

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

II. GENERAL COMMENTS AND RECOMMENDATIONS

- CERD General Recommendation XXV (Fifty-sixth session, 2000): Gender-Related Dimensions of Racial Discrimination, A/55/18 (2000) 152.

1. The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.

2. Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.

3. Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination. The Committee believes that its practices in this regard would benefit from developing, in conjunction with the States parties, a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, colour, descent, or national or ethnic origin.

4. Accordingly, the Committee, when examining forms of racial discrimination, intends to enhance its efforts to integrate gender perspectives, incorporate gender analysis, and encourage the use of gender-inclusive language in its sessional working methods, including its review of reports submitted by States parties, concluding observations, early warning mechanisms and urgent action procedures, and general recommendations.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

5. As part of the methodology for fully taking into account the gender-related dimensions of racial discrimination, the Committee will include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to:

- (a) The form and manifestation of racial discrimination;
- (b) The circumstances in which racial discrimination occurs;
- (c) The consequences of racial discrimination; and
- (d) The availability and accessibility of remedies and complaint mechanisms for racial discrimination.

6. Noting that reports submitted by States parties often do not contain specific or sufficient information on the implementation of the Convention with respect to women, States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

- CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at paras. 8 and 16.

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[The Committee recommends]...that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

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8. Pay greater attention to the issue of multiple discrimination faced by non-citizens, in particular concerning the children and spouses of non-citizen workers, to refrain from applying different standards of treatment to female non-citizen spouses of citizens and male non-citizen spouses of citizens, to report on any such practices and to take all necessary steps to address them;

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16. Reduce statelessness, in particular statelessness among children, by, for example, encouraging their parents to apply for citizenship on their behalf and allowing both parents to transmit their citizenship to their children;

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

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- ICCPR General Comment 4 (Thirteenth session, 1981): Article 3: Equality Between the Sexes, A/36/40 (1981) 109 at paras. 1-3.
 1. Article 3 of the Covenant requiring, as it does, States parties to ensure the equal right of men and women to the enjoyment of all civil and political rights provided for in the Covenant, has been insufficiently dealt with in a considerable number of States reports and has raised a number of concerns, two of which may be highlighted.
 2. Firstly, article 3, as articles 2 (1) and 26 in so far as those articles primarily deal with the prevention of discrimination on a number of grounds, among which sex is one, requires not only measures of protection but also affirmative action designed to ensure the positive enjoyment of rights. This cannot be done simply by enacting laws. Hence, more information has generally been required regarding the role of women in practice with a view to ascertaining what measures, in addition to purely legislative measures of protection, have been or are being taken to give effect to the precise and positive obligations under article 3 and to ascertain what progress is being made or what factors or difficulties are being met in this regard.
 3. Secondly, the positive obligation undertaken by States parties under that article may itself have an inevitable impact on legislation or administrative measures specifically designed to regulate matters other than those dealt with in the Covenant but which may adversely affect rights recognized in the Covenant. One example, among others, is the degree to which immigration laws which distinguish between a male and a female citizen may or may not adversely affect the scope of the right of the woman to marriage to non-citizens or to hold public office.
- ICCPR General Comment 28 (Sixty-eighth session, 2000): Article 3: Equality of Rights Between Men and Women, A/55/40 vol. I (2000) 133 at paras. 1-32.
 1. The Committee has decided to update its general comment on article 3 of the Covenant and to replace General Comment No. 4 (thirteenth session, 1981), in the light of the experience it has gathered in its activities over the last 20 years. The present revision seeks to take account of the important impact of this article on the enjoyment by women of the human rights protected under the Covenant.
 2. Article 3 implies that all human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality. The full effect of this provision is

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

impaired whenever any person is denied the full and equal enjoyment of any right. Consequently, States should ensure to men and women equally the enjoyment of all rights provided for in the Covenant.

3. The obligation to ensure to all individuals the rights recognized in the Covenant, established in articles 2 and 3 of the Covenant, requires that States parties take all necessary steps to enable every person to enjoy those rights. These steps include the removal of obstacles to the equal enjoyment of such rights, the education of the population and of State officials in human rights, and the adjustment of domestic legislation so as to give effect to the undertakings set forth in the Covenant. The State party must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women. States parties must provide information regarding the actual role of women in society so that the Committee may ascertain what measures, in addition to legislative provisions, have been or should be taken to give effect to these obligations, what progress has been made, what difficulties are encountered and what steps are being taken to overcome them.

4. States parties are responsible for ensuring the equal enjoyment of rights without any discrimination. Articles 2 and 3 mandate States parties to take all steps necessary, including the prohibition of discrimination on the ground of sex, to put an end to discriminatory actions, both in the public and the private sector, which impair the equal enjoyment of rights.

5. Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female fetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights. States parties should furnish appropriate information on those aspects of tradition, history, cultural practices and religious attitudes which jeopardize, or may jeopardize, compliance with article 3, and indicate what measures they have taken or intend to take to overcome such factors.

6. In order to fulfil the obligation set forth in article 3, States parties should take account of the factors which impede the equal enjoyment by women and men of each right specified in the Covenant. To enable the Committee to obtain a complete picture of the situation of women in each State party as regards the implementation of the rights in the Covenant, this general comment identifies some of the factors affecting the equal enjoyment by women of the rights under the Covenant and spells out the type of information that is required with regard to these rights.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

7. The equal enjoyment of human rights by women must be protected during a state of emergency (art. 4). States parties which take measures derogating from their obligations under the Covenant in time of public emergency, as provided in article 4, should provide information to the Committee with respect to the impact on the situation of women of such measures and should demonstrate that they are non-discriminatory.

8. Women are particularly vulnerable in times of internal or international armed conflicts. States parties should inform the Committee of all measures taken during these situations to protect women from rape, abduction and other forms of gender-based violence.

9. In becoming parties to the Covenant, States undertake, in accordance with article 3, to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant, and in accordance with article 5, nothing in the Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights provided for in article 3, or at limitations not covered by the Covenant. Moreover, there shall be no restriction upon or derogation from the equal enjoyment by women of all fundamental human rights recognized or existing pursuant to law, conventions, regulations or customs, on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.

10. When reporting on the right to life protected by article 6, States parties should provide data on birth rates and on pregnancy- and childbirth-related deaths of women. Gender-disaggregated data should be provided on infant mortality rates. States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions. States parties should also report on measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings. The Committee also wishes to have information on the particular impact on women of poverty and deprivation that may pose a threat to their lives.

11. To assess compliance with article 7 of the Covenant, as well as with article 24, which mandates special protection for children, the Committee needs to be provided information on national laws and practice with regard to domestic and other types of violence against women, including rape. It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States parties should also provide the Committee with information on measures to prevent forced abortion or forced sterilization. In States parties where the practice of genital mutilation exists information on its extent and on measures to eliminate it should

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.

12. Having regard to their obligations under article 8, States parties should inform the Committee of measures taken to eliminate trafficking of women and children, within the country or across borders, and forced prostitution. They must also provide information on measures taken to protect women and children, including foreign women and children, from slavery, disguised, *inter alia*, as domestic or other kinds of personal service. States parties where women and children are recruited, and from which they are taken, and States parties where they are received should provide information on measures, national or international, which have been taken in order to prevent the violation of women's and children's rights.

13. States parties should provide information on any specific regulation of clothing to be worn by women in public. The Committee stresses that such regulations may involve a violation of a number of rights guaranteed by the Covenant, such as: article 26, on non-discrimination; article 7, if corporal punishment is imposed in order to enforce such a regulation; article 9, when failure to comply with the regulation is punished by arrest; article 12, if liberty of movement is subject to such a constraint; article 17, which guarantees all persons the right to privacy without arbitrary or unlawful interference; articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.

14. With regard to article 9, States parties should provide information on any laws or practices which may deprive women of their liberty on an arbitrary or unequal basis, such as by confinement within the house (see General Comment No. 8, para. 1).

15. As regards articles 7 and 10, States parties must provide all information relevant to ensuring that the rights of persons deprived of their liberty are protected on equal terms for men and women. In particular, States parties should report on whether men and women are separated in prisons and whether women are guarded only by female guards. States parties should also report about compliance with the rule that accused juvenile females shall be separated from adults and on any difference in treatment between male and female persons deprived of liberty, such as access to rehabilitation and education programmes and to conjugal and family visits. Pregnant women who are deprived of their liberty should receive humane treatment and respect for their inherent dignity at all times, and in particular during the birth and while caring for their newborn children; States parties should report on facilities to ensure this and on medical and health care for such mothers and their babies.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

16. As regards article 12, States parties should provide information on any legal provision or any practice which restricts women's right to freedom of movement, for example the exercise of marital powers over the wife or of parental powers over adult daughters; legal or *de facto* requirements which prevent women from travelling, such as the requirement of consent of a third party to the issuance of a passport or other type of travel documents to an adult woman. States parties should also report on measures taken to eliminate such laws and practices and to protect women against them, including reference to available domestic remedies (see General Comment No. 27, paras. 6 and 18).

