

Comment

Obligating governments to take all appropriate measures to eliminate discrimination against women in employment, article 11 guarantees women the same employment rights, opportunities, choices and benefits as men. It obligates States to make every effort to remove both direct and indirect discrimination against women. Indirect discrimination consists of subtle and less obvious measures that adversely affect women more than men. Examples include irrelevant requirements of size or height, age, or other considerations which hinder women's equal employment opportunities.

Drawing together standards set in United Nations instruments, as well as those agreed with in the International Labour Organisation (ILO), article 11 affirms the existence of the right to work in international law and elaborates a comprehensive set of obligations of States Parties to ensure the full and effective enjoyment by women of that right. States Parties must guarantee women the same employment rights and opportunities as men, both by dismantling discriminatory employment laws and practices and providing girls and women with the same de facto opportunities as men by ensuring that they are educationally and vocationally prepared for wide range of careers. In recruitment, the same criteria for the employment of men and women must be applied.

Women are guaranteed free choice of profession and employment and are not to be confined to work traditionally associated with women. They are to have equal rights in promotion, job security, all benefits and conditions of service, training and retraining. Women are guaranteed the right to equal remuneration and all work-related benefits. They must receive equal pay for equal work. In addition to equal treatment for work of equal value, the subject of CEDAW's General Recommendation 13, they must be afforded equality of treatment in the valuation of the quality of work. They are to enjoy the right to social security when unemployed, retired or incapable of work. Women are guaranteed the right to paid leave and healthy and safe working conditions.

Specific provisions prohibit any discrimination on the grounds of marital status or maternity. Dismissal on the grounds of pregnancy or maternity leave must be prohibited and subject to sanction, as must any discriminatory dismissal on the basis of marital status. States must also introduce measures, including paid maternity leave and maternity breaks without loss of employment status or benefits, to allow parents to combine family life with work and participation in public life. Here States are particularly encouraged to develop child-care programmes. Although prohibiting discrimination on the basis of women's reproductive

function, article 11 does enshrine their right to have that function safeguarded in the workplace, as well as obligating States Parties to provide special protection to women during pregnancy in types of work proved to be harmful to them. As women's reproductive function and pregnancy have often been the excuse for discriminatory employment practices, article 11(3) obliges States Parties to review regularly any protective legislation which might be introduced for these purposes.

In its formulation of general recommendations, CEDAW has devoted considerable attention to the meaning of article 11. In General Recommendation 13, concerning equal remuneration for work of equal value, it encouraged States Parties to consider gender-neutral job evaluation systems and to encourage the insertion of the principle of equal pay for work of equal value in collective agreements. In both General Recommendations 16 and 17, CEDAW drew attention to the disproportionate participation of women in the unwaged informal sector, most commonly in family and rural contexts. The rights guaranteed in article 11 are applicable to formal employment and, accordingly, leave such women unprotected and vulnerable. Again, in both General Recommendations 12 and 19, CEDAW drew attention to violence against women in the workplace, including sexual harassment, perpetrated by male co-workers and superiors. These general recommendations indicate that the elimination of discrimination in the workplace includes the obligation to eliminate workplace violence by means of appropriate legal and practical measures.

Accountability and Implementation: Questions to Ask

1. Are there any distinctions in recruitment and employment practices between women and men? If so what are they?
2. What provisions exist to eliminate discrimination against women in employment? Are these provisions enforced? How?
3. What legislative or other measures have been taken to promote equal employment opportunities for women and men?
4. What percentage of the total waged workforce is women? Of the total waged workforce between ages 15-24? Ages 25-44? Ages 45 and older?
5. Of the women in the waged labour force, what percentage are part-time workers? What percentage are full-time workers? What percentage of part-time and full-time workers overall are women?

6. Are there industries in which women perform piecework or outwork in their homes? Are there regulations which affect such work? Are such workers entitled to benefits, for example, sick leave, holiday pay? What is the level of wage for such work compared with other employment?
7. Are there professions that, by law or custom, tend to be filled predominantly by women? What are they? Are there professions that, by law or custom, tend to be filled predominantly by men? If so, what are they?
8. Does the Government ensure that opportunities exist for women in occupations which are not traditionally pursued by women?
9. Are women encouraged to take up apprenticeships in fields not usually pursued by women?
10. Are women entitled by law to receive equal pay for equal work or work of the same value as that performed by men? What percentage of men's wages do women receive? What means are available to challenge discrimination in pay? Are there any obstacles that impede implementation of pay equity laws? If so, what are they? If pay equity provisions exist, how is quality of work evaluated? Does this evaluation lead to equality of treatment?
11. What work-related benefits are available to workers generally? Do women receive equal benefits such as holiday pay, sick leave, job training, disability and old age benefits?
12. Is work done by women in the home counted as part of the work done in the labour force and included in national statistics (e.g. calculation of GDP/GNP)? Is unpaid agricultural work counted as part of the country's gross national product? Does unpaid work in the home and agriculture count towards eligibility for retirement and other work-related benefits?
13. What is the mandatory retirement age for men and for women? What is the usual voluntary retirement age for men and for women? Do men and women contribute the same amounts towards their pensions?
14. If the country has social security legislation, are all women covered by such legislation? If not, which groups are excluded and for what reason? Do wives benefit from pension plans held by their husbands and vice versa?
15. Is employment security affected by pregnancy? If so, how? Does the country have provisions to ensure that women who are pregnant or on maternity leave are not subject to dismissal? If so what sanctions, if any, are provided for such dismissal? How frequently are these sanctions invoked?
16. What provision is made for maternity leave? Does the country have a system of maternity leave with pay? If so, by whom is it paid, and how effective is it? Is it enforced? What penalties exist for violations? Have studies been undertaken to determine its use and effectiveness?
17. Is there provision for parental leave? If there is, can it be shared between parents? If it is available, what percentage of men take it? If parental leave provisions exist, what effect does taking parental leave have on the accrual of work-related benefits and seniority and promotion?
18. Is dismissal of women on the grounds of maternity leave or marital status prohibited by law or policy? Is it done in practice?
19. If the country has provision for paid leave is such leave equally available to men and women?
20. Is there provision for flexible working patterns, such as job-sharing or permanent part-time employment, to allow women or men to combine employment with family responsibilities? If so, do women and men take advantage of these opportunities equally? If not, who takes advantage of these opportunities? If there is an opportunity for flexible work, what effect does working in this way have on the accrual of work-related benefits and seniority and promotion?
21. Does marital status affect job security?
22. What health and safety laws and regulations does the country have? Do legal provisions exist to provide women with special protection during pregnancy in types of work proven to be harmful to them? What sort of work is regarded as being particularly harmful?
23. Are there particular forms of work, for example night work, underground and mine work or work in particular industries that restrict women's participation? If so, on what basis are women restricted from participating? What effect do such restrictions have on women's economic opportunities? If provisions exist to protect the health and safety of women at work are they subject to regular review in the light of scientific and technical advances?

