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**10 June 2011 – updated 31 July 2011**

**By Hand Delivery and Email**

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Dear Ms. Curry,

The attached paper, its Executive Summary and several appendices are submitted in response to the request from the Committee on the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee inviting submissions to provide input into the CEDAW Committee's process of elaborating a "*General Recommendation on Women in Conflict and Post-conflict Situations*," the purpose of which is to provide appropriate and authoritative guidance to States Parties on the measures to be adopted to ensure full compliance with their obligations to protect, respect and fulfill women's human rights during times of armed conflict and in all **peacebuilding** processes, which includes the immediate aftermath of conflict and long-term post-conflict reconstruction. These comments will respond to the specific items requested by the CEDAW Committee, particularly with respect to their implications for women and girls with disabilities, drawing on provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as the Convention on the Rights of Persons

with Disabilities (CRPD) and international law. The importance of ensuring the inclusion of women and girls with disabilities is strongly reinforced by the joint study of the World Health Organization and the World Bank, just released 9 June 2011, "World Report on Disability," which has dramatically increased the worldwide estimate of the prevalence of disability from 10% to 15% of the population, as well as an increased estimate of the numbers of women and girls with disabilities to 19.2%, compared to 12% for men and boys.

Thirty-five copies are provided as well as an electronic copy of all materials.

I also plan to attend the 18 July 2011 CEDAW Committee general discussion at the United Nations in New York.

Also note that a detailed scholarly analysis of women, peace and security with respect to women and girls with disabilities can be found in a paper by Stephanie Ortoleva, "Right Now! - Women with Disabilities Build Peace Post-Conflict", Center for Women Policy Studies as part of the Barbara Faye Waxman Fiduccia Papers on Women and Girls with Disabilities at <http://www.centerwomenpolicy.org/programs/waxmanfiduccia/2011OnlineSeriesBarbaraWaxmanFiduccia.asp>, as well as a forthcoming law review article by Stephanie Ortoleva, "The Forgotten **Peace Builders**: Women with Disabilities," Loyola of Los Angeles International and Comparative Law Review, August 2011

Please contact me with any questions.

Respectfully submitted,

Stephanie Ortoleva, Esq.



General Discussion on "Protection of women in conflict and post-conflict situations" –

Committee on the Elimination of Discrimination Against Women

49<sup>th</sup> Session 18 July 2011

By Stephanie Ortoleva, Esq.

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**General Discussion on "Protection of women in conflict and post-conflict situations" –**

## **Committee on the Elimination of Discrimination Against Women**

**49<sup>th</sup> Session 18 July 2011**

Prepared by Stephanie Ortoleva, Esq.

Submitted 10 June 2011

### **Executive Summary**

#### **Introduction**

Comments are hereby submitted in response to the request from the Committee on the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee inviting submissions to provide input into the CEDAW Committee's process of elaborating a "*General Recommendation on Women in Conflict and Post-conflict Situations*," the purpose of which is to provide appropriate and authoritative guidance to States Parties on the measures to be adopted to ensure full compliance with their obligations to protect, respect and fulfill women's human rights during times of armed conflict and in all peace-building processes, which includes the immediate aftermath of conflict and long-term post-conflict reconstruction. These comments will respond to the specific items requested by the CEDAW Committee, particularly with respect to their implications for women and girls with disabilities. This analysis is based on international law.

A detailed scholarly analysis of women, peace and security with respect to women and girls with disabilities can be found in a paper by Stephanie Ortoleva, "Right Now! - Women with Disabilities Build Peace Post-Conflict", Center for Women Policy Studies as part of the Barbara Faye Waxman Fiduccia Papers on Women and Girls with Disabilities at <http://www.centerwomenpolicy.org/programs/waxmanfiduccia/2011OnlineSeriesBarbaraWaxmanFiduccia.asp>, as well as a forthcoming law review article by Stephanie Ortoleva, "The Forgotten Peace Builders: Women with Disabilities," Loyola of Los Angeles International and Comparative Law Review, August 2011

## **International Legal Basis for Recommendations**

These recommendations are drawn from and are consistent with the gender-sensitive, disability inclusive approach outlined in the United Nations Convention on the Rights of Persons with Disabilities (CRPD), especially its Article 6, the United Nations Convention for the Elimination of All forms of Discrimination Against Women (CEDAW), and the United Nations Convention on the Rights of the Child (CRC.) This paper also takes into consideration the joint statement of commitment of the inter-Agency Support group for the Convention on the Rights of Persons with Disabilities and the UN inter agency network on women and gender Equality, both established by the United Nations Executives Board.

## **The CEDAW Committee and Women and Girls with Disabilities**

The CEDAW Committee increasingly has addressed the concerns of women and girls with disabilities in its General Recommendations and these General Recommendations are summarized. Thus, as the CEDAW Committee elaborates a new General Recommendation on Women in Conflict and Post-conflict Situations, it has an important opportunity to continue its increased attention to the unique situation of women and girls with disabilities in the conflict and post-conflict environment and to apply a gender mainstreaming, disability inclusive approach to the elaboration of this General Recommendation. A detailed analysis of the CEDAW Committee's discussion of women and girls with disabilities in the Statements of its Chair, Ms. Silvia Pimentel, and in its review of country reports are summarized, highlighting those that address war and conflict.

## **The Secretariat on the Convention on the Rights of Persons with Disabilities and Women's Issues**

The Secretariat for the Convention on the Rights of Persons with Disabilities in the Department of Economic and Social Affairs has been particularly impressive in its support of the gender mainstreaming, disability inclusive approach outlined below in this paper, as that office has highlighted the importance of gender issues in its work and several of its activities are reviewed.

## **Why we must include women and girls with disabilities in activities and leadership in the United Nations System and in Women, Peace and Security Matters**

Women and girls with disabilities are a part of all societies and need to be part of the solution in advancing the human rights of all and shaping how societies affect their lives. The justifications for inclusion are numerous. Fairness is the most obvious: women account for more than half of the population of the world, persons with disabilities are at least 15% of the world's population (although clearly this number is an estimate since many countries do not collect disability-related data in any uniform manner, numbers vary widely from country to country and estimates reflect current knowledge and available data). There are approximately One Billion persons with disabilities in the world, or 15 percent of the global population, and this number is increasing due to population growth, aging of the population and war and conflict. The World Health

Organization (WHO) and the World Bank (WB) have just release (9 June 2011) a ground-breaking report entitled “World Report on Disability” and the report notes a dramatic increase in estimates of the number of persons with disabilities worldwide, stating: “About 15% of the world’s population lives with some form of disability, of whom 2-4% experience significant difficulties in functioning. The global disability prevalence is higher than previous WHO estimates, which date from the 1970s and suggested a figure of around 10%. This global estimate for disability is on the rise due to population ageing and the rapid spread of chronic diseases, as well as improvements in the methodologies used to measure disability.” There are significant differences in the prevalence of disability (defined as “significant difficulties in their everyday lives”) between men and women in both developing and more developed countries: male disability prevalence rate is 12% and female disability prevalence rate is 19.2%. With such a dramatic increase in the percentage of persons with disabilities, the urgent need to include women and girls with disabilities is even more significant. An estimated 80 percent of these persons live in developing countries, many in conditions of poverty. In both developed and developing countries, evidence suggests that persons with disabilities are disproportionately represented among the world’s poor and tend to be poorer than their counterparts without disabilities. It is estimated that of the world’s poorest people, meaning those who live on less than one dollar a day and who lack access to basic necessities such as food, clean water, clothing and shelter, 1 in 5 is a person with disabilities. Given that persons with disabilities represent such a significant portion of the population, and are more likely to live in poverty than their peers without disabilities, ensuring that they are integrated into all development activities is essential in order to achieve the International Development Goals.

Persons with disabilities are the world's largest minority. Women are certainly at least half of the human population and women with disabilities comprise at least a similar proportion of persons with disabilities (although some reports indicate that women are a greater proportion of the population of persons with disabilities); often in conflict environments, the population of persons with disabilities is even greater than 10% (in some cases as high as 20%). Globally, women make up three-fourths of persons with disabilities in low and middle-income countries. Between 65% and 70% of these women live in rural areas. According to one of the women who led the effort to ensure that the rights of women with disabilities were incorporated into the CRPD “[g]ender is one of the most important categories of social organization, and patterns of disadvantage are often associated with the differences in social position of women and men. These gendered differences are reflected in the different life experiences of women with disabilities and men with disabilities. While women with disabilities have much in common with men with disabilities, women with disabilities have to face multiple discrimination in many cases, so that they are often more disadvantaged than men with disabilities in similar circumstances.” Women and girls with disabilities are recognized to be doubly disadvantaged, experiencing exclusion on account of both their gender and their disability. Therefore, it is only just that they have meaningful roles as decision makers and achieve gender equality. Given how greatly women and girls with disabilities are affected by the double discrimination and gender and disability stereotyping they face because of both gender and disability, they deserve to be heard.

## **CEDAW and CRPD Intersection and Synergy in the Conflict and Post-Conflict environment**

A careful analysis of the intersection between the provisions of the CRPD and the CEDAW, along with various United Nation Security Council Resolutions and other reports on women, peace and security, demonstrates the synergy that exists to foster changes in law, policy, and practice to ensure the inclusion of women and girls with disabilities in post-conflict peace building and reconciliation processes. The analysis herein focuses on provisions in both the CEDAW and the CRPD that have specific implications for inclusion of women and girls with disabilities in practices and policies concerning conflict and post-conflict situations and the CEDAW Committee's elaboration of a General Recommendation on Women in Conflict and Post-Conflict Situations.

### **Gender Mainstreaming, Disability-Inclusive Approach**

The issues are analyzed from the perspective of both gender and disability, bringing together gender mainstreaming and disability inclusion and sets forth a theory of Gender-Focused Disability Mainstreaming. These comments argue that the CEDAW Committee can be innovators and use both gender mainstreaming and disability inclusion as a predominant framework in its General Recommendation to discuss inclusion of all women and girls within the UN System, including those with disabilities. This refers to the process of assessing the implications for women and men with and without disabilities of any planned action, including legislation, policies or programs in all areas and at all levels. It is a strategy for making the concerns and experiences of women and men with and without disabilities an integral dimension of design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres, so that women and men with and without disabilities benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality and equality for persons with and without disabilities. It is important to note that this mainstreaming approach does not focus solely on women with disabilities, although women with disabilities would more often than not be the focus and beneficiaries of mainstreaming practices due to their disadvantaged position in many communities.

The CEDAW Committee has highlighted several CEDAW provisions, which will inform its elaboration of its General Recommendation and the ramifications of these provisions for women and girls with disabilities are explored.

### **Elaborating a Disability-Inclusive General Recommendation on Women and Conflict and Post-Conflict Situations**

Some specific elements that should be incorporated in a CEDAW Committee general recommendation on women and conflict and post-conflict to ensure the inclusion of women and girls with disabilities are outlined.

## **Strategies for Change**

Some suggestions for elements to include in the work of the CEDAW Committee are outlined as such activities would help to ensure inclusion of women and girls with disabilities. The various entities within the United Nations system must more fully address issues concerning women and girls with disabilities, including the CEDAW Committee itself, although clearly the CEDAW Committee and its Chair have more frequently addressed issues of concern to women and girls with disabilities and have included them in general discussions of women's rights and some of the more-recently released General Recommendations. To address the disparities women and girls with disabilities experience in access to health care, including sexual and reproductive health, gaps in education and employment and limited access to development programs, gender-sensitive, disability inclusive policies and practices must be utilized in international development and programs must be established to specifically target the unique needs of women and girls with disabilities. To address the fact that women with disabilities have rarely had access to post-conflict reconciliation and justice, prosecutors, courts and post-conflict tribunals must be better informed of the need to make the judicial system and reconciliation processes accessible to women with disabilities, with respect to both the physical facilities, communication barriers and other support.

Work in the area of gender-sensitive peace-building must incorporate the CRPD standards for women's empowerment, reasonable accommodation and accessibility. The significant gaps in data and field-tested inclusive strategies and resources must be addressed. If such changes and actions are implemented, women and girls with disabilities will have a greater opportunity to ensure that their needs are met and that post-conflict societies are more inclusive and rights-based. To achieve inclusion of women and girls with disabilities as a priority in the United Nations women, peace and security framework, this paper recommends strategies to increase engagement of women with disabilities and coordination among United Nations entities, governments and non-governmental organizations that address women's human rights, related gender issues, development and peace-building:

### **Suggested Revisions of United Nations Security Council Resolutions and Indicators on Women, Peace and Security to Include Women and Girls with Disabilities**

Some suggestions for modifications to the United Nations resolutions on women, peace and security are outlined to ensure inclusion of women and girls with disabilities. The CEDAW Committee and other entities within the United Nations system can take a leadership role in more fully integrating women and girls with disabilities into the women, peace and security framework as new United Nations Security Council Resolutions are drafted.



# General Discussion on "Protection of Women in Conflict and Post-Conflict Situations" –

## Committee on the Elimination of Discrimination Against Women

49<sup>th</sup> Session 18 July 2011

Prepared by Stephanie Ortoleva, Esq.<sup>1</sup>

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<sup>1</sup> Stephanie Ortoleva is an attorney with expertise in international human rights law and U.S. civil rights law. Currently, she is the Senior Human Rights Legal Advisor with the leading international human rights law firm BlueLaw International, where she focuses on disability rights, women's rights, and rule of law issues, with concentrations on human rights programming in developing, transition, and post-conflict countries, as well as consulting for governments and international organizations. Ms. Ortoleva also will be a Visiting Scholar at the University of Hawai'i in Spring 2012 and has been an Adjunct Professor at the American University School of International Service. She is the founding Co-Chair of the American Society of International Law's International Disability Rights Interest Group. Previously, Ms. Ortoleva served as an Attorney and Human Rights Officer at the U.S. Department of State, where she participated in the negotiations of the UN Convention on the Rights of Persons with Disabilities, serving on the United States governmental delegation, as well as undertaking extensive work at the United Nations and Organization of American States on international disability rights and on international women's issues, including women's role in peace building and post-conflict resolution and gender-based violence. She was given the prestigious U.S. Department of State Franklin Award in 2009 for her outstanding work on human rights matters and was the featured Department employee for women's history month in 2009. She is a frequent speaker at conferences and other events and has numerous publications on women's rights, disability rights, and multilateral diplomacy, including "Right Now! Women with Disabilities Build Peace Post Conflict," Center for Women's Policy Studies, Barbara Waxman Fiduccia Papers April 2011; "The Forgotten Peace Builders: Women with Disabilities," Loyola of Los Angeles International and Comparative Law Review, August 2011 (forthcoming); "Inaccessible Justice: Persons with Disabilities and the Legal System," International Law Society of America, Journal of International and Comparative Law, 17 ILSA J. Int'l & Comp. 281 (Spring 2011); with her colleague Marc Brenman, "Corporations & the Human Rights of Persons with Disabilities," RI Journal, April 2011; a Chapter in Lawyers, Lead On, American Bar Association Publishing, March 2011; with her colleague Marc Brenman "Women's Issues in Transportation" In K. Lucas (Ed.), Running on Empty: Transport, Social Exclusion and Environment Justice (pp. 257-279). London: Policy Press, 2004; among others. She developed the website [www.WomenEnabled.org](http://www.WomenEnabled.org) to bring attention to the urgent need to include women and girls with disabilities in international resolutions, policies and programs. She is also an active member of the International Network of Women with Disabilities, an on-line community of women with disabilities and allies to bring about positive change and inclusion of women and girls with disabilities. She is the founding chair of the National Organization for Women's global feminist committee and serves on the boards of the U.S. International Council on Disability and Disability Rights International. She graduated from Hofstra University School of Law with outstanding honors and is admitted to practice before the U.S. Supreme Court and the State of New York. The author wishes to thank her research assistant, Shivani Honwad, a third-year law student at American University Washington College of Law for her outstanding and creative assistance and Frank Della-Penna, my ever-supportive husband and life partner, for his patience and assistance in my work.

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Submitted 10 June 2011 – updated 31 July 2011

## **Introduction**

Comments are hereby submitted in response to the request from the Committee on the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee inviting submissions to provide input into the CEDAW Committee's process of elaborating a "*General Recommendation on Women in Conflict and Post-conflict Situations*," the purpose of which is to provide appropriate and authoritative guidance to States Parties on the measures to be adopted to ensure full compliance with their obligations to protect, respect and fulfill women's human rights during times of armed conflict and in all peace-building processes, which includes the immediate aftermath of conflict and long-term post-conflict reconstruction. These comments will respond to the specific items requested by the CEDAW Committee, particularly with respect to their implications for women and girls with disabilities. This analysis is based on international law, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) as outlined in Appendix A: International Legal Basis for Recommendations.

A detailed scholarly analysis of women, peace and security with respect to women and girls with disabilities can be found in a paper by Stephanie Ortoleva, "Right Now! - Women with Disabilities Build Peace Post-Conflict," Center for Women Policy Studies as part of the Barbara Faye Waxman Fiduccia Papers on Women and Girls with Disabilities at <http://www.centerwomenpolicy.org/programs/waxmanfiduccia/2011OnlineSeriesBarbaraWaxmanFiduccia.asp>, as well as a forthcoming law review article by Stephanie Ortoleva, "The Forgotten Peace Builders: Women with Disabilities," *Loyola of Los Angeles International and Comparative Law Review*, August 2011.

## **The CEDAW Committee and Women and Girls with Disabilities**

The CEDAW Committee increasingly has addressed the concerns of women and girls with disabilities in its General Recommendations. In General Recommendation Number 18, issued in 1991, the CEDAW Committee called for special attention to be paid to the double discrimination women with disabilities face and "[r]ecommends that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all

areas of social and cultural life.”<sup>2</sup> In General Recommendation Number 24, issued in 1999, the CEDAW Committee also referenced issues of concern to women with disabilities. The CEDAW Committee recognized that societal factors may be “determinative of health status” and that “special attention should be given to health needs and rights of women” with disabilities, among other vulnerable groups.<sup>3</sup> More recently, CEDAW Committee General Recommendation Numbers 27 and 28 also specifically mention women with disabilities. General Recommendation Number 27, issued in 2010, pertains to the protection of the human rights of older women and addresses women with disabilities by discussing the double discrimination and gender stereotyping older women with disabilities face, especially in regards to their access to education, healthcare services, legal services and their increased susceptibility to violence.<sup>4</sup> General Recommendation Number 28, also issued in 2010, focuses on the core obligations of States parties under Article 2 of the CEDAW and discusses the enhanced vulnerability for discrimination women with disabilities face in civil and penal laws, regulations and customary laws and practice.<sup>5</sup> Thus, as the CEDAW Committee elaborates a new General Recommendation on Women in Conflict and Post-conflict Situations, it has an important opportunity to continue its increased attention to the unique situation of women and girls with disabilities in the conflict and post-conflict environment and to apply a gender mainstreaming, disability inclusive approach to the elaboration of this General Recommendation. For a detailed analysis of the CEDAW Committee’s discussion of women and girls with disabilities in the Statements of its Chair, Ms. Silvia Pimentel, and in its review of country reports, see Appendix B: The CEDAW Committee and Women and Girls with Disabilities.

## **The Secretariat on the Convention on the Rights of Persons with Disabilities and Women’s Issues**

The Secretariat for the Convention on the Rights of Persons with Disabilities in the Department of Economic and Social Affairs has been particularly impressive in its support of the gender mainstreaming, disability inclusive approach outlined below in this paper, as that office has highlighted the importance of gender issues in its work. For example, that office supported two notable side events organized by Stephanie Ortoleva: first, a side event on October 20, 2010 to discuss women with disabilities in situations of conflict, held during the United Nations Security Council’s discussions on the tenth anniversary of UN Security Council Resolution 1325 on post-conflict peace building and reconciliation processes;<sup>6</sup> and second, a side event discussing the involvement of women and girls with disabilities in STEM fields, held

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<sup>2</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 18*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>.

<sup>3</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 24*.

<sup>4</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 27*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf>.

<sup>5</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 28*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>.

<sup>6</sup> Panel Discussion, *Peace and Development – Leadership of Women With Disabilities – Our Forgotten Sisters: Women with Disabilities in Situations of Conflict* (Oct. 20, 2010).

during the 2011 Commission on the Status of Women Conference.<sup>7</sup> On March 4, 2010 the Secretariat for the Convention on the Rights of Persons with Disabilities in the Department of Economic and Social Affairs also held a panel discussion on women with disabilities and development.<sup>8</sup>

### **Why we Must Include Women and Girls with Disabilities in Activities and Leadership in the United Nations System and in Women, Peace and Security Matters**

Women and girls with disabilities are a part of all societies and need to be part of the solution in advancing the human rights of all and shaping how societies affect their lives. The justifications for inclusion are numerous. Fairness is the most obvious: women account for more than half of the population of the world, persons with disabilities are at least 15% of the world's population (although clearly this often-quoted number reflects current knowledge and available data and is unreliable since most countries do not collect disability-related data in any uniform manner and numbers vary widely from country to country). Women and girls with disabilities are a part of all societies and need to be part of the solution in advancing the human rights of all and shaping how societies affect their lives.

There are approximately One Billion persons with disabilities in the world, or 15 percent of the global population, and this number is increasing due to population growth, aging of the population and war and conflict.<sup>9</sup> The World Health Organization (WHO) and the World Bank (WB) have just release (9 June 2011) a ground-breaking report entitled “World Report on Disability” and the report notes a dramatic increase in estimates of the number of persons with disabilities worldwide, stating: “About 15% of the world’s population lives with some form of disability, of whom 2-4% experience significant difficulties in functioning. The global disability prevalence is higher than previous WHO estimates, which date from the 1970s and suggested a figure of around 10%. This global estimate for disability is on the rise due to population ageing and the rapid spread of chronic diseases, as well as improvements in the methodologies used to measure disability.”<sup>10</sup> There are significant differences in the prevalence of disability (defined as “significant difficulties in their everyday lives”) between men and women in both developing and more developed countries: male disability prevalence rate is 12% and female disability

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<sup>7</sup> Panel Discussion, *STEM: Expanding opportunities for women and girls with disabilities in education and employment* (Feb. 23, 2011).

<sup>8</sup> Panel Discussion, *Cross-sectionalities of gender, disability, and development: Towards equality for women and girls with disabilities* (Mar. 4, 2010); see also Rangita de Silva de Alwis, *Disability Rights, Gender, and Development: A Resource Tool for Action: Rep. of the CRPD Secretariat*, United Nations Population Fund & Wellesley Centers for Women (2008), available at <http://www.un.org/disabilities/documents/Publication/UNWCW%20MANUAL.pdf>.

<sup>9</sup> *Some Facts about Persons with Disabilities*, CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (2006), <http://www.un.org/disabilities/convention/facts.shtml> [hereinafter *Facts Disabilities*].