17. States parties should ensure that alien women are accorded on an equal basis the right to submit arguments against their expulsion and to have their case reviewed, as provided in article 13. In this regard, they should be entitled to submit arguments based on gender-specific violations of the Covenant such as those mentioned in paragraphs 10 and 11 above.

18. States parties should provide information to enable the Committee to ascertain whether access to justice and the right to a fair trial, provided for in article 14, are enjoyed by women on equal terms with men. In particular, States parties should inform the Committee whether there are legal provisions preventing women from direct and autonomous access to the courts (see Communication No. 202/1986, *Ato del Avellanal v. Peru*, Views of 28 October 1988); whether women may give evidence as witnesses on the same terms as men; and whether measures are taken to ensure women equal access to legal aid, in particular in family matters. States parties should report on whether certain categories of women are denied the enjoyment of the presumption of innocence under article 14, paragraph 2, and on the measures which have been taken to put an end to this situation.

19. The right of everyone under article 16 to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies that the capacity of women to own property, to enter into a contract or to exercise other civil rights may not be restricted on the basis of marital status or any other discriminatory ground. It also implies that women may not be treated as objects to be given, together with the property of the deceased husband, to his family. States must provide information on laws or practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment.

20. States parties must provide information to enable the Committee to assess the effect of any laws and practices that may interfere with women's right to enjoy privacy and other rights protected by article 17 on the basis of equality with men. An example of

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

such interference arises where the sexual life of a woman is taken into consideration in deciding the extent of her legal rights and protections, including protection against rape. Another area where States may fail to respect women's privacy relates to their reproductive functions, for example, where there is a requirement for the husband's authorization to make a decision in regard to sterilization; where general requirements are imposed for the sterilization of women, such as having a certain number of children or being of a certain age, or where States impose a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion. In these instances, other rights in the Covenant, such as those of articles 6 and 7, might also be at stake. Women's privacy may also be interfered with by private actors, such as employers who request a pregnancy test before hiring a woman. States parties should report on any laws and public or private actions that interfere with the equal enjoyment by women of the rights under article 17, and on the measures taken to eliminate such interference and to afford women protection from any such interference.

21. States parties must take measures to ensure that freedom of thought, conscience and religion, and the freedom to adopt the religion or belief of one's choice - including the freedom to change religion or belief and to express one's religion or belief - will be guaranteed and protected in law and in practice for both men and women, on the same terms and without discrimination. These freedoms, protected by article 18, must not be subject to restrictions other than those authorized by the Covenant and must not be constrained by, *inter alia*, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion; States parties should therefore provide information on the status of women as regards their freedom of thought, conscience and religion, and indicate what steps they have taken or intend to take both to eliminate and prevent infringements of these freedoms in respect of women and to protect their right not to be discriminated against.

22. In relation to article 19, States parties should inform the Committee of any laws or other factors which may impede women from exercising the rights protected under this provision on an equal basis. As the publication and dissemination of obscene and pornographic material which portrays women and girls as objects of violence or degrading or inhuman treatment is likely to promote these kinds of treatment of women and girls, States parties should provide information about legal measures to restrict the publication or dissemination of such material.

23. States are required to treat men and women equally in regard to marriage in accordance with article 23, which has been elaborated further by General Comment No. 19 (1990). Men and women have the right to enter into marriage only with their free and full consent, and States have an obligation to protect the enjoyment of this right on

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

an equal basis. Many factors may prevent women from being able to make the decision to marry freely. One factor relates to the minimum age for marriage. That age should be set by the State on the basis of equal criteria for men and women. These criteria should ensure women's capacity to make an informed and uncoerced decision. A second factor in some States may be that either by statutory or customary law a guardian, who is generally male, consents to the marriage instead of the woman herself, thereby preventing women from exercising a free choice.

24. Another factor that may affect women's right to marry only when they have given free and full consent is the existence of social attitudes which tend to marginalize women victims of rape and put pressure on them to agree to marriage. A woman's free and full consent to marriage may also be undermined by laws which allow the rapist to have his criminal responsibility extinguished or mitigated if he marries the victim. States parties should indicate whether marrying the victim extinguishes or mitigates criminal responsibility and, in the case in which the victim is a minor, whether the rape reduces the marriageable age of the victim, particularly in societies where rape victims have to endure marginalization from society. A different aspect of the right to marry may be affected when States impose restrictions on remarriage by women that are not imposed on men. Also, the right to choose one's spouse may be restricted by laws or practices that prevent the marriage of a woman of a particular religion to a man who professes no religion or a different religion. States should provide information on these laws and practices and on the measures taken to abolish the laws and eradicate the practices which undermine the right of women to marry only when they have given free and full consent.

It should also be noted that equality of treatment with regard to the right to marry implies that polygamy is incompatible with this principle. Polygamy violates the dignity of women. It is an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.

25. To fulfil their obligations under article 23, paragraph 4, States parties must ensure that the matrimonial regime contains equal rights and obligations for both spouses with regard to the custody and care of children, the children's religious and moral education, the capacity to transmit to children the parent's nationality, and the ownership or administration of property, whether common property or property in the sole ownership of either spouse. States parties should review their legislation to ensure that married women have equal rights in regard to the ownership and administration of such property, where necessary. Also, States parties should ensure that no sex-based discrimination occurs in respect of the acquisition or loss of nationality by reason of marriage, of residence rights, and of the right of each spouse to retain the use of his or her original family name or to participate on an equal basis in the choice of a new family name. Equality during marriage implies that husband and wife should participate equally in responsibility and authority within the family.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

26. States parties must also ensure equality in regard to the dissolution of marriage, which excludes the possibility of repudiation. The grounds for divorce and annulment should be the same for men and women, as well as decisions with regard to property distribution, alimony and the custody of children. Determination of the need to maintain contact between children and the non-custodial parent should be based on equal considerations. Women should also have equal inheritance rights to those of men when the dissolution of marriage is caused by the death of one of the spouses.

27. In giving effect to recognition of the family in the context of article 23, it is important to accept the concept of the various forms of family, including unmarried couples and their children and single parents and their children, and to ensure the equal treatment of women in these contexts (see General Comment No. 19, para. 2). Single-parent families frequently consist of a single woman caring for one or more children, and States parties should describe what measures of support are in place to enable her to discharge her parental functions on the basis of equality with a man in a similar position.

28. The obligation of States parties to protect children (art. 24) should be carried out equally for boys and girls. States parties should report on measures taken to ensure that girls are treated equally to boys in education, in feeding and in health care, and provide the Committee with disaggregated data in this respect. States parties should eradicate, both through legislation and any other appropriate measures, all cultural or religious practices which jeopardize the freedom and well-being of female children.

29. The right to participate in the conduct of public affairs is not fully implemented everywhere on an equal basis. States parties must ensure that the law guarantees to women the rights contained in article 25 on equal terms with men and take effective and positive measures to promote and ensure women's participation in the conduct of public affairs and in public office, including appropriate affirmative action. Effective measures taken by States parties to ensure that all persons entitled to vote are able to exercise that right should not be discriminatory on the grounds of sex. The Committee requires States parties to provide statistical information on the percentage of women in publicly elected office, including the legislature, as well as in high-ranking civil service positions and the judiciary.

30. Discrimination against women is often intertwined with discrimination on other grounds such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. States parties should address the ways in which any instances of discrimination on other grounds affect women in a particular way, and include information on the measures taken to counter these effects.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

31. The right to equality before the law and freedom from discrimination, protected by article 26, requires States to act against discrimination by public and private agencies in all fields. Discrimination against women in areas such as social security laws (Communications Nos. 172/84, *Broeks v. The Netherlands*, Views of 9 April 1987; 182/84, *Zwaan de Vries v. The Netherlands*, Views of 9 April 1987; 218/1986, *Vos v. The Netherlands*, Views of 29 March 1989) as well as in the area of citizenship or rights of non-citizens in a country (Communication No. 035/1978, *Aumeeruddy-Cziffra et al. v. Mauritius*, Views adopted 9 April 1981) violates article 26. The commission of so-called “honour crimes” which remain unpunished constitutes a serious violation of the Covenant and in particular of articles 6, 14 and 26. Laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment. The Committee has also often observed in reviewing States parties reports that a large proportion of women are employed in areas which are not protected by labour laws and that prevailing customs and traditions discriminate against women, particularly with regard to access to better paid employment and to equal pay for work of equal value. States parties should review their legislation and practices and take the lead in implementing all measures necessary to eliminate discrimination against women in all fields, for example by prohibiting discrimination by private actors in areas such as employment, education, political activities and the provision of accommodation, goods and services. States parties should report on all these measures and provide information on the remedies available to victims of such discrimination.

