

SRI LANKA

CEDAW A/42/38 (1987)

185. The Committee considered the initial report of Sri Lanka (CEDAW/C/5/Add.29 and CEDAW/C/5/Add.29/Amend.1) at its 88th, 92nd and 93rd meetings, held on 1 and 3 April 1987 (CEDAW/C/SR.88, 92 and 93).

186. The Committee commented on the report of Sri Lanka before it was introduced. Some experts expressed their concern about whether to consider the report, since it lacked adequate information on the situation of women in Sri Lanka. Other experts felt that the report had to be considered despite inadequate information, stating that, since the representative of Sri Lanka had come so far, it would be unfair not to allow her to present the country's initial report. One expert observed that the report had been submitted before the guidelines had been distributed. Another expert pointed out that similar short reports had been presented and the Committee had considered them; to disallow the report of a developing country, such as Sri Lanka, would amount to political prejudice. Others felt that the time had come to discontinue the practice of accepting reports that did not meet the standards that needed to be maintained.

187. After a long discussion regarding the acceptability of the report and the procedure to be followed in such cases, it was agreed that the report would be considered, since neither the Committee nor the Secretariat had informed the Government of Sri Lanka in advance that the report would not be considered. Experts considered, in addition, that the representative of Sri Lanka should inform her Government of the Committee's concern about the report: that the report did not present the true situation of women in Sri Lanka and also that it had not been prepared in accordance with the Convention. However, it was also suggested that those shortcomings could be rectified in the next report submitted by Sri Lanka. The Secretariat suggested that the Committee might wish to formulate procedures for future sessions, in case a similar situation arose.

188. The representative of Sri Lanka introduced her country's initial report by giving a summary of the historical, political, social, economic and cultural aspects. In the first part of the report, a general picture of the status of women in Sri Lanka was presented; the second part related to the articles of the Convention. She stated that, from the fourteenth century until independence in 1948, Sri Lanka had been under the domination of various colonial powers. Laws introduced during the social and economic development of the nineteenth century were outlined. Subsequently, revisions and events such as the introduction of universal suffrage, the first women Prime Minister and the introduction of the Free Education Scheme were enumerated.

189. In the second part of her statement, the representative of Sri Lanka presented information on specific articles of the Convention and additional up-to-date information on the organizations established and the initiatives taken by the Government. Among these was the setting up of a high-level committee to examine the possibility of formulating uniform laws to replace the different systems of personal laws.

190. The representative also mentioned that a proposal to grant 12 weeks maternity leave, which had already been introduced in the private sector of the labour market, had been approved by the Government also for the public sector.

191. She further informed the Committee that maternal and child health clinics as well as family planning devices were increasingly being made accessible to women. The Women's Bureau had centred its activities around mobilizing women in the rural areas to enable self-employment for rural women.

192. With regard to family law, the representative stated that a father was still considered the natural guardian of a child born within wedlock, but not of an illegitimate child. She also gave further information concerning divorce.

193. Experts thanked the representative of Sri Lanka, stating that they found the additional information helpful, but some of them considered that sufficient information had not been provided to make it possible to draw conclusions. Therefore, they were not able to make any comments on specific articles. Other regretted that some issues were totally left out in the report and asked whether that meant that the Government of Sri Lanka did not wish to make any observation on those issues.

194. Experts understood that many problems were faced by the country because of the variety of races, religions and ethnic groups, and they were pleased that the Ministry of Women's Affairs and the Women's Bureau had been established to deal with the problems of discrimination against women. It was asked whether any bureaux other than the Women's Bureau were under the authority of the Ministry of Women's Affairs.

195. While there was almost no discrimination in law against women in Sri Lanka and although the Constitution of Sri Lanka guaranteed equality, such discrimination still existed. It was felt that much remained to be done in the fields of education, employment and the status of rural women and that the problem of equality in family and personal law also required further attention. It was asked which problems had been identified by the Government of Sri Lanka as the main obstacles to the implementation of the Convention and which obstacles should be identified by the Ministry of Women's Affairs for action over the next three to five years. It seemed that the Government had shown the political will to bring about change and it was time for women to seize the initiative and fight for their rights. It was considered essential for women's organizations in Sri Lanka to work towards positive change, rather than merely to accept measures which, while protecting women, served to consolidate the patriarchal system.

196. It was pointed out that, according to article 18, paragraph 1 (b), of the Convention, the Committee could request a further report from Sri Lanka within a shorter period of time than the normal four years after the first report had been submitted to the Committee. Experts appealed to the Government of Sri Lanka to take the comments of the members of the Committee seriously and act accordingly to improve the situation of women in Sri Lanka. They also appealed to the Government of Sri Lanka to provide more information in the next report.

197. Experts wondered how a country could operate with different legal systems for different ethnic groups. It was pointed out that it would be logical to develop a single legal system that was applicable to all groups.

198. Information was requested on the role of the Supreme Court in the area of an alleged violation of article 126 of the Constitution and on whether there were any judgements in favour of women already. It was asked whether courts were prepared to enforce the law and who enforced the right to go to court.

199. More information was requested on development and the advancement of women with regard to article 3 of the Convention. It was asked whether the goals were sanctioned by all ethnic groups.

200. More information was requested concerning articles 4 and 5 of the Convention, particularly as to what actions were being taken by the Government.

201. Experts asked how the Ministry of Women's Affairs functioned and about its structure and its relationships with the women's bureaux, other women's organizations and national programmes for women's development. They also asked whether it had executive power and whether it represented ethnic groups. Details were requested on programmes and plans that were being developed in connection with the Convention and on how the information was presented to the population. It was asked whether there was a time limit for envisaged changes and if there was any hope that such changes would take place. It was asked whether there was any kind of discrimination against ethnic groups by the Government and whether those groups had any place to turn to for protection.

202. Information was requested on the actual situation with regard to prostitution, although it was prohibited by the Government, and on the link between prostitution and tourism and whether only prostitutes or also clients and others involved were prosecuted.

203. In that context, a question was asked about domestic violence in Sri Lanka and if there were any policies developed regarding it by the Women's Bureau. It was asked if rape and sexual harassment, in particular of women in custody during the civil strife, was a serious problem and whether means were being developed for the protection and improvement of conditions of women in Sri Lanka who were recruited as domestic servants in the Middle East.

