the Optional Protocol, you can:

- ▷ Inquire about the continued validity of this position;
- ▷ Use parliamentary procedures to challenge it;
- ▷ Use parliamentary procedures to encourage the Government to reconsider its position.

## Public awareness about the Optional Protocol

Public awareness about the Optional Protocol is crucial to securing full implementation of the Convention. As a parliamentarian you should ensure that information on the Optional Protocol is widely publicized by:

- ▷ Ensuring that the text of the Optional Protocol is translated into the national language(s) and widely distributed;
- ▷ Encouraging parliamentary debate on the matter;
- ▷ Organizing campaigns to mobilize public opinion on the Optional Protocol or taking part in public debates on the Optional Protocol, on television, radio or in meetings;
- ▷ Writing articles for newspapers, magazines and other print media on the Optional Protocol;
- ▷ Liaising with NGOs working on human rights, particularly women's rights;
- ▷ Organizing/contributing to workshops or information seminars for MPs, members of Government and civil society on the Optional Protocol;
- ▷ Using International Women's Day, 8 March, to focus attention on the Convention and the Optional Protocol.

# Chapter 9

## Using the Optional Protocol

### The communications procedure

This procedure permits individuals, or groups of individuals, directly or through representatives, to submit claims to the Committee of violations of rights protected under the Convention by a State party to the Convention and the Protocol.

#### Who can file a communication?

Any individual or a group of individuals whose rights under the Convention have been violated under the jurisdiction of a State that has ratified both the Convention and the Optional Protocol can file a communication.

Communications may be submitted on behalf of an individual or a group of individuals. This is important given the particular obstacles women face, including the danger of reprisals, low levels of literacy and legal literacy. Unless they can justify submitting complaints without the consent of the alleged victim or victims, representatives must have the victim's consent.

#### Against whom may a complaint be made?

A complaint can only concern a State party to the Convention and the Protocol. The alleged violations must be linked to State action or inaction or the conduct of State officials in their public functions (e.g. discriminatory laws, policies, programmes and practices, sex-discriminatory conduct or abuse by law enforcement officials or the military). Complaints should not concern the conduct of private individuals or institutions. However, communications may relate to the actions of private individuals or institutions if a State party has failed to take adequate preventive, remedial, punitive or compensatory measures to implement the obligations in the Convention. For example, article 2 of the Convention obliges States parties to take appropriate measures to eliminate discrimination by any person, organization or enterprise. Accordingly, a petitioner could claim that by failing to prevent, punish or remedy discrimination by a person, organization or enterprise, the State party was in violation of that article.

## **Which violations can form the subject of a communication?**

In order to form the subject of a communication under the Protocol, alleged violations must concern “any of the rights set forth in the Convention”. The Committee’s general recommendations should be considered in the interpretation of these rights. In particular, in its general recommendation 19, the Committee interpreted the definition of discrimination in article 1 of the Convention to include gender-based violence against women when it stated: “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. ...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.”

## **Which communications are considered to be inadmissible?**

A communication must go through two stages of consideration. The first is based on its admissibility, or whether the formal requirements for a communication have been satisfied and the second on its merits or substance. Although the Committee can consider these issues separately, admissibility and merits of a communication will usually be considered together.

A communication is inadmissible:

- ✓ If it is not in writing;
- ✓ If it is anonymous;
- ✓ If the State concerned has not ratified the Convention or the Optional Protocol;
- ✓ If all domestic remedies have not been exhausted, unless the application of such remedies is unreasonably prolonged or unlikely to give effective relief;
- ✓ If the same matter has been examined by the Committee or has been or is being examined by another procedure of international investigation or settlement;
- ✓ If the case is incompatible with the provisions of the Convention;
- ✓ If the case is manifestly ill-founded or not sufficiently substantiated;
- ✓ If the facts on which the claim is based occurred prior to the entry into force of the Optional Protocol, unless they continued after that date.

## **Where to send communications?**

Communications should be sent to:

Division for the Advancement of Women  
United Nations  
2 UN Plaza, DC2-12th Floor  
New York, NY 10017-USA  
Fax: +1 212 963 3463



## Box N° 26

### Using the communications procedure

#### Step 1

The complainant submits a communication or petition to the Committee's secretariat. This need not take any particular form, although the Committee has formulated guidelines for petitioners (see annex 9).