32. The rights which persons belonging to minorities enjoy under article 27 of the Covenant in respect of their language, culture and religion do not authorize any State, group or person to violate the right to the equal enjoyment by women of any Covenant rights, including the right to equal protection of the law. States should report on any legislation or administrative practices related to membership in a minority community that might constitute an infringement of the equal rights of women under the Covenant (Communication No. 24/1977, *Lovelace v. Canada*, Views adopted July 1981) and on measures taken or envisaged to ensure the equal right of men and women to enjoy all civil and political rights in the Covenant. Likewise, States should report on measures taken to discharge their responsibilities in relation to cultural or religious practices within minority communities that affect the rights of women. In their reports, States parties should pay attention to the contribution made by women to the cultural life of their communities.

- ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from provisions of the Covenant during a state of emergency, A/56/40 vol. I (2001) 202 at para. 8.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

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8. According to article 4, paragraph 1, one of the conditions for the justifiability of any derogation from the Covenant is that the measures taken do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. Even though article 26 or the other Covenant provisions related to non-discrimination (arts. 2, 3, 14, para. 1, 23,

para. 4, 24, para. 1, and 25) have not been listed among the non-derogable provisions in article 4, paragraph 2, there are elements or dimensions of the right to non-discrimination that cannot be derogated from in any circumstances. In particular, this provision of article 4, paragraph 1, must be complied with if any distinctions between persons are made when resorting to measures that derogate from the Covenant.

- ICESCR General Comment 4 (Sixth session, 1991): Article 11(1): The Right to Adequate Housing, E/1992/23 (1991) 114 at para. 6.

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6. The right to adequate housing applies to everyone. While the reference to "himself and his family" reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of "family" must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination.

- ICESCR General Comment 5 (Eleventh session, 1994): Persons with Disabilities, E/1995/22 (1994) 99 at para. 19.

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19. Persons with disabilities are sometimes treated as genderless human beings. As a result, the double discrimination suffered by women with disabilities is often neglected. 17/ Despite frequent calls by the international community for particular emphasis to be placed upon their situation, very few efforts have been undertaken during the Decade. The neglect of women with disabilities is mentioned several times in the report of the Secretary-General on the implementation of the World Programme of Action. 18/ The Committee therefore urges States parties to address the situation of women with disabilities, with high priority being given in future to the implementation of economic,

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

social and cultural rights-related programmes.

Notes

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17/ [For a comprehensive review of the question, see the final report prepared by Mr. Leandro Despouy, Special Rapporteur on human rights and disability (E/CN.4/Sub.2/1991/31)], para.140.

18/ A/47/415, paras. 35, 46, 74 and 77.

- ICESCR General Comment 7 (Sixteenth session, 1997): The Right to Adequate Housing (art. 11(1) of the Covenant): Forced Evictions, E/1998/22 (1997) 113 at para. 11.

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11. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.

- ICESCR General Comment 11 (Twentieth session, 1999): Article 14: Plans of Action for Primary Education, E/2000/22 (1999) 99 at para. 6.

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6. Compulsory. The element of compulsion serves to highlight the fact that neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education. Similarly, the prohibition of gender discrimination in access to education, required also by articles 2 and 3 of the Covenant, is further underlined by this requirement. It should be emphasized, however, that the education offered must be adequate in quality, relevant to the child and must promote the realization of the child's other rights.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

- ICESCR General Comment 12 (Twentieth session, 1999): Article 11: The Right to Adequate Food, E/2000/22 (1999) 102 at paras. 21 and 26.

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21. The most appropriate ways and means of implementing the right to adequate food will inevitably vary significantly from one State party to another. Every State will have a margin of discretion in choosing its own approaches, but the Covenant clearly requires that each State party take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food. This will require the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks. It should also identify the resources available to meet the objectives and the most cost-effective way of using them.

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26. The strategy should give particular attention to the need to prevent discrimination in access to food or resources for food. This should include: guarantees of full and equal access to economic resources, particularly for women, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology; measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families (as stipulated in article 7 (a) (ii) of the Covenant); maintaining registries on rights in land (including forests).

- ICESCR General Comment 16 (Thirty-fourth session, 2005): Article 3: The Equal Right of Men and Women to the Enjoyment of all Economic, Social and Cultural Rights, E/2006/22 (2005) 116 at paras. 1-42.

Introduction

1. The equal right of men and women to the enjoyment of all human rights is one of the fundamental principles recognized under international law and enshrined in the main international human rights instruments. The International Covenant on Economic, Social and Cultural Rights protects human rights that are fundamental to the dignity of every person. In particular, article 3 of this Covenant provides for the equal right of men and women to the enjoyment of the rights it articulates. This provision is founded on Article 1, paragraph 3, of the Charter of the United Nations and article 2 of the Universal Declaration of Human Rights. Except for the reference to the International Covenant on Economic, Social and Cultural Rights, it is identical to article 3 of the International Covenant on Civil and Political Rights, which was drafted at the same time.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

2. The *travaux préparatoires* state that article 3 was included in the International Covenant on Economic, Social and Cultural Rights, as well as in the International Covenant on Civil and Political Rights, to indicate that beyond a prohibition of discrimination, "the same rights should be expressly recognized for men and women on an equal footing and suitable measures should be taken to ensure that women had the opportunity to exercise their rights...Moreover, even if article 3 overlapped with article 2, paragraph 2, it was still necessary to reaffirm the equal rights of men and women. That fundamental principle, which was enshrined in the Charter of the United Nations, must be constantly emphasized, especially as there were still many prejudices preventing its full application".^{a/} Unlike article 26 of the International Covenant on Civil and Political Rights, articles 3 and 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights are not stand-alone provisions, but should be read in conjunction with each specific right guaranteed under part III of the Covenant.

3. Article 2, paragraph 2, of the Covenant provides for a guarantee of non-discrimination on the basis of sex, among other grounds. This provision, and the guarantee of equal enjoyment of rights by men and women in article 3, are integrally related and mutually reinforcing. Moreover, the elimination of discrimination is fundamental to the enjoyment of economic, social and cultural rights on a basis of equality.

4. The Committee on Economic, Social and Cultural Rights has taken particular note of factors negatively affecting the equal right of men and women to the enjoyment of economic, social and cultural rights in many of its general comments, including those on the right to adequate housing,^{b/} the right to adequate food,^{c/} the right to education,^{d/} the right to the highest attainable standard of health,^{e/} and the right to water.^{f/} The Committee also routinely requests information on the equal enjoyment by men and women of the rights guaranteed under the Covenant in its list of issues in relation to States parties' reports and during its dialogue with States parties.

5. Women are often denied equal enjoyment of their human rights, in particular by virtue of the lesser status ascribed to them by tradition and custom, or as a result of overt or covert discrimination. Many women experience distinct forms of discrimination due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage.^{g/}

I. CONCEPTUAL FRAMEWORK

A. Equality

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

6. The essence of article 3 of the Covenant is that the rights set forth in the Covenant are to be enjoyed by men and women on a basis of equality, a concept that carries substantive meaning. While expressions of formal equality may be found in constitutional provisions, legislation and policies of Governments, article 3 also mandates the equal enjoyment of the rights in the Covenant for men and women in practice.

7. The enjoyment of human rights on the basis of equality between men and women must be understood comprehensively. Guarantees of non-discrimination and equality in international human rights treaties mandate both *de facto* and *de jure* equality. *De jure* (or formal) equality and *de facto* (or substantive) equality are different but interconnected concepts. Formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner. Substantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience.

8. Substantive equality for men and women will not be achieved simply through the enactment of laws or the adoption of policies that are, *prima facie*, gender-neutral. In implementing article 3, States parties should take into account that such laws, policies and practice can fail to address or even perpetuate inequality between men and women because they do not take account of existing economic, social and cultural inequalities, particularly those experienced by women.

