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Dear Ms Curry,

AMNESTY INTERNATIONAL'S RESPONSE TO THE CONCEPT NOTE: GENERAL DISCUSSION ON THE PROTECTION OF WOMEN'S HUMAN RIGHTS IN CONFLICT AND POST-CONFLICT CONTEXTS

Amnesty International welcomes the opportunity to comment on the Concept Note for the *General Discussion on the protection of women's human rights in conflict and post-conflict contexts* (the Concept Note), which was prepared in view of adopting a general recommendation on this issue by the Committee on the Elimination of Discrimination against Women (the Committee).

The organization would like to express at the outset its support for this initiative. The drafting of this general recommendation provides a key opportunity for the Committee to clarify legal duties to address gender-based discrimination during and following situations of armed conflict. The Concept Note shows how comprehensive the problems are. It also clarifies the important opportunity that arises following conflicts to discharge legal duties to transform pre-existing gender hierarchies, and entrenched and endemic discrimination against women in the post-conflict reconstruction processes.

This document sets out Amnesty International's observations and suggestions on some elements of the Concept Note, which includes some additional issues for the Committee to consider. Amnesty International considers the Concept Note to be very comprehensive. The overall approach of looking at women's rights in armed conflict and political crises, prevention and resolution of conflict, peace building and post-conflict reconstruction, is excellent.

Addressing state responsibility in its broadest sense

The most profound and practical question for the Committee to consider in this general recommendation is who is the legal duty holder, and who among the states parties to the Convention is legally required to take action in particular situations. In turn, it is also important to consider the broad spectrum of discrimination that women face, which can be perpetuated in situations of conflict and post conflict. The organization suggests in this respect that the issue of gender identity be added to the list of intersecting forms of discrimination listed on pages 3-4 (and other stages throughout the document), as transgender women may face more discrimination in conflict and post-conflict situations.

In the situation of armed conflict, the states parties to the Convention on the Elimination of All Forms of Discrimination against Women (the Convention) will either be a party to the conflict, or will have to deal with combatant non-state groups in other ways. In this context, it would be important for the Committee to specify how the state should improve or maintain women's equality during and after conflict. Given that state infrastructures tend to be impaired or destroyed during and after conflict, guidance as to what are the core functions with regard to gender equality, and how the state can continue to perform these functions during and after conflict, would be very helpful.

It would also be important to clarify that women's participation must be the bedrock of the post-conflict reconstruction, both in law and practice. This is particularly challenging bearing in mind that armed conflicts usually exacerbate existing gender discrimination in society and the majority of combatant leaders negotiating peace are men. In this regard, some practical guidance on the means by which these legal obligations can be implemented as well as the content of the legal obligation, is necessary. Guidance by non-governmental organizations, such as "Security Council Resolution 1325: Operational Guidelines for Conflict Resolution and Peace Processes" by the Initiative for Quiet Diplomacy may be helpful in this regard (available via this webpage: http://www.iqdiplomacy.org/images/stories/handbook/pdf/scr1325_iqd.pdf).

The role of other states parties

Other states parties to Convention may also have a role in conflict and post-conflict as advocates for peace-making in international diplomacy (as individual states or regional or other groups), senders of peace-keeping troops, bi-lateral and multi-lateral donors, or member states of international financial institutions. It would be very interesting to also consider states' responsibilities in the context of international cooperation and assistance in conflict or post-conflict situations.

In this context, it would be useful for the Committee to also highlight the need for states to provide technical or financial assistance in such situations - whether acting bilaterally or as part of inter-governmental multilateral institutions, including international financial institutions - to ensure that such assistance is consistent with states' obligations under the Convention as well as other human rights standards, including those pertaining to economic, social and cultural rights. It would be important for the Committee to outline that states' responsibilities related to the respect and protection of women's human rights in conflict and post-conflict contexts include a responsibility to ensure that all cooperation and assistance in such contexts takes into account women's right to participate fully in decisions which affect their human rights. States parties should assess the potentially differentiated impacts that their donor policies and programmes may have on the human rights of women and girls, including their economic, social and cultural rights, and take appropriate action to ensure that such programs transform, rather than entrench, existing gender stereotypes.

Comments on specific sections of the Concept Note:

Armed criminal groups, ineffective demobilization processes (pages 7 and 22)

Groups which are willing to use violence and intimidation, without a formal command structure, and which are primarily motivated through profiteering and criminal activities such as drugs or human trafficking, are just as significant as groups with a political motivation. These groups pose a complex risk to women in terms of Convention rights. It would be useful for the Committee to elucidate how they see Convention rights reaching women who are targeted by these groups, including in terms of the role of states other than that which is hosting the conflict.

With regard to demobilization, disarmament and reintegration (page 22 of the Concept Note), where there are ineffective demobilization and screening processes to assess criminal responsibility, there is a strong risk of perpetrators returning to communities where they have committed crimes (not limited to crimes of violence against women under international law, but other war crimes or crimes against humanity). Thus it is important for the Committee to consider the situation where demobilization is alleged to have taken place, but in reality the individuals in the groups continue to act in the same manner as before, during the armed conflict. These groups can continue to pose a threat to women's human rights, regardless of their official status as 'disbanded'. The Committee should take this opportunity to make recommendations or refer to good practice on demobilization.

Women's participation in peace agreements (page 22, paragraph 2) – article 7

It would be useful if the Committee could explain how to ensure that human rights norms and standards are incorporated into any peace agreement in a comprehensive way. This would include the

duties of states and UN bodies to work with the post-conflict authorities to enable women to exercise their right to political participation.

Women in the formal economy – article 11 (page 22, paragraph 3; page 29 and 30)

Invariably, women's empowerment is linked to economic participation in the formal workplace. The Committee could take this opportunity to provide a more complete approach to the cultural and traditional barriers to women's participation in the formal economy. For example, states should address the stereotype that women should not work outside the home, alongside stereotypes that men cannot undertake caring roles for children, the sick, or the aged, and that shared responsibility between men and women alike for maintaining the home, cooking, shopping, cleaning is appropriate and dignified. Otherwise, in post-conflict societies, women may be more likely to find paid work, but face a double burden of caring for the household before and after work, as well as working a full day in the formal economy, because men will not take responsibility for working for the home.

All women should be empowered to participate in the formal labour sector, not be confined to the home or informal working environments. Again with regard to stereotyping, it is for a limited time that parents (men and women) are limited by childcare responsibilities from working in the paid economy.

Responsibility for abuses by peacekeepers - sexual violence and trafficking (page 25) – article 6; general recommendation 19

It would be important for the Committee to emphasise what the UN's and the sending state party's responsibilities are, including in relation to prevention of violence, prosecution of perpetrators and provision of reparation to victims.

Healthcare must include access to sexual and reproductive rights healthcare – article 12 (page 28, paragraph 2)

Amnesty International is pleased to see the reference to psychosocial services in the Concept Note. It is of fundamental importance that women are able to access sexual and reproductive health care for the general population of women in conflict/post-conflict situations. This should not be restricted to victims of sexual violence.

Lesbian, bisexual and transgender (LBT) women (pages 10 and 29)

Amnesty International notes that sexual orientation is mentioned on pages 3 and 4 as a form of discrimination. Lesbian, bisexual and transgender women are often especially marginalised and therefore susceptible to increased economic hardship. It would be helpful to mention women who already face discrimination on grounds of sexual orientation and gender identity in lists of other marginalised groups of women throughout the document to ensure this discrimination is acknowledged consistently throughout the new General Comment.

Yours sincerely



pp. Lisa Gormley
Legal Adviser