24. Does the country have a network of child-care facilities? If so, does it meet existing needs? What types of child care are available for working women? Does government support, financially or otherwise, child-care? If child-care services exist are they staffed by trained personnel?
25. Are there any legal measures regulating the establishment and function of such facilities where they exist? If so, what are they?
26. What percentage of employers provide child care? What percentage of children 0-3 are in child-care? Ages 3-6?
27. How are school-age children cared for when parents work longer than the school day?
28. Are nursing breaks for breastfeeding mothers required by law? In practice, are they provided? In practice, do women take advantage of them?
29. What is the extent of unionisation of the labour force? What percentage of women are members of unions overall? What is the level of unionisation in areas of the labour market dominated by women?
30. Has the country introduced measures to address sexual harassment and violence against women in the workplace? If so, please describe them and their effect.

Article 12

Equality in Access to Health Care

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health services, including those relating to family planning.*
2. *Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.*

Comment

Article 12 recognises that the unequal status of women hampers their equal access to adequate health care. Accordingly, the article obligates States Parties to ensure that women have access to health care on an equal basis with men. States Parties are required to remove all legal and social barriers that obstruct access to health care for all women, including those whose access is impeded by factors such as disability, illiteracy, or where they live.

The International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights both enshrine the basic right of couples to decide freely and responsibly the number and spacing of their children, but article 12 of the Convention is the first human rights treaty to make specific mention of access to family planning. States Parties must ensure that women have access to family planning services on a basis of equality with men. Access entails not only the availability of services, but also information and education relating to such services. Thus, States must ensure that information and education relating to family planning is available to both women and men. Any laws or policies that restrict women's access to family planning, such as those which require the consent of the woman's husband or near male relative, would run counter to this article, as would any health sector practice which required such consent.

Paragraph 2 of article 12 recognises the particular needs of women for health services during pregnancy, confinement and the post-natal periods. States are required to provide appropriate health services, free if necessary, as well as ensuring that pregnant and lactating women are provided with adequate nutrition.

The scope and application of article 12 has been the

focus of a number of CEDAW's general recommendations, in particular General Recommendation 24 which comprehensively analyzes the article. General Recommendation 14 calls on States Parties to eradicate the practice of female circumcision by, inter alia, health policy strategies which draw upon the role of traditional birth attendants. In General Recommendation 19, the Committee noted that gender-based violence puts women's health at risk and specifically described traditional practices harmful to health of women, including dietary restrictions for pregnant women, son-preference and female circumcision to be forms of discrimination.

Discrimination against women in national AIDS strategies was the subject of General Recommendation 15. Here CEDAW recommended that States Parties intensify efforts to raise public awareness of the risk of HIV and AIDS, particularly in women and children. States were asked to ensure that programmes to combat AIDS give special attention to the rights and needs of women and children and take into account the particular vulnerability of women to HIV infection resulting from their reproductive role and their subordinate position. States were also asked to ensure that women actively participate as primary health care workers and to take measures to enhance their role as care providers, health workers and educators in the prevention of HIV infection.

The importance of article 12 to gender equality and the empowerment of women was reaffirmed in 1994 by the International Conference on Population and Development, its Programme of Action underscoring the importance of reproductive rights, sexual and reproductive health and family planning for individual, national and international welfare.

Accountability and Implementation: Questions to Ask

1. What measures have been taken to eliminate discrimination against women in the field of health care?
2. Do women have the same access as men to health care services?
3. Is medical care for women during pregnancy and in the post-natal period free of charge?
4. Does the State seek to ensure that women receive adequate nutrition during pregnancy and lactation? If so, in what ways?
5. What health facilities and personnel are available for women? This could include hospitals, clinics, health posts, and other facilities as well as physicians, nurses, auxiliary health personnel, family planning workers, and community agents. Are there any health facilities and personnel dedicated to the health needs of women?
6. What are major causes of female mortality and morbidity?
7. What is the maternal mortality rate?
8. What are the infant and child mortality rates for boys and for girls? What are the major causes of infant and child mortality and morbidity for girls? What are the major causes of infant and child mortality and morbidity for boys?
9. What is the average life expectancy for men and women?
10. What are the crude birth rates and crude death rates for men and women?
11. What percentage of women receive prenatal care?
12. What is the average number of live births per woman?
13. What is the unmet need for contraception?
14. What is the prevalence of contraception, by method?
15. What legal or cultural obstacles are there to women receiving health care services, including family planning?
16. How many women work in the health sector? In what areas of the health sector do they work? At what level of seniority in these areas do they work?
17. Does the country have traditional health workers? If so, what do they do? How many traditional health workers are women?
18. Is the husband's authorisation required, either by law or in practice, before a married woman can receive health services including family planning?
19. Does the State have any laws or policies that require use of family planning measures? If so, are there any consequences, such as financial penalties, where these laws or policies are not complied with?
20. Is abortion legal? If so, under what circumstances? Is the cost of abortion covered under national medical insurance or social security? Can poor women receive free or subsidised abortions? If abortion is legal, how available are services in practice?
21. Is pre-natal foetal testing available? If so, what is the incidence of abortion following pre-natal testing? If there is incidence of abortion following pre-natal testing, what are the major reasons for such abortions?
22. Does the State have any laws or policies requiring abortion? If there are such laws or policies, are the wishes of the mother taken into consideration when determining whether an abortion should take place?
23. If abortion is not legal, is it performed anyway? What statistics are available for death and/or illness due to or related to abortion? What provisions are made for care of women with incomplete abortions?
24. Is elective sterilisation available? If so, what is the incidence of elective sterilisation for women? For men?
25. Does the State have any laws or policies requiring sterilisation? What sanctions exist for failure to comply with these laws or policies?
26. Is female genital mutilation or circumcision practised? If yes, under what circumstances? Is it legal?
27. Do any groups in the country perpetuate practices (for example, dietary restrictions for pregnant women) that might be harmful to women's health? If so, what measures have been introduced to eradicate such practices?
28. What measures have been introduced in the country to increase public awareness of the risk and effects sexually transmitted diseases, particularly, HIV/AIDS? Have any of these measures been aimed specifically at women and girls?