9. According to article 3, States parties must respect the principle of equality in and before the law. The principle of equality in the law must be respected by the legislature when adopting laws, by ensuring that those laws further equal enjoyment of economic, social and cultural rights by men and women. The principle of equality before the law must be respected by administrative agencies, and courts and tribunals, and implies that those authorities must apply the law equally to men and women.

B. Non-discrimination

10. The principle of non-discrimination is the corollary of the principle of equality. Subject to what is stated in paragraph 15 below on temporary special measures, it prohibits differential treatment of a person or group of persons based on his/her or their particular status or situation, such as race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status.

11. Discrimination against women is “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition,

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

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".^{h/} Discrimination on the basis of sex may be based on the differential treatment of women because of their biology, such as refusal to hire women because they could become pregnant; or stereotypical assumptions, such as tracking women into low-level jobs on the assumption that they are unwilling to commit as much time to their work as men.

12. Direct discrimination occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of men or of women, which cannot be justified objectively.

13. Indirect discrimination occurs when a law, policy or programme does not appear to be discriminatory, but has a discriminatory effect when implemented. This can occur, for example, when women are disadvantaged compared to men with respect to the enjoyment of a particular opportunity or benefit due to pre-existing inequalities. Applying a gender-neutral law may leave the existing inequality in place, or exacerbate it.

14. Gender affects the equal right of men and women to the enjoyment of their rights. Gender refers to cultural expectations and assumptions about the behaviour, attitudes, personality traits, and physical and intellectual capacities of men and women, based solely on their identity as men or women. Gender-based assumptions and expectations generally place women at a disadvantage with respect to substantive enjoyment of rights, such as freedom to act and to be recognized as autonomous, fully capable adults, to participate fully in economic, social and political development, and to make decisions concerning their circumstances and conditions. Gender based assumptions about economic, social and cultural roles preclude the sharing of responsibility between men and women in all spheres that is necessary to equality.

C. Temporary special measures

15. The principles of equality and non-discrimination, by themselves, are not always sufficient to guarantee true equality. Temporary special measures may sometimes be needed in order to bring disadvantaged or marginalized persons or groups of persons to the same substantive level as others. Temporary special measures aim at realizing not only *de jure* or formal equality, but also *de facto* or substantive equality for men and women. However, the application of the principle of equality will sometimes require that States parties take measures in favour of women in order to attenuate or suppress conditions that perpetuate discrimination. As long as these measures are necessary to redress *de facto* discrimination and are terminated when *de facto* equality is achieved,

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

such differentiation is legitimate.^{i/}

II. STATES PARTIES' OBLIGATIONS

A. General legal obligations

16. The equal right of men and women to the enjoyment of economic, social and cultural rights is a mandatory and immediate obligation of States parties.^{j/}

17. The equal right of men and women to the enjoyment of economic, social and cultural rights, like all human rights, imposes three levels of obligations on States parties - the obligation to respect, to protect and to fulfil. The obligation to fulfil further contains duties to provide, promote and facilitate.^{k/} Article 3 sets a non-derogable standard for compliance with the obligations of States parties as set out in articles 6 through 15 of the Covenant.

B. Specific legal obligations

Obligation to respect

18. The obligation to respect requires States parties to refrain from discriminatory actions that directly or indirectly result in the denial of the equal right of men and women to their enjoyment of economic, social and cultural rights. Respecting the right obliges States parties not to adopt, and to repeal laws and rescind, policies, administrative measures and programmes that do not conform with the right protected by article 3 of the Covenant. In particular, it is incumbent upon States parties to take into account the effect of apparently gender-neutral laws, policies and programmes and to consider whether they could result in a negative impact on the ability of men and women to enjoy their human rights on a basis of equality.

Obligation to protect

19. The obligation to protect requires States parties to take steps aimed directly at the elimination of prejudices, customary and all other practices that perpetuate the notion of inferiority or superiority of either of the sexes, and stereotyped roles for men and women.

States parties' obligation to protect under article 3 of the Covenant includes, *inter alia*, the respect and adoption of constitutional and legislative provisions on the equal right of men and women to enjoy all human rights and the prohibition of discrimination of any kind; the adoption of legislation to eliminate discrimination and to prevent third parties from interfering directly or indirectly with the enjoyment of this right; the adoption of administrative measures and programmes, as well as the establishment of public

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

institutions, agencies and programmes to protect women against discrimination.

20. States parties have an obligation to monitor and regulate the conduct of non-State actors to ensure that they do not violate the equal right of men and women to enjoy economic, social and cultural rights. This obligation applies, for example, in cases where public services have been partially or fully privatized.

Obligation to fulfil

21. The obligation to fulfil requires States parties to take steps to ensure that in practice, men and women enjoy their economic, social and cultural rights on a basis of equality. Such steps should include:

- (a) To make available and accessible appropriate remedies, such as compensation, reparation, restitution, rehabilitation, guarantees of non-repetition, declarations, public apologies, educational programmes and prevention programmes;
- (b) To establish appropriate venues for redress such as courts and tribunals or administrative mechanisms that are accessible to all on the basis of equality, including the poorest and most disadvantaged and marginalized men and women;
- (c) To develop monitoring mechanisms to ensure that the implementation of laws and policies aimed at promoting the equal enjoyment of economic, social and cultural rights by men and women do not have unintended adverse effects on disadvantaged or marginalized individuals or groups, particularly women and girls;
- (d) To design and implement policies and programmes to give long-term effect to the economic, social and cultural rights of both men and women on the basis of equality. These may include the adoption of temporary special measures to accelerate women's equal enjoyment of their rights, gender audits, and gender-specific allocation of resources;
- (e) To conduct human rights education and training programmes for judges and public officials;
- (f) To conduct awareness-raising and training programmes on equality for workers involved in the realization of economic, social and cultural rights at the grass-roots level;
- (g) To integrate, in formal and non-formal education, the principle of the equal right of

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

men and women to the enjoyment of economic, social and cultural rights, and to promote equal participation of men and women, boys and girls, in schools and other education programmes;

(h) To promote equal representation of men and women in public office and decision making bodies;

(i) To promote equal participation of men and women in development planning, decision-making and in the benefits of development and all programmes related to the realization of economic, social and cultural rights.

C. Specific examples of States parties' obligations

22. Article 3 is a cross-cutting obligation and applies to all the rights contained in articles 6 to 15 of the Covenant. It requires addressing gender-based social and cultural prejudices, providing for equality in the allocation of resources, and promoting the sharing of responsibilities in the family, community and public life. The examples provided in the following paragraphs may be taken as guidance on the ways in which article 3 applies to other rights in the Covenant, but are not intended to be exhaustive.

23. Article 6, paragraph 1, of the Covenant requires States parties to safeguard the right of everyone to the opportunity to gain a living by work which is freely chosen or accepted and to take the necessary steps to achieve the full realization of this right. Implementing article 3, in relation to article 6, requires *inter alia*, that in law and in practice, men and women have equal access to jobs at all levels and all occupations and that vocational training and guidance programmes, in both the public and private sectors, provide men and women with the skills, information and knowledge necessary for them to benefit equally from the right to work.

24. Article 7 (a) of the Covenant requires States parties to recognize the right of everyone to enjoy just and favourable conditions of work and to ensure, among other things, fair wages and equal pay for work of equal value. Article 3, in relation to article 7 requires, *inter alia*, that the State party identify and eliminate the underlying causes of pay differentials, such as gender biased job evaluation or the perception that productivity differences between men and women exist. Furthermore, the State party should monitor compliance by the private sector with national legislation on working conditions through an effectively functioning labour inspectorate. The State party should adopt legislation that prescribes equal consideration in promotion, non wage compensation and equal opportunity and support for vocational or professional development in the workplace. Finally, the State party should reduce the constraints faced by men and women in reconciling professional and family responsibilities by promoting adequate policies for childcare and care of dependent family members.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

25. Article 8, paragraph 1 (a), of the Covenant requires States parties to ensure the right of everyone to form and join trade unions of his or her choice. Article 3, in relation to article 8, requires allowing men and women to organize and join workers' associations that address their specific concerns. In this regard, particular attention should be given to domestic workers, rural women, women working in female-dominated industries and women working at home, who are often deprived of this right.

26. Article 9 of the Covenant requires that States parties recognize the right of everyone to social security, including social insurance, and to equal access to social services. Implementing article 3, in relation to article 9, requires, *inter alia*, equalizing the compulsory retirement age for both men and women; ensuring that women receive the equal benefit of public and private pension schemes; and guaranteeing adequate maternity leave for women, paternity leave for men, and parental leave for both men and women.