204. Experts wanted to know whether it was possible for a woman in Sri Lanka to confer citizenship on a foreign husband and they also asked about divorce. They wondered if a wife was considered subordinate to her husband with regard to citizenship and how the concept of women achieving the rank and dignity of her husband should be understood.

205. More information was requested on education, particularly on the Sex Disqualification Removal Ordinance.

206. Concrete provisions to ban discrimination at work were considered necessary to achieve equality, and it was asked whether such provisions existed and, if not, whether there was any intention to enact such a law.

207. An explanation of the differences between maternity leave granted in the private and the public sectors was requested. It was asked what were the specific conditions under which women were in fact working at night. Experts also requested more concrete and up-to-date data on married women at work and on precise conditions of employment, such as social benefits, wages, health care and working hours. The protective legislation that existed could be counter-productive, and more details were requested on practical applications in Sri Lanka. It was felt that it could mean that employers would rather not employ women. It was also disturbing to note that the actual effect of laws and decrees seemed to be to limit the number of women who could work in the public sector. Particular concern was voiced about younger women in the work-force of multinational corporations, and more details were requested on wages and equal pay and on whether employment opportunities were maintained when the corporation left the country. It was pointed out that the Government had no reason to be proud of the high percentage of women working in ports and the free-trade zone, for the conditions there violated the relevant ILO Conventions.

208. Information was sought on the recruitment of Sri Lanka women to work in domestic service in the Middle East and whether measures were taken to deal with that issue.

209. It was asked whether women had access to health services and what part the 32 organizations played in the field of health services. Information was requested on sex education, population policy and access to family planning, particularly in rural areas, as well as on the situation with regard to policies on abortion.

210. Information was sought on the status of rural women in Sri Lanka, particularly on how they were mobilized in order to reach a high level of employment.

211. Experts asked about the different legal systems in existence in Sri Lanka. It was asked what happened when a man deserted a woman who was unable to own property in her name and what policies were being developed to stop impediments to women's rights, as seen in the difference in personal laws. It was also asked whether the personal laws were based on religion. More information was requested on the prospects of a uniform law in the future. The question of sexual harassment of incarcerated women was also raised.

212. It was suggested that the Ministry of Women's Affairs could work together with the Ministry of Justice and women's organizations in proposing a family code that would harmonize the different legal systems. Experts were concerned about the low minimum age at which women could be married, both because of the age itself and also because of the difference to that of men, and wondered if the Government planned to revise the law. They asked whether there were provisions for women who married at an early age to continue to be educated and trained for a future position in society. A clearer picture of the situation of single mothers was requested. Concern was expressed about the use of the terminology "legitimate" and "illegitimate", which was considered to be discriminatory.

213. It was asked if polygamy existed in any communities, whether arranged marriages still existed and whether there was a system of dowry and, if so, who controlled it. Experts asked what were the grounds for divorce, about the guardianship of children and whether the best interests of the child

were considered.

214. The representative of Sri Lanka thanked the Committee for its views and gave assurance that those views would be transmitted to her Government.

215. In replying to questions asked by experts, the representative of Sri Lanka stated that it was unfortunate that the alleged inadequacy of the initial report had not only created the unfavourable impression that discrimination against women was far from eliminated in Sri Lanka but had also raised the question of whether Sri Lanka was implementing the Convention at all. She hoped, however, that her replies would clarify the actual position of women in Sri Lanka.

216. The representative of Sri Lanka informed the Committee that the Government of Sri Lanka had established a Ministry of Women's Affairs and a Women's Bureau. She stated that the Women's Bureau had been established in 1978, and the Ministry of Women's Affairs was created in 1983. She explained that both bodies had been established as government agencies to increase the attention given to women's issues during the United Nations Decade for Women. She also elaborated on their roles and objectives. She briefly summarized the administrative structure of the Women's Bureau and the relationship between it, the Ministry of Women's Affairs and other organizations. She stated that "women's units" had been established in several ministries to co-ordinate women's activities and programmes with the Ministry of Women's Affairs. She explained that the Women's Bureau had a very comprehensive national strategy on such matters as the problems of women in development, goals and activities and the responsible institutions.

217. The representative of Sri Lanka affirmed that under the Constitution of Sri Lanka "all persons are equally protected by the law" and "no citizen shall be discriminated on the grounds of sex". She further stated that under article 12 (4) of the Constitution, it was recognized "that nothing shall prevent special provisions being made by the law, subordinate legislation or executive action for the advancement of women".

218. She also mentioned the significant role played by the Supreme Court and the Commission of Sri Lanka, which provided legal aid to indigent persons.

219. She stated that the goal of the programme of the Women's Bureau was to change attitudes and social and cultural patterns, to liberate women from any existing cultural conditioning, to discover changing perspectives and attitudes of women and to encourage shared responsibilities for household tasks between women and men.

220. She said that it was true that prostitution was linked to tourism; however, under the law of Sri Lanka, not only prostitutes but also clients were liable to penalties upon conviction. She also said that under the Brothels Ordinance Act, a person keeping a brothel could be prosecuted.

221. The representative of Sri Lanka pointed out that the major political parties in her country had established women's groups, but women's participation in the decision-making process was mainly confined to exercising the right to vote, owing to the greater family commitments of women. There were no legal barriers preventing women from entering public services, however,

222. The representative stated that there was no discrimination against women in the area of the representation at the international level. She added that Sri Lanka had three female diplomats at ambassador level.

223. She explained that “race” referred to the various ethnic groups in Sri Lanka. Concerning the statement that a wife acquired the rank and dignity of the husband, she stated that it merely meant that a wife assumed the family name of the husband.

224. The representative submitted further statistics to the Committee that showed that the number of girls and boys enrolling in schools was roughly equal and that 40 per cent of those who had enrolled at the university in 1984 had been women, although they were poorly represented in technical and agricultural institutions.

225. The representative of Sri Lanka referred to various statutes that pertained to employment for female employees, such as the Factories Ordinance and the Shop and Office Employees Act, which had provided safeguards for women. She further stated that both sexes enjoyed equal opportunities for employment. She also mentioned that the Maternity Benefits Ordinance stipulated that women’s employment could not be terminated because of pregnancy, confinement or related illness. The provision of maternity benefits, such as crèches and time off for breast feeding, had been described in the initial report.