29. Have any programmes been introduced to combat sexually transmitted diseases, particularly HIV/ AIDS? If so, are any of these programmes dedicated to women and girls? Do any of these programmes pay particular attention to women's reproductive role and female subordination as factors that make women and girls vulnerable to sexually transmitted diseases, particularly, HIV/AIDS?
30. What measures have been introduced to ensure the participation of women as health care workers in the context of HIV/AIDS?

Article 13

Social and Economic Benefits

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) *The right to family benefits;*
- b) *The right to bank loans, mortgages and other forms of financial credit;*
- c) *The right to participate in recreational activities, sports and in all aspects of cultural life.*

Comment

Article 13 obligates States to eliminate economic discrimination against women and to ensure that women have equal rights to participate in recreational and cultural life. This requires the State not only to eliminate discrimination by government, but also to take appropriate steps to ensure that no private actor, such as an employer or financial institution, discriminates.

Women are to be accorded equal rights to benefits that accrue to the family. Such benefits could be social, economic, or financial and include family allowances, insurance provision, housing subsidies, child care and financial or tax credits. They are to have equal rights to bank loans, mortgages and other forms of credit. Differential credit standards cannot be applied to women, nor can women be required to acquire the consent of male relatives for credit.

Article 13(c) articulates women's rights to recreational activities, sports and cultural life. It entitles them to take part in sports, recreational and cultural activities and obligates States to take measures so that women have real equality of access in these areas. States must take steps to remove legal or social obstacles that affect their participation in these contexts. They must also ensure that the principle of equality of opportunity underpins funding, grants and other forms of support.

Accountability and Implementation: Questions to Ask

1. Does the country have a system of family benefits? If so, what are they?
2. If family benefits exist, who qualifies for them? Do women have a right to such family benefits?
3. Do married women, in their own right or as parents, have access to family benefits such as: children's allowances, housing allowances, public housing, health insurance or coverage, or other government subsidies or allowances? Do unmarried and married women have the same access to these benefits?
4. How are the various benefits paid? Are they paid directly or through the tax system as credits or deductions with respect to taxes?
5. Who actually receives the benefits? For example, if the payment is direct, is it paid to the primary care giver or to the family unit?
6. How do people qualify for bank loans, mortgages and other forms of financial credit (i) from Government (ii) from private institutions?
7. Do the qualifying requirements affect women and men equally? Do women, particularly married women, have access to loans, mortgages, and other forms of financial credit? If not, what are the constraints? Do they need the consent of their husbands or another male to obtain credit?
8. Is there any mechanism by which women who consider they have been unfairly treated can complain?
9. What legal, social, economic, or cultural barriers, prevent women's participation in recreational activities, sports or any aspect of cultural life?

Article 14

Rural Women

1. *States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.*
2. *States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:*
 - a) *To participate in the elaboration and implementation of development planning at all levels;*
 - b) *To have access to adequate health care facilities, including information, counselling and services in family planning;*
 - c) *To benefit directly from social security programmes;*
 - d) *To obtain all types of training and education, formal and non formal, including that relating to functional literacy, as well as inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;*
 - e) *To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;*
 - f) *To participate in all community activities;*
 - g) *To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;*
 - h) *To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.*

Comment

Rural women frequently play a significant role in the economic survival of their families and communities. Frequently, however, rural women receive little or no recognition for their efforts, and they are often denied access to

the results of their work or the benefits of the development process. Article 14 seeks to redress this by obligating States Parties to ensure the benefits of the Convention to rural women and to eliminate discrimination against them, thus allowing them to participate in and benefit from rural development.

Article 14 obligates States to ensure that rural women participate in development planning and implementation. Development projects should meet women's expectations as well as their special development needs and requirements. Rural women are to be ensured access to adequate health care facilities and family planning information, counselling, and services, and they are to benefit directly from social security programmes. Rural women's rights to education and training and, particularly, functional literacy, are underscored, as is their right to equal access to economic opportunities, through employment, self employment, credit and loans, specifically related to agriculture. They are to be granted access to marketing facilities and technology and to be granted equal treatment in land reform and resettlement schemes. Beyond this to combat the isolation rural women often suffer, States are obligated to ensure women the right to enjoy adequate living conditions—housing, sanitation, electricity, water supply, transport and communications.

Accountability and Implementation: Questions to Ask

1. Are rural women aware of their rights under the Convention? What measures are being, or have been taken, to make women in rural areas aware of their rights?
2. In rural areas, are married, widowed, divorced, non-married, and childless women treated differently from each other?
3. What percentage of agricultural work in rural areas is done by women? What type of work is generally done by rural women (including cooking, cleaning, water carrying, child-care, marketing, etc.)?
4. Do rural women participate in developing economic and agricultural policies? Is their contribution taken into account in computing Gross National Product?
5. Are rural women represented in government and on bodies and commissions involved with development planning? If so, what is their representation and input?
6. What special programs, if any, have been developed to meet the needs of rural women? Does the national budget set aside a specific amount for programmes to benefit rural women? If so, what are they?
7. Is there a national policy with regard to the provision of family planning services for women in rural areas? If so, what is it? To what extent are family planning programmes designed to reach both women and men?
8. How does the availability of health services, including family planning, in rural areas compare to that in urban areas? What obstacles hinder or prevent women from receiving family planning services and counselling in rural areas?
9. What measures and follow-up facilities are made available to ensure safe contraception for rural women?
10. How does the mortality rate of rural women compare to that of urban women? The maternal mortality rate? Life expectancy? Nutritional status? Percent receiving prenatal care? Family planning services?
11. What are the infant mortality rates in rural compared to urban areas?
12. Do rural women have access to social security programmes? Are any specifically directed to rural women? How do they qualify for coverage?
13. Are training and education available for rural women locally? If such training exists, are there statistics indicating how many rural women participate?
14. What percentage of rural girls and women are enrolled in primary, secondary and university level education? How do these percentages compare with urban enrolment?
15. What percentage of rural women ages 15-24 are illiterate? Ages 25-44? How do these percentages compare with corresponding percentages for urban women?
16. Do any self-help groups or co-operatives exist for women in rural areas? Does the state recognise the right of rural women to organise self-help groups and to participate in co-operatives and other economic or development programmes as individuals? If not, what obstacles hinder their establishment?
17. If such groups exist do they organise to allow women to obtain equal access to economic opportunities through employment or self-employment? If not, what is their function?
18. Does the country have any marketing facilities? If so, do they pay attention to the needs of rural women? Can women use rural marketing facilities to sell their goods? What percent of these facilities are used by women?
19. Are agricultural extension services designed to reach women directly? What percentage of agricultural credit and loans in rural areas are actually given to women?