27. Article 10, paragraph 1, of the Covenant requires that States parties recognize that the widest possible protection and assistance should be accorded to the family, and that marriage must be entered into with the free consent of the intending spouses. Implementing article 3, in relation to article 10, requires States parties, *inter alia*, to provide victims of domestic violence, who are primarily female, with access to safe housing, remedies and redress for physical, mental and emotional damage; to ensure that men and women have an equal right to choose if, whom and when to marry - in particular, the legal age of marriage for men and women should be the same, and boys and girls should be protected equally from practices that promote child marriage, marriage by proxy, or coercion; and to ensure that women have equal rights to marital property and inheritance upon their husband's death. Gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality. States parties must take appropriate measures to eliminate violence against men and women and act with due diligence to prevent, investigate, mediate, punish and redress acts of violence against them by private actors.

28. Article 11 of the Covenant requires States parties to recognize the right of everyone to an adequate standard of living for him/herself and his/her family, including adequate housing (para. 1) and adequate food (para. 2). Implementing article 3, in relation to article 11, paragraph 1, requires that women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so. Implementing article 3, in relation to article 11, paragraph 2, also requires States parties, *inter alia*, to ensure that women have access to or control over means of food production, and actively to address customary practices under which women are not

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

allowed to eat until the men are fully fed, or are only allowed less nutritious food. l/

29. Article 12 of the Covenant requires States parties to undertake steps towards the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The implementation of article 3, in relation to article 12, requires at a minimum the removal of legal and other obstacles that prevent men and women from accessing and benefiting from health care on a basis of equality. This includes, *inter alia*, addressing the ways in which gender roles affect access to determinants of health, such as water and food; the removal of legal restrictions on reproductive health provisions; the prohibition of female genital mutilation; and the provision of adequate training for health-care workers to deal with women's health issues. m/

30. Article 13, paragraph 1, of the Covenant requires States parties to recognize the right of everyone to education and paragraph 2 (a) stipulates that primary education shall be compulsory and available free to all. Implementing article 3, in relation to article 13, requires, *inter alia*, the adoption of legislation and policies to ensure the same admission criteria for boys and girls at all levels of education. States parties should ensure, in particular through information and awareness-raising campaigns, that families desist from giving preferential treatment to boys when sending their children to school, and that curricula promote equality and non discrimination. States parties must create favourable conditions to ensure the safety of children, in particular girls, on their way to and from school.

31. Article 15, paragraph 1 (a) and (b), of the Covenant requires States parties to recognize the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress. Implementing article 3, in relation to article 15, paragraph 1 (a) and (b), requires, *inter alia*, overcoming institutional barriers and other obstacles, such as those based on cultural and religious traditions, which prevent women from fully participating in cultural life, science education and scientific research, and directing resources to scientific research relating to the health and economic needs of women on an equal basis with those of men.

III. IMPLEMENTATION AT THE NATIONAL LEVEL

A. *Policies and strategies*

32. The most appropriate ways and means of implementing the right under article 3 of the Covenant will vary from one State party to another. Every State party has a margin of discretion in adopting appropriate measures in complying with its primary and immediate obligation to ensure the equal right of men and women to the enjoyment of all

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

their economic, social and cultural rights. Among other things, States parties must, integrate into national plans of action for human rights appropriate strategies to ensure the equal right of men and women to the enjoyment of economic, social and cultural rights.

33. These strategies should be based on the systematic identification of policies, programmes and activities relevant to the situation and context within the State, as derived from the normative content of article 3 of the Covenant and spelled out in relation to the levels and nature of States parties' obligations referred to in paragraphs 16 to 21 above. The strategies should give particular attention to the elimination of discrimination in the enjoyment of economic, social and cultural rights.

34. States parties should periodically review existing legislation, policies, strategies and programmes in relation to economic, social and cultural rights, and adopt any necessary changes to ensure that they are consonant with their obligations under article 3 of the Covenant.

35. The adoption of temporary special measures may be necessary to accelerate the equal enjoyment by women of all economic, social and cultural rights and to improve the *de facto* position of women. n/ Temporary special measures should be distinguished from permanent policies and strategies undertaken to achieve equality of men and women.

36. States parties are encouraged to adopt temporary special measures to accelerate the achievement of equality between men and women in the enjoyment of the rights under the Covenant. Such measures are not to be considered discriminatory in themselves as they are grounded in the State's obligation to eliminate disadvantage caused by past and current discriminatory laws, traditions and practices. The nature, duration and application of such measures should be designed with reference to the specific issue and context, and should be adjusted as circumstances require. The results of such measures should be monitored with a view to being discontinued when the objectives for which they are undertaken have been achieved.

37. The right of individuals and groups of individuals to participate in decision-making processes that may affect their development must be an integral component of any policy, programme or activity developed to discharge governmental obligations under article 3 of the Covenant.

B. Remedies and accountability

38. National policies and strategies should provide for the establishment of effective

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

mechanisms and institutions where they do not exist, including administrative authorities, ombudsmen and other national human rights institutions, courts and tribunals. These institutions should investigate and address alleged violations relating to article 3 of the Covenant, and provide remedies for such violations. States parties, for their part, should ensure that such remedies are effectively implemented.

C. Indicators and benchmarks

39. National policies and strategies should identify appropriate indicators and benchmarks on the right to equal enjoyment by men and women of economic, social and cultural rights in order to effectively monitor the implementation by the State party of its obligations under the Covenant in this regard. Disaggregated statistics, provided within specific time frames, are necessary to measure the progressive realization of economic, social and cultural rights by men and women, where appropriate.

IV. VIOLATIONS

40. States parties must fulfil their immediate and primary obligation to ensure the equal right of men and women to the enjoyment of economic, social and cultural rights.

41. The principle of equality between men and women is fundamental to the enjoyment of each of the specific rights enumerated in the Covenant. Failure to ensure formal and substantive equality in the enjoyment of any of these rights constitutes a violation of that right. Elimination of *de jure* as well as *de facto* discrimination is required for the equal enjoyment of economic, social and cultural rights. Failure to adopt, implement and monitor effects of laws, policies and programmes to eliminate *de jure* and *de facto* discrimination with respect to each of the rights enumerated in articles 6 to 15 of the Covenant constitutes a violation of those rights.

42. Violations of the rights contained in the Covenant can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels. The adoption and undertaking of any retrogressive measures that affect the equal right of men and women to the enjoyment of all the rights set forth in the Covenant constitutes a violation of article 3.

Notes

a/ Draft international covenants on human rights, report of the Third Committee (A/53/65), para. 85.

b/ General comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

the Covenant) para. 6; general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions, para. 10.

c/ General comment No. 12 (1999) on the right to adequate food (art. 11 of the Covenant), para. 26.

d/ General comment No. 11 (1999) on plans for primary education (art. 14 of the Covenant), para. 3; general comment No. 13 (1999) on the right to education (art. 13 of the Covenant), paras. 6 (b), 31 and 32.

e/ General comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), paras. 18-22.

f/ General comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant), paras. 13 and 14.

g/ See general recommendation XXV on gender-related dimensions of racial discrimination adopted by the Committee on the Elimination of Racial Discrimination at its fifty-sixth session (*Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 18 (A/55/18)*, annex V).

h/ As defined in article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.

i/ However, there is one exception to this general principle: reasons specific to an individual male candidate may tilt the balance in his favour, which is to be assessed objectively, taking into account all criteria pertaining to the individual candidates. This is a requirement of the principle of proportionality.

j/ The Committee's general comment No. 3 (1990) on the nature of States parties' obligations (art. 2, para. 1, of the Covenant).

k/ According to the Committee's general comments No. 12 (1999) and No. 13 (1999), the obligation to fulfil incorporates an obligation to facilitate and an obligation to provide.

In the present general comment, the obligation to fulfil also incorporates an obligation to promote the elimination of all forms of discrimination against women.

l/ Other examples of obligations and possible violations of article 3 of the Covenant in relation to article 11, paragraphs 1 and 2, are further discussed in general comment No. 12 (1999), para. 26.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

m/ See the Committee's general comment No. 14 (2000), paras. 18-21.

n/ Reference is made in this regard to general recommendation No. 25 (2004) on temporary special measures (art. 4, para. 1, of the Convention on the Elimination of All Forms of Discrimination against Women) adopted by the Committee on the Elimination of Discrimination against Women at its thirtieth session (*Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38 (A/59/38)*, annex I; general comment No. 13 (1999) of the Committee on Economic, Social and Cultural Rights and the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/2000/13).