The petition must be in writing and contain the complainant's name, nationality, date of birth, and the State party against which the complaint is directed. If the complaint is being submitted on behalf of another person, evidence of their consent must be provided, or the petition must include an explanation justifying why the petition has been submitted without consent. The petition should set out the facts on which it is based, including that the complainant or the person on whose behalf she is acting, has been personally affected by the particular law, policy, programme or practice, act or omission of the State party concerned. The steps that have been taken to exhaust domestic remedies should be outlined, or the reasons why this rule should not apply explained, and information provided on whether it has been submitted to another means of international investigation or settlement. If the claim relates to actions occurring before the entry into force of the Protocol for the State party concerned, evidence that they continued after this date should be provided. The petition should also indicate why the facts set out constitute a violation of the Convention, if possible, identifying the articles of the Convention involved.

#### Step 2

The petition is then "registered" by the secretariat for consideration by the Committee, and brought to its attention. The Committee or its Working Group transmits the petition to the State party for its views on its admissibility and merits. The State party may decide to contest admissibility only, in which case it has two months to submit a response. Responses on both admissibility and merits must be submitted within six months. Once the State party provides its response, the petitioner is given a fixed period in which to comment, following which the communication will be submitted to the Committee for decision.

#### Step 3

If the Committee decides that the communication is inadmissible, it will inform the complainant and the State party. The matter may be reopened if further information is submitted which indicates that the reasons for inadmissibility no longer apply. After determining if the complaint is admissible, the Committee will proceed to consider its merits, and whether a violation of the Convention has indeed occurred. Proceedings take place behind closed doors and decisions are made in the light of all

written information made available to the Committee by the complainant and the State party, provided that information is submitted to the other party concerned. The Committee may also seek any documentation from the United Nations or other bodies that may assist it in its consideration of the complaint, provided that each party is given an opportunity to comment on this material.

#### Step 4

After consideration, the Committee adopts views and recommendations which are transmitted to the complainant and the State party. The State is required to submit a written response to the Committee detailing any action taken in light of its views and recommendations within six months. The Committee is entitled to request further follow-up information and request that this be included in the State party's next report under article 18 of the Convention. At any time between the submission of the communication, and the Committee's decision on the merits, the Committee may issue a request that the State party take "interim measures" as may be necessary to avoid possible "irreparable damage" to the victim or victims of the alleged violation. Such a request does not prejudge the admissibility or the merits of the claim. Requests for interim measures are usually issued to prevent actions such as torture or execution. Complainants should outline reasons why a request for interim measures should be made by the Committee in their communications.

*“The Optional Protocol will strengthen the hands of the domestic courts in giving effect to their domestic bills of rights and in implementing them in the light of the Convention....one of the main hurdles to implementation of human rights has been judicial apathy towards international treaties and unwillingness to look at them, or worse still, judicial ignorance of international norms. The same is true of lawyers. The fact that an international body can entertain complaints of violation and ask for the State party to remove discrimination is bound to give a great impetus to the removal of such apathy and enforcement of Convention rights by the domestic courts.”*

Justice Sujata Manohar (Former Judge of the Supreme Court of India)  
on the occasion of the opening for signature of the Optional Protocol,  
10 December 1999

## Box N° 27

### Examples of potential claims under the Optional Protocol

- ▷ A woman loses her nationality on marriage to a foreigner, but a man who marries a foreigner does not.
- ▷ A woman who marries a foreigner is not entitled to pass on her citizenship to her children, but no such restriction is placed on men who marry foreign women.
- ▷ Foreign men married to women citizens of a country have to apply for residence or work permits but foreign female spouses married to male citizens are automatically entitled to residence status or work permits.
- ▷ Women are not entitled to sell clan land while men are permitted to do so.
- ▷ A married woman does not have the right to bring court proceedings relating to joint matrimonial property, but her husband does.
- ▷ Immigrant women have to be citizens, born in the country, or have at least one parent born in the country before their foreign husbands can join them, while foreign men can have their foreign wives settle with them without restriction.
- ▷ In order to be eligible for certain social benefits, a woman has to show that she has been a “breadwinner”, whereas the same requirement is not imposed on a man.

## The inquiry procedure

This procedure, modelled on that provided by article 20 of the United Nations Convention against Torture, Inhuman and Degrading Treatment or Punishment, enables the Committee to initiate inquiries into reliable indications of grave or systematic violations by a State party of rights set forth in the Convention, provided that the State party concerned has not declared at the time of ratification or accession that it does not recognize the Committee's competence in this context. The procedure is confidential, but a summary of the Committee's activities must be provided in its annual report.