226. The representative further mentioned that women were forbidden to work in mines, except in a managerial capacity where no manual labour was required. The regulation governing night work had been drawn up to give protection to women. As regards to disparity between the maternity leave available in the private sector and that in the public sector, she explained that the Government had, in principle, approved the proposal to increase maternity leave for public sector employees, and a study was currently under way to determine the effect the increase would have on government services. She also mentioned that the concept of equal pay for equal work was now recognized in Sri Lanka. She explained that the majority of workers in the clothing industry in the Free Trade Zone were women, who were considered to be cheap and easily dispensable labour. She also referred to the statistics in that regard. She mentioned the increase in the number of women working abroad, stating that it had reduced unemployment and brought additional foreign exchange. She also gave further statistics on the distribution of female employees among major occupational groups and in various ministries and governmental departments.

227. She said that Sri Lanka’s action programme for family health education had enabled house inspectors, public health nurses and midwives to reach even the most remote areas of the country and that the country was committed to the achievement of health for all by the year 2000, with particular emphasis on the health of mothers and children. She also stated that the Government was concerned at the rate of population growth and provided family planning services and financial incentives for those practising family planning. She also stated that abortion was a criminal offence in Sri Lanka.

228. She stated that the Women’s Bureau was trying to help rural women gain access to higher level jobs, although that problem affected rural men as well as women.

229. The representative of Sri Lanka further stated that an individual was subject to one of the systems of personal law by virtue of their religion, race or residence in a specified area of the country.

230. Regarding the age of marriage, she said that the age varied according to the personal law to which an individual was subjected. She revealed, however, that there was a proposal to raise the age of marriage to 21 years for both women and men under all legal systems in an attempt to reduce maternal mortality and the birth rate. She stated that, from 1975 to 1979, there had only been 500 cases of marriage in which the bride was under 16 years of age.

231. As regards the rights of married women to own property, she said that the only restriction on that right was contained in the Tesawalamai system of personal law, which stated that a married woman could not dispose of her immovable property without the consent of her husband. Nevertheless, she might apply to the court for such authority if her husband unreasonably withheld his consent. She also mentioned that, in case of divorce and the custody of children, judgement based on the best interests of the child had almost entirely replaced judgements granting automatic custody to the father.

232. On the issue of domestic violence, she said that, although official statistics did not indicate that it was a serious problem, Sri Lanka women had drawn attention to the issue, since women often refrained from reporting cases of domestic violence. She further stated that the national strategy of the Women's Bureau was to provide support for battered women and children. Assault or abduction of women was a criminal offence in Sri Lanka, and rape carried the death penalty. She also stated that sexual harassment of female prisoners did not seem to be a serious problem, because prison rules stipulated that female and male prisoners should be segregated and that female prisoners should be supervised by female officers.

233. Under universal law, grounds for divorce were adultery, desertion and incurable impotence at the time of marriage. Also, under all legal systems, the consent of the bride was a prerequisite for marriage, even in the case of an arranged marriage. The provision of a dowry was not a legal requirement, although a dowry was usually paid in the case of an arranged marriage. As regards polygamy, she said it was practised only among the Muslim community. The Government had considered the introduction of a single law, which would be binding on all ethnic groups and religions. However, the individuals subject to the various systems of personal law had resisted the introduction of a universal code, and in a domestic society the Government could not override their wishes.

234. On the rule of the Supreme Court in cases of alleged violation of the fundamental right to equality between the sexes, she stated that no such cases had been brought before the Supreme Court, although judgement had been passed in several cases on the violation of other fundamental rights. She reaffirmed that Sri Lanka would continue its programmes to try and achieve the full advancement of women.

235. The representative said that she hoped that the replies she had given to the Committee confirmed that there was no policy of discrimination against women in Sri Lanka.

236. The Chairperson congratulated the representative of Sri Lanka on the monumental task she had

achieved; it seemed that she had practically rewritten the report in the preceding two days.

237. Experts thanked and congratulated the representative of Sri Lanka for the additional valuable information and statistics submitted to the Committee. There was general consensus that the replies had been very useful. They were much more detailed than the initial report and had given a different picture of Sri Lankan women. The statement delivered by the representative of Sri Lanka had reaffirmed one expert's views on the working problems for women, such as in the Free Trade Zone, and the circumstances of work in Sri Lanka. It was stated that the questions and comments made by the Committee would assist the Government to produce a further report with more detailed information. It was said that the excellent replies given by the representative of Sri Lanka amply justified the Committee's decision to hear the presentation of the report of Sri Lanka.

CEDAW A/47/38 (1992)

374. The Committee considered the second periodic report of Sri Lanka (CEDAW/C/13/Add.18) at its 202nd meeting, on 28 January 1992.

375. The Committee noted that it was easily evident from a review of the situation of women in Sri Lanka (both initial and second periodic reports) that the problems of women did not lie in the sphere of the national law. Sri Lankan national law, based on the Constitution of 1973, provided for the fundamental right of equality between the sexes. A progressive Charter of Women was furthermore formulated (although reportedly not officially adopted) in 1991, and several levels of bureaucracies had been put in place with the objective of pushing for true equality.

376. The Committee said that despite a liberal constitutional framework and a tradition of progressive legislation, gender discrimination, both in its overt and covert forms, abounded in the country. The imperative need was to identify and address the factors that constituted the obstacles to de facto equality.

377. There were six areas, including one of violence, see below, that were suggested for close investigation as constituting major sources of continuing discrimination against women.

378. The representative of Sri Lanka stated in her opening remarks that discrimination as such was not prevalent in any part of the country. The situation created by the armed conflict was considered a national problem, and special treatment of women in that situation was not possible.

The impact of the internal armed conflict

379. The representative first replied to the questions asked under the heading “the impact of the internal armed conflict”. She said that military spending had increased from 2.3 per cent of the budget to 10 per cent. A complete recovery with regard to development programmes had however taken place over the last three years, facilitated by strong economic growth. Her country had also obtained concessional assistance for development and economic restructuring with a focus on rural marginalized subgroups. Those would undoubtedly have the effect of benefiting women. She stressed that even the worst of times had not seen the perpetration of discriminatory practices against women. Issues relating to displaced persons, refugees and their resettlement and rehabilitation were dealt with by the highest authorities. The peak of displaced persons had been reached with 1.2 million, a number currently reduced to 696,000 (163,500 families). No sex-disaggregated statistics were kept in that field. Five hundred and twenty-nine welfare centres had been established to house displaced persons and other assistance measures had been taken as well. The measures focused on the family unit and the assistance was given to the breadwinner, whether man or woman. The representative said that there were no women placed under military detention nor had any been forced into exile. Women arrested in conjunction with the insurrection were being treated under statutory law and were subject to established judicial tribunals. No sex-disaggregated statistics were kept concerning persons who had fled Sri Lanka. Measures for redress of grievances were available at courts of law irrespective of sex.