<sup>10</sup> World Health Organization & World Bank, *World Report on Disability* (2011) [hereinafter *World Report Disability*], available at [http://www.who.int/disabilities/world\\_report/en/index.html](http://www.who.int/disabilities/world_report/en/index.html).

prevalence rate is 19.2%.<sup>11</sup> With such a dramatic increase in the percentage of persons with disabilities, the urgent need to include women and girls with disabilities is even more significant. An estimated 80 per cent of these persons live in developing countries, many in conditions of poverty. In both developed and developing countries, evidence suggests that persons with disabilities are disproportionately represented among the world's poor and tend to be poorer than their counterparts without disabilities. It is estimated that of the world's poorest people, meaning those who live on less than one dollar a day and who lack access to basic necessities such as food, clean water, clothing and shelter, 1 in 5 is a person with disabilities.<sup>12</sup> Given that persons with disabilities represent such a significant portion of the population, and are more likely to live in poverty than their peers without disabilities, ensuring that they are integrated into all development activities is essential in order to achieve the international development goals.<sup>13</sup>

Persons with disabilities are the world's largest minority.<sup>14</sup> Women are certainly at least half of the human population and women with disabilities comprise at least a similar proportion of persons with disabilities (although some reports indicate that women are a greater proportion of the population of persons with disabilities); often in conflict environments, the population of persons with disabilities is even greater than 10% (in some cases as high as 20%.) Globally, women make up three-fourths of persons with disabilities in low and middle income countries. Between 65% and 70% of these women live in rural areas.<sup>15</sup>

The situation of women with disabilities in the conflict environment also enhances the urgency for including them in strategies to address the situation of women in conflict and post-conflict situations. Girls and women are more likely to become disabled as a result of violence, armed conflicts, aging and gender-biased cultural practices limiting their access to food, shelter, health care, safe working environments, marriage and social integration and these effects can be seen pre-conflict, during conflict and post-conflict.<sup>16</sup> At the same time, conflict situations make more women disabled directly with injury through land mines, bombs, combat, and other factors incident to a conflict situation.<sup>17</sup>

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<sup>11</sup> See *Id* Table 2.1.

<sup>12</sup> *See id.*

<sup>13</sup> Mainstreaming Disability: Note by the Secretariat, Commission for Soc. Development, U.N. DOC. E/Cn.5/2008/6 (Nov. 23, 2007) [hereinafter *Mainstreaming Disability*], *available at* <http://www.un.org/disabilities/default.asp?id=708>

<sup>14</sup> UN Enable, *Fact Sheet on Persons with Disabilities*, *available at* <http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf> (last visited Mar. 27, 2011).

<sup>15</sup> *See de Silva de Alwis, supra* note 8.

<sup>16</sup> INT'L FED'N OF RED CROSS & RED CRESCENT SOC'Y, WORLD DISASTER REP. 2007: FOCUS ON DISCRIMINATION 88 (2007) [hereinafter *WORLD DISASTER REP.*], *available at* <http://www.ifrc.org/Docs/pubs/disasters/wdr2007/WDR2007-English.pdf>.

<sup>17</sup> SOC. DEV. DEP'T, WORLD BANK, PUB. NO. 39385, SOCIAL ANALYSIS AND DISABILITY-INCLUSIVE DEVELOPMENT INTO BANK-SUPPORTED PROJECTS (2007) [hereinafter *BANK-SUPPORTED PROJECTS*], *available at* <http://siteresources.worldbank.org/DISABILITY/Resources/280658-1172606907476/SAnalysisDis.pdf>.

Land mine removal is also a physical risk that may result in disabilities.<sup>18</sup> The Beijing Platform for Action (1995) recognizes that women and children are particularly affected by the indiscriminate use of anti-personnel landmines.<sup>19</sup> Although men are generally involved in landmine removal, women also engage in this dangerous work. All-female demining teams are becoming increasingly prevalent, and there have been all-female teams in Cambodia, Croatia, Kosovo, the Lao People's Democratic Republic, Lebanon and one Muslim territory in Somaliland, for example.<sup>20</sup>

Furthermore, a recent innovative, rigorous analysis of the impact of armed conflict on female life expectancy relative to that of males found that over the entire conflict period, interstate and civil wars on average affect women more adversely than men.<sup>21</sup> In peacetime, women typically live longer than men.<sup>22</sup> Therefore, the study concluded that armed conflict tends to decrease the gap between female and male life expectancy.<sup>23</sup> Indeed, for every child killed in warfare, three are injured and acquire a disability.<sup>24</sup> Although entire communities suffer the consequences of armed conflict, women and girls are particularly affected in conflict situations because of their status in society, stereotyping of roles and attitudes toward women and girls with disabilities based on the compounded double discrimination they face because of disability and gender.<sup>25</sup>

Furthermore, conflict situations increase the vulnerability of women and girls who are already disabled, and their families, through the breakdown of economic structures and activities in which women and girls with disabilities were engaged, health care institutions and facilities, family and community support, education opportunities, housing, transportation and other infrastructures and they may have been forced to leave wheelchairs, medications, assistive aids and supportive animals, and prosthetics behind.<sup>26</sup> While those injured as a result of the disaster or conflict may be very visible, it is important to remember that many other people living in the affected areas may already be disabled, and may then become further marginalized and excluded on the basis of their disability in the aftermath.<sup>27</sup>

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<sup>18</sup> U.N. Dept. of Disarmament Affairs, *Conflict, Peace-Building, Disarmament, Security: Gender Perspectives on Landmines* (Mar. 2001) [hereinafter *Gender Perspectives on Landmines*], available at <http://www.oecd.org/dataoecd/3/28/1896552.pdf>.

<sup>19</sup> Fourth World Conference on Women, Sept. 4-15, 1995, Beijing Declaration and Platform on Action, U.N. DOC. A/CONF.177/20 (Oct. 17, 1995) [hereinafter Beijing Declaration], available at <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

<sup>20</sup> Rachel Canfield & Chad McCoull, *Gender in the Mine-Action Community*, 12.2 J. ERW & MINE ACTION (2008), available at <http://maic.jmu.edu/Journal/12.2/focus/canfield/canfield.htm>.

<sup>21</sup> See Thomas Plümper & Eric Neumayer, *The Unequal Burden of War: The Effect of Armed Conflict on the Gender Gap in Life Expectancy*, 60 INT'L ORG. 723, 723-24 (2006).

<sup>22</sup> See *id.* at 723.

<sup>23</sup> See *id.* at 747.

<sup>24</sup> UN Enable, *Fact Sheet on Persons with Disabilities*, <http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf> (last visited Mar. 27, 2011) [hereinafter *Fact Sheet Disabilities*].

<sup>25</sup> See de Silva de Alwis, *supra* note 8.

<sup>26</sup> WORLD DISASTER REP., *supra* note 21.

<sup>27</sup> Maria Kett & John Twigg, *Disability and Disasters: Towards an Inclusive Approach* (2007), available at <http://www.ifrc.org/Docs/pubs/disasters/wdr2007/WDR2007-English-4.pdf>.

“Persons with disabilities, especially women and children, are particularly vulnerable to violence, exploitation and sexual abuse in such situations. Anyone affected by disasters or conflict is more vulnerable to mental health and psycho-social disabilities – which may result in misunderstandings and further isolation and social exclusion from families and communities.”<sup>28</sup> Women who have been traumatized and disabled during violent conflict are often ostracized from their communities, deprived of liberty without any support, or subjected to involuntary interventions including forced psychiatric drugging. Providing support starts with asking what the woman needs and really listening to what the woman says. It could involve voluntary access to trauma-informed counseling services.<sup>29</sup> The lack of provision of support and/or subjecting a woman to psychiatric interventions against her will are forms of violence that cause further psychological trauma that can lead to further disability.<sup>30</sup> The only way to stop this vicious cycle is to provide real support to women who have been traumatized and to include input from women who have survived such experiences in making policy and planning for the provision of support.<sup>31</sup>

Clearly, the ravages of war also increases psycho-social disabilities. For example, the civil war in Cambodia is documented to have caused mental disabilities among women and “Cambodia has one of the world's highest ratios of persons with disabilities.”<sup>32</sup>

Girls often serve as child soldiers (some estimate that as many as 30 percent of child soldiers are girls).<sup>33</sup> They serve as fighters, cooks, porters, messengers, medics, spies, lookouts, raiders, domestic and agricultural labor, and are also forced to serve as sexual slaves to numerous males in forces, or, they may be given to one male for his exclusive use as a captive “wife.”<sup>34</sup> Such experiences often result in the development of multiple physical and psychosocial disabilities.<sup>35</sup> Generally, their needs are not met and they do not have the opportunity to participate in reintegration programs.<sup>36</sup>

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<sup>28</sup> *See id.*

<sup>29</sup> The International Network of Women with Disabilities, *Violence Against Women with Disabilities 5* (Barbara Faye Waxman Fiduccia Papers on Women and Girls with Disabilities Center for Women Policy Studies 2011) [hereinafter *Violence Against Women*], available at [http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP\\_ViolenceAgainstWomenwithDisabilities\\_TheInternationalNetworkofWomenwithDisabilities.pdf](http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP_ViolenceAgainstWomenwithDisabilities_TheInternationalNetworkofWomenwithDisabilities.pdf).

<sup>30</sup> *See* Barbara Lopes Cardozo et al., *Mental Health, Social Functioning, and Disability in Postwar Afghanistan*, 292 J. AM. MED. ASS'N 575 (2004); *see also* Maro Klaric et al., *Psychological Consequences of War Trauma and Postwar Social Stressors in Women in Bosnia and Herzegovina*, 48 CROAT. MED. J. 167 (2007).

<sup>31</sup> U.N. Secretary-General, *Torture and other cruel, inhuman or degrading treatment or punishment: Rep. of the Secretary-General*, U.N. DOC. A/63/175 (July 28, 2008) [hereinafter *Torture*], available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/440/75/PDF/N0844075.pdf?OpenElement>.

<sup>32</sup> *See* de Silva de Alwis, *supra* note 8.

<sup>33</sup> *Global Appeal: No Use of Child Soldiers*, RED HAND DAY, <http://www.redhandday.org/index.php?l=en&view=about> (last visited Mar. 26, 2011).

<sup>34</sup> Rep. of the Expert Group Meeting, *Elimination of All Forms of Discrimination and Violence Against the Girl Child*, ¶ 80 (2006), available at [http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report\\_FINAL.pdf](http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf).

<sup>35</sup> Rep. of the Expert Group Meeting, *Elimination of All Forms of Discrimination and Violence Against the Girl Child*, ¶¶ 67, 79-81 (Sept. 25-28, 2006), available at [http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report\\_FINAL.pdf](http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf).

<sup>36</sup> BANK-SUPPORTED PROJECTS, *supra* note 17.

According to one of the women who led the effort to ensure that the rights of women with disabilities were incorporated into the CRPD,<sup>37</sup> “[g]ender is one of the most important categories of social organization, and patterns of disadvantage are often associated with the differences in social position of women and men. These gendered differences are reflected in the different life experiences of women with disabilities and men with disabilities. While women with disabilities have much in common with men with disabilities, women with disabilities have to face multiple discrimination in many cases, so that they are often more disadvantaged than men with disabilities in similar circumstances.”<sup>38</sup> Women and girls with disabilities are recognized to be doubly disadvantaged, experiencing exclusion on account of both their gender and their disability. Therefore, it is only just that they have meaningful roles as decision makers and achieve gender equality. Given how greatly women and girls with disabilities are affected by the double discrimination and gender and disability stereotyping they face because of both gender and disability, they deserve to be heard.

For greater detailed information on the situation of women and girls with disabilities, see Appendix C: Situation of Women and Girls with Disabilities, Especially in the Pre-Conflict, Conflict and Post-Conflict Environment. However, some specific issues noted by the CEDAW Committee in its request for input into its development of its General Recommendation on Women in Conflict and Post-Conflict Situations, are discussed herein, specifically on CEDAW Article 2 (a – g) on the core obligations of States parties to the Convention; Article 4 on temporary special measures; Article 5(a) on the modification of social and cultural patterns of conduct of men and women; Article 6 on the suppression of trafficking and exploitation of women; Articles 7 and 8 on women’s participation in political and public life and their representation in government and at the international level; Article 9 on women’s rights to a nationality; Article 10 on the right to education; Article 11 on the right to work; Article 12 on the right to health and; Article 15 (1) on women’s equality with men before the law.

### **CEDAW and CRPD Intersection and Synergy in the Conflict and Post-Conflict Environment**

A careful analysis of the intersection between the provisions of the CRPD and the CEDAW, along with various United Nation Security Council Resolutions and other reports on women, peace and security, demonstrates the synergy that exists to foster changes in law, policy, and practice to ensure the inclusion of women and girls with disabilities in post-conflict peace building and reconciliation processes. The analysis below focuses on provisions in both the CEDAW and the CRPD that have specific implications for inclusion of women and girls with disabilities in practices and policies concerning conflict and post-conflict situations and the CEDAW Committee’s elaboration of a General Recommendation on Women in Conflict and Post-Conflict Situations.

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<sup>37</sup> See *Convention on the Rights of Persons with Disabilities*, G.A. Res. 61/611, U.N. DOC. A/RES/61/611, art. 8(1)(b) (Dec. 6, 2006) [hereinafter CRPD], available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>38</sup> See Sigrid Arnade & Sabine Haefner, *Gendering the Comprehensive and Integral Int’l Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities 7* (Disabled Peoples’ International 2006), available at [http://v1.dpi.org/lang-en/resources/topics\\_detail?page=446](http://v1.dpi.org/lang-en/resources/topics_detail?page=446).

- The CRPD and the CEDAW on War, Conflict, and Peace

Both the CRPD and the CEDAW, respectively, recognize the impact of war, conflict, and natural disasters on persons with disabilities and on women. In addition, both the CRPD and the CEDAW, respectively, recognize the role that persons with disabilities and women must have in post-conflict situations.<sup>39</sup> The CRPD Preamble highlights “that conditions of peace and security . . . are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation.”<sup>40</sup> Situations of risk and humanitarian emergencies therefore require States to take the necessary measures to ensure the protection and safety of persons with disabilities in situations like armed conflict, humanitarian emergencies, and natural disasters.<sup>41</sup> Moreover, the CEDAW Preamble affirms “[t]hat the strengthening of international peace and security, the relaxation of international tension . . . and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence . . . will contribute to the attainment of full equality between men and women.”<sup>42</sup> This treaty further states that States are convinced that the complete development of a country, the welfare of the world, and the cause of peace require the maximum equal participation of women in all fields.<sup>43</sup>

Both of these treaties are particularly relevant to ensuring that a gender-based approach is utilized, and that women with disabilities are specifically incorporated within the United Nations “Women, Peace and Security” framework.

- CRPD’s Gender Lens

The CRPD has adopted a gender lens in its terms and provisions, as shown in the Preamble, Article 3, Article 6,<sup>44</sup> and also throughout the CRPD provisions specifically concerning women, such as Article 8 on awareness-raising, Article 16 on freedom from exploitation, violence and abuse, and Article 25 on health.<sup>45</sup>

- General Obligations and Temporary Special Measures

Additionally, the CRPD and the CEDAW share many common principles such as the overall obligations required of states under Article 2 of the CEDAW and Article 4 of the CRPD. Both conventions require states to enact legislative and legal protections for women and/or persons with disabilities. To alleviate the effect that stereotypes have on emphasizing notions of inequality towards women and persons with disabilities, Article 5 of the CRPD and Article 4 of the CEDAW include provisions authorizing the use of special measures to expedite and ensure the achievement of equality between the sexes and those with disabilities.<sup>46</sup> The CEDAW states that temporary special measures “aimed at accelerating de facto equality between men and

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<sup>39</sup> See CRPD, *supra* note 37; Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (Dec. 18, 1979) [hereinafter CEDAW], available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>40</sup> See CRPD, *supra* note 37, pmb., (u).

<sup>41</sup> *Id.* at 10.

<sup>42</sup> CEDAW, *supra* note 39, annex.

<sup>43</sup> *Id.*

<sup>44</sup> See CRPD, *supra* note 37, pmb., (q), (s), arts. 3, 6; see also Peter Blanck et al., *Defying Double Discrimination*, 8 GEO. J. INT’L AFF. 95, 96-97 (2007) (detailing the genesis and negotiation process for CRPD Article 6 to achieve rights for women with disabilities).

<sup>45</sup> See CRPD, *supra* note 37, arts. 8, 16, 25.

<sup>46</sup> CRPD, *supra* note 37, art. 5(4); CEDAW art. 4

women shall not be considered discrimination”<sup>47</sup> and the CRPD has a similar provision, providing for such measures.<sup>48</sup>

- The CRPD and the CEDAW on Stereotyping

Article 8 of the CRPD and Article 5 of the CEDAW emphasize the negative role that stereotypes can play in the lives of persons with disabilities, including women with disabilities and women in general. Under both conventions, States hold the responsibility to “[t]o combat stereotypes, prejudices and harmful practices”<sup>49</sup> and to eliminate “prejudices and customary and all other practices.”<sup>50</sup> Similarly, Article 8 of the CRPD lists ways in which a state may combat stereotypes against women and persons with disabilities.<sup>51</sup> Article 8 of the CRPD recommends that States employ programs “to raise awareness throughout society, including at the family level... and to foster respect for the rights and dignity of persons with disabilities...including those based on sex and age...”<sup>52</sup> The CRPD takes the CEDAW stereotype provisions further by recognizing that gender and disability stereotypes coincide to have a compound effect on women with disabilities.<sup>53</sup>

- The CRPD and the CEDAW on Legal Capacity and Access to Justice

Two crucial elements of human rights, legal capacity and access to justice, are incorporated in both conventions. In the CRPD, Articles 12 and 13 address these issues, and in the CEDAW, Article 15 addresses equality before the law for both men and women.<sup>54</sup> The CRPD draws heavily on the approach taken in the CEDAW and rejects the narrower approach taken in the International Covenant on Civil and Political Rights (ICCPR).<sup>55</sup>

In its General Comment No. 28, the Human Rights Committee (the Committee that monitors compliance with the ICCPR) states that:

The right of everyone under article 16 to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies . . . that women may not be treated as objects to be given, together with the property of the deceased husband, to his family. States must provide information on laws or practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment.<sup>56</sup>

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<sup>47</sup> CEDAW, *supra* note 39, art. 4(1)

<sup>48</sup> U.N. Human Rights Council, U.N. High Commissioner for Human Rights, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary General: Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities, U.N. DOC. A/HRC/10/48 (Jan. 26, 2009) [hereinafter OHCHR].

<sup>49</sup> CRPD, *supra* note 37, art 8, para. 1(b).

<sup>50</sup> CEDAW, *supra* note 39, art. 5(a).

<sup>51</sup> CRPD, *supra* note 37, arts. 8(1) (a)-(b).

<sup>52</sup> *Id.*

<sup>53</sup> See CRPD, *supra* note 37, art. 6, para. 1.

<sup>54</sup> See *id.* arts. 12, para. 1-4 & 13, para. 1; CEDAW, *supra* note 8, art. 15.

<sup>55</sup> See G.A. Res. 2200 (XXI), arts. 14, 15, 16, U.N. DOC. A/RES/21/2200 (Dec. 16, 1966).

<sup>56</sup> Human Rights Comm., para. 19, *General Comment No. 28: Article 3 (Equality of Rights Between Men and Women)* U.N. DOC. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000).

Interestingly, interpretations of this provision of the ICCPR make it abundantly clear that this provision only contemplates one aspect of this right—that every person is a subject, and not an object, of the law.<sup>57</sup> This provision does not guarantee that a person has the legal capacity to act.<sup>58</sup> On the other hand, the approach used in the provisions of the CRPD utilizes wording similar to that used in the second paragraph of Article 15 of the CEDAW.

Article 15 of the CEDAW states four provisions. First, it requires States to accord women equality with men before the law. Second, it requires States, in civil matters, to accord women a legal capacity identical to that of men, as well as the same opportunities to exercise that capacity. More specifically, States must give women equal rights to conclude contracts and to administer property, and they must also treat women equally in all stages of court and tribunal procedure. Third, States must agree that all contracts and other private legal instruments directed at restricting the legal capacity of women are deemed null and void. Fourth, Article 15 requires States to accord men and women with the same rights regarding the law relating to the movement of persons and the freedom to choose their residence and domicile.<sup>59</sup>

Furthermore, the CEDAW Article 15 focuses on ensuring women’s legal autonomy. It confirms women’s equality with men before the law and also requires States to guarantee equal rights in areas of civil law where women have traditionally suffered discrimination.<sup>60</sup> Comparably, Articles 3 and 5 of the CRPD emphasize and assure the legal rights of persons with disabilities and of men and women.<sup>61</sup>

Article 15 of the CEDAW guarantees women equal “legal capacity” with men and the same opportunities to “exercise that capacity,” drawing from the principle of autonomy or self-determination.<sup>62</sup> Each individual is presumed to be able to make life choices and to act independently.<sup>63</sup> Thus, the CRPD clearly incorporates both concepts of “capacity to be a person before the law” and “legal capacity to act,” drawing on the approach taken in the CEDAW.<sup>64</sup>

- Right to a Nationality

Although country-level statistics regarding nationality and persons with disabilities are rare, several international conventions and treaties mention the right to nationality in general, as well as for persons with disabilities. In particular, Article 9 of the CEDAW and Article 18 of the CRPD concentrate on the right to a nationality. Article 9 expresses that a woman has a right to her own nationality, which is not rendered obsolete once she marries<sup>65</sup>. The CRPD takes this concept further in that persons with disabilities are entitled to a nationality and “to freedom to

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<sup>57</sup>. See U.N. High Comm’r for Human Rights, Legal Capacity para. 14 (Aug. 2005) (unpublished background conference document) (on file with author), available at [http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR\\_BP\\_Legal\\_Capacity.doc](http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc).

<sup>58</sup>. See *id.*

<sup>59</sup>. CEDAW, *supra* note 39, art. 15.

<sup>60</sup>. See Comm. on the Elimination of Discrimination Against Women, Rep. on its 13th Sess., Jan. 17-Feb. 4, 1994, para. 26, U.N. DOC. A/49/38 (Apr. 12, 1994).

<sup>61</sup>. CRPD, *supra* note 37, arts. 3(g) & 5(1)

<sup>62</sup> CEDAW, *supra* note 39, art. 15, para. 2.

<sup>63</sup> U.N. High Comm’r for Human Rights, *supra* note 57, para. 18.

<sup>64</sup> See *id.* para. 37.

<sup>65</sup> CEDAW, *supra* note 39, art. 9

choose their residence...on an equal basis with others...”<sup>66</sup>. The right to nationality has particular implications for persons with disabilities seeking to immigrate between States and/or Territories and to people working with clients on parole on mental health orders restricting their place of residence, working in immigration, and working with clients who move between States and/or Territories<sup>67</sup>. Article 12 of the International Covenant on Civil and Political Rights<sup>68</sup>, Articles 7 and 8 of the Convention on the Rights of the Child<sup>69</sup>, and Article 12 of the African Charter on Human Peoples’ Rights<sup>70</sup> reaffirm this right to freedom of movement and nationality without specific mention of disability.

Article 18 of the CRPD applies the traditional right to nationality to the circumstances of persons with disabilities. The article guarantees persons with disabilities the right to movement across and within national borders as well as the right to choose their nationality and residence on an equal basis with others.<sup>71</sup> State parties therefore cannot discriminate in immigration policy on the basis of disability. The second paragraph affirms the specific guarantees of children with disability to be named, registered, and given a nationality at birth as well as to avoid separation from parents at birth. Additionally, this paragraph has important repercussions for immigration laws that refuse entry to a child with disabilities whose family is seeking to immigrate<sup>72</sup>. The right to nationality for persons with disabilities is mediated by immigration law, discriminatory nationality practices at birth, and other citizenship-based debates.