20. Can women hold title to land? Does women's title to land derive from their husbands or fathers or brothers or uncles or nephews?
21. Has the country undertaken any land or agrarian reform? If so, how has this affected rural women's title to land?
22. What specific provisions exist to ensure adequate living conditions for rural women?
23. Are there special provisions relating to housing, sanitation, electricity and water supply which take into account the needs of rural women?
24. Are there special provisions relating to transport and communications which take into account the needs of rural women?
25. When reform of sanitation, electricity, water supply, transport and communication is considered are the special needs of rural women taken into account? Are rural women involved in the planning and decision-making process?
26. In what community activities do rural women participate? Are there any religious or cultural traditions that keep women from participating?

Article 15

Equality Before the Law and in Civil Matters

1. *States Parties shall accord to women equality with men before the law.*
2. *States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.*
3. *States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.*
4. *States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

Comment

Article 15 obligates States Parties to ensure women's legal autonomy by guaranteeing them equality with men before the law. Women are also to be guaranteed equal legal capacity with men in civil matters and the same opportunities to exercise that capacity. Areas of legal capacity, including that relating to contracts, property and litigation, where women have been traditionally granted less status than men, are specifically highlighted. Accordingly, any law that limits the capacity of a woman to conclude contracts, limits her right to own and deal with property or restricts her capacity to represent her interests in courts or tribunals must be repealed or amended, and States Parties must take positive steps to eliminate any practices of this nature.

CEDAW's General Recommendation 21, concerning equality in marriage and family relations, explains the importance of the rights guaranteed to women in article 15. Restrictions on women's contractual capacity, access to credit and capacity with respect to property seriously limit their ability to provide for themselves and their dependants. Restrictions relating to litigation, including lack of access to legal advice, lack of legal capacity or unequal testimonial and evidentiary status in the courtroom, denies women their rights to equality with men and, again, restricts their ability to provide for themselves and their dependants.

States Parties under article 15 are not confined to

amending legislation and taking positive steps to ensure that women have full equality in civil law, but extend to rendering null and void any private agreement that limits women's legal and civil capacity.

Article 15(4) requires equality in the law relating to movement of persons, choice of residence and domicile. As CEDAW made clear in General Recommendation 21 any restrictions on a woman's right to choose a domicile on the same basis as a man may limit her access to the courts in the country in which she lives and prevent her from entering and leaving a country freely and in her own right and, hence, contravene article 15. Further, any legislation entrenching the concept of the married woman's dependent domicile or the husband's right to choose the family residence will be considered discriminatory under this article, as would any custom or practice perpetuating these concepts.

Accountability and Implementation: Questions to Ask

1. Are women formally treated equally with men under the law with respect to their legal capacity to conclude contracts and administer property? Are there any laws that provide for this? If so, what do they say? If not, when will such laws be passed?
2. Do women have the right to make contracts, including those relating to credit, real estate and other property,

as well as other commercial transactions, in their own name? Can women obtain health care e.g. contraceptives, without their husband's permission?

3. Do women have the same rights as men to administer property? Can women be executors or administrators of estates?
4. Do women have the right to administer property without interference or consent by a male, regardless of whether they acquire it during marriage, bring it into marriage or are unmarried? If not, why not?
5. Has the country given effect to the obligations in article 15(3), which requires that all contracts and other instruments aimed at restricting women's legal capacity be deemed null and void? Such contracts and instruments include marriage contracts that diminish women's legal capacity and commercial contracts in which women give up rights to negotiate on their own.
6. Are women treated equally in courts? Can women sue and be sued in their own name? Can women take their place in the legal system on an equal basis with men? Is the testimony of a woman equal in weight to the testimony of a man? Are women lawyers entitled to represent clients before courts and tribunals? Are women entitled to serve as jurors or on other citizen panels? Can they serve in the judiciary, in civil, customary, and religious courts? Do they?
7. Do women have equal access to legal services? Can they get free legal help if they are unable to pay for it? If legal aid is available is it provided equally to women and men? If so, do women know about it and take advantage of it? If not, why not?
8. Are women given similar damages awards as men in comparable circumstances? Are women and men sentenced similarly in comparable circumstances?
9. Has any research been carried out regarding judicial reasoning and judicial practices that have a differential impact on women and men?
10. Are there legal concepts, such as special defences, which apply to women and not men?
11. Are women and men accorded the same legal rights of freedom of movement and choice of residence? Do women have the right to choose the place where they live? Do traditions or customs restrict women from exercising this right?
12. Does marriage limit a women's right to choose her residence?
13. Is a woman's domicile dependent on that of her father or her husband? Under what circumstances does she retain her domicile of origin?
14. Do migrant women who live and work temporarily in other countries have the same rights as men to have their spouses, partners and children join them?

Article 16

Equality in Marriage and Family Law

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:*
 - a) *The same right to enter into marriage;*
 - b) *The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*
 - c) *The same rights and responsibilities during marriage and at its dissolution;*
 - d) *The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;*
 - e) *The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;*
 - f) *The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;*
 - g) *The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;*
 - h) *The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.*
2. *The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*

Comment

Article 16 addresses discrimination against women in the private spheres of marriage and the family. It is perhaps in these spheres that women's unequal status with men is seen most sharply. Many States maintain discriminatory laws, while even in those in which legal equality in these spheres exist, the roles women play which are not shared

by men, are regarded as inferior. Women's unequal status in marriage and the family is frequently based on traditional, customary and religious attitudes that confine women to particular roles. These attitudes are deeply entrenched and resistant to change. Indeed, many States Parties have entered reservations to article 16, thereby declaring that they are unprepared to remove discrimination in this context.