Effectiveness of government machinery (articles 1-4)

380. The Committee asked how many staff were working on women's issues in the Ministry of Women's Affairs and Teaching Hospitals (MWATH) compared to the staff of the Women's Bureau; who worked in the Women's Bureau as director, deputies and officers; whether it was women only or also men; and if they had separate budgets, and of what size.

381. It asked what the relationship was between MWATH and the Commission for the Elimination of Discrimination and the Monitoring of Fundamental Human Rights (CEDMFR).

382. The Committee requested further information on the objectives of the Women's Bureau, and the exact meaning of the phrase: "ensuring the preservation of Sri Lankan culture and traditions by fostering moral and ethnical values so far as they affect the role of women in the process of modernization".

383. It asked how many and which recommendations had been made concerning the equality of women before the law; what legislative proposals the Women's Bureau put forward to the Government, and which have been accepted.

384. It wanted to know the number of complaints of sex discrimination, and in what areas, filed with CEDMFR since 1986. It asked how many had been handled by the Commission, and with what results.

385. The Committee also asked why no sex discrimination complaint had been brought to the Supreme Court, and what the relationship was between the Supreme Court and the Commission in such matters. Did complaints have to be filed by individuals or could women's organizations file them. It was asked why the Government did not use the instrument of temporary special measures to overcome obstacles to the equality of women, and whether it had any plans to extend to women the special measures it had developed to advance the status of other disadvantaged groups. It asked what the status was of the Charter of Women; whether it had been formally adopted as legal or executive action; and if not, why not. It asked if the idea of a Charter had been scrapped, and if so, why.

386. The Committee asked if a national Commission on women proposed in the Charter of Women had been established, what its relationship was to the other bodies concerned with women's rights, and what its programme of action was in pursuit of the stated objectives. If it has not been set up, the Committee asked if the Government had plans along these lines.

387. The Committee noted that more than many other countries, Sri Lanka had established a firm legal and justiciable basis for gender equality and had established a number of governmental bodies to be responsible for government action on the issue. However, many observers had noted that, while the mandates of those agencies were comprehensive, actual achievements in advancing women's rights had been scarce.

388. The representative provided the following replies. The national machinery had the following

structure: at the top was the Ministry of Health and Women's Affairs (MHWA), headed by a woman cabinet minister. Within its infrastructure operated the State Ministry of Women's Affairs (headed by a woman State Minister), which had been assigned specific responsibilities in relation solely to women's affairs. The Women's Bureau was the implementing organ in relation to projects. Staff assigned to women's issues were as follows: three persons in the State Ministry (of which two were women, namely, the State Secretary and the Senior Minister); 17 in the Women's Bureau (of which 13 were women, including the Director, the two Deputy Directors and two of the three Assistant Directors); and 98 in the districts (field offices). The State Ministry and the Women's Bureau had their independent budgetary allocations. Development programmes were funded through foreign aid. As to the question relating to the links between MHWA and the Commission CEDMFR, which had been established in Sri Lanka in 1986, she replied that there were no special organizational links. The Ministry was involved in policy formulation and implementation, and the Commission had its strict guidelines. The purpose of CEDMFR was to receive complaints on discrimination on a broader spectrum. A total of 39 complaints of sex discrimination had been filed with CEDMFR. The Commission looked at all grounds of discrimination, sex being one of them. Of the complaints, 22 were by women and 17 from men. In 11 of the 22 cases no discrimination had been found, 6 applications had been settled or withdrawn and 5 cases were pending. The majority of cases alleged discrimination on more grounds than sex. CEDMFR used a conciliatory and mediatory process. No legal representation was required. Applications before the Supreme Court must be argued by Counsel and could be a costly exercise. The absence of sex discrimination complaints before the Supreme Court might perhaps also have to do with the inability to actually prove discrimination in a court of law. The Supreme Court was the highest court, and CEDMFR was empowered to attempt settlement by conciliation of any matter that might be referred to it by the Supreme Court. Only the aggrieved party could file a complaint with the Supreme Court. Complaints to CEDMFR could be made by women's organizations.

389. To date the use of temporary special measures had not been resorted to. No plans had been formulated for the purpose so far. The Charter for Women was available in draft form and was awaiting governmental approval. The Ministry of Women's Affairs was considering and would formulate the mechanism to monitor implementation of the Convention on the Elimination of All Forms of Discrimination against Women. That might include the appointment of a National Commission on Women. As to the objects and functions of the Women's Bureau, the representative said that they were reviewed as necessary to set desired priorities. Recently, the Bureau had been focusing on the promotion of economic activities among women and no recommendations concerning equality of women before the law had been made. The Bureau had not dealt with the area of legislative reform. The representative also said that Sri Lankan women, in their quest for advancement and equality, must not shed the positive features of moral and ethical standards.

Discrimination due to personal laws (articles 2, 3, 5 and 16)

390. The Committee said that from the initial report of Sri Lanka, the most disturbing feature that had emerged was the existence or application of several systems of "personal laws", based on differing social and cultural practices of ethnic or religious groups that denied women equal status with men before the law. The Government has given the information that a proposal to eradicate personal laws had been resisted by the parties concerned. Beyond identifying the specific issues

raised by the existence of conflicting laws, the attempt needed to be made to draw up a legal framework that will adhere to the constitutional principle of gender equality within the context of a multicultural and pluralistic society.

391. It was asked whether the State made a move to identify and codify all the personal laws that were discriminatory towards women. Those included laws that provide for preference for males in intestate succession (Muslim law); no obligation for the father to maintain an illegitimate child (Muslim); women's consent not being a prerequisite for a valid marriage (Muslim); and inability to dispose of immovable property without the husband's consent etc.

392. Since Sri Lanka made no reservations when it ratified the Convention, the question was raised of how the Government intended to resolve the contradiction between the constitutional provision and the teaching of human rights and the continued existence of discriminatory laws for women.