- Trafficking

Two provisions of the CRPD specifically address trafficking, although they do not use that term, Article 16 Freedom from exploitation, violence and abuse and Article 27 Work and employment. The CRPD Article 16(1) states: “1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the , from all forms of exploitation, violence and abuse, including their gender-based aspects.”<sup>73</sup> Additionally, States Parties shall establish Gender and age-specific supports, as well as provide recovery programs, prevention strategies and the identification, investigation and, where appropriate, prosecution of instances of such abuse.<sup>74</sup> The CRPD Article 27(2) states: “2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”<sup>75</sup> The CEDAW Article 6 addresses the suppression of trafficking and exploitation of women and simply states: “States Parties shall take all appropriate measures,

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<sup>66</sup> CRPD, *supra* note 37, art. 18.

<sup>67</sup> *Liberty of movement and nationality*, HUMAN RIGHTS FOR PEOPLE WITH DISABILITIES (Jan. 12, 2009, 3:11 PM), <http://www.disabilityrightsnow.org.au/node/41> [hereinafter *Liberty of movement*].

<sup>68</sup> ICCPR art. 12

<sup>69</sup> IRC art. 7-8

<sup>70</sup> ACHPR art. 12

<sup>71</sup> CRPD, *supra* note 37, art. 18

<sup>72</sup> *Liberty of movement*, *supra* note 67.

<sup>73</sup> CRPD, *supra* note 37, art. 16 (2)-(5).

<sup>74</sup> CPRD, *supra* note 37, art. 16.

<sup>75</sup> CRPD, *supra* note 37, art. 27.

including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.<sup>76</sup>

- Right to Education

The right to education is also guaranteed in Article 10 of the CEDAW and Article 24 of the CRPD. Both articles assert the importance of an equal education and that States should work towards eliminating discrimination. The CEDAW education provision advocates for “the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education...by the revision of textbooks and school programmes and the adaptation of teaching methods.”<sup>77</sup> Similarly the CRPD encourages States “to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education.”<sup>78</sup>

- Right to Work

The right to work and participate in the same economy is also mentioned in Article 11 of the CEDAW and Article 27 of the CRPD. Both conventions advocate for an inclusive workforce that will in turn advance the economy, human rights and development of the state.<sup>79</sup> The CRPD maintains that “the rights of persons with disabilities...[include] equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions...[and] protection from harassment, and the redress of grievances” as well as the right to reasonable accommodation.<sup>80</sup>

- Right to Participation in Political and Public Life

Both the CRPD and the CEDAW recognize the important role that participation in political life plays in advancing human rights for persons with disabilities and for women, respectfully. Article 29 of the CRPD requires states to “ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others” and gives them the right to “[form] and [join] organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.”<sup>81</sup> The CEDAW also includes similar guarantees to women in Article 7, which states that states shall “eliminate discrimination against women in the political and public life of the country,” and in Articles 7 and 8, which guarantees to women “the opportunity to represent their Governments at the international level.”<sup>82</sup>

- Right to Health

Even before the CRPD came into force, the CEDAW Committee began to recognize that issues concerning women with disabilities played an important role in its work. For example, in its General Recommendation No. 18, the CEDAW Committee recommended that States:

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<sup>76</sup> CEDAW, *supra* note 39, art. 6.

<sup>77</sup> CEDAW, *supra* note 39, art. 10(c).

<sup>78</sup> CRPD, *supra* note 37, art. 24(4).

<sup>79</sup> CEDAW, *supra* note 39, art. 11; *see also* CRPD, *supra* note 37, art. 27.

<sup>80</sup> CRPD, *supra* note 37, art. 27(b).

<sup>81</sup> CRPD, *supra* note 37, arts. 29(a), (b)(ii).

<sup>82</sup> CEDAW, *supra* note 39, arts. 7, 8.

provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.<sup>83</sup>

Furthermore, in General Recommendation No. 24:

[w]omen with disabilities, of all ages, often have difficulty with physical access to health services. Women with mental disabilities are particularly vulnerable, while there is limited understanding, in general, of the broad range of risk to mental health to which women are disproportionately susceptible as a result of gender discrimination, violence, poverty, armed conflict, dislocation and other forms of social deprivation. States parties should take appropriate measures to ensure that health services are sensitive to the needs of women with disabilities and are respectful of their human rights and dignity.<sup>84</sup>

The CEDAW Committee also referenced other issues of concern in another of its General Recommendations. For instance, the CEDAW Committee recognized that societal factors may be determinative of health status, and that special attention should be given to the health needs of women with disabilities, among other vulnerable groups.<sup>85</sup> Additionally, Article 12 of the CEDAW and Article 25 of the CRPD specifically address the right to health among women and persons with disabilities, respectively. The CEDAW stresses the importance of access to healthcare for women, especially in the areas of reproduction and family planning.<sup>86</sup> Also, the CRPD asserts “States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.”<sup>87</sup>

- Consent to Be Bound and Reporting

Under the CRPD’s Article 43 (“Consent to be bound”), states and Regional Integration Organizations, which ratify or accede to the CRPD, agree to be bound by its terms.<sup>88</sup> Furthermore, under Article 38 (“Relationship of the Committee with other bodies”), the CRPD Committee may “invite specialized agencies and other United Nations organs to submit reports on the implementation of the CRPD in areas falling within the scope of their activities.”<sup>89</sup>

Both the CRPD and the CEDAW provide a significant roadmap for the inclusion of women with disabilities into peacebuilding activities and the United Nations “Women, Peace and Security” framework. The failure to include these women in such actions at the international and national levels runs contrary to the gender approach and other principles found in both treaties.

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<sup>83</sup> Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 18, 10<sup>th</sup> Sess. (1991), available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

<sup>84</sup> Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 24, para. 25, 20<sup>th</sup> Sess. (1999), available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

<sup>85</sup> *Id.* para. 6 (“While biological differences between women and men may lead to differences in health status, there are societal factors which are determinative of the health status of women and men and which can vary among women themselves. For that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child and older women, women in prostitution, indigenous women and women with physical or mental disabilities.”).

<sup>86</sup> CEDAW, *supra* note 39, art. 12

<sup>87</sup> CRPD, *supra* note 37, art. 25.

<sup>88</sup> See CRPD, *supra* note 37, art. 43.

<sup>89</sup> CRPD, *supra* note 37, art. 38(a).

## Gender Mainstreaming, Disability-Inclusive Approach

This paper considers two elements essential to inclusion, that is, gender and disability.

- Gender Mainstreaming

The CEDAW clearly promotes the approach of gender mainstreaming. Article 3 requires States Parties to “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”<sup>90</sup> and Article 5 of the CEDAW addresses the need “[t]o 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.”<sup>91</sup> Under both the CEDAW and the establishment of UN Women, and policies that flow from them, gender is viewed as the socially constructed roles ascribed to women and men, as opposed to biological and physical characteristics which often flow from stereotypes of women and men.<sup>92</sup> Gender is a cross-cutting issue that affects everything from building housing, transportation, schools, bridges or wells, delivering humanitarian relief, reforming the security sector, establishing the rule of law, de-mining, instituting human rights protections, implementing inclusive decision-making processes, setting priorities for development activities, ensuring employment opportunities, and so on, all of which relate to the development and advancement of society both in conflict environments and in society generally.<sup>93</sup> For example, in the area of post-conflict peace building, this view sees women with disabilities as active participants in the peace building process and development of institutions post-conflict. As another example, in the fields of science, technology, engineering and math, this view sees women and girls with disabilities as scientists, technicians, engineers and mathematicians and also recognizes the importance of knowledge of STEM subjects in daily life. With respect to violence against women, this approach ensures that the specific needs of women with disabilities are considered as violence prevention programs are developed and that services and programs for women who have experienced gender-based violence are inclusive of and accessible to women with disabilities. A gendered perspective can help identify different barriers, needs and interests of men and women, boys and girls; can help mainstream gender into planning and decision making processes; and maximize contributions to these processes.<sup>94</sup>

- Disability Inclusion

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<sup>90</sup> See CEDAW, *supra* note 39, art. 3.

<sup>91</sup> See CEDAW, *supra* note 39, art. 5(a).

<sup>92</sup> See de Silva de Alwis, *supra* note 8.

<sup>93</sup> U.N. Office of the Special Advisor on Gender Issues and Advancement of Women, Gender Mainstreaming: Strategy for Promoting Gender Equality (2001) [hereinafter Gender Mainstreaming], *available at* <http://www.un.org/womenwatch/osagi/pdf/factsheet1.pdf>.

<sup>94</sup> COMMITTEE ON WOMEN IN THE NATO FORCES, CWINF GUIDANCE FOR NATO GENDER MAINSTREAMING, (2007) [hereinafter NATO FORCES], *available at* [http://www.nato.int/issues/women\\_nato/cwinf\\_guidance.pdf](http://www.nato.int/issues/women_nato/cwinf_guidance.pdf).

The CRPD, the first human rights treaty of the 21<sup>st</sup> Century, became the first international instrument by which persons with disabilities could enforce their human rights. The CRPD also incorporated a transformative view of disability, moving away from the “medical model” of disability toward a “social model” of disability. Noted disability human rights scholars Michael Stein and Janet Lord emphasize the fact that “The Convention categorically affirms the social model of disability in relation to persons with disabilities by describing it as a condition arising from “interaction with various barriers [that] may hinder their full and effective participation in society on an equal basis with others” instead of a condition arising from inherent limitations,” referencing the CRPD Article 1.<sup>95</sup> Under the CRPD disability is viewed through a social model under which disability is recognized as an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. This social model of disability has important ramifications for development and human rights programming because the CRPD recognizes the existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty.<sup>96</sup> This social model of disability poses an alternative to the medical model of disability, asserting that persons with disabilities are disadvantaged not because of their impairments, but as a result of the limitations imposed by social, cultural, economic, and environmental barriers.<sup>97</sup> The advancement of persons with disabilities can most effectively be achieved through modifications to the environment utilizing the universal design approach, which promotes the equalization of opportunities for disabled persons and which benefits the society as a whole.<sup>98</sup> Eradication of stereotypes of persons with disabilities also promotes equality and human rights. Disability mainstreaming will afford the same benefits as gender mainstreaming and has similar implications as gender mainstreaming for the various stages and elements of programming as outlined above.

- Gender-Focused Disability Mainstreaming

This paper argues that the CEDAW Committee, along with UN Women and the United Nations Interagency Task Force on Women, Peace and Security can be innovators and use both gender mainstreaming and disability inclusion as a predominant framework to discuss inclusion of all

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<sup>95</sup> See CRPD, *supra* note 37, art. 1; Janet E. Lord and Michael Ashley Stein, *The Domestic Incorporation of Human Rights Law and the United Nations Convention on the Rights of Persons with Disabilities*, 83 WASH. U. L. REV. 449, 460 (2008).

<sup>96</sup> See CRPD, *supra* note 37.

<sup>97</sup> United Nations Inter-Agency Support Group for the Convention on the Rights of Persons with Disabilities, *Joint Statement of Commitment to the Convention*, (2008), available at <http://www.un.org/disabilities/documents/iasg/soc.pdf>.

<sup>98</sup> Sheryl Burgstahler, *Universal Design of Instruction*, ACCESSSTEM, <http://www.washington.edu/doi/Stem/ud.html> (last visited Mar. 4, 2011).

women and girls within the UN System, including those with disabilities. This refers to the process of assessing the implications for women and men with and without disabilities of any planned action, including legislation, policies or programs in all areas and at all levels. It is a strategy for making the concerns and experiences of women and men with and without disabilities an integral dimension of design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres, so that women and men with and without disabilities benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality and equality for persons with and without disabilities. It is important to note that this mainstreaming approach does not focus solely on women with disabilities, although women with disabilities more often than not would be the focus and beneficiaries of mainstreaming practices due to their severely disadvantaged position in many communities.

Thus, as the CEDAW Committee elaborates its General Recommendation on Women in Conflict and Post-Conflict Situations, it is encouraged to apply this approach in the terms of the general recommendation.

### **CEDAW Provisions that Inform Discussion of Women in Conflict and Post-Conflict Situations – Ramifications for Women and Girls with Disabilities.**

The CEDAW Committee has highlighted several CEDAW provisions which will inform its elaboration of its General Recommendation and the ramifications of these provisions for women and girls with disabilities are explored below, highlight applicable provisions of the CRPD, especially its Article 6 on women and girls with disabilities.

- CEDAW Article 2 (a – g) on the core obligations of States parties to the Convention and CEDAW Article 4 on temporary special measures

Both the CRPD and the CEDAW set forth comprehensive general obligations. Because of the double discrimination women and girls with disabilities face, clearly temporary special measures are in order to address these gaps. The CRPD clarifies that specific measures that might be required to promote equality shall not be considered discriminatory. Equality legislation should foresee the adoption of positive measures required to promote de facto equality of persons with disabilities. Such measures might be either temporary or permanent. Affirmative action measures should be included in legislation, clarifying that such measures shall not be taken as discriminatory against other members of society. Special measures established by law might include the determination of quotas in the recruitment of persons with disabilities. Other measures might include the provision of financial subsidies to employers, including tax reductions, vocational guidance and placement services.<sup>99</sup>

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<sup>99</sup> OHCHR, *supra* note 48.

- CEDAW Article 5(a) on the Modification of Social and Cultural Patterns of Conduct of Men and Women - Gender Stereotyping and Women with Disabilities

Women with disabilities experience both the stereotypical attitudes toward women and towards persons with disabilities. In the groundbreaking book, *Gender Stereotyping: Transnational Legal Perspectives*, Cook and Cusack define stereotyping as: "a generalized view or preconception of attributes' or characteristics possessed by, or the roles that are or should be performed by members of the particular group (e.g., women, lesbians, adolescents)."<sup>100</sup>

Both the CEDAW and the CRPD recognize the role of stereotypes in the denial of human rights to women with disabilities. The CEDAW Article 5(a) states: "States Parties shall take all appropriate measures: (a) [t]o 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."<sup>101</sup>

The CRPD takes the CEDAW stereotype provisions one further step and recognizes that, in the case of women with disabilities, it is important to consider how gendered stereotypes coincide with stereotypes of persons with disabilities to harm and discriminate against them in compounded ways, thereby recognizing the intersection of both gender and disability stereotypes in the case of women with disabilities. The CRPD Article 8 on Awareness-raising states: Article 8(1) States Parties undertake to adopt immediate, effective and appropriate measures: (b) [t]o combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life."<sup>102</sup>

For those advocating for a separate article on women with disabilities, as well as the inclusion of a gender perspective throughout the CRPD, the recognition of this compounded discrimination was crucial. "In addition to the multiple discrimination women with disabilities have to experience, they face the problem of a double invisibility as women and as disabled persons."<sup>103</sup>

Fine and Asch, authors of "*Disabled Women: Sexism without the Pedestal*," note a significant impact of these stereotypical views of women with disabilities, discussing the important role of social roles: "Rolelessness, the absence of sanctioned social roles and/or institutional means to achieve these roles, characterizes the circumstances of disabled women in today's society. ...The absence of sanctioned roles can cultivate a psychological sense of invisibility; self-estrangement, and/or powerlessness."<sup>104</sup> Nonetheless, the authors strongly note that we should not: "...see disabled women as neither helpless nor hopeless victims unwilling to change their circumstances."<sup>105</sup> Thus, these stereotypes of women with disabilities would certainly contribute to an understanding as to why women and girls with disabilities are so often absent from

<sup>100</sup> REBECCA J. COOK & SIMONE CUSACK, *GENDER STEREOTYPING: TRANSNATIONAL LEGAL PERSPECTIVES* (Univ. of Penn. Press 2010).

<sup>101</sup> See CEDAW, *supra* note 39, art. 5(a).

<sup>102</sup> See CRPD, *supra* note 37, art. 8(1)(b).

<sup>103</sup> See Arnade & Haefner, *supra* note 38, at 10.

<sup>104</sup> Michelle Fine & Adrienne Asch, *Disabled Women: Sexism without the Pedestal*, 8 J. SOC. & SOC. WELFARE 233, 239 (1981).

<sup>105</sup> See *id.* at 241.

programs to address women's rights and gender equality, except when they are occasionally seen as "victims" needing protection.

- CEDAW Article 6 on the Suppression of Trafficking and Exploitation of Women

Women and girls with disabilities are also at risk for being trafficked and forced into prostitution though they are rarely included in anti-trafficking programs nor in reports on the incidence of trafficking. The four major vulnerability factors for susceptibility to trafficking are poverty, ignorance, minority status and being a female. Girls with disabilities often fit into each of these four major red flags that increase vulnerability to human trafficking. They are disabled which makes them a minority and often creates a lack of knowledge, they are often the poorest individuals in the community and on top of that they are women. Because of the incorrect belief that sex with a virgin will cure HIV/AIDS, and the erroneous belief that women with disabilities are virgins, they are trafficked as sex workers. Because of stereotypical views of the value of disabled female children and the lack of supports available to parents with children with disabilities, parents may see trafficking of their disabled daughter as their only option.<sup>106</sup>

For example, UNICEF reports that in Thailand proprietors of houses of prostitution have specifically sought out deaf girl children and adolescents, with the idea that such young people will be less able to communicate their distress or find their way back to their homes in a world where neither their customers nor their employers or fellow sex workers are able to speak sign language. Another UNICEF study in Taiwan found that the proportion of child prostitutes who had mild developmental disabilities was six times greater than what might be expected from the incidence in the general population.<sup>107</sup> A ground-breaking investigative report by Disability Rights International (DRI) highlighted significant problems with trafficking of women and girls with disabilities from several institutions, stating: "Our investigative team interviewed authorities at the Federal District Human Rights Commission, who also conducted the investigation into disappearances and abuses at this facility. According to these authorities, they "strongly suspect" that girls in the facility were sexual[ly] abused and this matter is currently under investigation. Children's rights groups in Mexico have also expressed concern about the dangers of abuse and trafficking of children in institutions. According to a statement by the Children's Rights Network and newspaper reports, minors have reported to have been sexually abused and forced into labor by members of an organized crime ring at children's home called Casa Adulam AC. In 2010, Mexican authorities identified another institution, the Drug and Alcohol Rehabilitation Institute Hospital Center "Saint Tomás, Los Elegidos de Dios," where women and girls were subject to sexual abuse and trafficking...Based on findings of sexual abuse and trafficking at Casa Adulam and Los Elegidos de Dios, an official of the Mexico City Human Rights Commission reported to DRI that 'we do not yet face a scenario that what happened at Casita del Sur could not happen again...The Recommendation of the La Casita del Sur case was issued in April 2009, and we found what was happening in the Casa Adulam and Casa de los Elegidos de Dios this year.'" DRI concludes that this

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<sup>106</sup> *Id.*

<sup>107</sup> *Women with Disabilities: General Statistics*, USAID WOMEN IN DEVELOPMENT (WID) (Jan. 12, 2011), [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/wid/disability/wwd\\_statistics.html](http://www.usaid.gov/our_work/cross-cutting_programs/wid/disability/wwd_statistics.html).

lack of alternatives to institutionalization for children who face abuse in their homes or whose parents simply cannot keep them because of the lack of disability-related supports leads to this horrific danger of trafficking.<sup>108</sup> Women and girls with disabilities are rarely included in trafficking in persons global studies. For example, the U.S. Department of State Trafficking in Persons Report for 2011 only mentioned persons with disabilities with respect to seven countries, e.g., Afghanistan, Armenia, Burundi, China, Israel, Nigeria and Slovak Republic, but none of these references to persons with disabilities specifically mention women and girls with disabilities.<sup>109</sup> In addition, the information provided above on Mexico is not included in the U.S. Department of State Report at all. Inclusion of women and girls with disabilities is essential to beginning to bring attention to this issue and developing prevention and protection strategies.

- CEDAW Article 7 & 8 on Women's Participation in Political and Public Life and their Representation in Government and at the International Level – Women with Disabilities Often Absent

Women with disabilities are often excluded from political participation. Although many women with disabilities would like to participate, in certain rural communities where political participation involves many informal gatherings, they are often not told about the time and location of the meetings and if they are present, their opinions are not always taken seriously in comparison to men and women without disabilities.<sup>110</sup>

People with disabilities, especially women with disabilities, have too often been excluded from participating in the decisions that affect their lives. This absence from decision-making processes reinforces barriers to full participation in society. Discriminatory laws may permanently deny people with disabilities of their legal rights and thus deny them their legal capacity, as in the case of processes that strip the rights of persons with psycho-social disabilities to make decisions about medical interventions.

The right to political participation may be denied to people with disabilities for a variety of reasons. Discriminatory laws may restrict or even prohibit altogether the right to vote, particularly for people with a psycho-social or intellectual disability. Stereotypes about disability may also serve to exclude people with disabilities from being included in public outreach by political parties or for consideration as candidates for public office. Lack of access to information, such as when public meetings are held or voting requirements, can also be a barrier. Communication barriers frequently exclude women who are deaf or hard of hearing from decision-making processes.

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<sup>108</sup> Rosenthal, et al., *Abandoned & Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities*, 24-25 (June 2011), available at <http://www.disabilityrightsintl.org/media-gallery/our-reports-publications/>.

<sup>109</sup> U.S. Dept. of State, Trafficking in Persons Report, 256 (2011), available at <http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm>.

<sup>110</sup> See Ashley Keller, *The Forgotten People of Modern Day Slavery Part I*, THE HUMAN TRAFFICKING PROJECT (Sept. 10, 2010), <http://www.traffickingproject.org/2010/09/forgotten-people-of-modern-day-slavery.html>.

Examples of Barriers to Participation in Decision-making for women with disabilities include: Attitudes about the value of inclusion of women with disabilities in decision-making processes; Lack of accessible information about public meetings and consultations, political parties, voting, and registration; Lack of transportation to public meetings, registration, and polling stations; Physical barriers to public buildings, including courts, voting registration centers, and polling stations; Polling stations in rooms too small to accommodate women using wheelchairs and voting boxes placed on high tables; Lack of accessible information on voting procedures for voters with sensory disabilities; Poorly trained election workers; Hostility and/or exclusion of people with psycho-social disability and intellectual disabilities in decision-making processes; Lack of alternative voting devices or accessible voting methods for women with sensory disabilities; Lack of mobile voting mechanisms for women who cannot leave their homes or who are currently residing in hospitals or institutions.