The meaning of article 16 and the scope of the obligations it creates have been explained in detail by CEDAW in its General Recommendation 21—equality in marriage and family relations. Whatever form the family takes—and CEDAW acknowledges that the form and concept of the family can vary widely—the treatment of women in the family both in law and in practice must accord with the principles of equality and justice for all peoples set out in article 2 of the Convention.

The scope of obligations imposed by article 16, as explained by CEDAW, is comprehensive. States Parties are obligated to prohibit and take steps to discourage polygamy and ensure that women are entitled to choose when, if and whom they shall marry by, *inter alia* discouraging forced marriages and remarriages. Child marriages and betrothals are to be the focus of specific action, with States obligated to deem such marriages and betrothals of no legal effect. A minimum age for marriage—which CEDAW suggests should be 18 for both women and men—should be legislated and enforced and States should make registration of marriages compulsory.

States must ensure that women have the same rights and responsibilities as men during marriage and at its dissolution, whether by divorce or death. Parents of children, whether born within or outside wedlock are to be guaranteed equal status: women must thus be accorded equal rights with men with respect to their children, through legal concepts such as guardianship, wardship, trusteeship and adoption, and men must share equal responsibility, including care and financial support, in relation to children.

The equal status of women and men during marriage established by article 16 encompasses equal reproductive choice and the right to have access to the means to exercise this choice. Coercive practices such as forced pregnancies, abortions and sterilisations are precluded by this article, while at the same time, it obligates States to create a climate in which informed choice is available. Equal status in marriage also presupposes equal rights to choose a profession or employment, as well as the family name. Any law or custom that obligates a woman to change her name on marriage or at its dissolution denies her equal status in marriage and family life.

Equal status in marriage extends to equal access and capacity in property matters. As CEDAW explains in General Recommendation 21, equal access and capacity in these matters requires the removal of any discrimination in property division on divorce or death and the acknowledgement of the right of wives and *de facto* wives to half the marital property, irrespective of whether they contributed financially to its acquisition.

Domestic violence is not explicitly addressed in article 16, but the obligations under this article and violence against women were explored by CEDAW in General Recommendation 19. CEDAW described family violence as one of the most insidious forms of violence against women and noted that it takes many forms, including battering, rape, and mental violence. CEDAW recommended the introduction of specific protective laws to address family violence, the establishment of protective and support services for women and gender-sensitive training of judicial and law enforcement officers. In General Recommendation 21, CEDAW urged States Parties to comply with General Recommendation 19 so women in both public and family life will be free of gender-based violence.

Accountability and Implementation: Questions to Ask

1. Are family relations governed by civil law, religious laws, customary laws, or a combination of these? Please explain. Are women treated equally with men under these laws?
2. What types or forms of family exist under civil, religious, and customary laws? Are they marriages, unions, partnerships, or other kinds of cohabitation. Are they recognised by the State?
3. Do women have the same freedom to choose a spouse as men? Does the country ensure that all marriages are entered into with the free and full consent of the woman? In what ways?
4. Do men and women have the same rights and responsibilities during marriage? If not, how do these differ, both in law, in practice, and in traditional legal systems?
5. Is polygamy (one man having more than one wife) permitted by law? If so, which law? Is it done in practice? What percentage of marriages are polygamous?
6. In polygamous marriages, what are the rights and responsibilities of husbands towards wives and wives towards husbands?
7. What are the rights and responsibilities of men and women who live together as husband and wife without legal marriage towards each other and towards their children?
8. Do women have the same rights as men to choose a profession and occupation? Are these rights affected by marriage? If so, are they aware of these rights? Do they exercise these rights?

9. Do women have the same rights as men to own, acquire, manage and dispose of property? If the husband is declared bankrupt, how are the rights of the wife affected?
10. Do married women have an equal voice with their husbands in the management and disposal of property acquired during marriage? Does disposal of property require the consent of the other spouse?
11. Is divorce available to men and women on the same grounds? Does divorce by "renunciation" occur either in law or practice? Are divorces registered?
12. On dissolution of marriage what are the rights of the wife with respect to property? Are these the same as the rights of the husband?
13. What are the legal obligations to pay maintenance to a divorced husband or wife? Do women have rights to maintenance on divorce? If so, are such rights enforced?
14. How is property divided after divorce? Is a woman's work in the home, or her unpaid agricultural labour, counted as a contribution towards the value of the property? Is this work reflected in the division of property on divorce?
15. What rights do those who live together as husband and wife without legal marriage have with respect to property during the relationship and on its breakdown? Do such partners have a right to maintenance during the relationship and on its breakdown?
16. What is the law and practice relating to the abuse of wives and de facto wives?
17. Do women have the right to decide freely the number and spacing of their children? Do they have access, without having to ask anyone's permission, to information and services for family planning? In practice, do family planning providers provide information and treatment to women without the knowledge or consent of their husbands?
18. Is there a national policy concerning family planning? If so what is it? Does it encompass access to family planning information, education and services? Are there any specific legislative provisions that affect the provision of family planning information, education and services?
19. Are there any factors which obstruct women's exercise of their rights to family planning information and services? If so, what are they? Are any measures being taken to address these factors?
20. Do women have the same rights as men, regardless of their marital status, to make decisions about the upbringing of their children?
21. Do women have the right to retain their own name on marriage? If so, what percentage of women retain their own name on marriage? Describe the law relating to the selection of family name. If the law requires the selection of one family name, do women have equal rights with men to nominate their name as the family name? Can they add their name to the family name? If they can nominate their name as the family name or add their name to the family name, what is the percentage of women who do this? Do women have rights with respect to the choice of the family name of their children? If so, do they know them and exercise them?
22. Do women have the same rights to custody of their children as men? Are those rights, if they exist, affected by the marital status of the woman?
23. Who is the natural guardian of the child? Do women have the same rights as men in matters of guardianship, wardship, trusteeship, and adoption of children?
24. On divorce or relationship breakdown who usually acquires custody of the children? After death of a husband? Do the practical results in custody matters differ from the law as written?
25. Are fathers of children required to pay child support? Are child support orders enforced?
26. Do single parents have the right to appropriate child support from the other parent? Is this right enforceable? How?
27. What are the rights of surrogate mothers, including mothers of children born by virtue of artificial means?
28. What is the age of majority? Is it set by legislation? Is it different for males and females?
29. Do provisions exist which set a minimum age for marriage for males and females? How are they enforced? What is the minimum age of marriage? Is it the same for males and females? Are there exceptions to this minimum age? What are the grounds for such exceptions? What is the mean age at marriage for females? For males?