The Committee's rules of procedure provide that an inquiry may be instigated on the basis of information received from any source, including, for example, women's organizations and other groups, such as human rights groups. Information that appears to be submitted to initiate an inquiry must be forwarded by the secretariat to the Committee, and maintained in a permanent register. The Committee may instruct the secretariat to investigate the reliability of the information and seek further or corroborating information. After the Committee has examined the information and ascertained it is reliable, it then invites the State party concerned to comment within a certain time limit. The Committee

considers any comments, any additional information, including from representatives of the State party, governmental organizations, non-governmental organizations (NGOs) and individuals, as well as relevant United Nations documentation. On the basis of this information, the Committee may decide to designate one or more of its members to conduct an inquiry and report within a fixed time limit. The modalities of the inquiry are to be determined by the Committee, but the cooperation of the State party concerned is sought at all stages. An inquiry may include a visit to the State party with its consent which may include hearings.

After examining the findings of the inquiry, the Committee transmits those findings, together with its comments and recommendations to the State party, inviting it to indicate within six months its observations on the findings, comments and recommendations. The Committee is also entitled to request the State party to provide further details of any measures taken in response to the inquiry, including in its next report under article 18 of the Convention.

### **Prerequisites for an inquiry**

- ✓ The State concerned must be party to the Convention and the Protocol;
- ✓ It must not have declared under article 10 of the Protocol that it does not recognize the competence of the Committee in relation to inquiries;
- ✓ If the State concerned entered a declaration under article 10, this declaration must have been withdrawn;
- ✓ The Committee must receive information indicating grave or systematic violations of the rights set forth in the Convention by the State party concerned;
- ✓ The Committee must be satisfied that this information is reliable.

### **Examples**

Issues that could be addressed by the Committee include, for example:

- ✓ A grave violation, such as sati (widow burning);
- ✓ Broad restrictions on women's participation in public life;
- ✓ Trafficking in women;
- ✓ Violations of women's rights in a situation of armed conflict;
- ✓ Grave or systematic patterns of domestic violence which a State has failed to address.

*“The adoption of the Optional Protocol is a step forward in the consolidation of the norms which protect women’s rights by drawing States parties attention to the full implementation of the obligations of the Convention.”*

Ms. Aída González Martínez, Chairperson of the Committee,  
on the occasion of the opening for signature of the Optional Protocol,  
10 December 1999



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

The States Parties to the present Convention,

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

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

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

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

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

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

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

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

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

*Have agreed on the following:*

## **PART I**

### **Article 1**

For the 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 preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging 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 connexion 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 this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and nonformal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize 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; and
  - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

#### **Article 19**

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

#### **Article 20**

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

#### **Article 21**

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

#### **Article 22**

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

### **PART VI**

#### **Article 23**

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

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

#### **Article 24**

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

#### **Article 25**

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

#### **Article 26**

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

### **Article 27**

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

### **Article 28**

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

### **Article 29**

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

### **Article 30**

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

## Annex II

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

The States Parties to the present Protocol,

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

*Also noting* that the Universal Declaration of Human Rights 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 and other international human rights instruments prohibit discrimination on the basis of sex,

*Also recalling* the Convention on the Elimination of All Forms of Discrimination against Women (“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

## Model instruments of accession and of ratification

### MODEL INSTRUMENT OF ACCESSION

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

#### [ACCESSION]

**WHEREAS** the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

**NOW THEREFORE I**, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above mentioned [treaty, convention, agreement, etc.], accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

**IN WITNESS WHEREOF**, I have signed this instrument of accession at [place] on [date].

[Signature]

\* \* \* \*

### MODEL INSTRUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL

(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)

#### [RATIFICATION / ACCEPTANCE / APPROVAL]

**WHEREAS** the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

**AND WHEREAS** the said [treaty, convention, agreement, etc.] has been signed on behalf of the Government of [name of State] on [date],

**NOW THEREFORE I**, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above mentioned [treaty, convention, agreement, etc.], [ratifies, accepts, approves] the same and undertakes faithfully to perform and carry out the stipulations therein contained.