393. The Committee asked why personal status law was the only area in which religious and ethnic laws remained intact, while all other legal fields (e.g., criminal, contractual, civil) were governed by a single general law. It asked whether there was any system of redress for women covered by personal laws; if woman had been effectively consulted on their feelings and proposals regarding the disposition of personal laws and if temporary special measures had a role in beginning to dislodge the application of personal laws. Also, what other legal avenues were open to redress the situation.

394. The representative stated that it was indeed a difficult matter. An awareness of differences in personal law concerning men and women did exist. The attempted introduction of one national personal law had been met with resistance. A Muslim Law Reform Committee composed of women had been established to recommend reforms, where necessary. Areas that appeared to discriminate against women and that were being looked into by the Reform Committee included the preference for males to intestate succession. The justification used was that the husband had a duty to support the wife. Also, upon marriage, a Muslim was required to give Mehr (a kind of dowry) to the wife that she could claim at any time during marriage or she had a first charge on his estate. Another area of apparent discrimination was the lack of obligation by the father to maintain an illegitimate child. It was hoped that the Reform Committee would consider a change in attitude. Concerning the fact that the woman's consent was not a prerequisite for a valid marriage, it had to be said that the woman's consent was in fact a requirement but was largely breached. It was hoped that a firm proposal would be made by the Reform Committee to ensure compliance with the right to consent. Concerning the husband's right to practice polygamy, she said that a proposal was before the Reform Committee that would enable the wife to divorce the husband by unilateral decision if he entered into a second marriage. Customary law had been left in place by the colonial rulers as far as possible. Muslims had recourse to the Quazi courts in Muslim marriage and divorce matters; otherwise access to normal courts was available. Women seemed to be more concerned with the improvement of economic conditions and skills rather than with the reform of personal laws.

Socialization to traditional gender roles (articles 5, 10 and 11)

395. The second periodic report ascribed the continued subordination and marginalization of women in many spheres of life, e.g. public life, as being primarily self-imposed due to their own internalized

concept of women's appropriate role and responsibility in society.

396. The Committee asked a series of questions on that topic: What had been the results of the Women's Bureau's survey on the changing attitudes and perspectives of women? Had men been studied too? Did the Government see progress on the basis of that study in bringing about more equal roles and tasks in all areas of life? What measures were there to ensure that women completed that education, for example, had consideration been given to raising the age for marriage? What has been the role of education in perpetuating as well as eliminating gender stereotypes? What kind of curriculum and programme changes has the Government initiated since the Life Skills Project? Did young men and women study mathematics and science the same number of hours in secondary school? Were development efforts being undertaken, in either the public or the private sector, to provide for more vocational alternatives for women? What special measures has the Government introduced to motivate employers to place women in positions of skill or responsibility in both the private and public sectors? And, since the Government recognized that family duties constrained women's work in public life, what did the Government plan to do to alleviate those constraints (e.g., child care and flexible working time)?

397. The representative said that a survey planned by the women's Bureau on changing the attitudes of women had not been completed. As to the average age of marriage of women, she said that it was 26 years, in particular because more and more women were pursuing education and careers. Women were very conscious of getting an education. The need to incorporate a more realistic marriage age into the statute had been identified. The revision of school textbooks and teaching materials to eliminate gender stereotypes had begun. Elementary school students, irrespective of gender, were exposed to the same skills. No difference in the number of study hours for mathematics and science existed for males and females. A gradual diversification process in vocational skills was being introduced. The State had not been able to provide facilities for child care, flexible work hours etc.

Violence against women (articles 2, 5, 11, 12 and 16)

398. The Committee asked if women under personal laws suffer a greater incidence of domestic violence and sexual abuse, including rape, within the family, and if there was a higher incidence of violence against women in areas or communities where personal laws are in operation.

399. The representative replied that the fact that a woman was governed by Muslim law, Thesawalamai or Kandyan law certainly had had no effect on the use of violence.

Women in the economy (articles 6, 11 and 12)

400. The Committee noted that the economy of Sri Lanka was in critical shape and women, in the effort to keep their families above survival thresholds, had had to take jobs in vulnerable and unprotected spheres of work. There was a need to seek remedies to the situation by both short-term and long-term measures. Questions were asked, and answered by the representative, on different areas of work where women appeared to be especially vulnerable.

401. The representative, addressing these questions, stated that the majority of women workers were

employed on a year-round basis on tea plantations. She said that surveys indicated plantations' compliance with equal wage laws, and that maternity allowances applied. Medical facilities were provided. Programmes directed towards female plantation workers covered adult education, health, nutrition, sanitation, family planning etc. Infant mortality and maternal mortality rates had dropped considerably, literacy rates had increased and the quality of life had improved.

402. Regarding women in free trade zones (especially the garment industry), the Committee asked if wages and health regulations were protected by a trade union agreement and if women were allowed to associate, join trade unions, improve their working conditions and protect themselves from sexual harassment and violence.

403. The representative answered that women in free trade zones was an issue that had been identified as an area worthy of close scrutiny. It was believed that there was room for improvement in working and living conditions.

404. The Committee asked a number of questions on domestic workers employed overseas and in Sri Lanka.

405. The representative answered that the number of women domestic workers in the Middle and Far East was estimated at 250,000. A disproportionate number of Sri Lankan embassies were located in the countries of those regions. Certain mandatory conditions, such as minimum wage and return air fare, were set for employers to safeguard the interests of the women workers. An estimated 65,000 women reportedly had returned to Sri Lanka during the Gulf war. Over 30,000 of those had gone back abroad. Returnees obtained a compensation. If and when known, instances of rape, death etc., of domestic workers overseas led to appropriate governmental action. Domestic workers in Sri Lanka were not governed by labour laws, and there were no attempts to standardize wages or working hours. There was no system of redress, except for leaving the employment.

406. Regarding prostitution, the Committee asked if there were statistics available, such as on the number of women affected, and especially young girls, and also on the number of raids carried out and of the men and women arrested. It also asked what the development had been on the proposed legal changes affecting prostitution; if there were statistics on the incidence of AIDS; and what was being done to counteract that.

407. It was asked if the Women's Bureau intended to undertake studies on the effect on women of structural adjustment policies; sex tourism; export of female labour to home-based or entertainment-related overseas work; and free trade zones.