30. Is child marriage a matter of custom in particular areas or among particular groups? Is it legally recognised? If it exists, how does it affect women's choice in marriage?
31. Is the betrothal of children prohibited? If the country has traditionally accepted child betrothals or marriages, has legislation been introduced to restrict this practice? If so, has such legislation affected traditional customs concerning the betrothal of children?
32. Is there a legislative provision setting the minimum legal age of consent to sexual intercourse? Is the age different for men and women? Does sexual intercourse below this age result in criminal penalty? If there is a minimum legal age for sexual intercourse, does it correspond with the minimum age of marriage?
33. Is the registration of marriages and divorces required by law? Are there procedures for the registration of marriage? If so, what are they and are they enforced?
34. Is information disseminated about laws on minimum age of marriage, consent to marriage and registration of marriage?
35. Is it customary or legal to pay a bride price or dowry? If so, what effect does this have on marriage? In States Parties with dual or plural legal systems, what is the position of statutory law and its interpretation, and of customary or religious law, on bride price or dowry? How does bride price or dowry affect the equality of women? If laws have been introduced to regulate the practises of dowry or bride price have they been enforced? What has been the effect of such laws?
36. What are the rules regarding inheritance? Are they beneficial to women? If so, do women make use of them?
37. Legally and in practice, what are the rights and obligations of widows? In what way, if any, do they differ from the rights and obligations of widowers? Are widows required to perform any rite of purification on the death of their husbands? If so, do widowers have to perform the same rites? What is the social status of widows? Is this status different from that of widowers?
38. Do widows and daughters of a deceased man have a legal right to inherit land and other property if there is no will? If they have such a right is it equal to that of widowers and sons? Can a widow or daughter receive property under a will? If so, is there any legal or customary constraint on a testator bequeathing the same share of property to widows and daughters as to widowers and sons?
39. Is the levirate (widows having to marry the deceased husband's brother) practised by any group in the country?
40. What percentage of households are headed by a female? What percentage of poor households are headed by a female?

Annex A

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

The States parties to the present Convention,

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

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

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

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

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will con-

tribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neocolonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

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

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

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

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

Determined to implement the principles set forth in

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

Have agreed on the following:

Part I

Article 1

For the purpose of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to the end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, or organization or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality or opportunity and treatment have been achieved.
2. Adoption by States parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States parties shall take all appropriate measures:

- a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Part II

Article 7

States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c) To participate in nongovernmental organizations and associations concerned with the public and political life of the country.

Article 8

States parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States parties shall grant women equal rights with men with respect to the nationality of their children.

Part III

Article 10

States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be

ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;

- b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- d) The same opportunities to benefit from scholarships and other study grants;
- e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- f) The reduction of female student dropout rates and the organization of programmes for girls and women who have left school prematurely;
- g) The same opportunities to participate actively in sports and physical education;
- h) Access to specific educational information and to help to ensure the health and wellbeing of families, including information and advice on family planning.

Article 11

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - a) The right to work as an inalienable right of all human beings;
 - b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and recurrent training;
 - d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

- f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States parties shall take appropriate measures:
 - a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities;
 - d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.
 3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) The right to family benefits;

- b) The right to bank loans, mortgages and other forms of financial credit;
- c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the nonmonetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.
2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - a) To participate in the elaboration and implementation of development planning at all levels;
 - b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - c) To benefit directly from social security programmes;
 - d) To obtain all types of training and education, formal and nonformal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - e) To organize selfhelp groups and cooperatives in order to obtain equal access to economic opportunities through employment or selfemployment;
 - f) To participate in all community activities;
 - g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Part IV

Article 15

1. States parties shall accord to women equality with men before the law.

2. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States parties shall accord to men and women the same rights with regard to law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - a) The same right to enter into marriage;
 - b) The same right freely to choose a spouse and to enter into marriage only with their free will and consent;
 - c) The same rights and responsibilities during marriage and at its dissolution;
 - d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Part V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination Against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States parties which have nominated them, and shall submit it to the States parties.
4. Elections of the members of the Committee shall be held at a meeting of States parties convened by the Secretary-General at the United Nations Headquarters. At that meeting, for which two thirds of the States parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the

members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elect on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - a) Within one year after the entry into force for the State concerned; and
 - b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

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

Article 20

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

Article 21

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

Article 22

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

Part VI

Article 23

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

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

Article 24

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

Article 25

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

Article 26

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

Article 27

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

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

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

Article 29

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

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

Annex B

Consolidated Guidelines for the Initial Part of State Party Reports¹

Land and people

1. This section should contain information about the main ethnic and demographic characteristics of the country and its population as well as such socio-economic and cultural indicators as per capita income, gross national product, rate of inflation, external debt, rate of unemployment, literacy rate and religion. It should also include information on the population by mother tongue, life expectancy, infant mortality, maternal mortality, fertility rate, percentage of population under 15 and over 65 years of age, percentage of population in rural areas and in urban areas, and percentage of households headed by women. As far as possible, States should make efforts to provide all data disaggregated by sex.

General political structure

2. This section should briefly describe the political history and framework, the type of government and the organization of the executive, legislative and judicial organs.

General legal framework within which human rights are protected

3. This section should contain information on:
 - a) Which judicial, administrative or other competent authorities have jurisdiction affecting human rights;
 - b) What remedies are available to an individual who claims that any of his rights have been violated; and what systems of compensation exist for victims;

- c) Whether any of the rights referred to in the various human rights instruments are protected either in the constitution or by a separate bill of rights and, if so, what provisions are made in the constitution or bill of rights for derogations and in what circumstances;
- d) How human rights instruments are made part of the national legal system;
- e) Whether the provisions of the various human rights instruments can be invoked before, or directly enforced by, the courts, other tribunals or administrative authorities or whether they must be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned;
- f) Whether there exist any institutions or national machinery with responsibility for overseeing the implementation of human rights.