**IN WITNESS WHEREOF**, I have signed this instrument of [ratification, acceptance, approval] at [place] on [date].

[Signature]

## Annex IV

### Other international instruments of specific importance to women and girls

#### 2000

- ▷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children  
*Supplements the United Nations Convention Against Trans-national Organized Crime and is intended to "prevent and combat" trafficking in persons, and more especially in women and children, and facilitate international cooperation against such trafficking.*

#### 1999

- ▷ ILO Convention N° 182 on the Worst Forms of Child Labour  
*Requires ratifying States to eliminate some particularly unacceptable and hazardous forms of child labour within a short time frame (see IPU/ILO Handbook on the subject, N° 3, 2002).*

#### 1993

- ▷ Declaration on the Elimination of Violence against Women  
*Defines violence against women which it describes as "one of the crucial mechanisms by which women are forced into a subordinate position compared with men".*

#### 1989

- ▷ Convention on the Rights of the Child  
*The most comprehensive international treaty on the rights of the child.*

#### 1974

- ▷ Declaration on the Protection of Women and Children in Emergencies and Armed Conflicts  
*Highlights the rights and needs of women and children during armed conflict.*

#### 1973

- ▷ ILO Convention N° 138, Minimum Age Convention  
*Defines a range of minimum ages below which no child should be required to work.*

#### 1967

- ▷ Declaration on the Elimination of Discrimination against Women  
*Affirms 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".*

#### 1962

- ▷ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages  
*Decrees that no marriage can occur without the consent of both parties.*

#### 1960

- ▷ International Covenant on Economic, Social and Cultural Rights  
*Commits States parties to ensure economic, social and cultural rights and to ensure equality between women and men in their enjoyment. .*
- ▷ International Covenant on Civil and Political Rights  
*Delineates civil and political rights and requires equality before the law in the enjoyment of these rights.*
- ▷ Convention against Discrimination in Education  
*Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), it paves the way for equal educational opportunities for girls and women.*

### 1958

- ▷ ILO Discrimination (Employment and Occupation) Convention  
*Promotes equality of rights between men and women in the workplace.*

### 1957

- ▷ Convention on the Nationality of Married Women  
*Provides for the general principle that men and women have equal rights to acquire, change or retain their nationality and stipulates that neither the celebration nor the dissolution of marriage between a national and a foreigner, nor the change of nationality by the husband during marriage, shall automatically affect the nationality of the wife.*

### 1952

- ▷ Convention on the Political Rights of Women  
*Commits Member States to allow women to vote and hold public office on equal terms with men.*

### 1951

- ▷ ILO Equal Remuneration Convention  
*Establishes the principle and practice of equal pay for work of equal value.*

### 1949

- ▷ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others  
*Calls for the punishment of those procuring others for prostitution.*

### 1948

- ▷ Universal Declaration of Human Rights  
*Delineates human rights to be enjoyed by all without distinction of any kind, including sex.*

## Annex V

### Reporting guidelines

#### A. Introduction

- A.1. These guidelines replace all earlier reporting guidelines issued by the Committee on the Elimination of Discrimination against Women, (CEDAW/C/7/Rev.3) which may now be disregarded. The present guidelines do not affect the Committee's procedure in relation to any exceptional reports which may be requested which are governed by the Rule 48. 5 of the Committee's Rules of Procedure and its Decision 21/I on exceptional reports.
- A.2. These guidelines will be effective for all reports to be submitted after 31 December 2002.
- A.3. The guidelines should be followed by States parties in the preparation of initial and all subsequent periodic reports.
- A.4. Compliance with these guidelines will reduce the need for the Committee to request further information when it proceeds to consider a report; it will also help the Committee to consider the situation regarding human rights in every State party on an equal basis.

#### B. Reporting obligations in the Convention concerning reports

- B.1. Every State party, upon ratifying or acceding to the Convention, undertakes, under article 18, to submit, within a year of the Convention's entry into force for that State, an initial report on the legislative, judicial, administrative or other measures it has adopted to give effect to the provisions of the Convention and progress made in this respect; and thereafter periodic reports at least every four years and further whenever the Committee so requests.

#### C. General guidance for contents of all reports

- C.1. The articles and the Committee's general recommendations. The terms of the articles in Parts I, II, III and IV of the Convention must, together with general recommendations adopted by the Committee on any such article, or on a theme addressed by the Convention, be taken into account in preparing the report.
- C.2. Reservations and declarations. Any reservation to or declaration as to any article of the Convention by the State party should be explained and its continued maintenance justified. Taking account of the Committee's statement on reservations adopted at its eighteenth session (A/53/38/Rev.1, Part I), the precise effect of any reservation or declaration in terms of national law and policy should be explained. States parties that have entered general reservations which do not refer to a specific article, or which are directed at articles 2 and/or 3 should report on the effect and the interpretation of those reservations. States parties should provide information on any reservations or declarations they may have lodged with regard to similar obligations in other human rights treaties.