- CEDAW General Recommendation 15 (Ninth session, 1990): Avoidance of Discrimination Against Women in National Strategies for the Prevention and Control of Acquired Immunodeficiency Syndrome (AIDS), A/45/38 (1990) 81.

The Committee on the Elimination of Discrimination against Women,

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

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

Noting World Health Assembly resolution WHA 41/24 on the avoidance of discrimination in relation to HIV-infected people and people with AIDS of 13 May 1988, resolution 1989/11 of the Commission on Human Rights on non-discrimination in the field of health, of 2 March 1989, and in particular the Paris Declaration on Women, Children and AIDS, of 30 November 1989,

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

Recommends:

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

- (a) That States parties intensify efforts in disseminating information to increase public awareness of the risk of HIV infection and AIDS, especially in women and children, and of its effects on them;
 - (b) That programmes to combat AIDS should give special attention to the rights and needs of women and children, and to the factors relating to the reproductive role of women and their subordinate position in some societies which make them especially vulnerable to HIV infection;
 - (c) That States parties ensure the active participation of women in primary health care and take measures to enhance their role as care providers, health workers and educators in the prevention of infection with HIV;
 - (d) That all States parties include in their reports under article 12 of the Convention information on the effects of AIDS on the situation of women and on the action taken to cater to the needs of those women who are infected and to prevent specific discrimination against women in response to AIDS.
- CEDAW General Recommendation 17 (Tenth session, 1991): Measurement and Quantification of the Unremunerated Domestic Activities of Women and Their Recognition in the Gross National Product, A/46/38 (1991) 6.

The Committee on the Elimination of Discrimination against Women,

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

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

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

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

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

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

Recommends that States parties:

- (a) Encourage and support research and experimental studies to measure and value the unremunerated domestic activities of women; for example, by conducting time-use surveys as part of their national household survey programmes and by collecting statistics disaggregated by gender on time spent on activities both in the household and on the labour market;
 - (b) Take steps, in accordance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Nairobi Forward-looking Strategies for the Advancement of Women, to quantify and include the unremunerated domestic activities of women in the gross national product;
 - (c) Include in their reports submitted under article 18 of the Convention information on the research and experimental studies undertaken to measure and value unremunerated domestic activities, as well as on the progress made in the incorporation of the unremunerated domestic activities of women in national accounts.
- CEDAW General Recommendation 25 (Thirtieth session, 2004): Article 4, Paragraph 1: Temporary Special Measures, A/59/38 part I (2004) 78 at paras. 1-39.

I. Introduction

1. The Committee on the Elimination of Discrimination against Women decided at its twentieth session (1999), pursuant to article 21 of the Convention, to elaborate a general recommendation on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women. This new general recommendation would build, *inter alia*, on earlier general recommendations, including general recommendation No. 5 (seventh session, 1988), on temporary special measures, No. 8 (seventh session, 1988), on the implementation of article 8 of the Convention, and No. 23 (sixteenth session, 1997), on women in public life, as well as on reports of States parties to the Convention and on the Committee's concluding comments on those reports.
2. With the present general recommendation, the Committee aims to clarify the nature and meaning of article 4, paragraph 1, in order to facilitate and ensure its full utilization by States parties in the implementation of the Convention. The Committee encourages States parties to translate this general recommendation into national and local languages and to disseminate it widely to the legislative, executive and judicial branches of government, including their administrative structures, as well as civil society, including the media, academia, and human rights and women's associations and institutions.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

II. Background: the object and purpose of the Convention

3. The Convention is a dynamic instrument. Since the adoption of the Convention in 1979, the Committee, as well as other actors at the national and international levels, have contributed through progressive thinking to the clarification and understanding of the substantive content of the Convention's articles and the specific nature of discrimination against women and the instruments for combating such discrimination.

4. The scope and meaning of article 4, paragraph 1, must be determined in the context of the overall object and purpose of the Convention, which is to eliminate all forms of discrimination against women with a view to achieving women's *de jure* and *de facto* equality with men in the enjoyment of their human rights and fundamental freedoms. States parties to the Convention are under a legal obligation to respect, protect, promote and fulfil this right to non-discrimination for women and to ensure the development and advancement of women in order to improve their position to one of *de jure* as well as *de facto* equality with men.

5. The Convention goes beyond the concept of discrimination used in many national and international legal standards and norms. While such standards and norms prohibit discrimination on the grounds of sex and protect both men and women from treatment based on arbitrary, unfair and/or unjustifiable distinctions, the Convention focuses on discrimination against women, emphasizing that women have suffered, and continue to suffer, from various forms of discrimination because they are women.

6. A joint reading of articles 1 to 5 and 24, which form the general interpretative framework for all of the substantive articles of the Convention, indicates that three obligations are central to States parties' efforts to eliminate discrimination against women. These obligations should be implemented in an integrated fashion and extend beyond a purely formal legal obligation of equal treatment of women with men.

7. Firstly, States parties' obligation is to ensure that there is no direct or indirect a/ discrimination against women in their laws and that women are protected against discrimination - committed by public authorities, the judiciary, organizations, enterprises or private individuals - in the public as well as the private spheres by competent tribunals as well as sanctions and other remedies. Secondly, States parties' obligation is to improve the *de facto* position of women through concrete and effective policies and programmes. Thirdly, States parties' obligation is to address prevailing gender relations b/ and the persistence of gender-based stereotypes that affect women not only through individual acts by individuals but also in law, and legal and societal structures and institutions.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

8. In the Committee's view, a purely formal legal or programmatic approach is not sufficient to achieve women's *de facto* equality with men, which the Committee interprets as substantive equality. In addition, the Convention requires that women be given an equal start and that they be empowered by an enabling environment to achieve equality of results. It is not enough to guarantee women treatment that is identical to that of men. Rather, biological as well as socially and culturally constructed differences between women and men must be taken into account. Under certain circumstances, non-identical treatment of women and men will be required in order to address such differences. Pursuit of the goal of substantive equality also calls for an effective strategy aimed at overcoming underrepresentation of women and a redistribution of resources and power between men and women.

9. Equality of results is the logical corollary of *de facto* or substantive equality. These results may be quantitative and/or qualitative in nature; that is, women enjoying their rights in various fields in fairly equal numbers with men, enjoying the same income levels, equality in decision-making and political influence, and women enjoying freedom from violence.

10. The position of women will not be improved as long as the underlying causes of discrimination against women, and of their inequality, are not effectively addressed. The lives of women and men must be considered in a contextual way, and measures adopted towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns.

11. Women's biologically determined permanent needs and experiences should be distinguished from other needs that may be the result of past and present discrimination against women by individual actors, the dominant gender ideology, or by manifestations of such discrimination in social and cultural structures and institutions. As steps are being taken to eliminate discrimination against women, women's needs may change or disappear, or become the needs of both women and men. Thus, continuous monitoring of laws, programmes and practices directed at the achievement of women's *de facto* or substantive equality is needed so as to avoid a perpetuation of non-identical treatment that may no longer be warranted.

12. Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

13. In addition to the Convention on the Elimination of All Forms of Discrimination against Women, other international human rights instruments and policy documents adopted in the United Nations system contain provisions on temporary special measures to support the achievement of equality. Such measures are described in different terminology, and the meaning and interpretation given to such measures also differs. It is the Committee's hope that the present general recommendation on article 4, paragraph 1, will contribute to a clarification of terminology. c/

14. The Convention targets discriminatory dimensions of past and current societal and cultural contexts which impede women's enjoyment of their human rights and fundamental freedoms. It aims at the elimination of all forms of discrimination against women, including the elimination of the causes and consequences of their *de facto* or substantive inequality. Therefore, the application of temporary special measures in accordance with the Convention is one of the means to realize *de facto* or substantive equality for women, rather than an exception to the norms of non-discrimination and equality.

III. The meaning and scope of temporary special measures in the Convention

Article 4, paragraph 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.

Article 4, paragraph 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.

A. Relationship between paragraphs 1 and 2 of article 4

15. There is a clear difference between the purpose of the "special measures" under article 4, paragraph 1, and those of paragraph 2. The purpose of article 4, paragraph 1, is to accelerate the improvement of the position of women to achieve their *de facto* or substantive equality with men, and to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, as well as to provide them with compensation. These measures are of a temporary nature.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

16. Article 4, paragraph 2, provides for non-identical treatment of women and men due to their biological differences. These measures are of a permanent nature, at least until such time as the scientific and technological knowledge referred to in article 11, paragraph 3, would warrant a review.