All women have the right to vote in secret, an absolute right that may not be restricted. In many countries, however, voting and registration procedures are not made accessible to people with disabilities to allow for their secret voting, especially for blind voters. Blind voters may exercise their right to vote in secret with a tactile ballot guide or with a voting machine that has audible instructions.<sup>111</sup>

- CEDAW Article 9 on Women's Rights to a Nationality

Because of stereotypical and discriminatory attitudes toward all persons with disabilities, particularly girls with disabilities, they are often hidden in the home and their births are not reported to authorities. As a result, not all persons with disabilities are named, registered, and given a nationality at birth and may be separated from parents at birth. Additionally, the CRPD Article 18 has important repercussions for immigration laws that refuse entry to a child with disabilities whose family is seeking to immigrate<sup>112</sup>. The right to nationality for persons with disabilities is mediated by immigration law, discriminatory nationality practices at birth, and other citizenship-based debates. For example, the incarceration of persons with disabilities, particularly those with intellectual or developmental disabilities, can be described as an act of denial of citizenship.<sup>113</sup>

In the context of the conflict environment, discriminatory immigration and asylum laws have significant ramifications for women and girls with disabilities. For example, in Australia, migrants and refugees with disabilities may face challenges including passing the Australian government's Migration Health Test, waiting ten years for the financial support of the Disability

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<sup>111</sup> GUY S. GOODWIN-GILL, *FREE AND FAIR ELECTIONS*, (Inter-Parliamentary Union 2006), available at <http://www.ipu.org/pdf/publications/free&fair06-e.pdf>; Global Initiative to Enfranchise People with Disabilities, <http://www.electionaccess.org/> (last visited June 3, 2011).

<sup>112</sup> *Liberty of movement*, *supra* note 67.

<sup>113</sup> Helen Meekosha & Leanne Dowse, *Enabling Citizenship: Gender, Disability and Citizenship in Australia*, 57 *FEMINIST REV.* 49, 49-72 (1997).

Support Pension (DSP), and receiving culturally and linguistically appropriate assistance to full integration in the Australian community<sup>114</sup>.

Despite the existence of the Americans with Disabilities Act (ADA), the United States does not provide protections for persons with disabilities within the immigration sphere in U.S. constitutional law and international human rights standards<sup>115</sup>. A joint ACLU/Human Rights Watch report found that people with mental disabilities in the U.S. face a greater risk of wrongful deportation by U.S. Immigration and Customs Enforcement (ICE) because courts do not ensure fair hearings for those unable to represent themselves without support. According to the report, immigration detainees can remain in custody for years without access to justice or reasonable accommodations<sup>116</sup>.

In the United States, asylum can be granted to any refugee “who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of that person’s country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion<sup>117</sup>. For individuals already within the United States to qualify for withholding of removal, the individual must show that he or she would be persecuted if returned to his or her homeland on account of one of the five grounds listed above. Though the definition of a “particular social group” has been expanded to membership in groups including El Salvadorian taxi drivers, Iranian women who are feminists, and women who had been abused, it has yet to apply to persons with disabilities<sup>118</sup>.

In some countries, women with disabilities, particularly intellectual disabilities, do not have the full rights of citizenship because of the limitations of their reproductive rights and forced sterilization.<sup>119</sup> Because motherhood has been linked to a woman’s status as a citizen in some countries, including the right to vote, the restriction of a woman’s control of her own body and fertility can inherently restrict her access to full citizenship as well. During the twentieth century in Britain, women with intellectual disabilities were targeted for sexual regulation under the

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<sup>114</sup> *Liberty of movement, supra* note 67.

<sup>115</sup> Aron Cobbs, *Compounded Vulnerability: Neglect of Detainees with Disabilities in U.S. Immigration Facilities*, ACLU (Jul. 30, 2010, 1:10 PM), <http://www.aclu.org/blog/human-rights-immigrants-rights/compounded-vulnerability-neglect-detainees-disabilities-us-immig>.

<sup>116</sup> DEPORTATION BY DEFAULT: MENTAL DISABILITY, UNFAIR HEARINGS, AND INDEFINITE DETENTION IN THE US IMMIGRATION SYSTEM (Human Rights Watch, 2010), *available at* [http://www.aclu.org/files/assets/usdeportation0710\\_0.pdf](http://www.aclu.org/files/assets/usdeportation0710_0.pdf).

<sup>117</sup> Immigration and Nationality Act, 8 U.S.C. § 1101(a)(42) (2010).

<sup>118</sup> Arlene Kanter & Kristin Dadey, *The Right to Asylum for People with Disabilities*, 73 TEMP. L. REV. 1117, 1117-58 (2000).

<sup>119</sup> Natalie Tomas, *The Reproductive Rights of Women with Disabilities*, WOMEN WITH DISABILITIES AUSTRALIA (2003), *available at* <http://www.wwda.org/au/tomas1.htm>.

Mental Deficiency Act of 1913 and then deprived of citizenship when labeled as “mental defectives” under this law.<sup>120</sup>

- CEDAW Article 10 on the Right to Education and Women and Girls with Disabilities

The limited statistics that are available indicate that, although the literacy rate for adults with disabilities is 3%, only a meager 1% of women with disabilities are literate.<sup>121</sup> Estimates of the percentage of children with disabilities not attending school is extremely variable, however, in general, children with disabilities are less likely to start school and have lower rates of staying and being promoted in school than their peers without disabilities. The correlation between low educational outcomes and having a disability is often stronger than the correlations between low education outcome and other characteristics such as gender, rural residence or poverty. Additionally, women with disabilities have few opportunities for vocational training.

- CEDAW Article 11 on the Right to Work - Employment Opportunities and Women with Disabilities

The lack of education opportunities, of course, makes it even more difficult for women with disabilities to participate in their communities and to advocate for their rights.<sup>122</sup> For this and many other reasons, women with disabilities have low employment rates, experience discriminatory hiring and promotion criteria, do not receive equal pay for equal work and are frequently steered into segregated and less remunerative occupations.<sup>123</sup> Women with non-severe disabilities earn less than their male counterparts; with women with severe disabilities having the lowest earnings of any group, in both developed and developing countries.<sup>124</sup> Credit (including microfinance) and other productive resources are often denied to them, making it more difficult to start businesses. Incorporating women with disabilities into microfinance programs is an essential element for achieving financial self-sufficiency and to date, such inclusion is very limited.<sup>125</sup>

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<sup>120</sup> Jan Walmsley, *Women and the Mental Deficiency Act of 1913: citizenship, sexuality, and regulation*, 28 BRIT. J. LEARNING DISABILITIES 65, 65-70 (2001).

<sup>121</sup> Harilyn Rousso, *Gender and Education for All: The Leap to Equality* (UNESCO, Education for All Global Monitoring Report, Background Paper, 2003), available at <http://unesdoc.unesco.org/images/0014/001469/146931e.pdf>.

<sup>122</sup> See *id.*

<sup>123</sup> Arthur O'Reilly, *Employment Barriers for Women with Disabilities*, in THE RIGHT TO DECENT WORK OF PERSONS WITH DISABILITIES 31 (International Labour Organization, Working Paper, 2003), available at [http://staging2.ilo.org/wcmsp5/groups/public/---asia/--ro-bangkok/documents/publication/wcms\\_bk\\_pb\\_93\\_en.pdf](http://staging2.ilo.org/wcmsp5/groups/public/---asia/--ro-bangkok/documents/publication/wcms_bk_pb_93_en.pdf).

<sup>124</sup> See also LITA JANS & SUSAN STODDARD, CHARTBOOK ON WOMEN AND DISABILITY IN THE UNITED STATES (InfoUse Report, U.S. National Institute on Disability and Rehabilitation Research 1999), available at <http://www.infouse.com/disabilitydata/womendisability/>; Daniel Stubbs & Sainimili Tawake, *Pacific Sisters with Disabilities: At the Intersection of Discrimination*, (UNDP 2009), available at [http://www.undppc.org.fj/\\_resources/article/files/Final%20PSWD%20BOOKLET.pdf](http://www.undppc.org.fj/_resources/article/files/Final%20PSWD%20BOOKLET.pdf).

<sup>125</sup> Josh Goldstein, *The Smart Campaign Enshrines Non-discrimination in Core Principles*, CENTER FOR FIN. INCLUSION BLOG (Mar. 30, 2011), <http://centerforfinancialinclusionblog.wordpress.com/2011/03/30/the-smart-campaign-stakes-out-leadership-role-on-equal-access-opportunities-for-persons-with-disabilities/>.

Women with disabilities are twice as unlikely to find work as disabled men. Although the majority of women with disabilities contribute significantly to their families through cooking, cleaning, and caring for children and relatives, 75% of women with disabilities worldwide, and up to 100% in some developing countries, are excluded from the workforce.<sup>126</sup> All of these factors contribute to the high poverty rates for women with disabilities and increases their invisibility.<sup>127</sup>

- CEDAW Article 12 on the Right to Health – Impacts on Women and Girls with Disabilities

Inaccessible health care services is a significant barrier for women with disabilities, with respect to both physical inaccessibility of facilities and staff who lack the skills to communicate with women with various disabilities and/or who view them as asexual with respect to the provision of sexual and reproductive health care services.<sup>128</sup> Gender-based discrimination, sexual and other forms of violence, poverty, armed conflict, dislocation and other forms of social isolation contribute to increased risk of psycho/social disabilities amongst women. All of these health care deficits are amplified in the conflict environment and in situations of disaster, especially when women with disabilities are subjected to gender-based and other forms of violence. In 2009, the World Health Organization developed its Guidance Note on Promoting Sexual and Reproductive Health for Persons with Disabilities, which recognized that to be a woman with a disability is to be doubly marginalized. Numerous obstacles are faced particularly by women and girls with disabilities, including the fact that women with disabilities are considered in some societies to be less eligible marriage partners and therefore find themselves in unstable relationships.<sup>129</sup> Additionally, if these unstable relationships become abusive, women with disabilities have fewer legal, social and economic options.<sup>130</sup>

Additionally, The International Conference on Population and Development Programme of Action (ICPD POA) recognizes the basic right of all individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. This also includes the right to make decisions concerning reproduction free of discrimination, coercion and violence. Significantly, this Programme of Action also recognized that these rights specifically apply to persons with disabilities.<sup>131</sup>

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<sup>126</sup> *Id.*

<sup>127</sup> Mainstreaming Disability, *supra* note 13.

<sup>128</sup> *The Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*: Rep. of the Special Rapporteur, ¶ 64, U.N. DOC. E/CN.4/2003/58 (Feb. 13, 2003) [hereinafter *Enjoyment Highest Attainable*], available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/109/79/PDF/G0310979.pdf?OpenElement>.

<sup>129</sup> WORLD HEALTH ORGANIZATION, PROMOTING SEXUAL AND REPRODUCTIVE HEALTH FOR PERSONS WITH DISABILITIES, (WHO Press 2009) [hereinafter PROMOTING SEXUAL HEALTH], available at [http://whqlibdoc.who.int/publications/2009/9789241598682\\_eng.pdf](http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf).

<sup>130</sup> *See id.*

<sup>131</sup> United Nations Population Division, *Report of the International Conference on Population and Development*, U.N. DOC. A/CONF.171/13 (Oct. 18, 1994), available at <http://www.un.org/popin/icpd/conference/offeng/poa.html>.

Access to sexual and reproductive health care, information and related services is limited for women and girls with disabilities. Often women with disabilities do not receive general information on sexual and reproductive health and also have limited access to family planning services.<sup>132</sup> These barriers to access to health care services are not just a result of the woman's disability, but rather barriers inflicted by the ignorance and discriminatory attitudes of society and healthcare providers.<sup>133</sup>

For women with Disabilities, the ramifications of HIV and violence must be addressed. Since women with disabilities are at increased risk of sexual abuse and assault, especially during conflict and disaster situations, they have greater vulnerability to HIV infection.<sup>134</sup> Limited data is available on the incidence of HIV infection among persons with disabilities. Strategies and programs fail to adequately address how disability affects men and women differently, and persons with disabilities have often been ignored in HIV interventions that provide prevention, treatment, care, support and impact mitigation. In addition to myths about their behavior and life experiences, the failure to distinguish between the different needs of persons with various disabilities, the inaccessibility of health information and services, insufficient training and negative attitudes of health professionals, as well as the social isolation of persons with disabilities have all had a negative impact on their ability to access HIV/AIDS-related health care, further increasing the vulnerability of persons with disabilities to HIV infection and also increasing the impact of HIV and AIDS on their lives once infected.<sup>135</sup>

- CEDAW Article 15 (1) on Women's Equality with Men Before the Law

Women and girls with disabilities face many barriers in accessing the justice system, because of attitudinal, physical and legal barriers. Access to Justice is a broad concept, encompassing people's effective access to the systems, procedures, information, and locations used in the administration of justice. Women with disabilities have often been denied access to and fair and equal treatment before courts, tribunals, law enforcement officials, prison systems and other bodies that make up the justice system in their country because they have faced barriers to their access. Additionally, women with disabilities have been discriminated against in terms of attaining positions as lawyers, judges and other officials in the justice system. Such barriers not only limit the ability of women with disabilities to use the justice system, but also limit their ability to contribute to the administration of justice and to society and the community as a whole and these rights are especially significant in the conflict and post-conflict environment. Awareness must be raised among police, prosecutors and courts, including post-conflict tribunals and the International Criminal Court about the need to make the judicial system and reconciliation processes accessible to women with disabilities and to ensure that they support women and girls with disabilities who wish to bring forth claims of discrimination or claims regarding violence of any kind; include age and disability appropriate supports to

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<sup>132</sup> PROMOTING SEXUAL HEALTH, *supra* note 129.

<sup>133</sup> *See id.*

<sup>134</sup> Nora Ellen Groce & Reshma Trasi, *Rape of Individuals with Disability: AIDS and the Folk Belief of "Virgin Cleansing,"* (Global Health Division, Yale School of Public Health, 2004), available at [http://aidslex.org/site\\_documents/DB-0021E.pdf](http://aidslex.org/site_documents/DB-0021E.pdf).

<sup>135</sup> *HIV/AIDS and Disability Global Survey, About Us*, YALE CTR. FOR INTERDISCIPLINARY RES. ON AIDS, [http://cira.med.yale.edu/globalsurvey/about\\_us.html](http://cira.med.yale.edu/globalsurvey/about_us.html) (last modified Feb. 20, 2004).

enable women with disabilities to participate in legal proceedings as parties or witnesses.<sup>136</sup> Similar inclusive approaches should also be applied in the judicial systems of governments, consistent with Article 13 Access to Justice of the CRPD.<sup>137</sup> When the barriers all women face in recognition before the law are combined with these barriers, women with disabilities experience unique challenges that must be addressed.

### **Elaborating a Disability-Inclusive General Recommendation on Women and Conflict and Post-Conflict Situations**

Some specific elements that should be incorporated in a CEDAW Committee General Recommendation on Women and Conflict and Post-Conflict Situations to ensure the inclusion of women and girls with disabilities are outlined, especially in light of the CEDAW provisions the CEDAW Committee highlighted for the elaboration of its General Recommendation.

The CEDAW Articles on which the CEDAW Committee has expressed specific interest include: Article 2 (a – g) on the core obligations of States parties to the Convention; Article 4 on temporary special measures; Article 5(a) on the modification of social and cultural patterns of conduct of men and women; Article 6 on the suppression of trafficking and exploitation of women; Article 7 & 8 on women’s participation in political and public life and their representation in government and at the international level; Article 9 on women’s rights to a nationality; Article 10 on the right to education; Article 11 on the right to work; Article 12 on the right to health and; Article 15 (1) on women’s equality with men before the law.

The specific implications of each of these CEDAW Articles are discussed in detail in this paper in the section entitled “CEDAW provisions That Inform Discussion of Women in Conflict and Post-conflict Situations – Ramifications for Women and Girls with Disabilities.”

For example, in the Background section of the General Recommendation, the following documents should be referenced: United Nations Convention on the Rights of Persons with Disabilities, especially its Article 6 on Women and Article 11 on Situations of risk and humanitarian emergencies, as well as CEDAW Committee General Recommendations 18, 24, 27 and 28, which specifically reference women and girls with disabilities as well as the Beijing Declaration and Platform for Action. Furthermore, the fact that women and girls with disabilities

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<sup>136</sup> See, e.g., COURTHOUSE ACCESS ADVISORY COMMITTEE COURTROOM MOCK-UP, <http://www.access-board.gov/caac/mock-up.htm> (illustrating a model accessible courtroom) (last visited July 28, 2010); JUSTICE FOR ALL: DESIGNING ACCESSIBLE COURTHOUSES (Nov. 15, 2006), <http://www.access-board.gov/caac/report.pdf>; see also COMMUNICATION ACCESS TO JUSTICE SERVICES, <http://www.accpc.ca/ej-calc-01.htm> (outlining strategies to make courts accessible to people using alternative communications (AAC)) (last visited July 28, 2010). See generally *Tennessee v. Lane*, 541 U.S. 509 (2004) (holding that one particular individual had a right to physically access one particular court, but leaving open the question of whether any other persons with disabilities could gain relief when denied access to other justice elements, for example, as witnesses or jurors); United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, Italy, July 15-17, 1998, Rome Statute of the International Criminal Court, U.N. DOC. A/CONF.183/9 (July 17, 1998), available at <http://untreaty.un.org/cod/icc/statute/romefra.htm>.

<sup>137</sup> See CRPD, *supra* note 37, art. 13.

are at least 50% of the population of persons with disabilities, and some argue that this percentage is even greater given that women live longer than men; persons with disabilities are at least 15% of the overall population, equaling about One Billion persons worldwide, according to a just-released report of the World Health Organization and the World Bank entitled “World Report on Disability” (9 June 2011;); the percentages of women and girls with disabilities in conflict situations is even greater, perhaps as high as 20%, given the dramatic increases in the numbers of persons with disabilities resulting from the ravages of war and conflict, especially sexual and gender-based violence. Furthermore, globally, women make up three-fourths of persons with disabilities in low and middle income countries, many living in rural areas. Girls and women are more likely to become disabled as a result of violence, armed conflicts, aging and gender-biased cultural practices limiting their access to food, shelter, health care, safe working environments, marriage and social integration, as well as disabled directly with injury through land mines, bombs, combat, etc.

In a section entitled Purpose and objectives of the recommendation, which is to explore the relationship between all the articles of the CEDAW and women in conflict and post-conflict situations, it also should identify the multiple and intersecting forms of discrimination that women and girls face in situations of conflict and post-conflict, ensuring that the multiple and intersecting forms of discrimination women and girls with disabilities face in such situations; outline the content Of the obligations assumed by States as parties to the Convention, ensuring that the perspectives of women and girls with disabilities and their rights are addressed in conflict and post-conflict situations; and, include policy recommendations to mainstream the responses to the concerns of women and girls with disabilities into national strategies, development initiatives and positive action so that women with disabilities can participate fully without discrimination and on the basis of equality with non-disabled women and men in conflict and post-conflict activities.

The General Recommendation would recognize that violations of the equality and non-discrimination rights of women and girls with disabilities are contingent on women’s material conditions, individual attributes and social locations. A holistic approach for the elimination of all forms of discrimination against all women, including women with disabilities, therefore requires systematic discrimination and marginalization to be addressed. The elimination of discrimination and abuse requires holistic measures that address both inter-gender and intra-gender inequality and discrimination. The holistic approach requires rights to be treated as universal, interdependent and indivisible; situating discrimination on a continuum that spans interpersonal and structural factors; accounting for both individual and structural discrimination, including structural and institutional inequalities; and analyzing social and/or economic hierarchies among women, and between women and men, i.e. both intra- and inter-gender. Social location and bodily attributes of individuals and groups should be explicitly considered, including the bodily attributes of women and girls with disabilities. Women with disabilities face an intersecting confluence of discrimination, which reflects both gender-based and disability-

based discrimination. Interpersonal, institutional and structural forms of discrimination perpetuate gender inequalities, but also ability hierarchies and exclusionary practices, and resource allocation that benefit some groups of women at the expense of others.

The general recommendation also should provide guidance to States parties on the inclusion of The situation of women and girls with disabilities in the reporting process on conflict and post-conflict situations, since in general, States Parties do not report on women and girls with disabilities and data on this group is sporadic and inconsistent and accurate data and reporting is essential to address their specific needs in the conflict environment.

In a possible section on women and Girls with Disabilities and discrimination: Specific areas of concern, the various issues highlighted in this paper should be incorporated (See Sections “Why we must include women and girls with disabilities in activities and leadership in the United Nations System and in Women, Peace and Security Matters;” “CEDAW provisions that Inform Discussion of Women in Conflict and Post-Conflict Situations – Ramifications for Women and Girls with Disabilities;” and “Appendix B: Situation of Women and Girls with Disabilities, Especially in the Pre-Conflict, Conflict and Post-Conflict Environment.”

Specific areas in which the intersecting discrimination based on gender and disability result in discrimination include access to health care, education, employment, transportation, violence, family rights, marriage, housing, legal capacity, and participation in political and public life. Many disabled women and girls face neglect as they are erroneously considered incapable of being active in their productive and reproductive roles and are seen as a burden to their families, often locked in their homes and left behind in conflict and emergencies. The rights enshrined in the CEDAW are applicable to all women, with and without disabilities, but, in many countries, disability discrimination continues to be tolerated and accepted at the individual, institutional and policy levels and few countries have legislation prohibiting discrimination based on disability and, in fact, many laws actually perpetuate this form of discrimination.

Women with disabilities are particularly vulnerable to exploitation and abuse, including Economic abuse, when their legal capacity is deferred to lawyers, health care providers or family members without their consent.

In a section of the General Recommendation on Specific Recommendations several issues with respect to women and girls with disabilities can be identified. Women and girls with disabilities must be regarded as an important resource in society and it is an obligation for States parties to take all appropriate measures, including legislation, in order to eliminate discrimination in the conflict and post-conflict environment. States parties should adopt gender-sensitive and disability-inclusive policies and measures, including temporary special measures in line with CEDAW article 4 (1), especially with respect to the inclusion of women with disabilities in post-conflict peacebuilding as well as ensuring that women with disabilities participate fully and effectively in the political, social, economic, cultural, civil and any other field in their societies post-conflict.

States parties have an obligation to ensure the full development and advancement of women with and without disabilities and in times of both peace and conflict as well as in other man-made and natural disasters. States parties should therefore ensure that all legal provisions, policies and interventions aimed at the full development and advancement of women do not discriminate against women and girls with disabilities.

States parties' obligations should take into account the multidimensional nature of discrimination against women and should ensure that the principle of gender equality applies to all women and girls in law and in its practical realization. In this regard, States parties should repeal or amend existing laws, regulations and customs that discriminate against women and girls with disabilities and ensure that legislation prohibits discrimination on the grounds of disability and sex.

States parties, in order to support legal reform and policy formulation, should collect, analyze and disseminate data disaggregated by disability and sex and provide information on the situation of women and girls with disabilities, including those living in rural areas, in areas of conflict, women with disabilities belonging to minority groups, and older women with disabilities. Such data should especially focus on, amongst other issues: poverty, illiteracy, violence, unpaid work, including care-giving to those living with or affected by HIV/AIDS, and migration, as well as access to health care, housing, social and economic benefits and employment, especially as they relate to conflict and post-conflict situations.

States parties should provide women with disabilities with information on their rights and how to access legal services. They should train the police, the judiciary as well as legal aid and paralegal services on the rights of women with disabilities and sensitize and train public authorities and institutions on gender-related issues that affect women with disabilities, including with respect to post-conflict peacebuilding and reconciliation processes and mechanisms. Information, legal services, effective remedies and reparation must be made equally available and accessible to women with disabilities.

States parties should enable women with disabilities to seek redress for and resolve infringements of their rights, and ensure that women with disabilities are not deprived of their legal capacity on arbitrary or discriminatory grounds.