- C.3. Factors and difficulties. Article 18. 2 of the Convention provides that factors and difficulties affecting the degree of fulfilment of obligations under the Convention may be indicated. A report should explain the nature and extent of, and reasons for every such factor and difficulty, if any such exist; and should give details of the steps being taken to overcome these.
- C.4. Data and statistics. A report should include sufficient data and statistics disaggregated by sex relevant to each article and the general recommendations of the Committee to enable it to assess progress in the implementation of the Convention.
- C.5. Core document. Where the State party has already prepared a core document, this will be available to the Committee: it should be updated as necessary in the report, particularly as regards “General legal framework” and “Information and publicity” (HRI/CORE/1, annex).

## **D. The initial report**

### *D.1. General*

- D.1.1. This report is the State party's first opportunity to present to the Committee the extent to which its laws and practices comply with the Convention which it has ratified. The report should:
- Establish the constitutional, legal and administrative framework for the implementation of the Convention;
  - Explain the legal and practical measures adopted to give effect to the provisions of the Convention;
  - Demonstrate the progress made in ensuring enjoyment of the provisions of the Convention by the people within the State party and subject to its jurisdiction.

### *D.2. Contents of the report*

D.2.1. A State party should deal specifically with every article in Parts I, II, III and IV of the Convention; legal norms should be described, but that is not sufficient: the factual situation and the practical availability, effect and implementation of remedies and sanctions for violation of provisions of the Convention should be explained and exemplified.

D.2.2. The report should explain:

- Whether the Convention is directly applicable in domestic law on ratification, or has been incorporated into the national Constitution and or domestic law so as to be directly applicable;
- Whether the provisions of the Convention are guaranteed in a Constitution or other laws and to what extent; or
- If not, whether its provisions can be invoked before and given effect to by courts, tribunals and administrative authorities;

How article 2 of the Convention is applied, setting out the principal legal measures which the State party has taken to give effect to Convention rights; and the range of remedies available to persons whose rights may have been violated;

D.2.3. Information should be given about the judicial, administrative and other competent authorities having jurisdiction with respect to the implementation of the provisions of the Convention.



D.2.4. The report should include information about any national or official institution or machinery which exercises responsibility in implementing the provisions of the Convention provisions or in responding to complaints of violations of those provisions, and give examples of their activities in this respect.

D.2.5. The report should outline any restrictions or limitations, even of a temporary nature, imposed by law, practice or tradition, or in any other manner on the enjoyment of each provision of the Convention.

D.2.6. The situation of non-governmental organizations and women's associations and their participation in the implementation of the Convention and the preparation of the report.

### **D.3. Annexes to the report**

D.3.1. The report should contain sufficient quotations from or summaries the relevant principal constitutional, legislative and other texts which guarantee and provide remedies in relation to Convention rights. The reports should be accompanied by copies of these which will not be copied or translated, but will be available to members of the Committee.

## **E. Subsequent periodic reports**

E.1. In general the subsequent periodic reports of States parties should focus on the period between the consideration of their previous report and the presentation of the current reports. There should be two starting points for such reports:

- The concluding comments (particularly "Concerns" and "Recommendations") on the previous report;
- An examination by the State party of the progress made towards and the current implementation of the Convention within its territory or jurisdiction and the enjoyment of its provisions by those within its territory or jurisdiction.

E.2. Periodic reports should be structured so as to follow the articles of the Convention. If there is nothing new to report under any article it should be so stated. Periodic reports should also highlight any remaining obstacle to the participation of women on an equal basis with men in the political, social, economic, and cultural life of the State party.

E.3. The State party should refer again to the guidance on initial reports and on annexes, insofar as these may also apply to periodic reports.

E.4. There may be circumstances where the following matters should be addressed:

- There may have occurred a fundamental change in the State party's political and legal approach affecting Convention implementation: in such a case a full article-by-article report may be required;
- New legal or administrative measures may have been introduced which require the annexure of texts, and judicial or other decisions.