Information and publicity

4. This section should indicate whether any special efforts have been made to promote awareness among the public and the relevant authorities of the rights contained in the various human rights instruments. The topics to be addressed should include: the manner and extent to which the texts of the various human rights instruments have been disseminated; whether such texts have been translated into the local language or languages; what government agencies have responsibility for preparing reports and whether they normally receive information or other inputs from external sources; and whether the contents of the reports are the subject of public debate.

¹ UN Doc HRI/1991/1

Annex C

Committee on the Elimination of Discrimination against Women

Guidelines Regarding the Form and Content of Initial Reports of States Parties ²

1. Under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, each State Party undertakes to submit a report on the legislative, judicial, administrative or other measures that it has adopted to give effect to the provisions of the Convention and on the progress made in this respect within one year after the entry into force of the Convention for the reporting State, and thereafter at least every four years and further whenever the Committee on the Elimination of Discrimination against Women established under the Convention so requests.
 - c) Any other information on progress made in the fulfilment of each right;
 - d) The de facto position as distinct from the de jure position;
 - e) Any restrictions or limitations, even of a temporary nature, imposed by law, practice or tradition, or in any other manner on the enjoyment of each right;
 - f) The situation of non-governmental organizations and other women's associations and their participation in the elaboration and implementation of plans and programmes of the public authorities.
2. In order to assist the States parties in fulfilling their obligations under article 18 of the Convention, the Committee recommends that the States parties should follow general guidelines as to the form, content and date of reports. The guidelines are to help ensure that the reports are presented in a uniform manner so that the Committee and the States parties can obtain a complete picture of the implementation of the Convention and the progress made therein.
3. The report should be in two parts. Part I should be prepared in accordance with the consolidated guidelines for the initial part of the reports of States parties to be submitted under the various international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, as contained in the annex to document HRI/CORE/1.³
4. Part II should provide specific information in relation to each provision of the Convention, in particular:
 - a) The constitutional, legislative and administrative provisions or other measures in force;
 - b) The developments that have taken place and the programmes and institutions that have been established since the entry into force of the Convention;
5. It is recommended that the reports should not be confined to mere lists of legal instruments adopted in the country concerned in recent years but should also include information indicating how these legal instruments are reflected in the actual economic, political and social realities and general conditions existing in the country. As far as possible, States parties should make efforts to provide all data disaggregated by sex in all areas covered by the Convention and the general recommendations of the Committee.
6. States parties are invited to submit copies of the principal legislative, judicial, administrative and other texts referred to in the report so that these can be made available to the Committee. It should be noted, however, that for reasons of expense those texts will not normally be reproduced for general distribution with the report except to the extent that the reporting State specifically so requests. It is desirable, when a text is not actually quoted in or annexed to the report, that the report should contain sufficient information to be understood without reference to that text.
7. The reports should reveal obstacles to the participation of women on an equal basis with men in the political, social, economic and cultural life of their countries, and give information on types and frequencies of cases of non-compliance with the principle of equal rights.

² Adopted by the Committee at its 14th session: UN Doc CEDAW/C/7/Rev.1 (3 February 1995), and revised at its 16th session in January 1997: UN Doc CEDAW/C/7/Rev.3.

³ [Eds] Reproduced in Annex B.

8. In reporting on reservations to the Convention:
 - a) Each State party that has entered substantive reservations to the Convention should include information on those reservations in each of its periodic reports;
 - b) The State party should indicate why it considered the reservation to be necessary; whether any reservations the State party may or may not have registered on obligations with regard to the same rights set forth in other conventions are consistent with its reservations to the Convention on the Elimination of All Forms of Discrimination against Women; and the precise effect of the reservation in terms of national law and policy. It should indicate the plans that it has to limit the effect of reservations and ultimately to withdraw them and, whenever possible, specify a timetable for withdrawing them;
 - c) States parties that have entered general reservations which do not refer to a specific article of the Convention or reservations to articles 2 and 3 should make a particular effort to report on the effect and interpretation of those reservations. The Committee considers such reservations to be incompatible with the object and purpose of the Convention.
9. The reports and the supplementary documentation should be submitted in one of the working languages of the Committee (Arabic, Chinese, English, French, Russian or Spanish) in as concise a form as possible.

Annex D

Committee on the Elimination of Discrimination against Women

Guidelines for the Preparation of Second and Subsequent Periodic Reports⁴

Recalling the guidelines it adopted at its 24th meeting on 11 August 1983 regarding the form and content of reports received from States Parties under article 18 of the Convention, and revised at its 16th session in January 1997, the Committee decided on the following guidelines to be submitted to Government for the preparation of second and -subsequent periodic reports:

1. In preparing second and subsequent periodic reports, States Parties should follow the general guidelines and include matters that were not covered in the initial report,
2. As a general rule States Parties in their second and subsequent periodic reports should focus on the period between the consideration of their latest report up to the date of preparation of their last one,
3. In their periodic reports States Parties should have regard to the previous report and to the proceedings of

the Committee in regard to that report, and should include inter alia the following:

- a) legal and other measures adopted since the previous report to implement the Convention;
- b) actual progress made to promote and ensure the elimination of discrimination against women;
- c) any significant changes in the status and equality of women since the previous report;
- d) any remaining obstacle to the participation of women on an equal basis with men in the political, social, economic and cultural life of their country;
- e) matters raised by the Committee which could not be dealt with at the time when the previous report was considered;
- f) information on measures taken to implement the Beijing Declaration and Platform for Action.

⁴ Adopted by the Committee at its 7th session: U.N. Doc A/43/38 (1988), Annex IV

Annex E

General Recommendations 1-24

Adopted by the Committee on the Elimination of Discrimination against Women⁵

General Recommendation No. 1 (Fifth session, 1986)⁶

Initial reports

Initial reports submitted under article 18 of the Convention should cover the situation up to the date of submission. Thereafter, reports should be submitted at least every four years after the first report was due and should include obstacles encountered in implementing the Convention fully and the measures adopted to overcome such obstacles.

General Recommendation No.2 (Sixth session, 1987)⁷

Preparation of initial reports

The Committee on the Elimination of Discrimination against Women,

Bearing in mind that the Committee had been faced with difficulties in its work because some initial reports of States parties under article 18 of the Convention did not reflect adequately the information available in the State party concerned in accordance with the guidelines,

Recommends:

- a) That the States parties, in preparing reports under article 18 of the Convention, should follow the general guidelines adopted in August 1983 (CEDAW/C/7) as to the form, content and date of reports;
- b) That the States parties should follow the general recommendation adopted in 1986 in these terms;
- c) "Initial reports submitted under article 18 of the Convention should cover the situation up to the date of submission. Thereafter, reports should be submitted at least every four years after the first report was due and should include obstacles encountered in implementing

the Convention fully and the measures adopted to overcome such obstacles."