408. In answer to questions on prostitution, the representative said that she did not have statistics at her disposal. She said that adequate legal provisions existed, but that the focus must be on effective implementation. There were 39 cases of AIDS in men, and 10 in women. Information campaigns on AIDS were being carried out. A study on structural adjustment policies had been carried out by the Centre for Women's Research, a non-governmental organization. The suggestion of a study on sex tourism would be considered, and a study on women in free trade zones would be undertaken.

409. Members of the Committee thanked the representative for her answers. A number of additional questions were asked.

410. Referring to the armed conflict, members asked what the main incidences of violence against women were as a result of the conflict, and what kind of efforts the Government was making to solve the problem. Clarification was also sought on family and domestic violence. One member wondered whether it were possible to obtain an injunction against a husband in connection with violence. Further clarification and more details were sought on the issue of women in free trade zones, and in particular concerning the existence of trade unions, the right to organize, protection of young and vulnerable women etc. One member enquired about rural women and changes occurring in their roles of production and whether, and how, the Government assisted them. Reference was made to a report on missing persons, disaggregated by sex, that had been presented to the Government. The expert wondered whether any action had been taken on the basis of the report. Several members referred to the use, or non-use, of temporary special measures under article 4 of the Convention, and to affirmative action. Experts stressed the usefulness of such measures in overcoming de facto discrimination and obtaining a step-by-step improvement of women's situation. They wondered why the Government did not use such measures. Concerning personal law, it was asked whether women, especially young women, accepted the application of personal law, or whether they opted for national law instead. It was also asked what happened to women after divorce, what the precise provisions were under the Ordinary Code and whether proposals for reform of divorce law existed. It was asked whether the new measures on prostitution had removed the stigma attached to it, and what had been done in terms of rehabilitation. It was asked whether it was true that physical opposition had to be shown to bring a charge of rape. Concerning the dowry practice, one expert wondered how it was compatible with the fact that the Government had ratified the Convention, and whether the Government considered eliminating the practice. It was asked whether the Government was doing anything to stop migration.

411. In referring to the third periodic report, members looked forward to details on the activities of the new National Commission on Women, in particular with regard to measures under article 4 of the Convention. Since there seemed to be a strong legal foundation, members hoped for details concerning areas where there was no clear, apparent discrimination, and in particular with regard to the following four areas: (a) assistance to displaced persons and the fact that women's situation in such circumstances might be harder still; (b) a detailed review of complaints and redress before the Supreme Court and CEDMFR might be useful; (c) information on the availability of support for family responsibilities since the lack of such support systems often led to further disadvantages for women; and (d) the question might be addressed whether the Government, given the economic situation, had more worries for women than for men. By addressing those issues, the underlying conditions rather than apparent discrimination could be exposed.

412. In replying to additional questions, the representative stated that women in the armed conflict did not get special treatment. Concerning women working in the free trade zones, that was recognized to be a problem. The laws were there, but they were not always allowed to be implemented. The matter was being looked into. No change in the role of rural women could be observed. Women in rural areas would benefit greatly from poverty-elimination programmes under the family-unit approach. There were also opting for newer and easier vocations. No negative

economic effect was visible. Temporary special measures and affirmative action programmes would cause antagonistic reactions against women when they caused women to be placed in unfairly advantageous positions. The representative stated that there was so much natural progress anyway. She said that women could not opt out of their own personal law. She also said that since there was no serious agitation for reform from within, she inferred that women under Muslim law must be better off. Women argued that under that law they have a right to be treated justly. They did not feel that they were discriminated against. On the divorce question, she said that the statute provide for the payment of alimony, awarded by the judge, for the wife and children. Grounds for divorce are fault-based (desertion, adultery and impotence). A reform currently envisaged by the Government would establish the unified concept of the irretrievable breakdown. On the issue of rape, she explained that physical resistance would prove that there was no consent, but was in itself not necessary for bringing charges. The stigma on prostitution remained. The idea of using the Convention for steps against dowry was an interesting thought, the representative said. But law alone could not eliminate traditions. She agreed that there was definitely a need to amend the statute concerning the marriage age. Denying migration, she said, would be very unpopular, because it was based on economic needs. But the Government should instead look after these women before, during and after migration.

413. In closing, the Committee expressed its understanding for the difficulties faced by the Government of Sri Lanka. The efforts made to deal with the situation were appreciated. The Committee stated that some temporary special measures might be advisable and that it was up to the Government to decide which ones would be most useful examples since there were legal measures, measures in education and consciousness-raising measures. The representative was advised to look into the possibility of improving the situation and to speed up improvements. The next report should provide information. The aim of whatever measures the Government decided to take should be to bring the de jure and the de facto situation in the country into line with the provisions of the Convention. A balance must be found between what existed and the Convention. Progress should be achieved as quickly as possible without causing a backlash to the advancement of women.

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256. The Committee considered the third and fourth periodic reports of Sri Lanka (CEDAW/C/LKA/3-4) at its 545th and 546th meetings on 28 January 2002 (see CEDAW/C/SR.545 and 546).

(a) Introduction by the State party

257. In her introduction, the representative of Sri Lanka informed the Committee that Sri Lanka was sincerely committed to honouring its obligations under the Convention and that efforts to improve the status of women had been made not only in accordance with the country's obligations as a State party to the Convention, but also pursuant to the principle of equality enshrined in the country's Constitution.

258. Sri Lanka was a developing country, currently experiencing severe economic constraints resulting primarily from a long period of civil unrest which, besides draining the country's human and capital resources, also militated against its human development efforts. The representative indicated that approximately one third of the total population of Sri Lanka lived below the poverty line, with government welfare support, and that, despite this, Sri Lanka had sustained positive social indicators, particularly with regard to education and health. According to the 2001 Human Development Report, the human development index for Sri Lanka had risen to 81, while the country's gender development index was 70.

259. The representative informed the Committee that targeted State interventions had impacted favourably on women. The literacy rate of women had improved, thereby narrowing the literacy gap between women and men, as had women's educational achievements. Progress was also seen in relation to the increase in women's participation in the labour force. Women had penetrated into a variety of new fields hitherto dominated by men. Women's contributions to the country's foreign exchange earnings through employment overseas - in the export processing zones and the plantation sector - had received recognition, and rural women had been mobilized into economic activity through special savings, credit and skills development programmes.

260. With regard to health issues, the representative informed the Committee that the improvement of delivery systems had resulted in the reduction of maternal and infant mortality rates. She also indicated that the life expectancy of women had surpassed that of men and that women's visibility in the field of sports had increased.