B. Terminology

17. The *travaux préparatoires* of the Convention use different terms to describe the “temporary special measures” included in article 4, paragraph 1. The Committee itself, in its previous general recommendations, used various terms. States parties often equate “special measures” in its corrective, compensatory and promotional sense with the terms “affirmative action”, “positive action”, “positive measures”, “reverse discrimination”, and “positive discrimination”. These terms emerge from the discussions and varied practices found in different national contexts. d/ In the present general recommendation, and in accordance with its practice in the consideration of reports of States parties, the Committee uses solely the term “temporary special measures”, as called for in article 4, paragraph 1.

C. Key elements of article 4, paragraph 1

18. Measures taken under article 4, paragraph 1, by States parties should aim to accelerate the equal participation of women in the political, economic, social, cultural, civil or any other field. The Committee views the application of these measures not as an exception to the norm of non-discrimination, but rather as an emphasis that temporary special measures are part of a necessary strategy by States parties directed towards the achievement of *de facto* or substantive equality of women with men in the enjoyment of their human rights and fundamental freedoms. While the application of temporary special measures often remedies the effects of past discrimination against women, the obligation of States parties under the Convention to improve the position of women to one of *de facto* or substantive equality with men exists irrespective of any proof of past discrimination. The Committee considers that States parties that adopt and implement such measures under the Convention do not discriminate against men.

19. States parties should clearly distinguish between temporary special measures taken under article 4, paragraph 1, to accelerate the achievement of a concrete goal for women of *de facto* or substantive equality, and other general social policies adopted to improve the situation of women and the girl child. Not all measures that potentially are, or will be, favourable to women are temporary special measures. The provision of general conditions in order to guarantee the civil, political, economic, social and cultural rights of women and the girl child, designed to ensure for them a life of dignity and

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

non-discrimination, cannot be called temporary special measures.

20. Article 4, paragraph 1, explicitly states the “temporary” nature of such special measures. Such measures should therefore not be deemed necessary forever, even though the meaning of “temporary” may, in fact, result in the application of such measures for a long period of time. The duration of a temporary special measure should be determined by its functional result in response to a concrete problem and not by a predetermined passage of time. Temporary special measures must be discontinued when their desired results have been achieved and sustained for a period of time.

21. The term “special”, though being in conformity with human rights discourse, also needs to be carefully explained. Its use sometimes casts women and other groups who are subject to discrimination as weak, vulnerable and in need of extra or “special” measures in order to participate or compete in society. However, the real meaning of “special” in the formulation of article 4, paragraph 1, is that the measures are designed to serve a specific goal.

22. The term “measures” encompasses a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems. The choice of a particular “measure” will depend on the context in which article 4, paragraph 1, is applied and on the specific goal it aims to achieve.

23. The adoption and implementation of temporary special measures may lead to a discussion of the qualifications and merit of the group or individuals so targeted, and an argument against preferences for allegedly lesser-qualified women over men in areas such as politics, education and employment. As temporary special measures aim at accelerating the achievement of *de facto* or substantive equality, questions of qualification and merit, in particular in the area of employment in the public and private sectors, need to be reviewed carefully for gender bias as they are normatively and culturally determined. For appointment, selection or election to public and political office, factors other than qualification and merit, including the application of the principles of democratic fairness and electoral choice, may also have to play a role.

24. Article 4, paragraph 1, read in conjunction with articles 1, 2, 3, 5 and 24, needs to be applied in relation to articles 6 to 16 which stipulate that States parties “shall take all appropriate measures”. Consequently, the Committee considers that States parties are obliged to adopt and implement temporary special measures in relation to any of these articles if such measures can be shown to be necessary and appropriate in order to accelerate the achievement of overall, or a specific goal of, women's *de facto* or

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

substantive equality.

IV. Recommendations to States parties

25. Reports of States parties should include information on the adoption, or lack thereof, of temporary special measures in accordance with article 4, paragraph 1, of the Convention, and States parties should preferably adhere to the terminology “temporary special measures”, to avoid confusion.

26. States parties should clearly distinguish between temporary special measures aimed at accelerating the achievement of a concrete goal of women's *de facto* or substantive equality, and other general social policies adopted and implemented in order to improve the situation of women and the girl child. States parties should bear in mind that not all measures which potentially are or would be favourable to women qualify as temporary special measures.

27. States parties should analyse the context of women's situation in all spheres of life, as well as in the specific, targeted area, when applying temporary special measures to accelerate the achievement of women's *de facto* or substantive equality. They should evaluate the potential impact of temporary special measures with regard to a particular goal within their national context and adopt those temporary special measures which they consider to be the most appropriate to accelerate the achievement of *de facto* or substantive equality for women.

28. States parties should explain the reasons for choosing one type of measure over another. The justification for applying such measures should include a description of the actual life situation of women, including the conditions and influences which shape their lives and opportunities - or that of a specific group of women, suffering from multiple forms of discrimination - and whose position the State party intends to improve in an accelerated manner with the application of such temporary special measures. At the same time, the relationship between such measures and general measures and efforts to improve the position of women should be clarified.

29. States parties should provide adequate explanations with regard to any failure to adopt temporary special measures. Such failures may not be justified simply by averring powerlessness, or by explaining inaction through predominant market or political forces, such as those inherent in the private sector, private organizations, or political parties. States parties are reminded that article 2 of the Convention, which needs to be read in conjunction with all other articles, imposes accountability on the State party for action by these actors.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

30. States parties may report on temporary special measures under several articles. Under article 2, States parties are invited to report on the legal or other basis for such measures, and their justification for choosing a particular approach. States parties are further invited to give details about any legislation concerning temporary special measures, and in particular whether such legislation provides for the mandatory or voluntary nature of temporary special measures.

31. States parties should include, in their constitutions or in their national legislation, provisions that allow for the adoption of temporary special measures. The Committee reminds States parties that legislation, such as comprehensive anti-discrimination acts, equal opportunities acts or executive orders on women's equality, can give guidance on the type of temporary special measures that should be applied to achieve a stated goal, or goals, in given areas. Such guidance can also be contained in specific legislation on employment or education. Relevant legislation on non-discrimination and temporary special measures should cover governmental actors as well as private organizations or enterprises.

32. The Committee draws the attention of States parties to the fact that temporary special measures may also be based on decrees, policy directives and/or administrative guidelines formulated and adopted by national, regional or local executive branches of government to cover the public employment and education sectors. Such temporary special measures may include the civil service, the political sphere and the private education and employment sectors. The Committee further draws the attention of States parties to the fact that such measures may also be negotiated between social partners of the public or private employment sector or be applied on a voluntary basis by public or private enterprises, organizations, institutions and political parties.

33. The Committee reiterates that action plans for temporary special measures need to be designed, applied and evaluated within the specific national context and against the background of the specific nature of the problem which they are intended to overcome. The Committee recommends that States parties provide in their reports details of any action plans which may be directed at creating access for women and overcoming their underrepresentation in certain fields, at redistributing resources and power in particular areas, and/or at initiating institutional change to overcome past or present discrimination and accelerate the achievement of *de facto* equality. Reports should also explain whether such action plans include considerations of unintended potential adverse side effects of such measures as well as possible action to protect women against them. States parties should also describe in their reports the results of temporary special measures and assess the causes of the possible failure of such measures.

34. Under article 3, States parties are invited to report on the institution(s) responsible

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

for designing, implementing, monitoring, evaluating and enforcing such temporary special measures. Such responsibility may be vested in existing or planned national institutions, such as women's ministries, women's departments within ministries or presidential offices, ombudspersons, tribunals or other entities of a public or private nature with the requisite mandate to design specific programmes, monitor their implementation, and evaluate their impact and outcomes. The Committee recommends that States parties ensure that women in general, and affected groups of women in particular, have a role in the design, implementation and evaluation of such programmes. Collaboration and consultation with civil society and non-governmental organizations representing various groups of women is especially recommended.

35. The Committee draws attention to and reiterates its general recommendation No. 9, on statistical data concerning the situation of women, and recommends that States parties provide statistical data disaggregated by sex in order to measure the achievement of progress towards women's *de facto* or substantive equality and the effectiveness of temporary special measures.

36. States parties should report on the type of temporary special measures taken in specific fields under the relevant article(s) of the Convention. Reporting under the respective article(s) should include references to concrete goals and targets, timetables, the reasons for choosing particular measures, steps to enable women to access such measures, and the institution accountable for monitoring implementation and progress. States parties are also asked to describe how many women are affected by a measure, how many would gain access and participate in a certain field because of a temporary special measure, or the amount of resources and power it aims to redistribute to how many women, and within what time frame.