- d) That additional information supplementing the report of a State party should be sent to the Secretariat at least three months before the session at which the report is due to be considered.

General Recommendation No. 3 (Sixth session, 1987)⁸

Consideration of reports

The Committee on the Elimination of Discrimination against Women,

Considering that the Committee on the Elimination of Discrimination against Women has considered 34 reports from State parties since 1983,

Further considering that, although the reports have come from States with different levels of development, they present features in varying degrees showing the existence of stereotyped conceptions of women, owing to socio-cultural factors, that perpetuate discrimination based on sex and hinder the implementation of article 5 of the Convention,

Urges all States parties effectively to adopt education and public information programmes, which will help eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women.

General Recommendation No. 4 (Sixth session, 1987)⁹

Reservations

The Committee on the Elimination of Discrimination against Women

⁵ Text reproduced from U.N. Docs CCPR/C/1/Rev.1 (1994), A/49/38 and A/50/38

⁶ Contained in document A/41/45.

⁷ Contained in document A/42/38.

⁸ [Eds] Note that these guidelines have been superseded, the current guidelines being contained in U.N. Doc CEDAW/C/7/Rev.1, reproduced in Annex B.

⁹ Contained in document A/42/38.

Having examined reports from States parties at its sessions,

Expressing concern in relation to the significant number of reservations that appeared to be incompatible with the object and purpose of the Convention,

Welcomes the decision of the States parties to consider reservations at its next meeting in New York in 1988, and to that end suggests that all States parties concerned reconsider such reservations with a view to withdrawing them.

General Recommendation No. 5 (Seventh session, 1988)

Temporary special measures

The Committee on the Elimination of Discrimination against Women,

Taking note that the reports, the introductory remarks and the replies by States parties reveal that while significant progress has been achieved in regard to repealing or modifying discriminatory laws, there is still a need for action to be taken to fully implement the Convention by introducing measures to promote de facto equality between men and women,

Recalling article 4.1 of the Convention,

Recommends that States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment.

General Recommendation No. 6 (Seventh session, 1988)¹⁰

Effective national machinery and publicity

The Committee on the Elimination of Discrimination against Women,

Having considered the reports of States parties to the Convention on the Elimination of all Forms of Discrimination against Women,

Noting United Nations General Assembly resolution 42/60 of 30 November 1987,

Recommends that States parties:

1. Establish and/or strengthen effective national machinery institutions and procedures; at a high level of Government, and with adequate resources, commitment and authority to
 - (a) advise on the impact on women of all government policies;
 - (b) Monitor the situation of women comprehensively;
 - (c) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination;
2. Take appropriate steps to ensure the dissemination of the Convention, the reports of the States parties under article 18 and the reports of the Committee in the language of the States concerned;
3. Seek the assistance of the Secretary-General and the Department of Public Information in providing translations of the Convention and the reports of the Committee;
4. Include in their initial and periodic reports the action taken in respect of this recommendation.

General Recommendation No. 7 (Seventh session, 1988)¹¹

Resources

The Committee on the Elimination of Discrimination against Women,

Noting General Assembly resolutions 40/39, 41/108 and in particular 42/60, paragraph 14, which invited the Committee and the States parties to consider the question of holding future sessions of the Committee at Vienna,

Bearing in mind General Assembly resolution 42/105 and in particular, paragraph 11, which requests the Secretary-General to strengthen coordination between the United Nations Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs of the secretariat in relation to the implementation of human rights treaties and servicing treaty bodies,

¹⁰ Contained in document A/43/38.

¹¹ Contained in document A/43/38.

Recommends to the States parties:

1. That they continue to support proposals for strengthening the coordination between the Centre for Human Rights at Geneva and the Centre for Social Development and Humanitarian Affairs at Vienna, in relation to the servicing of the Committee;
2. That they support proposals that the Committee meet in New York and Vienna;
3. That they take all necessary and appropriate steps to ensure that adequate resources and services are available to the Committee to assist it in its functions under the Convention and in particular that full-time staff are available to help the Committee to prepare for its sessions and during its session;
4. That they ensure that supplementary reports and materials are submitted to the Secretariat in due time to be translated into the official languages of the United Nations in time for distribution and consideration by the Committee.

**General Recommendation No. 8
(Seventh session, 1988)¹²**

Implementation of article 8 of the Convention

The Committee on the Elimination of Discrimination against Women,

Having considered the reports of States parties submitted in accordance with article 18 of the Convention,

Recommends that States parties take further direct measures in accordance with article 4 of the Convention to ensure the full implementation of article 8 of the Convention and to ensure to women on equal terms with men and without any discrimination the opportunities to represent their Government at the international level and to participate in the work of international organizations.

**General Recommendation No. 9
(Eight session 1989)¹³**

Statistical data concerning the situation of women

The Committee on the Elimination of Discrimination against Women,

Considering that statistical information is absolutely necessary in order to understand the real situation of women in each of the States parties to the Convention,

Having observed that many of the States parties that present their reports for consideration by the Committee do not provide statistics,

Recommends that States parties should make every effort to ensure that their national statistical services responsible for planning national censuses and other social and economic surveys formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.

**General Recommendation No. 10
(Eight session 1989)¹⁴**

**Tenth anniversary of the adoption of the Convention
on the Elimination of All Forms of Discrimination
against Women**

The Committee on the Elimination of Discrimination against Women,

Considering that 18 December 1989 marks the tenth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women,

Considering further that in those 10 years the Convention has proved to be one of the most effective instruments that the United Nations has adopted to promote equality between the sexes in the societies of its States Member,

Recalling general recommendation No.6 (seventh session 1988) on effective national machinery and publicity,

Recommends that, on the occasion of the tenth anniversary of the adoption of the Convention, the States parties should consider:

1. Undertaking programmes including conferences and seminars to publicize the Convention on the Elimination of All Forms of Discrimination against Women in the main languages of and providing information on the Convention in their respective countries;

¹² Contained in document A/43/38.

¹³ Contained in document A/44/38.

¹⁴ Contained in document A/44/38.