In a section on Stereotypes, the General Recommendation should highlight the fact that States parties have an obligation to eliminate negative stereotyping and to modify social and cultural patterns of conduct that are prejudicial and harmful to women and girls with disabilities and thereby reduce the physical, sexual, psychological, verbal and economic abuse that women and girls with disabilities experience based on negative stereotyping and negative cultural practices that often pervade the conflict and post-conflict environment.

In a section on Violence, the General Recommendation should point out that States parties have an obligation to recognize and prohibit violence against women and girls with disabilities in legislation on domestic violence, sexual violence and violence in institutional settings during and after the conflict. States parties should investigate, prosecute and punish all acts of violence against women and girls with disabilities, including those committed as a result of traditional practices and beliefs, especially those related to stereotypical attitudes about the sexuality of

women with disabilities. State parties should pay special attention to the increased violence experienced by women and girls with disabilities in times of armed conflict, the impact of armed conflicts on their lives, and the contribution that women with disabilities can make to the peaceful settlement of conflicts as well as to reconstruction processes, as they are generally excluded from such processes. When addressing sexual violence, forced displacement and the conditions of refugees during armed conflict, States parties should give due consideration to the situation of women with disabilities. States parties should take into account relevant UN resolutions on women and peace and security when addressing such matters, including, in particular, Security Council resolutions 1325 (2000), 1820 (2008) and 1889 (2009) and should ensure that future resolutions on women, peace and security pay attention to the needs and contributions of women with disabilities.

With respect to sections of the General Recommendation addressing issues such as Participation in public life, Education, Work and pension benefits, Health, Marriage and Family Life, Economic empowerment, Social benefits, Development and Reconstruction Planning, Refugee programs, citizenship, Nationality, asylum, the concerns of women and girls with disabilities should be incorporated into all recommendations. This paper provides detailed information, resources and facts to support such inclusion.

### **Strategies for Change**

Some suggestions for modifications to the United Nations resolutions on women, peace and security must be developed to ensure inclusion of women and girls with disabilities. The CEDAW Committee and other entities within the United Nations system must more fully address issues concerning women and girls with disabilities. To address the disparities women and girls with disabilities experience in access to health care, including sexual and reproductive health, gaps in education and employment and limited access to development programs, gender-sensitive, disability inclusive policies and practices must be utilized in international development and programs must be established to specifically target the unique needs of women and girls with disabilities. To address the fact that women with disabilities have rarely had access to post-conflict reconciliation and justice, prosecutors, courts and post-conflict tribunals must be better informed of the need to make the judicial system and reconciliation processes accessible to women with disabilities, with respect to both the physical facilities, communication barriers and other support.

Work in the area of gender-sensitive peace-building must incorporate the CRPD standards for women's empowerment, reasonable accommodation and accessibility. The significant gaps in data and field-tested inclusive strategies and resources must be addressed. If such changes and actions are implemented, women with disabilities will have a greater opportunity to ensure that their needs are met and that post-conflict societies are more inclusive and rights-based. For a more detailed description of these suggestions, see Appendix D: Strategies for Change.

### **Suggested Revisions of United Nations Security Council Resolutions and Indicators on Women, Peace and Security to Include Women and Girls with Disabilities**

This paper sets forth only some possible modifications to the United Nations Security Council Resolutions on Women, Peace and Security and proposed United Nations Security Council Resolution 1325 indicators to ensure that women and girls with disabilities are included in these tools to assess progress in inclusion of women in peacekeeping and peace building and other conflict-related matters. These suggestions are specific and detailed and propose alternative language. The paucity of data on these matters with respect to women and girls with disabilities is highly relevant to their lack of inclusion. For the specific proposals, see Appendix E: Example - Revision of United Nations Security Council Resolutions and Indicators on Women, Peace and Security to Include Women and Girls with Disabilities.



## Appendix A: International Legal Basis for Recommendations

These recommendations are drawn from and are consistent with the gender-sensitive, disability-inclusive approaches outlined in the United Nations Charter,<sup>138</sup> and consistent with the provisions of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), especially its Article 6 on Women with Disabilities,<sup>139</sup> the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>140</sup> and the Convention on the Rights of the Child (CRC).<sup>141</sup> The CEDAW Committee increasingly has addressed the concerns of women with disabilities in its General Recommendations. In General Recommendation Number 18, issued in 1991, the CEDAW Committee called for special attention to be paid to the double discrimination women with disabilities face and “[r]ecommends that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.”<sup>142</sup> In General Recommendation Number 24, issued in 1999, the CEDAW Committee also referenced issues of concern to women with disabilities. The CEDAW Committee recognized that societal factors may be “determinative of health status” and that “special attention should be given to health needs and rights of women” with disabilities, among other vulnerable groups.<sup>143</sup> More recently, CEDAW Committee General Recommendation Numbers 27 and 28 also specifically mention women with disabilities. General Recommendation Number 27, issued in 2010, pertains to the protection of the human rights of older women and addresses women with disabilities by discussing the double discrimination and gender stereotyping older women with disabilities face, especially in regards to their access to education, healthcare services, legal services and their increased susceptibility to violence.<sup>144</sup> General Recommendation Number 28, also issued in 2010, focuses on the core obligations of States parties under Article 2 of the CEDAW and discusses the enhanced vulnerability for discrimination women with disabilities face in civil and penal laws, regulations and customary laws and practice.<sup>145</sup>

The 1995 Beijing Declaration clearly recognized the need to address the concerns of women with disabilities and the correlated need to include women with disabilities in decision making, stating that Governments should:

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<sup>138</sup> U.N. Charter (1945), available at <http://www.un.org/en/documents/charter/index.shtml>.

<sup>139</sup> CRPD, *supra* note 37.

<sup>140</sup> CEDAW, *supra* note 39.

<sup>141</sup> Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (Nov. 20, 1989) [hereinafter CRC], available at <http://www2.ohchr.org/english/law/pdf/crc.pdf>. (Article 23 of the CRC recognizes the special needs of disabled children and specifically calls on the community to make the necessary accommodations so that disabled children are fully integrated into society and can enjoy a fair and decent life.)

<sup>142</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 18*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>.

<sup>143</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 24*.

<sup>144</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 27*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf>.

<sup>145</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 28*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>.

Strengthen and encourage the implementation of the recommendations contained in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, paying special attention to ensure non-discrimination and equal enjoyment of all human rights and fundamental freedoms by women and girls with disabilities, including their access to information and services in the field of violence against women, as well as their active participation in and economic contribution to all aspects of society.<sup>146</sup>

Drawing on the disability-inclusive nature of the original Beijing Declaration itself, the 2000 Special Session of the United Nations General Assembly, reviewing the progress of the outcomes of the Fourth World Conference on Women, also addressed the concerns and role of women with disabilities by indicating that Governments should:

Adopt and promote a holistic approach to respond to all forms of violence and abuse against girls and women of all ages, including girls and women with disabilities, as well as vulnerable and marginalized women and girls in order to address their diverse needs, including education, provision of appropriate health care and services and basic social services.<sup>147</sup>

Furthermore, it also stated that Governments should:

Design and implement policies and programmes to address fully specific needs of women and girls with disabilities, to ensure their equal access to education at all levels, including technical and vocational training and adequate rehabilitation programmes, health care and services and employment opportunities, to protect and promote their human rights and, where appropriate, to eliminate existing inequalities between women and men with disabilities.<sup>148</sup>

This paper also takes into consideration the joint statement of commitment of the inter-agency support group for the Convention on the Rights of Persons with Disabilities (IASG),<sup>149</sup> which was established by the United Nations Chief Executives Board in 2006, with the purpose of “demonstrating our will to ensure the promotion and protection of the rights of persons with disabilities by working towards the full inclusion of persons with disabilities in the work of the United Nations.”<sup>150</sup> Furthermore, the UN inter agency network on women and gender equality (IANWGE) also reinforces the concept of gender inclusion within the United Nations.<sup>151</sup> Kofi

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<sup>146</sup> REP. OF THE FOURTH WORLD CONFERENCE ON WOMEN, *supra* note, para. 232(p).

<sup>147</sup> G.A. Res. S-23/3, para. 69(j), U.N. DOC. A/RES/S-23/3 (Nov. 16, 2000).

<sup>148</sup> *Id.* para. 83(d).

<sup>149</sup> UNITED NATIONS ENABLE, INTER-AGENCY SUPPORT GROUP,

<http://www.un.org/disabilities/default.asp?navid=43&pid=323> (last visited July 28, 2010). The IASG was created to ensure “the commitment to the internationally agreed development goals; the need for system-wide coherence within the “delivering as one” framework; the importance of inclusion of persons with disabilities in the work of the United Nations; the need for a participatory approach; and the role of the United Nations in supporting Member States and specifically States parties.” The IASG includes many UN entities, including the Department of Economic and Social Affairs (DESA), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), United Nations Development Programme (UNDP) and the United Nations Children’s Fund (UNICEF) all of which work on the issues raised in this paper.

<sup>150</sup> *Id.*

<sup>151</sup> INTER-AGENCY NETWORK ON WOMEN AND GENDER EQUALITY,

<http://www.un.org/womenwatch/ianwge/index.html> (last visited Mar. 28, 2011). The IANWGE was created to

Annan, former United Nations Secretary-General, has often highlighted this approach in his statements.<sup>152</sup> IANWGE is chaired by UN Women and was established by the United Nations Chief Executives Board in 2001<sup>153</sup> with the specific intent to promote gender equality throughout the UN system.<sup>154</sup>

This paper does not postulate that such inclusion has not occurred, but it is sporadic and not seen generally in all activities concerning women's rights and gender equality within the United Nations system. Several entities within the United Nations system have begun to utilize the gender mainstreaming, disability-inclusive approach outlined below in this paper.

Two elements are essential to inclusion, that is, gender and disability.

- Gender mainstreaming

The CEDAW clearly promotes the approach of gender mainstreaming. Article 3 requires States Parties to “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”<sup>155</sup> and Article 5 of the CEDAW addresses the need “[t]o 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.”<sup>156</sup> Under both the CEDAW and the establishment of UN Women, and policies that flow from them, gender is viewed as the socially constructed roles ascribed to women and men, as opposed to biological and physical characteristics which often flow from stereotypes of women and men.<sup>157</sup> Gender is a cross-cutting issue that affects everything from building housing, transportation, schools, bridges or wells, delivering

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champion for gender equality throughout the programs, resolutions and goals of the UN bodies and to support and monitor the implementation of the Beijing Platform for Action and other gender related recommendations pertaining to the UN system. The IANWGE is comprised of many UN entities, including the Department of Economic and Social Affairs (DESA), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF), World Health Organization (WHO), and the World Bank (WB).

<sup>152</sup>In June 2000, at the “Women 2000: Gender Equality, Development and Peace for the Twenty-first Century” UN General Assembly Special Session in New York, Kofi Annan stated: “The commitments made by governments in Beijing reflect the understanding that women's equality must be a central component of any attempt to solve the world's social, economic and political problems. Thus, where once women fought to put gender equality on the international agenda, gender equality is now one of the primary factors shaping that agenda.” He made a similar statement five years later in 2005 at the Commission on the Status of Women's Beijing +10 Review calling for the empowerment of women, which can be found here: <http://www.aid.govt.nz/library/docs/gender-doco.pdf>.

<sup>153</sup>Although IANWGE was established in 2001, the group was actually created in 1996 under the title: Inter-Agency Committee on Women and Gender Equality (IACWGE). For more information on the history of this group, please visit <http://www.un.org/womenwatch/ianwge/uninteagcoll.htm>.

<sup>154</sup> See *id.*

<sup>155</sup> See CEDAW, *supra* note 39, art. 3.

<sup>156</sup> See CEDAW, *supra* note 39, art. 5(a).

<sup>157</sup> See de Silva de Alwis, *supra* note 8.

humanitarian relief, reforming the security sector, establishing the rule of law, de-mining, instituting human rights protections, implementing inclusive decision-making processes, setting priorities for development activities, ensuring employment opportunities, and so on, all of which relate to the development and advancement of society both in conflict environments and in society generally.<sup>158</sup> For example, in the area of post-conflict peace building, this view sees women with disabilities as active participants in the peace building process and development of institutions post-conflict. As another example, in the fields of science, technology, engineering and math, this view sees women and girls with disabilities as scientists, technicians, engineers and mathematicians and also recognizes the importance of knowledge of STEM subjects in daily life. With respect to violence against women, this approach ensures that the specific needs of women with disabilities are considered as violence prevention programs are developed and that services and programs for women who have experienced gender-based violence are inclusive of and accessible to women with disabilities. A gendered perspective can help identify different barriers, needs and interests of men and women, boys and girls; can help mainstream gender into planning and decision making processes; and maximize contributions to these processes.<sup>159</sup>

- Disability Inclusion

The United Nations Convention on the Rights of Persons with Disabilities, the first human rights treaty of the 21<sup>st</sup> Century, became the first international instrument by which persons with disabilities could enforce their human rights. The CRPD also incorporated a transformative view of disability, moving away from the “medical model” of disability toward a “social model” of disability. Noted disability human rights scholars Michael Stein and Janet Lord emphasize the fact that “The Convention categorically affirms the social model of disability in relation to persons with disabilities by describing it as a condition arising from “interaction with various barriers [that] may hinder their full and effective participation in society on an equal basis with others” instead of a condition arising from inherent limitations,” referencing the CRPD Article 1.<sup>160</sup> Under the CRPD disability is viewed through a social model under which disability is recognized as an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. This social model of disability has important ramifications for development and human rights programming because the CRPD recognizes the existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty.<sup>161</sup> This social model of

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<sup>158</sup> Gender Mainstreaming, *supra* note 93.

<sup>159</sup> NATO FORCES, *supra* note 99.

<sup>160</sup> See CRPD, *supra* note 37, art. 1; Lord & Stein, *supra* note 95.

<sup>161</sup> See CRPD, *supra* note 37.

disability poses an alternative to the medical model of disability, asserting that persons with disabilities are disadvantaged not because of their impairments, but as a result of the limitations imposed by social, cultural, economic, and environmental barriers.<sup>162</sup> The advancement of persons with disabilities can most effectively be achieved through modifications to the environment utilizing the universal design approach, which promotes the equalization of opportunities for disabled persons and which benefits the society as a whole.<sup>163</sup> Eradication of stereotypes of persons with disabilities also promotes equality and human rights. Disability mainstreaming will afford the same benefits as gender mainstreaming and has similar implications as gender mainstreaming for the various stages and elements of programming as outlined above.

- Gender-Focused Disability Mainstreaming

This paper argues that UN Women and the United Nations Interagency Task Force on Women, Peace and Security can be innovators and use both gender mainstreaming and disability inclusion as a predominant framework to discuss inclusion of all women and girls within the UN System, including those with disabilities. This refers to the process of assessing the implications for women and men with and without disabilities of any planned action, including legislation, policies or programs in all areas and at all levels. It is a strategy for making the concerns and experiences of women and men with and without disabilities an integral dimension of design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres, so that women and men with and without disabilities benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality and equality for persons with and without disabilities. It is important to note that this mainstreaming approach does not focus solely on women with disabilities, although women with disabilities would more often than not be the focus and beneficiaries of mainstreaming practices due to their disadvantaged position in many communities.

## **RECOMMENDATIONS FOR ACTION BY THE CEDAW COMMITTEE**

To the end of achieving gender-focused disability mainstreaming in the CEDAW Committee and its General Recommendation, this paper sets forth various goals and strategies to increase the engagement of the CEDAW Committee in its own work and its coordination with other United Nations entities, governments and non-governmental organizations addressing women's human rights, related gender issues, development and peacebuilding to focus on as a priority inclusion of women and girls with disabilities.

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<sup>162</sup> Inter-Agency Support Group, *supra* note 97.

<sup>163</sup> Burgstahler, *supra* note 98.



## **Appendix B: The CEDAW Committee and Women and Girls with Disabilities**

### **References to Women and Girls with Disabilities by the Committee on the Elimination of Discrimination against Women and the CEDAW Committee's Official Statements and in its Constructive Dialog with States Parties and its Concluding Observations**

**Prepared with Research Assistants by Elisa Chen and Anne Kelsey for**

**Stephanie Ortoleva and Shantha Rau Barriga**

References to “war,” “conflict,” “peacebuilding” and “disability” are highlighted in yellow

**Fifty-fifth session of the Commission on the Status of Women, New York 22 February - 4 March 2011, Statement by Ms. Silvia Pimentel, Chairperson of CEDAW Committee**

**45th session (18 January - 5 February 2010) - Geneva, Palais des Nations, Salle XVI**

#### **Statement of the Committee on the Elimination of Discrimination against Women on the situation in Haiti**

Given the specific environment in which the humanitarian crisis is unfolding, the Committee urges that women's access to food distribution be addressed through innovative and diverse strategies and that attention be paid to women heads of household, injured women, the elderly, the disabled and other vulnerable groups in the community. The urgent need to establish special contingencies for women in post-earthquake intervention is underlined by images of men fist-fighting over food delivered by the United Nations.<sup>164</sup>

#### **Annex VIII**

#### **Statement of the Committee on the Elimination of Discrimination against Women on the 15-year review of the Beijing Declaration and Platform for Action**

Through its review of the reports of States parties' reports, the Committee has seen the progress States have made in realizing the human rights of women since the adoption of the Convention,

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<sup>164</sup> Comm. on the Elimination of Discrimination against Women, Statement of the Comm. on the Elimination of Discrimination against Women on the Situation in Haiti, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 1, available at [http://www2.ohchr.org/english/bodies/cedaw/docs/statements/Haiti\\_Statement.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/statements/Haiti_Statement.pdf)

and particularly since the Fourth World Conference on Women. States have paid increasing attention to creating a legal framework that promotes and protects women's rights, including through the introduction of temporary special measures to accelerate the achievement of equality between women and men. They have also put in place policies and programmes aimed at the practical realization of women's rights, as well as measures to challenge gender stereotypes that underpin discrimination against women in our societies, communities and families. This is a cause for celebration. At the same time, the Committee regrets that equality for women in law and practice has not been achieved in any country in the world. It is disturbed that women continue to suffer profound and pervasive human rights violations, including gender-based violence in the public and private spheres, including in that most private of private spheres, the family. It is also concerned that discrimination against women often has multiple aspects, such as age or **disability**, and that particular groups of women, such as migrants and indigenous women, are especially vulnerable.<sup>165</sup>

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<sup>165</sup> Comm. on the Elimination of Discrimination against Women, Statement of the Comm. on the Elimination of Discrimination against Women on the fifteen-year review of the Beijing Declaration and Platform for Action, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 1-2, *available at* [http://www2.ohchr.org/english/bodies/cedaw/docs/Beijing\\_Declaration.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/Beijing_Declaration.pdf)

## Botswana\*

### **Study on the Socio-Economic Implications of Violence Against Women**

In 1999, Government commissioned the study on the Socio-Economic Implications of Violence Against Women in Botswana. The study documented the effects of violence on women ranging from poor physical and emotional health, poor self-esteem, low self-confidence, chronic fear, low productivity at work, abuse of alcohol and drugs, maternal and infant deaths, **disability**, to being helpless and suicidal. The study findings have contributed to the ongoing discussions on the proposed “Domestic Violence Bill.”<sup>166</sup>

### **Gender Imbalances in Education**

The Ministry of Education has taken cognizance of gender imbalances in education and is currently preparing an “Equal Opportunities Policy” that should facilitate the ‘promotion of equality of learning opportunities and eliminate any existing potential discrimination of learners on the grounds of race, ethnic origin, religion, sex, marital status, **disability**, age, social status or location. In this respect the Ministry has formed a high level “Gender Reference Committee” consisting of departmental gender contact persons and chaired by the Deputy Permanent Secretary – Educational Development Services (EDS). The priority task of the Committee is to ensure that gender is mainstreamed in the educational curricula, educational programmes as well as practices; and provide advice to the Permanent Secretary.<sup>167</sup>

### **Comment 27: Please provide information on minority ethnic women, elderly women and women with disabilities on all areas covered by the Convention.**

The number of persons with **disabilities** is rapidly increasing. The most common type of disability is that involving sight, whereby defects in seeing account for one quarter of total disabilities, and blindness covers one fifth of that total. The differentials in disability between males and females show that the two sexes have similar types of disabilities. The major problem for both is blindness, and the other common forms of disability for both sexes are deafness in one ear and inability to use both legs.<sup>168</sup>

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<sup>166</sup> Comm. on the Elimination of Discrimination against Women, Bots. Rep. on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 28, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/562/61/PDF/N0856261.pdf?OpenElement> (Oct. 20, 2008).

<sup>167</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 3, at 50.

<sup>168</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined initial, second and third periodic rep. 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 21, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/600/91/PDF/N0960091.pdf?OpenElement> (Nov. 10, 2009).

## Egypt\*

### 11.1.e.2. Efforts Made

In addition to complying with social security laws, the ministries and government authorities are striving to establish social solidarity funds for their employees. These funds provide benefits in the event of retirement, death, and total or partial **disability** without distinguishing between males and females. In addition, several such funds provide additional assistance to women in the event of pregnancy and birth.<sup>169</sup>

**Question 26: Please provide more information on the human rights situation of elderly women and women and girls with disabilities, in respect of education, employment, health-related issues and access to health services, as well as protection from violence. Similar information should be provided in respect of female foreign domestic workers.**

The rights of elderly women are fully protected by social security pension schemes and by social insurance which offers many benefits in the case of retirement and incapacity. They have the same rights as any other citizen, and even have extra benefits. There is housing for senior citizens that is equipped and arranged for occupancy by elderly women and provides for a dignified lifestyle, health care, including mental health care, and cultural and recreational amenities. There are senior citizens' clubs which are, in effect, care centres through which various services for the elderly are available, both at the club itself and in their own homes (senior citizens' services bureau, old people's companionship scheme, physiotherapy units). Article 10 of Law No. 49 of 1982 on the rehabilitation of people with **disabilities** (both females and males) also provides that 5 per cent of all the employees of every unit of the administrative apparatus of the State, State organizations and the public sector shall be people with **disabilities** (Annex E).<sup>170</sup>

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<sup>169</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 49, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/498/28/PDF/N0849828.pdf?OpenElement> (Sept. 5, 2008).

<sup>170</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic rep. 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 7-8, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/617/52/PDF/N0961752.pdf?OpenElement> (Nov. 23, 2009).

## Malawi\*

### GENERAL NORMATIVE FRAMEWORK FOR THE PROTECTION OF RIGHTS OF WOMEN

24. The 1995 Constitution provides for equality of individuals before the law and for the protection and enjoyment of civil and political rights without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, **disability**, prosperity, birth or other status.<sup>171</sup>

#### Food Security and Nutrition Policies

89. The current policy faces a great challenge for the nutritional status of the people of Malawi. Its overall goal is to significantly improve the nutritional status of all Malawians, with special emphasis on vulnerable groups including, but not limited to expectant and lactating mothers, children below the age of 15 years, orphans, people with **disabilities**, the aged and PLHIVs.<sup>172</sup>

#### Social Protection Scheme

96. Beneficiaries are identified based on two criteria: they are ultra poor and they are labour constrained. The categories that fall under ‘ultra poor labour constrained households,’ are the elderly, the elderly with OVC, female headed households with more than 3 orphans, chronically ill persons, persons with **disabilities** as well as child-headed households.<sup>173</sup>

#### Article 12 – Health care

233. There is no explicit legal provision which establishes the right to health and health facilities. The Constitution provides for an obligation on the State to provide *adequate* health care commensurate with the needs of Malawian society and international standards of health care. It further provides for an obligation to achieve adequate nutrition for all in order to promote good health and self-sufficiency. These are stated as principles of national policy and not rights for Malawians. Malawians are entitled to development, the application of which right has singled out women alongside children and the **disabled** as requiring special consideration with respect to access to, among other things, health services.<sup>174</sup>

#### Article 14 – Rural women

265. Malawi remains predominantly rural. The Constitution has provided for a collective right to development where women, children and the **disabled** have been recognized as a deserving

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<sup>171</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 9, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/562/67/PDF/N0856267.pdf?OpenElement> (October 20, 2008).