## **F. Optional protocol**

- F.1. If the State party has ratified or acceded to the Optional Protocol and the Committee has issued Views entailing provision of a remedy or expressing any other concern, relating to a communication received under that Protocol, a report should include information about the steps taken to provide a remedy, or meet such a concern, and to ensure that any circumstance giving rise to the communication does not recur.
- F.2. If the State party has ratified or acceded to the Optional Protocol and the Committee has conducted an inquiry under article 8 of the Optional Protocol, a report should include details of any measures taken in response to an inquiry, and to ensure that the violations giving rise to the inquiry do not recur.

## **G. Measures to implement outcomes of United Nations conferences, summits and reviews**

- G.1. In light of paragraph 323 of the Beijing Platform for Action adopted at the Fourth World Conference on Women in September 1995, initial and subsequent periodic reports of States parties should contain information on the implementation of the actions to be taken in regard to the 12 critical areas of concern identified in the Platform. Reports should also contain information on the implementation of the Further actions and initiatives to implement the Beijing Declaration and Platform for Action agreed by the twenty-third special session of the General Assembly, "Women 2000: gender equality, development and peace for the twenty-first session" in June 2000.
- G.2. Taking into account the gender dimensions of declarations, platforms and programmes of action adopted by relevant United Nations conferences, summits and General Assembly special sessions (such as the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Second World Assembly on Ageing), reports should include information on the implementation of specific aspects of these documents which relate to specific articles of the Convention in light of the subjects with which they deal (for example, migrant women, older women).

## **H. The Committee's consideration of reports**

### *H.1. General*

- H.1.1. The Committee intends its consideration of a report to take the form of a constructive discussion with the delegation, the aim of which is to improve the situation pertaining to Covenant rights in the State.

### *H.2. List of issues and questions with respect to periodic reports*

- H.2.1. On the basis of all information at its disposal, the Committee will supply in advance a list of issues or questions which will form the basic agenda for consideration of periodic reports. Written answers to the list of issues or questions will be required from the State party several months in advance of the session at which the report will be considered. The delegation should come prepared to address the list of issues and to respond to further questions from members, with such updated information as may be necessary; and to do so within the time allocated for consideration of the report.

### *H.3. The State party's delegation*

H.3.1. The Committee wishes to ensure that it is able effectively to perform its functions under article 18 and that the reporting State party should obtain the maximum benefit from the reporting requirement. The State party's delegation should, therefore, include persons who, through their knowledge of and competence to explain the human rights situation in that State, are able to respond to the Committee's written and oral questions and comments concerning the whole range of the Convention's provisions.

### *H.4. Concluding comments*

H.4.1. Shortly after the consideration of the report, the Committee will publish its concluding comments on the report and the constructive dialogue with the delegation. These concluding comments will be included in the Committee's annual report to the General Assembly; the Committee expects the State party to disseminate these conclusions, in all appropriate languages, with a view to public information and discussion.

### *H.5. Extra information*

H.5.1. In the course of the consideration of a report, the Committee may request or the delegation may offer further information; the secretariat will keep a note of such matters which should be dealt with in the next report.

## **I. Format of the report**

- I.1. Reports should be submitted in one of the six languages of the United Nations (Arabic, Chinese, English, French, Spanish or Russian). They should be submitted in hard and electronic form.
- I.2. Reports should be as concise as possible. Initial reports should be no more than 100 pages; periodic reports should be no more than 70 pages.
- I.3. Paragraphs should be sequentially numbered;
- I.4. The document should be on A4-sized paper; and presented in single-spaced format;
- I.5. The document should be printed on one side of each sheet of paper so as to allow for reproduction by photo-offset.

## Submission of a communication under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women entered into force on 22 December 2000. It entitles the Committee on the Elimination of Discrimination against Women, a body of 23 independent experts, to receive and consider communications (petitions) from, or on behalf of, individuals or a group of individuals who claim to be victims of violations of the rights protected by the Convention.

To be considered by the Committee, a communication:

- must be in writing;
- may not be anonymous;
- must refer to a State which is a party to both the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol;
- must be submitted by, or on behalf of, an individual or a group of individuals under the jurisdiction of a State which is a party to the Convention and the Optional Protocol. In cases where a communication is submitted on behalf of an individual or a group of individuals, their consent is necessary unless the person submitting the communication can justify acting on their behalf without such consent.