261. The representative indicated that Sri Lankans' willingness to recognize gender equality at the highest level had been demonstrated in 1994, when a woman was elected executive President of the country. Sri Lanka continued to focus on: improving the law and order situation to address violence against women; eliminating gender stereotyping; introducing special care programmes for ageing women; introducing programmes for the improvement of the nutritional status of mothers; implementing educational programmes to prevent the spread of HIV/AIDS among women;

encouraging women to take up non-traditional vocations; and empowering women migrant workers and those employed in the export promotion zones. In addition, Sri Lanka continued to focus on providing humanitarian assistance to the families affected by the conflict, creating an enabling environment to motivate women to assume political leadership, engendering legislation and stepping up efforts in gender mainstreaming.

262. The Government had taken several measures to establish administrative mechanisms with proactive mandates in order to prevent abuse and harassment of persons affected by armed conflict, particularly women and children. The representative indicated that the Government was adopting a multi-pronged approach when protecting those internally displaced as a result of the conflict. Plans had been formulated and programmes implemented with respect to humanitarian assistance and compensation, for building temporary shelters and for dealing with resettlement and relocation. The representative informed the Committee that infrastructure facilities for displaced children had been provided and that a scholarship scheme had been introduced. Efforts were now being made by the Government to improve the health conditions of the internally displaced.

263. The representative informed the Committee that upholding human rights during the civil strife was a challenge, but that the Sri Lankan Government had introduced measures to that end. Violence against women and human rights violations committed by security personnel or police were not condoned. Sri Lanka submitted regular reports to the human rights machinery of the United Nations and was preparing to sign the Optional Protocol to the Convention.

264. The representative also stated that, over the preceding four years, the country's national machinery had been vested with various powers and functions. The new Government, established in December 2001, had directed that every programme contain a gender component and that the gender impact of every programme be assessed. That commitment was expected to provide the leverage for new initiatives for gender mainstreaming throughout the government machinery, facilitating the implementation of the components of the National Plan of Action for Women. The 2002 National Plan of Action for Women highlighted all priority areas of intervention, including the need to address the inadequate participation of women in power-sharing and decision-making processes. The representative stated that the political climate of the recent past was perceived as having created an environment that was detrimental to women's political participation and that, with a change in the political culture, it was hoped that women would be empowered to become partners in implementing values of good governance. The representative also stated that the Government expected the national legislation giving statutory recognition to the National Commission on Women to be enacted shortly.

265. The representative informed the Committee that the Law Commission of Sri Lanka had been requested to address inequities in national legislation. Reforms to personal laws in the multi-ethnic, multi-religious and multicultural society had to be attempted with due regard and sensitivity to deeply rooted pluralistic and ethnic beliefs.

266. In concluding her presentation, the representative noted that, in order to implement the Convention fully, the Government was working in cooperation with non-governmental organizations and with the support of the donor community. However, in its efforts to honour its obligations under

the Convention, the Government was faced with difficulties stemming from both the internal conflict and the external pressures arising from global uncertainties. Sri Lanka hoped the current initiatives towards securing a resolution to its internal conflict would be successful in order that the ensuing peace would bring benefits to Sri Lankan women.

(b) Concluding comments of the Committee

Introduction

267. The Committee expresses its appreciation to the State party for submitting its third and fourth periodic reports, which are in accordance with the Committee's guidelines for the preparation of periodic reports. It commends the State party for the written replies to the issues raised by the pre-session working group and for its oral presentation, which provided additional information on the current situation of the implementation of the Convention in Sri Lanka.

268. The Committee commends the State party for its delegation, headed by the Secretary of the Ministry of Women's Affairs, and including officials from various branches of Government, which enabled a frank and constructive dialogue with the members of the Committee. The Committee notes that governmental action, in particular the National Plan of Action for Women, is placed within the context of the implementation of the Beijing Platform for Action.

Positive aspects

269. The Committee commends the efforts to implement the Convention despite the difficult socio-political situation. It welcomes efforts to strengthen the national machinery on women, the introduction of gender mainstreaming and the adoption of a range of policies and programmes to eliminate discrimination against women, including the Women's Charter, the establishment of the Ministry of Women's Affairs, the National Committee on Women and the formulation of a National Plan of Action for Women.

270. The Committee commends the introduction of legal reforms that have been adopted since 1995, in particular the amendments to the Penal Code, which introduced new offences and more severe punishments with regard to violence against women, as well as the revision of the marriage laws, which increased the age of marriage, except in the case of Muslims, to 18 for both women and men.

271. The Committee commends the educational achievements and improved literacy rate of women, as well as the curriculum reforms and teacher training programmes to eliminate gender role stereotypes. The Committee also commends the easy access to family planning for women and men and the well-developed maternal and child health care system, which has contributed to a decline in maternal mortality.

272. The Committee welcomes the very active and lively participation of women's organizations in monitoring and implementing the Convention.

Factors and difficulties affecting the implementation of the Convention

273. The Committee recognizes that armed conflict in the north and east of the country and economic globalization place constraints on the situation of women and pose a serious challenge to the full implementation of the Convention.

Principal areas of concern and recommendations

274. The Committee expresses concern at the contradiction between the constitutional guarantees of fundamental rights and the existence of laws that discriminate against women. It is also concerned that constitutional provisions on fundamental rights do not create accountability for the actions of non-State actors and the private sector, and the fact that there is no opportunity for judicial review of legislation pre-dating the Constitution. The Committee is also concerned at the existence of discriminatory legislation, such as the Land Development Ordinance, and the provisions allowing for Muslim personal law, which, inter alia, does not provide a minimum age of marriage, as well as the nationality law which precludes Sri Lankan women from passing nationality to their children on an equal footing with men.

275. The Committee urges the State party to review all existing laws and amend discriminatory provisions so that they are compatible with the Convention and the Constitution. It urges the State party to ensure that constitutional rights are applicable to the activities of non-State actors and the private sector. The Committee further recommends that, in its efforts to eliminate discriminatory legislation, the State party take into account, where appropriate, suggestions and recommendations from bodies such as the Muslim personal law reforms committee set up by the Ministry of Muslim Religious and Cultural Affairs. The Committee also encourages the State party to obtain information on comparative jurisprudence, including that which interprets Islamic law in line with the Convention.