<sup>172</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 8, at 18.

<sup>173</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 8, at 19.

<sup>174</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 8, at 40.

special consideration in application of that right. The Constitution further provides that the State shall ensure equality of opportunity for all in accessing basic resources, education, health services, food, shelter, employment and infrastructure. The State is further obliged to justify its policies in accordance with this responsibility.<sup>175</sup>

### **PART III: FACTORS AND CHALLENGES AFFECTING THE FULFILLMENT OF OBLIGATIONS UNDER THE CONVENTION**

299. The domestic legal framework still needs further harnessing through domestication of international treaties that have been ratified by Malawi for the promotion and protection of women's rights. Existing legislation must be applied more effectively and women's access to justice must be facilitated, with particular emphasis on women from the most marginalized groups, such as poor, rural, **disabled** and indigenous women and adolescent girls.<sup>176</sup>

**Question 25: Please provide information on the human rights situation of elderly women and women and girls with disabilities, in respect to education, employment, access to health services as well as protection from violence.**

54. Ideally, the Ministry of Persons with Disabilities and the Elderly has responsibility for mainstreaming issues related to **disability** and the elderly in relevant sector policies and plans. In this context, it is assumed that since the Ministry of Gender, Children and Community Development exists to advance issues related to women, among others, the interests of older women and those with disabilities are included.<sup>177</sup>

55. In response to the various problems and challenges that girls and women with **disabilities** and older women are facing, the Ministry of Persons with Disabilities and the Elderly has put in place the following interventions aimed at improving their situation and quality of life:

#### **Girls with disabilities**

- (a) Advocating for inclusion of disabled girls in schools and vocational training institutions;
- (b) Advocating for accessibility of schools, colleges and vocational training centres;
- (c) Awareness of parents, teachers and the public on disability and mainstreaming;
- (d) Paying school fees for needy and deserving girls with disabilities;
- (e) Assisting girls with disabilities to access vocational training;
- (f) Providing appropriate assistive devices.

#### **Women with disabilities and older women**

- (a) Provision of start-up capital for small-scale enterprises;
- (b) Linking these women to lending institutions, especially the Malawi Rural Development Fund for loan facilities;
- (c) Encouraging them to actively participate in local initiatives;
- (d) Providing food and non-food items to needy older women;

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<sup>175</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 8, at 46.

<sup>176</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 8, at 51.

<sup>177</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the sixth periodic rep. 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 13, *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.MWI.Q.6.Add.1.pdf> (Jan 5, 2010).

- (e) Provision of assistive devices;
- (f) Encouraging them to join clubs and community-based organizations;
- (g) Policy on the elderly is under way;
- (h) Bill on equalization of opportunity for people with disability.<sup>178</sup>

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<sup>178</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 14, at 13-14.

## Netherlands

### **Stimulation of female entrepreneurship**

Female entrepreneurship is stimulated through the support of networks of female entrepreneurs. In addition, the transition from being an employee to being an entrepreneur is made easier. This makes entrepreneurship attractive for women in particular, because they often prefer to work part-time. The registration period for the voluntary sickness and disability insurance with the UWV (*employee insurance schemes implementing body*) is being extended from 4 weeks to 13 weeks. The Government is studying the problems of occupational disability in independent entrepreneurs. A facility for micro credit is being introduced. This facility is expected to make it easier for women, people from ethnic minorities, benefits recipients and lower-educated people to take the step into entrepreneurship. Finally, the target value for the participation of women in trade missions is being increased from 10% to 20%.<sup>179</sup>

### **Article 11 Equal rights with respect to labour**

Integration of the Equal Treatment on the basis of age in labour Act, the Equal Treatment of men and women Act and the Equal Treatment on the basis of disability or chronic illness Act into the general Equal Treatment Act;<sup>180</sup>

### **Article 12: Right to healthcare and special measures during pregnancy**

The Netherlands is developing a health policy in the context of access to healthcare but does not have a gender-specific health policy. This is why the Netherlands cannot respond to the Committee's conclusion 35 and recommendation 36 with respect to supplying data and information, broken down by ethnic background, about the consequences of the legislation and the policy in the social sector for disabled and older women, including with respect to their health and other benefits.<sup>181</sup>

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<sup>179</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 44, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/617/34/PDF/N0861734.pdf?OpenElement> (Nov. 24, 2008).

<sup>180</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 16, at 51.

<sup>181</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 16, at 86.

## Ukraine

### Part 2. Article-by-article review of the implementation of the Convention in Ukraine

**Article 4:** Ukraine carried out two plans of action during the reporting period: the National Plan of Action for the period 1997-2000 for the advancement of women and expansion of their role in society; and the National Plan of Action for the period 2001-2005 for the advancement of women and promotion of gender equality in society. The National Plan for 1997-2000 devoted special attention to women bringing up young children, mothers of large families, and women bringing up children with disabilities. In implementation of this National Plan, the local authorities and employment centres in most of the country's provinces established an annual 5 per cent jobs quota for women with children aged under six years and single mothers with children aged under 14 years or children with disabilities, as preferential categories. Efforts were made to assist women to acquire occupations for which there was a demand in the labour market and then to place them in jobs. Assistance was provided in the form of interest-free loans from the jobs-creation fund to encourage women to start small businesses. Arrangements were made for women returning to work after taking child-care leave to obtain further training or change their occupation. The State Employment Service and the local authorities organized works of public utility and drafted and published information materials (leaflets, booklets, brochures, etc.) to help women to find their way around in the modern jobs market.<sup>182</sup>

The new Criminal Code contains provisions on the protection of maternity and paternity. Article 172 (Serious violation of labour legislation) criminalizes the unlawful dismissal of a worker for personal motives of the employer, as well as any other serious violation of the labour legislation; the commission of such acts in respect of a pregnant woman or mother with a child aged under 14 years or a disabled child is regarded as an aggravating circumstance. Special importance attaches to article 164 (Refusal to pay child maintenance) since, according to the statistics, an absolute majority of children remain with their mothers after a divorce.<sup>183</sup>

**Article 6:** The Employment Act sets out additional guarantees of employment for specific categories of worker needing social protection and unable to compete in the labour market on equal terms. These categories include women with children aged under six years and single mothers with children aged under 14 years or children with disabilities. The guarantees provide for the establishment of quotas of reserved jobs in enterprises, establishments and organizations of up to 5 per cent of their total workforce. In 2006, 16,600 women were placed in work under the quota system.<sup>184</sup>

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<sup>182</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 29, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/661/88/PDF/N0866188.pdf?OpenElement> (Dec. 19, 2008).

<sup>183</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 19, at 30.

<sup>184</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 19, at 36.

Two thousand new jobs were created in 2005 and over 5,000 first jobs were provided for young people in the country's railway system. In that same year enterprises in the shipping industry recruited over 4,900 workers (more than 1,400 of them through the State Employment Service), placed over 2,000 young people, together with 210 persons with **disabilities**, and created more than 1,200 new jobs. Over 8,000 persons found jobs in enterprises of the State communications system. A total of 5,404 new jobs were created as result of the commissioning of new facilities and the introduction of new technology in these enterprises.<sup>185</sup>

**Article 10**, paragraph (g), of the Convention refers to the provision of the same opportunities to participate actively in sports and physical education.

The constant care and improvement of the people's health must be a fundamental goal of State policy in the area of physical fitness and sports. The Physical Fitness and Sports Act provides that all the citizens of Ukraine, both female and male, have equal rights and opportunities in this area. The State furnishes the necessary assistance, benefits and guarantees for individual citizens, including those with **disabilities**, to exercise their rights with respect to physical fitness and sports, giving special attention to people living in rural areas. The State guarantees the provision of free and preferential physical fitness and health services for children, including orphans, children with disabilities, children afflicted by the aftermath of the Chernobyl disaster, and children from large or poor families. The State also furnishes free services of this kind for preschool children, children attending general education and vocational schools, and **war** veterans and similar persons, as well as providing benefits for other categories of citizen.<sup>186</sup>

**Article 12** Concrete steps were taken during the reporting period to tackle the problems of women's health. Specifically, 2005 saw the publication of a Policy Outline on a programme for the period up to 2010 to prevent cardiovascular and cerebrovascular disease and to reduce premature deaths and **disabilities**, a Policy Outline on a programme for the period 2005-2010 for the development of primary health care on the basis of family medicine in general practice, and a programme for the period 2006-2010 for the development of primary health care on the basis of general practice.<sup>187</sup>

**Article 13** Given its limited financial resources the State cannot at present furnish State social protection at the level of the subsistence minimum. This level is fixed in the light of the actual capacity to pay under the expenditure part of the State budget and is approved at the same time as the adoption of the State Budget Act for the year in question (January-May 2001 – 50 hrivnias, June-December 2001 – 65 hrivnias, and 2002-2003 – 80 hrivnias per person). In 2004 different guaranteed minimums were fixed for assistance to poor families: persons able to work – 80 hrivnias; persons not able to work (children, pensioners) – 110 hrivnias; and persons with **disabilities** – 115 hrivnias (in 2003 this figure was 80 hrivnias for all categories). In addition, the level of the subsistence minimum is increased by 10 per cent for each child in a poor family and by 20 per cent for each child being raised unaided by an unmarried single mother, father or

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<sup>185</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 19, at 36.

<sup>186</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 19, at 56.

<sup>187</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 19, at 63.

adoptive parent and for each child one or both of whose parents have a group I or II disability. The level of the subsistence minimum is increased by 20 per cent for persons officially resident, working or studying in a place having the status of mountain area.<sup>188</sup>

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<sup>188</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 19, at 70.

## Panama

### LAW N° 42 OF 27 AUGUST 1999, ESTABLISHING COMPARABLE OPPORTUNITIES FOR PERSONS WITH DISABILITIES.

33. This Law proclaims, as a matter of social concern, the integral development of the population with **disabilities**, on equal terms with respect to quality of life, opportunities, rights and duties as the rest of society, with a view to their achieving personal fulfillment and complete social integration.<sup>189</sup>

### EXECUTIVE DECREE NO. 103 OF 1 SEPTEMBER 2004

58. This Decree established the National Secretariat for the Social Integration of Persons with Disabilities (SENADIS), which provides advice and intersectoral coordination by the Executive aimed at promoting the efficient institution of public policies for the full social inclusion of persons with **disabilities** and their families.<sup>190</sup>

87. The Ministry of Social Development's National Directorate of Women (DINAMU) provides training to managers, administrative staff, and operatives in the various competent bodies dealing with violence against women, gender-based violence, human rights, masculinity, strategic planning, social project monitoring and evaluation, and domestic violence prevention and care issues, among others.<sup>191</sup>

88. These local plans focus primarily on the victims (generally, women, children, persons with **disabilities**, and the elderly) and on the aggressors. They were designed as an organized and consensus-based response to the problem as a result of the work done by the governmental, nongovernmental and community sectors.<sup>192</sup>

### Article 13

158. In Panama, family benefits were established by Decree Law No 9 of 1962 and Decree Law No 14 of 1954, and their respective amendments with respect to old age pensions and **disability** allowances. Spouses and partners, and children under 18 years of age or with disabilities, are defined as CSS (Social Security Fund) beneficiaries<sup>193</sup>

### Article 14

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<sup>189</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 7, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/500/48/PDF/N0850048.pdf?OpenElement> (Sept. 9, 2008).

<sup>190</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 26, at 11.

<sup>191</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 26, at 16.

<sup>192</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 26, at 16.

<sup>193</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 26, at 32.

167. In addition, there are national-level projects geared to the social and economic inclusion of persons with disabilities, with 496 women and 305 male beneficiaries, in commerce, agriculture, and services.<sup>194</sup>

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<sup>194</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 26, at 35.

## UAE

### D. Care of the disabled

Council of Ministers Decision No. 356 of 1979 relates to the formation of a higher commission on disabled persons combining the ministries of Social Affairs, Health and Education. This was the first step taken by the State for the care of disabled persons.<sup>195</sup>

A subsequent Council of Ministers Decision, No. 96 of 1981, pertained to the establishment of a centre for the care and training of disabled persons in Abu Dhabi and another in Dubai, in response to the United Nations proclamation of 1981 as the International Year of Disabled Persons. The objectives of the Council of Ministers in creating the two centres were as follows:

- To provide opportunities and possibilities for treatment and medical, psychological and social care for disabled persons;
- To offer opportunities for education and the acquisition of learning at the various levels of both formal and non-formal education, or to diversify the fields and methods of teaching in order to make it possible for disabled persons to develop their capacities to the highest degree possible, so as to enable them to be self-reliant;
- To expand the fields of vocational training and rehabilitation for disabled persons in a manner compatible with their capacities and in keeping with development needs in terms of professions and skills;
- To make it possible for disabled persons to integrate socially and help them to acquire confidence in themselves as well as to help the community to gain confidence in them; to expand the horizons of social interaction of various groups and classes of people in order to break the cycle of isolation and maladjustment that the disabled person may experience; and to take advantage of the scientific, technological and organizational knowledge available in advanced countries and apply it in a manner compatible with disability and handicap conditions in the United Arab Emirates.<sup>196</sup>

Two centres for the disabled were opened at the end of 1981, one in Abu Dhabi and the other in Dubai. They each began by opening five departments, namely: Intellectual Development (mental disability), Deaf and Dumb (hearing disability), The Blind (visual disability), Physical Disability (bodily disability), and Vocational Rehabilitation.<sup>197</sup>

The opening of these two centres was followed by that of new centres in each of the following places: Ras al Khaimah, Fujairah, Al-`Ayn and Dibba, and recently a centre was opened in

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<sup>195</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 25, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/509/73/PDF/N0850973.pdf?OpenElement> (Sept. 17, 2008).

<sup>196</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 32, at 25-26.

<sup>197</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 32, at 26.

Ajman, with a view to extending the umbrella of care for this group all over the Emirates.<sup>198</sup>

As for Sharjah, Sharjah City for Humanitarian Services provides services for disabled persons in that Emirate. Consequently the centres for the disabled cover the entire country. Care of the disabled has taken on especial importance in the programmes of the Ministry of Social Affairs, which are based on the following objectives:

- To help the disabled person live with his family within his social environment, whenever possible;
- To help the family adapt to the presence of its disabled son or daughter as part of the family and to offer assistance, both material and in kind, to the family for providing family care to disabled persons, so as to give them security, love and affection within the family context;
- To rehabilitate and train disabled children at rehabilitation and training centres for the disabled while keeping them within their family and their own environment, and to avoid placing them in permanent care facilities where they are totally isolated and stripped of their family and their community.<sup>199</sup>

With a view to the achievement of complete care of disabled persons in United Arab Emirates society and the inclusion of all disabled persons, whether nationals or immigrants, private centres for disabled persons have been licensed to operate in the Emirates. In addition, Sharjah City for Humanitarian Services offers services for disabled national and immigrant persons alike in Sharjah, Khor Fakkan and Al- Dhayd. There are 36 such centres accommodating 3753 disabled persons, in other words five times the number of disabled persons in the Government centres. Sharjah City for Humanitarian Services has the largest number of disabled persons (1051).<sup>200</sup>

Federal Act No. 29 of 2006, on persons with special needs, was passed by the State to guarantee all rights and forms of care for the **disabled** in accordance with the relevant international conventions. The Government of the United Arab Emirates signed the Convention on the Rights of Persons with **Disabilities** and the related Optional Protocol in 2008 and accordingly will complete the constitutional steps for accession to the Convention and develop its domestic regulations in keeping with its international commitments regarding the rights of **disabled** persons.<sup>201</sup>

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<sup>198</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 32, at 26.

<sup>199</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 32, at 26.

<sup>200</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 32, at 26.

<sup>201</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 32, at 27.

## Uzbekistan

### D. Legal framework for protecting human rights at the national level

132. Constituting a component part of the legal system are the socially oriented programmes that are adopted by the Government every year when the specific social problems to be resolved are targeted. Those programmes usually contain a legislative section, as well as specific measures to improve the well-being of socially vulnerable groups of the populace, the family, mothers, children, the elderly, the **disabled** and youth. Those programs are supported by State funding, and non-governmental organizations also take part in implementing them.<sup>202</sup>

### Legal remedies for human rights violations

190. The *Sen Yolg'iz Emassan* (You Are Not Alone) Republican Public Children's Fund began operations in Uzbekistan in 2002. The primary mission of the fund is to provide comprehensive assistance in creating the conditions necessary for a decent life and full development for children, to maintain the primacy of the family and to see to it that the necessary actions are taken to provide the greatest protection of the interests of children who are acutely in need of the society's support (orphans, children deprived of parental care, neglected children, **disabled** children and children from poor families).<sup>203</sup>

200. The **Uzbek Society for the Disabled** was created in 1991. That organization has 114 branches in all oblasts of the Republic of Uzbekistan, with a membership of 120,000 (there are 850,000 disabled persons in the Republic of Uzbekistan). Functioning within the system of the Society are nearly 100 subsidiary units in which **disabled** persons work. The principal work of the Society consists in the social rehabilitation of disabled persons, the provision of assistance to the disabled in terms of obtaining education, and the creation of equal opportunities for the disabled in the exercise of their rights.<sup>204</sup>

201. For purposes of enhancing the effectiveness of State policy for the social protection of veterans and increasing their role in the strengthening of the independence and sovereignty of the republic, the 4 December 1996 Republic of Uzbekistan presidential decree created the *Nuroni* Foundation for the social support of veterans of Uzbekistan.<sup>205</sup>

202. Under the presidential decree and the Foundation's Charter, it is a self-governing, self-funding, non-governmental non-commercial association that operates independently.<sup>206</sup>

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<sup>202</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 45<sup>th</sup> sess, Jan 18-Feb 5, 2010, at 43, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/504/41/PDF/N0850441.pdf?OpenElement> (Sept. 12, 2008)

<sup>203</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 51.

<sup>204</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 53.

<sup>205</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 53.

<sup>206</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 53.

203. The primary objective of the Foundation is to participate actively in the implementation of a robust social policy—particularly in demonstrating respect for veterans—for **disabled** and elderly citizens, in the creation of favorable social and living conditions for them, and in the events that provide them material, medical, and moral support.<sup>207</sup>

#### **E. Framework for promoting human rights at the national level**

##### **Raising human rights awareness through the mass media**

240. A great deal of attention is being focused on producing **TV commercials** and advertisements on human rights. All the commercials (29) were devoted to nine basic areas: protection of consumer rights; ecology and health, support of gifted students; education grants; support of entrepreneurship; support of orphans and **disabled** children; culture and the arts; support of teachers; support of women.<sup>208</sup>

##### **Role of civil society in the promotion and protection of human rights**

249. In Uzbekistan, human rights activities are carried out primarily by activists of various non-governmental non-commercial organizations, which not only protect the rights of their members, but have also come to understand the importance of setting up in the country a system for the public monitoring and control of the activities of State agencies. They consist mainly of children's, women's and environmental nongovernmental non-commercial organizations; organizations for the **disabled** and the elderly; and gender-equality centres, as well as professional societies, foundations, associations, unions and committees that bring citizens together on the basis of their interests.<sup>209</sup>

252. Accordingly, in 2005, the national non-governmental *Oila* Practical Science Centre, together with the Children's Fund, conducted a study of aspects of **disability** in children that analyzed the results of the monitoring of the activities of Muruvvat homes and the boarding schools of the city of Tashkent in terms of the level at which the rights of disabled children to education and medical services and to the satisfaction of their cultural requests are exercised.<sup>210</sup>

#### **INFORMATION ON NON-DISCRIMINATION AND EQUALITY AND ON EFFECTIVE LEGAL REMEDIES**

271. The concept of a ban on discrimination, which is codified in the Uzbekistan legal system, protects the rights not only of individuals, but also of citizen groups as such. Article 18 of the Constitution and Chapter 10 of the Constitution, which is devoted to guarantees of citizens' human rights and freedoms, aim to create a legal framework for protecting not only individual

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<sup>207</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 53.

<sup>208</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 59.

<sup>209</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 60.

<sup>210</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 61.

rights, but also collective rights, taking the latter to be the rights of such categories of the public as minors, the elderly, and the **disabled**.<sup>211</sup>

281. Under the State programme Year of Social Protection, some 35,000 veterans convalesced in sanatoriums, 50,000 poor families were given cattle, 3,000 jobs were created for employable **disabled** persons, and charitable assistance was given to 3 million elderly living alone, disabled or retired persons and poor families.<sup>212</sup>

284. The *Nuroini* Foundation for Social Support of Veterans of Uzbekistan supported an initiative of the *Kamolot* Youth Movement to create local *Zabota* [Concern] groups in order to provide material and moral support for elderly citizens living alone, **disabled** persons, and **war** and labour veterans. More than 23,000 citizens were taken under the auspices of these groups in 2007. On 7 December 1999, the Cabinet of Ministers adopted decision No. 520 on the Programme of Measures for 2000-2005 to Enhance Targeted Social Protection of Elderly Living Alone, Retired Persons and **Disabled** Persons; on 7 September 2006, the president issued decision No. 459 on the Programme of Measures to Further Enhance Targeted Social Protection and Social Services for the Elderly Living Alone, Retired Persons, and Disabled Persons in 2007-2010.<sup>213</sup>

#### **ARTICLE 7. MEASURES BEING TAKEN TO ELIMINATE DISCRIMINATION AGAINST WOMEN IN THE POLITICAL AND PUBLIC LIFE OF THE COUNTRY**

431. The Women's Committee of Uzbekistan was one of the first of the currently operating women's non-governmental non-commercial organizations created. It was founded in 1991 and, today, is the largest, most far-reaching women's nongovernmental non-commercial organization in Uzbekistan. The Women's Committee of Uzbekistan has structural subdivisions in virtually all *tumans* [districts] and viloyats of the country. The Women's Committee of Uzbekistan plays an enormous role in the business of ensuring, protecting and advancing women's rights as a whole. According to the Charter of that Committee, the basic objectives and areas of activity of the Committee are as follows:

- carry out State policy in the social and legal support of women, the protection of motherhood and childhood, the promotion of women's participation in the development of the State and society, and elevation of women's literacy and awareness in terms of the law;
- monitor and coordinate the activities of other women's non-governmental non-commercial organizations in terms of the improvement of the status of women in society and in terms of elevating their legal literacy and social protection;
- participate in the implementation of State programmes for protecting women's health;
- collaborate with other non-governmental non-commercial organizations in forming a healthy family;
- promote the idea of a healthy lifestyle;
- handle issues associated with local job placement for women;

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<sup>211</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 65.

<sup>212</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 67.

<sup>213</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 67.