37. The Committee reiterates its general recommendations 5, 8 and 23, wherein it recommended the application of temporary special measures in the fields of education, the economy, politics and employment, in the area of women representing their Governments at the international level and participating in the work of international organizations, and in the area of political and public life. States parties should intensify, within their national contexts, such efforts especially with regard to all facets of education at all levels as well as all facets and levels of training, employment and representation in public and political life. The Committee recalls that in all instances, but particularly in the area of health, States parties should carefully distinguish in each field between measures of an ongoing and permanent nature and those of a temporary nature.

38. States parties are reminded that temporary special measures should be adopted to accelerate the modification and elimination of cultural practices and stereotypical attitudes and behaviour that discriminate against or are disadvantageous for women.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

Temporary special measures should also be implemented in the areas of credit and loans, sports, culture and recreation, and legal awareness. Where necessary, such measures should be directed at women subjected to multiple discrimination, including rural women.

39. Although the application of temporary special measures may not be possible under all the articles of the Convention, the Committee recommends that their adoption be considered whenever issues of accelerating access to equal participation, on the one hand, and accelerating the redistribution of power and resources, on the other hand, are involved as well as where it can be shown that these measures will be necessary and most appropriate under the circumstances.

Notes

a/ Indirect discrimination against women may occur when laws, policies and programmes are based on seemingly gender-neutral criteria which in their actual effect have a detrimental impact on women. Gender-neutral laws, policies and programmes unintentionally may perpetuate the consequences of past discrimination. They may be inadvertently modelled on male lifestyles and thus fail to take into account aspects of women's life experiences which may differ from those of men. These differences may exist because of stereotypical expectations, attitudes and behaviour directed towards women which are based on the biological differences between women and men. They may also exist because of the generally existing subordination of women by men.

b/ "Gender is defined as the social meanings given to biological sex differences. It is an ideological and cultural construct, but is also reproduced within the realm of material practices; in turn it influences the outcomes of such practices. It affects the distribution of resources, wealth, work, decision-making and political power, and enjoyment of rights and entitlements within the family as well as public life. Despite variations across cultures and over time, gender relations throughout the world entail asymmetry of power between men and women as a pervasive trait. Thus, gender is a social stratifier, and in this sense it is similar to other stratifiers such as race, class, ethnicity, sexuality, and age. It helps us understand the social construction of gender identities and the unequal structure of power that underlies the relationship between the sexes." *1999 World Survey on the Role of Women in Development*, United Nations, New York, 1999, page ix.

c/ See, for example, the International Convention on the Elimination of All Forms of Racial Discrimination, which mandates temporary special measures. The practice of

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

treaty monitoring bodies, including the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee, shows that these bodies consider the application of temporary special measures as mandatory to achieve the purposes of the respective treaties. Conventions adopted under the auspices of the International Labour Organization, and various documents of the United Nations Educational, Scientific and Cultural Organization also explicitly or implicitly provide for such measures. The Subcommission on the Promotion and Protection of Human Rights considered this question and appointed a Special Rapporteur to prepare reports for its consideration and action. The Commission on the Status of Women reviewed the use of temporary special measures in 1992. The outcome documents adopted by United Nations world conferences on women, including the Platform for Action of the 1995 Fourth World Conference on Women and its follow-up review of 2000, contain references to positive action as a tool for achieving de facto equality. The use of temporary special measures by the Secretary-General of the United Nations is a practical example in the area of women's employment, including through administrative instructions on the recruitment, promotion and placement of women in the Secretariat. These measures aim at achieving the goal of 50/50 gender distribution at all levels, but at the higher echelons in particular.

d/ The term "affirmative action" is used in the United States of America and in a number of United Nations documents, whereas the term "positive action" is currently widely used in Europe as well as in many United Nations documents. However, the term "positive action" is used in yet another sense in international human rights law to describe "positive State action" (the obligation of a State to initiate action versus a State's obligation to abstain from action). Hence, the term "positive action" is ambiguous inasmuch as its meaning is not confined to temporary special measures as understood in article 4, paragraph 1, of the Convention. The terms "reverse discrimination" or "positive discrimination" are criticized by a number of commentators as inappropriate.

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- CRC General Comment 1 (Twenty-sixth session, 2001): Article 29 (1): The Aims of Education, CRC/C/103 (2001) 150 at paras. 5 and 10.

...

The functions of article 29 (1)

5. Article 29 (1) is much more than an inventory or listing of different objectives which education should seek to achieve. Within the overall context of the Convention it serves to highlight, *inter alia*, the following dimensions.

...

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

10. Discrimination on the basis of any of the grounds listed in article 2 of the Convention, whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities. While denying a child's access to educational opportunities is primarily a matter which relates to article 28 of the Convention, there are many ways in which failure to comply with the principles contained in article 29 (1) can have a similar effect. To take an extreme example, gender discrimination can be reinforced by practices such as a curriculum which is inconsistent with the principles of gender equality, by arrangements which limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls' participation...All such discriminatory practices are in direct contradiction with the requirements in article 29 (1) (a) that education be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.

- CERD General Recommendation XXVII (Fifty-seventh session, 2000): Discrimination Against Roma, A/55/18 (2000) 154 at paras. 6, 17 and 22. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General Recommendation XXIX (Sixty-first session, 2002): On Article 1, Paragraph 1, of the Convention (Descent), A/57/18 (2002) 111 at paras. k-m and ss. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General recommendation XXXI (Sixty-seventh session, 2005): The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, A/60/18 (2005) 98 at preamble and paras. 5 and 41. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 27 (Sixty-seventh session, 1999): Article 12: Freedom of Movement, A/55/40 vol. I (2000) 128. For text of General Comment, see **LEAVE OR RETURN - RIGHT TO**.
- ICESCR General Comment 6 (Thirteenth session, 1995): The Economic, Social and Cultural Rights of Older Persons, E/1996/22 (1995) 97 at paras. 20 and 21. For text of General Comment, see **EQUALITY AND DISCRIMINATION - OLD AGE**.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

- ICESCR General Comment 13 (Twenty-first session, 1999): Article 13: The Right to Education, E/2000/22 (1999) 111 at paras. 5, 24, 32, 50 and 59. For text of General Comment, see **EDUCATION - RIGHT TO AN EDUCATION**.
- ICESCR General Comment 14 (Twenty-second session, 2000): Article 12: The Right to the Highest Attainable Standard of Health, E/2001/22 (2000) 128 at paras. 20-22. For text of General Comment, see **HEALTH - GENERAL**.
- ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at paras. 12(c)(i), 13-15, 16(a) and 29. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- CEDAW General Recommendation 5 (Seventh session, 1988): Temporary Special Measures, A/43/38 (1988) 109. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - TEMPORARY SPECIAL MEASURES (AFFIRMATIVE ACTION)**.
- CEDAW General Recommendation 13 (Eighth session, 1989): Equal Remuneration for Work of Equal Value, A/44/38 (1989) 76. For text of General Recommendation, see **WORK - EQUALITY IN THE WORKPLACE**.
- CEDAW General Recommendation 16 (Tenth session, 1991): Unpaid Women Workers in Rural and Urban Family Enterprises, A/46/38 (1991) 5. For text of General Recommendation, see **WORK - EQUALITY IN THE WORKPLACE**.
- CEDAW General Recommendation 18 (Tenth session, 1991): Disabled Women, A/46/38 (1991) 7. For text of General Recommendation, see **DISABILITY**.
- CEDAW General Recommendation 21 (Thirteenth session, 1994): Equality in Marriage and Family Relations, A/49/38 (1994) 1 at paras. 3 and 6-50. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - FAMILY**.

EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General

- CEDAW General Recommendation 23 (Sixteenth session, 1997): Women in Public Life, A/52/38/Rev.1 part II (1997) 61. For text of General Recommendation, see **POLITICAL RIGHTS**.
- CEDAW General Recommendation 24 (Twentieth session, 1999): Article 2: Women and Health, A/54/38/Rev.1 part I (1999) 3 at paras. 2, 5-7 and 9-31. For text of General Recommendation, see **HEALTH - GENERAL**.
- CRC General Comment 3 (Thirty-second session, 2003): HIV/AIDS and the Rights of the Child, A/59/41 (2004) 89 at paras. 8, 9, 11, 17, 21 and 33. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.
- CRC General Comment 4 (Thirty-third session, 2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, A/59/41 (2004) 102 at paras. 9, 20, 24 and 41(c). For text of General Comment, see **CHILDREN'S RIGHTS - HEALTH**.
- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at paras. 41, 47, 59, 60, 74, 75 and 87. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.