276. While welcoming the efforts of the State party to strengthen the national machinery for women and to introduce gender mainstreaming, the Committee notes with concern that the legal framework, institutional structures and human and financial resources remain insufficient to implement the Convention.

277. The Committee encourages the State party to expedite the establishment of the National Commission on Women, strengthen the gender focal points in government ministries, ensure sufficient human and financial resources for the implementation of the National Plan of Action, and strengthen the implementation of the Women's Charter, including through giving legal force to its provisions where appropriate to give effect to the principles of the Convention.

278. Despite the fact that women have occupied the position of head of Government of Sri Lanka, the Committee is concerned that, on the whole there is a very low level of representation of women in politics and public life.

279. The Committee urges the State party to take all necessary measures to increase the representation of women in politics and public life at the local, provincial and national levels, including through the implementation of temporary special measures, in accordance with article 4, paragraph 1, of the Convention.

280. Despite the progress in education for women and girls, the Committee is concerned about the underrepresentation of women in engineering and technology-related courses in tertiary education.

281. The Committee urges the State party to take all necessary measures to increase the representation of women in engineering and technology-related courses in tertiary education.

282. The Committee is concerned that women who become pregnant as a result of rape or incest have to endure significant physical and mental torture.

283. The Committee encourages the State party to reintroduce legislation to permit termination of pregnancy in cases of rape, incest and congenital abnormality of the foetus.

284. The Committee expresses its concern about the high incidence of violence against women, including domestic violence. The Committee is concerned that no specific legislation has been enacted to combat domestic violence and that there is a lack of systematic data collection on violence against women, in particular domestic violence. The Committee, while appreciating the many amendments to the Penal Code, notes with concern that marital rape is recognized only in the case of judicial separation. The Committee is also concerned that the police fail to respond to complaints of violence against women with gender sensitivity and effectively.

285. The Committee urges the State party to ensure the full implementation of all legal and other measures relating to violence against women, to monitor the impact of those measures and to provide women victims of violence with accessible and effective means of redress and protection. In the light of its general recommendation 19, the Committee requests the State party to enact legislation on domestic violence as soon as possible. The Committee recommends that the State party devise a structure for systematic data collection on violence against women, including domestic violence, disaggregated by sex and ethnic group. The Committee urges the State party to consider recognizing marital rape in all circumstances as a crime. The Committee recommends that the State party provide comprehensive training to the judiciary, police, medical personnel and other relevant groups on all forms of violence against women.

286. The Committee is alarmed by the high and severe incidences of rape and other forms of violence targeted against Tamil women by the police and security forces in the conflict areas. While recognizing the prohibition of torture in the Constitution and the establishment of the inter-ministerial working group to counter these acts of violence, the Committee is concerned that victims in remote areas might be unaware of their rights and of the manner in which to seek redress.

287. The Committee urges the State party to monitor strictly the behaviour of the police and the security forces, to ensure that all perpetrators are brought to justice and to take all necessary measures to prevent acts of violence against all women.

288. The Committee, while noting with appreciation the efforts of the State party to eliminate gender role stereotyping in formal education, expresses concern at the perpetuation of traditional stereotyped gender roles among the general public and in the media.

289. The Committee calls upon the State party to strengthen measures to eliminate stereotypical attitudes about the roles and responsibilities of women and men, including awareness-raising and educational campaigns directed at both women and men of the general public and at the media. It also calls upon the State party to undertake an assessment of the impact of its measures in order to identify shortcomings and to adjust and improve these measures accordingly.

290. The Committee is concerned about the low level of women's economic participation, the high unemployment rate of women, the inadequate protection for women working in the informal sector, such as domestic service and the weak enforcement of laws to protect women workers in the export processing zones. The Committee is also concerned that no data is available on the wage gap between women and men.

291. The Committee urges the State party to take all the necessary measures to increase the economic participation of women and ensure that women have equal access to the labour market and equal opportunities to, and at, work. The Committee calls on the State party to provide adequate protection and ensure the enforcement of labour laws for the benefit of all women workers in all areas. The Committee recommends that sex-disaggregated data on income distribution and wages be collected and included in the next report and that the State party take measures to ensure that a gender perspective is incorporated into all labour policies.

292. The Committee is concerned about the increasing number of women who migrate from Sri Lanka in search of work and find themselves in situations where they are vulnerable. Despite the protective measures taken by the State party, including mandatory registration and insurance coverage, these women are often subjected to abuse and sometimes death.

293. The Committee urges the State party to ensure the full and effective enforcement of the measures taken to protect women migrant workers, including preventing the activities of illegal employment agencies and ensuring that insurance covers the disabled and jobless after they return to Sri Lanka.

294. Noting that the majority of women live in rural areas, the Committee is concerned that economic policies do not incorporate a gender perspective and do not take into account rural women's role as producers.

295. The Committee urges the State party to recognize rural women's contributions to the economy by collecting sex-disaggregated data on rural production and to ensure the incorporation of a gender perspective in all development programmes, with special attention to minority rural women.

296. The Committee is concerned about the high percentage of households headed by women, many of whom are elderly, many illiterate and with meagre means of living.

297. The Committee urges the State party to develop policies and programmes to improve the situation of women-headed households and elderly women, including recognizing women-headed households as equal recipients and beneficiaries of development programmes.

298. The Committee expresses its concern about the continued situation of armed conflict in the north and east of Sri Lanka and the increase of internally displaced persons, the majority of whom are women and children.

299. The Committee urges the State party to allocate more resources to meet the needs of internally displaced women and children and to ensure their privacy, access to health facilities, security and protection from violence. The Committee calls on the State party to ensure full and equal participation of women in the process of conflict resolution and peace-building.

300. The Committee urges the State party to sign and ratify the Optional Protocol to the Convention and to deposit, as soon as possible, its instrument of acceptance of the amendment of article 20, paragraph 1, of the Convention on the meeting time of the Committee.

301. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report submitted under article 18 of the Convention. The Committee, in particular, requests the State party to provide information on the assessment and impact of all laws, policies, plans, programmes and other measures taken to implement the Convention.

302. The Committee requests the wide dissemination in Sri Lanka of the current concluding comments in order to make the people in Sri Lanka, in particular government administrators and politicians, aware of the steps that have been taken to ensure the de jure and de facto equality of women as well as of further steps that are required in this regard. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".