- promote social protection of poor families, large families, disabled women and children, and single elderly people.<sup>214</sup>

440. The Fund for the Support of Non-Governmental Non-Commercial Organizations of Uzbekistan takes an active part in the financial support of women's non-governmental non-commercial organizations. Five competitions held by the Fund financed the projects of 91 non-governmental non-commercial organizations throughout the republic with a total of some 500 million sum. Some 30 per cent of those projects were geared to supporting women's non-governmental noncommercial organizations that provided legal assistance to women, trained disabled women, provided medical education to girls and expanded social opportunities of women. The total amount directed to the support of those projects was more than 130 million sum. For example, from 13 through 24 August 2007, at the Khumsan- Bulok resort area (Bostanlyk Rayon, Tashkent Oblast), a 12-day Summer School was held for girls living in rural areas.<sup>215</sup>

#### **ARTICLE 12. MEASURES TO ELIMINATE DISCRIMINATION AGAINST WOMEN IN THE FIELD OF HEALTH CARE**

508. For purposes of improving the regulatory framework of the health care system, amendments and addenda were recently incorporated in the prevailing Republic of Uzbekistan laws on health protection; on social protection of the disabled; on State health inspection; on the prevention of AIDS; on medicines and pharmaceutical activities; and on the mandatory treatment of alcoholism and drug abuse. Laws on the prevention of the disease caused by the human immunodeficiency virus (HIV infection), on narcotic drugs and psychotropic substances, on psychiatric care, on protection of the public against tuberculosis, on the donation of blood and blood components, on the prevention of iron-deficiency anaemia, and on the guarantees of the rights of the child have been put in place.<sup>216</sup>

#### **ARTICLE 13. MEASURES TO ELIMINATE DISCRIMINATION AGAINST WOMEN IN THE ECONOMIC AND SOCIAL SPHERES**

552. The 19 March 2007 presidential decree on measures to further improve and strengthen the system of social protection for the public has a direct bearing on the social support of working women, and it includes the following:

- a 1.5-fold increase in the volume of appropriations allocated from the State budget to pay for material assistance to poor families, with a simultaneous six-month increase of the period for its assignment and payment;

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<sup>214</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 92-93.

<sup>215</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 94.

<sup>216</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 104.

- an increase in wages for teachers, auxiliary educational staff, and nurse/orderlies in Muruvvat orphanage/boarding schools by means of raising rates by one pay grade and reducing the number of children per teacher to 5-6 from 15-18;
- the size of the material incentives fund for workers at Muruvvat and Sakhovat home/boarding facilities for children, the elderly, and the **disabled**; at special colleges for individuals with disabilities and developmental abnormalities; at sanatoriums for labour and **war** veterans; at rehabilitation centres for the disabled; and in in-home social services raised to 25 per cent of the wage fund.
- wage supplements amounting to 15 per cent of wage rate of labour and **war** veterans sanatorium workers; free meals for **disabled** students at specialized colleges for individuals with disabilities and developmental abnormalities;
- monthly reimbursement for travel for in-home social service workers, as well as for in-home teachers of disabled children, in an amount equal to one minimum wage in the Republic of Karakalpakstan and the oblasts and equal to 1.5 times the minimum wage in the city of Tashkent.<sup>217</sup>

553. The Republic of Uzbekistan has a total of 402,538 disabled women, and 25,653 are capable of working. More than 10,000 **disabled** women are receiving an education in colleges and institutes.<sup>218</sup>

554. The law on the social protection of the **disabled** provides for a 3 per cent quota in terms of job placement for the disabled. To date, a total of 25,653 disabled women have been placed in jobs. Article 220 of the Labour Code provides the disabled, including disabled women, the following benefits:

- the recommendations of the occupational-medicine expert commission on part-time work, reduced workload, and other working conditions for disabled persons are binding on employers;
- established for disabled persons of groups 1 and 2 is a reduced workweek of no more than 36 hours, with no reduction in salary;
- **disabled** persons of groups 1 and 2 are afforded an annual basic extended leave of at least 30 calendar days;
- **disabled** persons may not be enlisted for night work or for overtime or work on days off without their consent and under the condition that such work is not medically prohibited.<sup>219</sup>

555. Subsidiaries of the Uzbek Society for the **Disabled** are being created at which **disabled** persons, including women, are placed in jobs, although, of course, placing **disabled** persons, especially women, in jobs is quite difficult.<sup>220</sup>

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<sup>217</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 110-111.

<sup>218</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 111.

<sup>219</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 111.

<sup>220</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 111.

556. **Disabled** women, like all disabled persons, have medical-service benefits and free meals. Disabled persons of groups 1 and 2, in particular, receive free medical services at specialized State medical facilities. **Disabled** persons who have certain conditions (cancer, tuberculosis, leprosy, endocrine conditions, mental illnesses, and HIV; those who have had heart valve replacement operations or organ transplants; retired persons who live alone and need outside care, individuals who took part in the labour front during the **war** years of 1941-1945, veterans and disabled persons who took part in the **war** in 1941-1945, persons disabled in the cleanup after the Chernobyl accident and, inter alia, internationalist **war** veterans) receive free pharmaceuticals.<sup>221</sup>

557. Once every two years, **disabled** persons are entitled to free passes to health resorts that are under the Ministry of Labour and Social Protection. Special rehabilitation centres have been opened in all oblasts of the Republic of Uzbekistan and in the city of Tashkent for the disabled, to whom the centres provide free medical services. For purposes of integrating the disabled, including women, into society, conditions have been created to enable the full-fledged participation of the disabled in social and cultural life, namely:

- free annual guided tours of historical places (Samarkand, Bukhara, Khiva, etc.) are arranged for the disabled;
- **disabled** persons are allowed to attend theatres, movie houses, and sports facilities for free;
- they can engage in sports at sports facilities for the disabled for free;
- a theatre and music ensembles in which the disabled participate have been created in the Republic of Uzbekistan.<sup>222</sup>

558. On an equal basis with all other citizens of the country, regardless of disability group, they take an active part in the life of the country, in round tables and seminars and in volunteer work and are instrumental in solving the social welfare problems of the disabled, which helps to integrate the **disabled** into society.<sup>223</sup>

## **ARTICLE 16. MEASURES TO ELIMINATE DISCRIMINATION AGAINST WOMEN IN MATTERS RELATING TO MARRIAGE AND FAMILY RELATIONS**

637. Matters relating to marriage and family relations are regulated by the Family Code of the Republic of Uzbekistan, whose main provisions are aimed at protecting the rights of women in the family and at eliminating discrimination against women in family relations.<sup>224</sup>

638. The regulation of family relations is based on the principle of the voluntary nature of the marital union of a man and a women, the equality of the personal and property rights of the spouses, the resolution of family issues by mutual consent, the priority assigned to the family

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<sup>221</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 111-112.

<sup>222</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 112.

<sup>223</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 112.

<sup>224</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 123.

rearing of the children and to their well-being and development, and the protection of the rights and interests of minors and disabled members of the family.<sup>225</sup>

**Annex No. 5 (to Article 13)**

**5.1. Data of the Society of the Disabled on the number of disabled women in Uzbekistan<sup>226</sup>**

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<sup>225</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 123.

<sup>226</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 39, at 162.

## Committee on the Elimination of Discrimination against Women

46th session (12 - 30 July 2010) New York

### Report by the ILO II. Indications concerning the situation of individual countries

#### Albania

**Re Albania Convention No. 111.** In its 2009 direct request, the Committee of Experts, in the absence of a report from the Government, repeated its comments from 2008, in which it had noted that under the Employment Promotion Act of 1995, a specific programme of incentives for the recruitment of unemployed women had been implemented since 2004, with a view to fostering the employment of women workers, and focusing on women victims of trafficking, **disabled** women and Roma women in particular. The Committee also noted that under Order No. 782 of the Ministry of Labour and Social Issues, dated 4 April 2006, unemployed women belonging to some targeted groups, such as the Roma, victims of trafficking and persons with **disabilities**, were allowed to participate in training courses.<sup>227</sup>

#### A. Country-specific reports: UNESCO initiatives/projects

29. Special education constitutes an integral part of the education system and is regulated by the Law on Pre-university Education. Special education is organized according to the type of **disability** of the child. According to the Law on Gender Equality in Society of 7 January 2004 (article 8)<sup>3</sup> the activities undertaken by educational and scientific institutions will be considered discriminatory if these institutions apply different admission criteria for schooling or study programmes for girls and boys, in creating curricula or in assessing knowledge with regard to women and men, and if they award different opportunities of choice to women and men regarding subjects of studies and/or training.<sup>228</sup>

#### Improvements in legislation and secondary legislation and other specific measures for elimination of gender discrimination

35. Law No. 9669 of 18.12.2006, “On measures against Violence in Family Relations” has the purpose to “Prevent and reduce violence in family in all its forms, with appropriate legal measures and to guarantee protection with legal measures for family members, who are victims of violence in family, paying special attention of children, old people and people with **disability**. This Law (No. 9669) is an administrative-civil law, which intends to create a coordinated

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<sup>227</sup> Comm. on the Elimination of Discrimination against Women, Rep. provided by the specialized agencies of the United Nations system on the implementation of the Convention in areas falling within the scope of their activities, 46<sup>th</sup> sess, July 12-30, 2010, at 8, *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.2010.46.3.Add.4.pdf> (May 11, 2010).

<sup>228</sup> Comm. on the Elimination of Discrimination against Women, Rep. provided by the specialized agencies of the United Nations system on the implementation of the Convention in areas falling within the scope of their activities, 46<sup>th</sup> sess, July 12-30, 2010, at 9, *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/362/63/PDF/N1036263.pdf?OpenElement> (May 13, 2010).

network of governmental institutions to respond in time to cases of violence in family and issue immediate protection orders by the courts.<sup>229</sup>

#### **Article 4 TEMPORARY MEASURES TO ACCELERATE PARITY**

##### **Special temporary measures**

60. Albanian Government has progressively encouraged special categories of women to be integrated in the labor market. For example, State Strategy on Employment and Professional Training 2003-2008, which entered into force in January 2003, pays special attention to unemployed women. Decision of the Council of Ministers (DCM), No. 632 of 18.09.2003, “On program for employment and promotion of registered unemployed women,” gives special priority to promotion of women’s employment. Pursuant to this DCM, issued for implementation of Law No. 7995 of 20.09.1995 “On Employment Promotion” employers, who employ females, especially such categories, as: Roma females; women above 35; divorced women with social problems and females with **disabilities**, are supported financially. Worth mentioning is a series of measures taken after 2003 regarding governmental policies on employment, which aimed at the employment and qualification of a certain category of women.<sup>230</sup>

62. National Employment service implements this Guideline through employment offices, in which the employees have been appointed to realize the advice and professional orientation for all people who require it. Special care in the advice and orientation is paid to special jobseeker groups, like: mothers with many children, people above 50 years, young people under 18, long-term unemployed people, people whose families are under the poverty line, victims of trafficking and people who benefit from programs of money support, (This program includes unemployment payment, which covers 8 months to 1 year and economic aid), people who become jobless from enterprises and institutions, which are under reformation process, restructuring and privatization, unemployed mother-girls, divorced females with social problems, people who come back from emigration with economic problems, people who have just graduated and are not orientated in labor market, people who have suffered imprisonment sentence, people with **disability**, Roma and orphans who have acquired this status.<sup>231</sup>

##### **Special measures aiming to protect motherhood**

65. The new bill on Gender Parity provides for special measures for protection of motherhood and in this direction, this bill guarantees:

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<sup>229</sup> Comm. on the Elimination of Discrimination against Women , Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 46<sup>th</sup> sess, July 12-30, 2010, at 12-13 , available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/661/53/PDF/N0866153.pdf?OpenElement> (Dec. 19, 2008).

<sup>230</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 23.

<sup>231</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 23.

- a) Special protection of women during pregnancy and labor of young mothers, and young parents, after the natural birth or adoption of a child by them, creating conditions for their protection and facilitation in work; in social insurance and social aid; and guarantee of necessary health aid for the mother and the child; in guaranteeing and promotion of social services system favoring the development of nurseries and kindergarten network;
- b) Measures to be taken to facilitate and help the people who have special responsibilities in families, because of daily care for family members with **disability**, because of age, physical and mental **disability** or for other **disability** reasons;
- c) Restriction for pregnant women and breastfeeding women to work in some sectors of heavy and dangerous works. These restrictions should be reviewed periodically, depending on scientific and technical knowledge and according to the needs that appear.<sup>232</sup>

## Article 5 ROLE OF SEX AND STEREOTYPES

### Common responsibility of both parents for children's upbringing: Violence in family

85. On the other hand, Criminal Procedural Code of Albania provides for free assistance by a lawyer for the defendant, who does not have sufficient financial means. Concretely, article 49 of Criminal Code with the title, "Appointed defense" provides for "the defendant who has not chosen the defense, or has remained without defense to be assisted by a lawyer appointed by the body that makes the prosecution if s/he requires it". When the defendant does not have sufficient means, the expenses made for the defense are paid by the State. When the defendant is under the age of 18, or with physical, psychological **disability** that inhibits him/her to make the defense himself/herself, the assistance of lawyer is compulsory. In these cases, various NPOs offer free legal assistance for certain subjects, such as: Civil Legal Initiative office for Protection of Citizens, Legal Office for Minors. In this regard, Ministry of Justice is working to issue the secondary legislation that provides for free legal assistance for victims of violence in family.<sup>233</sup>

92. From this study [of violence against women], some important conclusions were drawn regarding the most widespread forms of violence, which appeared as follows:

1. Emotional violence is the most widespread violence in families.
2. Economic violence is encountered more in urban areas.
3. Physical violence is reported more in rural areas.
4. Sexual violence is the least reported form.
5. The women with **disabilities**, migrant women, Roma women and women of rural areas are the most endangered.
6. The age groups, which experience most of the violence, are two: 18-23 and 37-45.<sup>234</sup>

### Prostitution

111. Pursuant to article 114 of Criminal Code of the Republic of Albania, urging mediation or reception of payment for practice of prostitution is punished by penalty or by imprisonment up to 5 years. Article 114/a was added to this Criminal Code; it provides for 7-15 years of

<sup>232</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 24-25.

<sup>233</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 30.

<sup>234</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 32.

imprisonment in cases of “exploitation of prostitution made with minors, against some people, with people of close lineage, in-laws, guardianship relations or by making use of official relations, by fraud, coercion or making use of physical or mental **disability** of the person; against the person who is urged or coerced to practice prostitution outside the territory of the Republic of Albania; made in cooperation or more than once by people commissioned with State functions.”<sup>235</sup>

## **Article 10 EDUCATION**

### **Legal framework on education and professional formation and national strategies**

185. Pursuant to this law (point c), in addition to the pupils and people who are 18 years old, “*special groups, which are willing to have a professional rehabilitation, as the people with **disabilities**, mothers with many children, people under 18, the long term unemployed people, people from families under the poverty line and every other category that will be defined as such by the Decision of Council of Ministers*” benefit from this law.<sup>236</sup>

### **National Strategies on Education, Sports and Youth**

194. Likewise, Ministry of Education and Science (MES) is monitoring the implementation of two other strategies which are:

- a) National strategy “On improvement of Roma minority living conditions”
- b) Strategy on “People with **disabilities**”, which aims at increasing the participation of pupils and in particular of girls in educational system.<sup>237</sup>

### **Measures for elimination of discrimination in the field of education**

204. Based on recommendations that came out from these studies, MES built special working platforms on:

- Special training of teachers for the work with pupils that come from marginalized strata (500 teachers each year) and improvement of relation pupil-teacher for pre-university education. (Table 3.3-INSTAT)
- Differentiated treatment (payment for additional teaching hours) of teachers who work with children that have abandoned the school, differentiated transport for pupils with **disabilities**.
- Construction of ten new boarding schools for areas in need, which compared to other regions have a high number of pupils who abandon school.
- From these, 7 have were planned in 2008 budget and realization is ongoing in districts Kruje, Kukes, Diber, Durres, Tropoje, Sarande and Shkoder and 3 others in districts Korçe, Elbasan, Fier, for which efforts are being made currently to find their funding.<sup>238</sup>

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<sup>235</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 40-41.

<sup>236</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 59.

<sup>237</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 61.

<sup>238</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 63.

## **Article 11 EMPLOYMENT**

### **Legal Framework on Employment**

224. For professional training and formation, in addition to Law 8872 “On Professional Education and Formation in the Republic of Albania,” it is worth to mention the Guideline of Minister of Labor No. 2222 of 31.10.2002 “*On Advice and Orientation in Professional Formation.*” National employment service is commissioned to implement this guideline by Employment Offices in which employees have been appointed to realize the professional orientation and advice for all people who need and require these services. Special care for advice and orientation is devoted to certain groups which according to the law provisions are the jobseekers which include: mothers with many children, people over 50 years old, young people under 18, long term unemployed people, people from families under the poverty line, victims of trafficking, people who benefit income from support programs, people who become unemployed in the reformation process, from restructuring and privatization, unemployed girls-mothers, divorced females with social problems, people who return from migration with economic problems, people who have just graduated and are not orientated in the labor market, people who have served the sentence with imprisonment, people with **disabilities**, Roma people and orphans who have acquired this status.<sup>239</sup>

### **Measures for elimination of discrimination in the employment field**

236. 9500 unemployed jobseekers benefited from the unemployment payment scheme, whereas 95.781 unemployed jobseekers benefited from the economic aid scheme. 8036 jobseekers appeared to be from the special groups, from which 3380 are Roma, 33 trafficked girls and women, 1838 people with **disabilities** and 3059 from other categories, registered in employment offices in a country scale.<sup>240</sup>

### **Equal employment possibilities**

241. Considering female’s unemployment level high, regardless of their large participation in employment promotion programs, Ministry of Labor took concrete measures for implementation of active policies for women’s employment. The employment promotion program aims at employing unemployed women and encouraging employers to employ unemployed female jobseekers. Though it seems that this comprises discrimination for males, in reality it responds to the solution of situation of women’s high unemployment. This support consists in funding the amount of obligations for insurance insurances, whereas for females who above 35, trafficked women, women from Roma community and women with **disabilities**, the compensation is made for a part of the salary up to minimal wage level. This program is supported by State budget from Ministry of Labor and it started to be implemented after 1 January 2004. The program aims at long term employment, promoting the employer to be activated to select a regular labor force. The female unemployed jobseekers are included in concrete activities where they have possibilities: a) to be employed temporarily and benefit more income; b) to benefit qualification through working; c) to have real opportunities for employment, if they demonstrate good

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<sup>239</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 67-68.

<sup>240</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 69.

capacities for work and business.<sup>241</sup>

### **Professional Formation in Public Centers**

253. With the State budget fund, the started work continues in the direction of investments to enlarge the network of public centers of professional formation. In addition to centers in the cities of Elbasan and Fier, we are working to establish them also in the cities of Durres and Gjirokaster, whereas in cooperation with the project “Support for reform in the field of AFP-stage II,” a professional formation center is being reconstructed in Korca city. In 2006, 6200 people were trained, from which 3700 were females. The 2007 tendency was opening of new courses for those professions, which offered greater employment opportunities after the course completion. Such courses for professions of plumbers, electricians, dressmaker, cook, etc. were opened in Gjirokaster, Elbasan, Tirana, Vlore, etc. In 2007, in these courses 7.400 people were registered. At the completion of the courses, 7028 people received certificates, from which 1700 were unemployed jobseekers. From the special groups, 72 Roma, 35 orphans, 10 trafficked females and 29 people with **disabilities** were trained. Public professional courses were attended by 4923 people of the age 16-24, who comprised 66.5% of the total number of trained people. In 2007, 3899 females were trained or 53% of the total. The age 25-34 comprises 20% of the total, whereas the age over 34 occupies only 13.5% of the total. According to the educational level, the biggest weight of people who followed the public professional formation is occupied by secondary education with 3400 people (or 46% of the total), after them, the 8 year education comes with 2032 (28%) and the higher education with 1968 (26%).<sup>242</sup>

### **Measures for elimination of discrimination in the economic and social field**

#### ***(a) Benefits for family members***

347. The political and economic reforms of the 90s were accompanied by an increase of the number of people exposed to poverty and social exclusion. To mitigate these consequences, a special system of social protection was established based on the programs of: **(1)** Social insurances, **(2)** Economic aid, **(3)** Support with income to people with **disabilities**, **(4)** Social services. Assessment of vulnerability and social problems of individuals, (women/girls and men/boys) very often means definition of the degree of their social exclusion from normal life of society, absence of policies and measures to protect their rights and absence of possibility to use the services that exist in their community.<sup>243</sup>

#### **Benefits of suitable health services in rural areas**

377. Since work in rural zones is more difficult, systematic campaigns are needed to raise the awareness for the increase of health care degree. The women usually require help only when they are fall sick and in general they avoid periodic checks. 35% of women take the care during pregnancy whereas 15% of women in rural areas do not go for periodic examinations during pregnancy whose regular performance helps to avoid many complications that may appear during and after birth. Regular medical examinations have not become part of the health care for

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<sup>241</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 73.

<sup>242</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 75-76.

<sup>243</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 98.

old women and those with **disabilities**. Female patients may choose these services and in this regard they may prefer women doctors for examination and male doctors for surgical interventions, more attention should be given also to old women during the menopause, direct benefit from the problems of social insurances.<sup>244</sup>

402. Law No. 9669 of 18.12.2006, “On Measures Against Violence In Family Relations” has the aim to “prevent and reduce violence in family in all its forms with suitable legal measures and guarantee protection with legal measures for family members who are victims of violence in family, paying special attention to children, old people and people with **disabilities**. This administrative – civil law sanctions the creation of a coordinated network of governmental institutions in order to respond in time to cases of violence in families and the immediate issue of protection orders from the courts.<sup>245</sup>

**Follow up question:** 32. The report is silent on the situation of older women, women with **disabilities**, refugee and migrant women and girls. Please provide such information, in particular the economic and social situation and measures in place to support these groups of women.

**Answer:**

14. Article 9 (*Special measures*) provides that: There shall be no gender discrimination involved when the state takes special measures, including legal provisions, which aim at: a) Providing a special protection to women during their pregnancy and childbirth, young mothers, as well as young parents, as a result of their natural childbirth or adoption of a child, creating conditions for their protection and comfort at work; social insurance and social aid; ensuring the necessary healthcare assistance to mother and child; ensuring and encouraging the social services system, favoring development of a network of day nurseries and kindergartens; b) Facilitating and assisting persons who have special responsibilities in their families due to their daily care for **disabled** members of the family, due to their age, physical and mental disabilities or other causes of **disability**; c) Limiting certain sectors of hard and dangerous work for pregnant women and breastfeeding mothers. Such limitations shall be reviewed regularly depending on the scientific and technical knowledge, as well as on the needs arising.<sup>246</sup>

143. *Information on women with limited capacities:* women with **limited capacities** are treated within the groups of persons with limited abilities PAK and random are treated specifically. Women PAK as well as men PAK benefit from social services and payments given for limited abilities.

Law on “Status of Paraplegic and Tetraplegic Invalid,” no. 8626, of 22.6.2000 (changed) offers support in all the fields for persons with limited capacities pre and tetraplegic.

Law on “Status of Blind Persons” No.8098, (of 28.03.1996), changed, offers support in all the fields for the **blind persons** with **limited capabilities**.