A communication will not normally be considered by the Committee:

- unless all available domestic remedies have been exhausted;
- where the same matter is being or has already been examined by the Committee or another international procedure;
- if it concerns an alleged violation occurring before the entry into force of the Optional Protocol for the State.

*In order for a communication to be considered the victim or victims must agree to disclose her/their identity to the State against which the violation is alleged. The communication, if admissible, will be brought confidentially to the attention of the State party concerned.*

\* \* \*

If you wish to submit a communication, please follow the guidelines below as closely as possible. Also, please submit any relevant information which becomes available after you have submitted this form.

Further information on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the rules of procedure of the Committee can be found at: <http://www.un.org/womenwatch/daw/cedaw/index.html>

### Guidelines for submission

The following questionnaire provides a guideline for those who wish to submit a communication for consideration by the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Please provide as much information as available in response to the items listed below.

**Send your communication to:**

Committee on the Elimination of Discrimination against Women  
c/o Division for the Advancement of Women, Department of Economic and Social Affairs  
United Nations  
2 UN Plaza, DC2-12th Floor  
New York, NY 10017 - USA  
Fax: +1 212 963 3463

**1. Information concerning the author(s) of the communication**

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Fax/tel./e-mail

Indicate whether you are submitting the communication as:

- Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual.
- On behalf of the alleged victim(s). Provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent.

**2. Information concerning the alleged victim(s) (if other than the author)**

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Fax/tel./e-mail

### 3. Information on the State party concerned

- Name of the State party (country)

### 4. Nature of the alleged violation(s)

Provide detailed information to substantiate your claim, including:

- Description of alleged violation(s) and alleged perpetrator(s)
- Date(s)
- Place(s)
- Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately.

### 5. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

- Type(s) of remedy sought
- Date(s)
- Place(s)
- Who initiated the action
- Which authority or body was addressed
- Name of court hearing the case (if any).

If domestic remedies have not been exhausted, explain why.

*Please note:* Enclose copies of all relevant documentation.

### 6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If yes, explain:

- Type of procedure(s)
- Date(s)
- Place(s)
- Results (if any)

*Please note:* Enclose copies of all relevant documentation.

### 7. Date and signature

Date/place: \_\_\_\_\_

Signature of author(s) and/or victim(s): \_\_\_\_\_

### 8. List of documents attached *(do not send originals, only copies)*

## Annex VII

### Further reading and resources

#### Publications and Articles:

Afra Afsharipour, "Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention", Colombia Law Review, vol. 99 (1), 1999, pp. 129-172.

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## The UN Division for the Advancement of Women

Part of the Department of Economic and Social Affairs (DESA) of the UN, the Division for the Advancement of Women (DAW) serves as a catalyst for advancing the global agenda on women's issues and mainstreaming a gender perspective in all sectors within and outside the UN. It works closely with governments, its partners in the UN system and civil society, including parliamentarians. DAW has four broad functions: analysis of gender issues; promotion of women's human rights; provision of gender advisory services and technical assistance; and co-ordination and outreach on issues of special relevance to women.

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DAW is also the technical and substantive secretariat for the Committee on the Elimination of Discrimination against Women, the treaty body which monitors implementation of the legal standards in the Convention on the Elimination of All Forms of Discrimination against Women. In addition to promoting ratification and accession to the Convention and its implementation at the national level, it provides support to the Committee in its work under the Convention's Optional Protocol. The Division provides technical assistance to States parties on implementation of the Convention, and particularly the fulfilment of the reporting obligation set out in article 18 of the Convention. It also prepares reports for intergovernmental bodies on women's human rights and violence against women.

The Division's work is overseen by the Special Adviser to the Secretary General of the UN on Gender Issues and Advancement of Women. The Special Adviser facilitates, monitors and advises on implementation of the overall policy goals of the UN with regard to gender analysis and gender mainstreaming; acts as an advocate for gender equality issues and gender mainstreaming throughout the UN system, and offers advice and support to senior managers on gender-related issues in their areas of responsibility. The Special Adviser provides advice to the UN Secretary-General on how gender perspectives can be fully integrated into the overall policy direction of the UN, and draws his attention to issues of particular concern to women globally so that they are given priority attention. She assists in the design of policies and strategies to achieve the targets set in the Strategic Plan of Action for the Improvement of the Status of Women in the UN system including the appointment and promotion of more women to policy and decision-making positions.

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"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 1, Convention on the Elimination of  
All Forms of Discrimination against Women, 1979*