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<sup>244</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 105.

<sup>245</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 66, at 111.

<sup>246</sup> Comm. on the Elimination of Discrimination against Women , Responses to the list of issues and questions with regard to the consideration of the third periodic rep., 46<sup>th</sup> sess, July 12-30, 2010, at 9 , *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/315/39/PDF/N1031539.pdf?OpenElement> (Apr. 15, 2010).

Mentioned legal acts, just like the Status of Work Invalids, have treated them under the general term of the person with limited capabilities, women and girls with **limited capabilities**, without seeing the problems that this group has.

Law on “Promotion of Employment,” no.7995, of 29.9.1995 (changed) aims at determining the general policies to support and ensure full, productive and freely chosen employment for every individual. Articles 15-16 of this law, specifically refer to promotion of employment for the category of limited capacity persons, defining sanctioned measures in case of not hiring one limited capacity person every 24 persons. Law on “Education and Professional Formation in the Republic of Albania” no.8872, of 29.3.2002, expresses and protects the right of citizens for education and professional formation, in spite of their social status or health situation. Article 5/c of this law determines that persons who benefit from professional education and training are also special groups desiring professional rehabilitation, as well as persons with **limited capabilities**, mothers with many children, persons under 18 years, long-term unemployed persons etc. Even in the sub legal acts issued in application of this law, special attention has been paid to ensuring professional formation with reduced prices or free of charge for groups of people in need, including persons with **limited capabilities**.<sup>247</sup>

144. Law on “Social Assistance and Services” no.9355, of 10.03.2005, provides for conditions and services for benefiting economic assistance and social services; that benefiting from social services (article 6) based on this law are the children, young people up to 25 years, senior people, persons with **limited capacities**, as well as girls and women in need. Meanwhile girls and women with limited capacities are included with the general term of the person with limited capacities. Also this law (article 7) provides that persons with **limited capabilities** enjoy the right to gain a monthly payment due to their limited capabilities or the right to a caretaker, for the first group. This right is guaranteed both for women and girls with **limited capabilities**.<sup>248</sup>

145. Decision of Council of Ministers no.632/18.9.2003 “On the program of promotion of employment of women unemployed job-seekers”, issued in application of law No. 7995/20.9.1995 “On promotion of employment,” says that financial support is received from employers, who hire females especially from categories like: Roma females, females over 35 years etc.

Decision No.394 of 23.02.2004 of the Minister of Labor and Social Issues “On fees of the Professional Training System” determines that registration fees for the categories: Roma Community, trafficked and violated women and girls etc. are zero for courses of professional training offered from Public Centers of Professional Training. These courses aim at qualifying and increasing professional abilities of these target groups of women, creating possibilities to cope with the contemporary requests of the today’s labor market.<sup>249</sup>

146. A political document specifically promoting the rights of the **limited capacity** persons is “National Strategy for **Limited Capacity** Persons” (CMD no.7 of 8.01.2005). In the focus of this

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<sup>247</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 83, at 57-58.

<sup>248</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 83, at 58.

<sup>249</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 83, at 58.

strategy there are the objectives and main goals of the Albanian Government and other actors interested in the field of environment, services, education, employment and professional education, in the field of legislation and research for limited capacity persons. This strategy does not specifically include women with **limited capabilities**.<sup>250</sup>

147. Currently Albania has signed Convention on the Rights of Persons with **Limited Capacities**, in 22 December 2009 and currently it's following procedures for its ratification and entering into force.<sup>251</sup>

148. Whereas National Strategy of Gender and Domestic Violence treats the rights of **limited capacity** women in framework of rights of women in general, whereas the plan of action of this strategy determines a series of measures, which mostly are addressed to groups in need. Indirectly this document has a special treatment for women with **limited capacities**, as one of the groups in need.<sup>252</sup>

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<sup>250</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 83, at 58.

<sup>251</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 83, at 59.

<sup>252</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 83, at 59.

## Argentina

### B. National Mechanism

The CNM (National Women's Committee) has focused its activities on promoting and publicizing women's rights, monitoring compliance with international commitments, integral health for women, labour and employment, and prevention of gender violence. In this work it cooperates with other areas of the national government, with all the provinces, and with civil society organizations and social movements. Specific programmes mounted throughout the country include the following: "Women's Rights Are Human Rights," "Women, Equity and Work," "Don't Get Used to Violence" (*Que la Violencia no nos sea familiar*), "Integral Health for Women," "Gender and Disabilities," "Observatory on Discrimination," "Woman Means Work (*Decir Mujer es Decir Trabajo*): Time Use Surveys," and outreach campaigns on these topics, as indicated above.<sup>253</sup>

At the instigation of the CNM, a multidisciplinary interagency group has been established to conduct awareness and training activities to eradicate discrimination on grounds of gender and disabilities. The intent is to sensitize governmental and nongovernmental organizations, teachers, parents and coordinators of groups of disabled persons. First, a study of the issue and of international and national experience was conducted, and various actions were designed: workshops, participation in seminars and congresses, articles and notes in general-interest magazines, and publication of specific teaching materials.<sup>254</sup>

### Bibliography and publications

A sizable set of books (around a thousand volumes) has been shipped out to enhance the library collections of the provincial women's offices. Books were donated to the federal women's penitentiary to establish a library, under an agreement with the Federal Ministry of Justice and the Ministry of Culture of the City of Buenos Aires. Materials have been published for training about rights: the international Conventions (CEDAW and Belém do Pará), violence, health, sexual and reproductive health, manuals and workbooks, equity and work (including chapters on marketing, cooperatives and microcredit), welfare rights, strategic planning, local development, seniors, gender and disabilities.<sup>255</sup>

### D. Social Policies and Women

#### National Families Plan for Social Inclusion

This plan promotes comprehensive health protection, education and capacity development. It pays an allowance to families who undertake to look after their children's health and education and supports adults seeking to complete their schooling or take occupational training. By the end

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<sup>253</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 46<sup>th</sup> sess, July 12-30, 2010, at 9, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/499/69/PDF/N0849969.pdf?OpenElement> (Sept. 8, 2008).

<sup>254</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 90, at 11.

<sup>255</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 90, at 13.

of 2007, some 450,000 households were participating. There has also been an increase of more than 100% in non-contributory pensions paid to persons over 70 years of age, mothers with seven children or more, and persons with **disabilities**: there are currently 363,838 pensioners, 85% of whom are women. Believing it very important to work with the technical staff of the Families Programme, the CNM signed a cooperation and technical assistance agreement to provide joint training in the gender perspective for technical staff of the Ministry of Social Development who are directly involved with the programme beneficiaries and who are in a special position to encourage women to exercise their right to complete their studies or to take vocational training.<sup>256</sup>

### ***National Plan for Local Development and the Social Economy***

Community Integration Centres (CIC) have been in place since 2006. They constitute a model for the integral management of social policies in the neediest communities. There are currently 236 CIC's operating throughout the country. In these centres, the CNM conducts awareness and training workshops for the promotion of women's rights (health, violence, work, **disabilities**, from a gender perspective).<sup>257</sup>

### **Social Security**

#### **National legislation and programmes**

Non-contributory pensions have increased greatly in recent years, and by the end of 2007 they covered 363,838 individuals (**disabled** persons, seniors, mothers with more than seven children, and other special provisions), of which 85% of beneficiaries were women.<sup>258</sup>

**(no follow up)**

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<sup>256</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 90, at 17-18.

<sup>257</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 90, at 18-19.

<sup>258</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 90, at 49.

## Australia (50+ times)

### Undertaking international activities

1.21 Given that two-thirds of the world's poor (some 800 million people) reside in the Asia–Pacific, the Australian Government's international aid program is focused on our region. Gender equality is an overarching principle of Australia's aid program, and is also a critical development goal in its own right. Under the aid program, Australia is working in partnership with developing countries in the Asia–Pacific to improve the economic status of women, foster equal participation, and promote gender equality. The Australian Government's first **Disability** Strategy for its overseas aid program is being developed and is due to be launched in December 2008. It will define what actions will be taken through the development assistance program to help people with **disabilities**. In June 2007, the Office for Women funded the Pacific Islands Forum Secretariat to produce communication materials, including a booklet on CEDAW, supporting the advancement of women's representation and gender equality in Pacific parliaments. The materials were launched in September 2008 and distributed to women across the Pacific region.<sup>259</sup>

### Consultation and feedback from non-government organisations and the community

1.24 In February 2008, the Australian Government held community consultations at the beginning of the process in each state and territory capital city as part of preparing to develop this report. In response to the CEDAW Committee's 2006 Concluding Comments in paragraphs 14, 15, 17, 18, 26, 28, 29 and 30 that Australia's last report on CEDAW in 2003 did not provide sufficient information on women with **disabilities**, Indigenous women, migrant and refugee women and rural and remote women, the Australian Government also held four roundtable discussions in March 2008 to gain greater insights into the views and concerns held by these groups of women. Issues discussed during the consultations and roundtables have helped guide and shape this report.<sup>260</sup>

### Legislative framework

2.7 The CEDAW Committee's 2006 Concluding Comment in paragraph 28 expressed concern that immigrant, refugee, and minority women and girls may be subject to multiple forms of discrimination. The Australian Human Rights Commission is responsible for administering four Australian Government laws which offer protection to these women—the *Age Discrimination Act 2004*, the **Disability Discrimination Act 1992**, the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*.<sup>261</sup>

### International frameworks

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<sup>259</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 46<sup>th</sup> sess, July 12-30, 2010, at 10, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/258/54/PDF/N0925854.pdf?OpenElement> (Mar. 9, 2009).

<sup>260</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 11.

<sup>261</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 12.

### **CEDAW Optional Protocol and other international treaties**

2.31 On 17 July 2008, the Australian Government ratified the Convention on the Rights of Persons with Disabilities, reinforcing Australia's long-standing commitment to upholding and safeguarding the rights of people with **disability**. The process of considering whether to accede to this convention's Optional Protocol has also started. Additionally, Australia is considering accession to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In response to the CEDAW Committee's 2006 Concluding Comment in paragraph 36, the Australian Government will consider the International Convention on the Protection of the Rights of All Migrants Workers and their Families in due course. In 2006 and 2007 respectively, the Australian Government became a party to the two Optional Protocols to the Convention on the Rights of the Child. In 2006, the Government also ratified the International Labour Organization Convention on the Elimination of the Worst Forms of Child Labour.<sup>262</sup>

### **Data collection**

2.39 The Australian Government is currently undertaking a gender indicators 'stock take' to identify gaps in the availability and accessibility of sex-disaggregated data, including data for Indigenous Australians, people with **disability**, and people from lower socioeconomic and rural and remote backgrounds.<sup>263</sup>

### **Responsibilities relating to family**

3.2 The burden of caring for children, elderly parents, and people with **disability**, and for doing housework, continues to fall disproportionately to Australian women. For more information about caring and its effects on women's social and economic participation, see paragraphs 9.21 to 9.30 and 11.4 to 11.7.<sup>264</sup>

3.18 Australia's agreed National Goals for Schooling state that schooling in Australia should be socially just, so that students' outcomes from schooling are free from the effects of negative forms of discrimination based on sex, language, culture and ethnicity, religion or **disability**; and of differences arising from students' socioeconomic background or geographic location.<sup>265</sup>

### **Women in public service**

5.15 In 2006–07, women made up more than half (57 per cent) of the Australian Public Service workforce. They now hold 36 per cent of Senior Executive positions, an increase of 6 per cent since 2003. In 2006–07 Indigenous women represented 2.5 per cent of the Australian Public Service, compared to 1.8 per cent for Indigenous men. Women with **disabilities** made up 2.8 per cent and men with disabilities 3.9 per cent. Women born overseas whose first language is not English comprise 5.8 per cent, while their male counterparts comprise 5.6 per cent of the Australian Public Service. In Senior Executive positions of the Australian Public Service,

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<sup>262</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 17.

<sup>263</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 19.

<sup>264</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 23.

<sup>265</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 25.

Indigenous women represent 2.5 per cent, women with disabilities 2.8 per cent, and women born overseas whose first language is not English comprise 5.8 per cent.<sup>266</sup>

5.49 Victoria's Women's Leadership Forums and Training program for Women with Disabilities identified the leadership needs of women with disabilities. In 2005–06, the Victorian Government established the Victorian Women with Disabilities Network Advocacy Information Service to influence mainstream providers and disability organisations to become more gender aware and responsive, and to support leadership and advocacy skills development among women with disabilities.<sup>267</sup>

## **8 Article 10: Education**

8.1 Australia is committed to ensuring that all Australian students, regardless of gender, ethnicity, disability or geographical location, receive a world-class education. For information about Australia's education system, see paragraphs 556 to 581 of Australia's *Common Core Document*, June 2006.<sup>268</sup>

### **Education for disadvantaged groups**

8.33 The Australian Government is strongly aware of the CEDAW Committee's concerns in paragraph 28 of their 2006 Concluding Comments that students from disadvantaged groups face multiple disadvantage and discrimination. In this context, the Government is particularly targeting five disadvantaged groups—Indigenous students; students from low socioeconomic/low-income backgrounds; students from rural and isolated areas; students with disability; and students from culturally and linguistically diverse backgrounds. Funding for these groups is provided under the Higher Education Support program. The program also aims to help overcome educational disadvantage associated with gender.<sup>269</sup>

8.35 In 2005, the Australian Government also funded the new Students with Disabilities Support program. This program helps eligible higher education providers undertake activities that help remove barriers to access for students with disabilities.<sup>270</sup>

8.36 The Queensland Government has improved training opportunities for women with disabilities through access to computers and/or assistive/adaptive technologies. Men and women with disabilities are provided with equipment through the Vocational Education and Training

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<sup>266</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 34.

<sup>267</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 40.

<sup>268</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 50.

<sup>269</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 55.

<sup>270</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 55.

Disability Support Service.<sup>271</sup>

8.37 Under the Higher Education Equity Support program women and men continue to be supported where they meet any one or more of the general equity characteristics—that is, if they are Indigenous, from a low socioeconomic status background; from a regional or remote area; a person from a culturally or linguistically diverse background; or if they are a student with a **disability**. Women (and men) can also get assistance if there are identified instances of educational disadvantage associated with gender, including access to non-traditional areas of study.<sup>272</sup>

#### **Vocational education and training**

8.46 The New South Wales Government developed the Technical and Further Education NSW Women’s Strategy 2004–10 to improve access, participation and outcomes for women students in its institutes of Technical and Further Education (TAFE). All TAFE institutes in the state are required to implement the strategy and to report on progress each year. From 2003 to 2007, the overall proportion of women’s enrolments increased from 47 per cent to 48 per cent of all enrolments in TAFE New South Wales. Enrolments by women from most equity groups also increased—for example, as a proportion of all women enrolled, enrolments of mature-age women (aged 45 to 64 years) increased from 18 per cent to 22 per cent; women from culturally and linguistically diverse backgrounds increased from 21 per cent to 25 per cent; women with **disability** increased from 9 per cent to 10 per cent; and Indigenous women increased from 4 per cent to 5 per cent.<sup>273</sup>

#### **Workforce participation of women with disability**

9.51 The Australian Government has focused on approaches, programs and policies that bring people with **disability** into the mainstream of economic and productive life by improving their access to employment and training services. Data indicate that in 2003, just over half of people with **disability** participated in the labour force, compared to about four in five people without a disability. Men with disability had higher rates of labour force participation (59.3 per cent) than women with **disability** (46.9 per cent). Employed women with **disability** are also more likely to be employed part-time, compared to employed men with **disability** who are most likely to be employed full-time.<sup>274</sup>

9.52 In January 2008, the Australian Government announced an investment of \$3.7 billion over three years from 1 July 2009 in a new generation of employment services. The new employment

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<sup>271</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 55.

<sup>272</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 55.

<sup>273</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 57.

<sup>274</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 69.

services system will mean more tailored assistance for jobseekers based on their level of disadvantage; will increase early assistance to the most disadvantaged jobseekers; and will better meet the skill needs of employers. Under the Employer Incentives strategy, the Australian Government also offers a number of incentives to encourage employers to employ people with **disability**, including help for deaf workers and with workplace modifications and recruitment.<sup>275</sup>

9.53 The Australian Government is developing a national mental health and **disability** employment strategy, which will outline how policy and programs across the Australian and state and territory governments can better operate together to help people with disability and mental illness find and keep work.<sup>276</sup>

9.54 The Northern Territory Government runs the Australians Working Together grants program (funded by the Australian Government), which provides financial support for pilot programs to help employment-disadvantaged Territorians, including people with **disability**, migrants and refugees, and young women at risk of long-term unemployment to access training and employment opportunities. In 2008, six of the eight funded programs had high female participation.<sup>277</sup>

9.55 South Australia's Strategic Plan outlines targets to double the number of people with **disabilities** employed in the public sector by 2014.<sup>278</sup>

## **10 Article 12: Health**

10.1 The Australian Government recognises that by improving the health of all Australian women, the health of the whole community is improved. In Australia, women generally fare much better than men on many indicators of health and wellbeing, including life expectancy. However, more effort is needed, especially to further improve the health of Indigenous women, women with **disability**, older women and women living in rural and remote areas.<sup>279</sup>

### **Migrant women**

10.34 Migrants bring to Australia their own unique health profiles. Research has found that most migrants enjoy health that is at least as good as, if not better than, that of the Australian-born population. Immigrant populations often have lower death and hospitalisation rates, as well as lower rates of **disability** and lifestyle-related risk factors.<sup>280</sup>

### **Women with disability**

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<sup>275</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 69.

<sup>276</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 69.

<sup>277</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 69.

<sup>278</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 69.

<sup>279</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 72.

<sup>280</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 77.

10.39 The Australian Bureau of Statistics conducts the Survey of Disability, Ageing and Careers every five years. The most recent survey occurred in 2003. The survey collects information on people with **disability**, older people (aged 60 years or over), and people who care for an older person or a person with **disability**.<sup>281</sup>

10.40 Based on the survey results, an estimated 3.9 million Australians (20 per cent of the population) had some form of **disability** in 2003. Accident or injury was the top known cause of disability for males (18 per cent); disease, illness or hereditary causes led for females (16 per cent). Males were more likely than females to have work-related **disabilities** (15 per cent versus 6 per cent).<sup>282</sup>

## **Article 11: Employment**

### **Support for people with **disability****

11.25 The National **Disability** strategy is a major Australian Government commitment that will provide an overarching policy statement and framework outlining priority actions nationally and for state and territory governments. The strategy will address the complex needs of people with **disability** and their careers and build strategies and innovations to move away from crisis management to early intervention. It will deliver a whole-of-government, whole-of-life approach to disability issues and will incorporate the principles of the United Nations Convention on the Rights of Persons with **Disabilities**. The National **Disability** strategy will be an important cornerstone of the Australian Government's commitment to promoting social inclusion for all Australians.<sup>283</sup>

11.26 The Commonwealth **Disability** strategy is a strategic framework for including participation by people with **disability** in Australian Government policies, programs and services by removing barriers. The strategy is currently being reviewed in response to recommendations from an independent evaluation report released in November 2006 and will be aligned with the objectives of the National **Disability** strategy.<sup>284</sup>

11.27 In 2008 the Australian Government established the **Disability** Investment Group to explore innovative funding ideas from the private sector that will help people with **disability** and their families' access greater support and plan for the future.<sup>285</sup>

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<sup>281</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 78.

<sup>282</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 78.

<sup>283</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 86.

<sup>284</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 87.

<sup>285</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 87.

### **Other measures to help people with disability**

11.28 The *Disability Discrimination Act 1992* provides that all publicly accessible buildings should be accessible to people with disability, unless altering the building to provide access would cause unjustifiable hardship. In 2006, a proposal for Disability Standards for Access to Premises was put to the Australian Government to codify building requirements to comply with the *Disability Discrimination Act 1992* in order to improve availability and provide greater certainty about how to provide non-discriminatory access. An advisory group was also established in late 2007 to consider the proposal and make recommendations on a number of unresolved issues. The Government is presently considering the advisory group's report and is likely to make a decision on the proposal later in 2008.<sup>286</sup>

11.29 The Disability Standard for Accessible Public Transport 2002 (Transport Standards) establishes minimum accessibility requirements with which operators and providers of public transport conveyances, premises and infrastructure must comply. The Transport Standards are currently under review to examine whether discrimination has been removed as far as possible, according to the compliance requirements of the Transport Standards, and will assess the need for amendments to the Transport Standards. The review will involve consultation with all levels of government, including the states and territories, and interested people.<sup>287</sup>

11.30 These measures provide a response in some measure to the CEDAW Committee's 2006 Concluding Comment in paragraph 27 regarding the development of infrastructure needed to ensure that disabled women have access to all health services.<sup>288</sup>

### **Participation in sports and physical recreation**

11.53 The Sport Leadership Grants for Women program has distributed more than \$2 million to 15,500 women throughout Australia since 2003. The grants are for accredited sport leadership training in coaching, officiating, sport administration and management, and governance. Grants target five key areas—women in high performance coaching and officiating, Indigenous women, women in disability sport, and women in general sport leadership. Over half of distributed funds reached women in rural and remote areas.<sup>289</sup>

11.54 The Disabled Education program responded to the need for training and resource material for national and state and territory sport organisations, coaches, teachers, and community leaders to help them include people with disabilities. Since July 2003, around 21,000 people across

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<sup>286</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 87.

<sup>287</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 87.

<sup>288</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 87.

<sup>289</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 91.

Australia have completed the training. Many participants are associated with the disability and education sectors, which traditionally have a high proportion of female representation. Sports CONNECT (formerly project CONNECT) also involves 30 national sport organisations working towards the common goal of making sport more inclusive of people with **disabilities**.<sup>290</sup>

### **13 Article 15: Equality before the law**

#### **Community legal services**

13.18 In 2006–07, community legal services provided assistance to 81,311 female clients (59 per cent of the total number of clients seen). As a proportion of the total number of female clients, 4 per cent reported low English proficiency, 4 per cent reported an Indigenous background, and 10.0 per cent reported having a **disability**. Women accounted for 2.8 per cent (2,264) of clients reporting low English proficiency, 4.5 per cent (3,683) of clients reporting an Indigenous background, and 8.4 per cent (6,821) of the total female clients reporting a **disability**.<sup>291</sup>

### **14 Article 16: Family life, marriage and violence against women**

14.25 In 2005, the Australian Government Office for Women commissioned the Australian Bureau of Statistics to conduct a personal safety survey to collect information from a large sample (11,000 women and 4,500 men) about their experiences of violence. The survey found that around one in three Australian women experience physical violence and that almost one in five women experience sexual violence over their lifetime. It is also recognised that Aboriginal women are 40 times more likely to be a victim of family violence compared with other Australian women. International studies estimate that more than 80 per cent of women with intellectual **disabilities** have experienced some form of sexual abuse throughout their lifetime, and that women with **disability** are assaulted, raped and abused at least twice the rate of women without **disability**.<sup>292</sup>

#### **Women with **disability****

14.83 The National Council to Reduce Violence against Women and their Children will be specifically consulting with the peak non-government body representing women with **disabilities** in Australia—Women With Disabilities Australia. The Australian Government provided funding to this organisation to help develop the *Resource Manual on Violence Against Women with **Disabilities***. The manual was published in 2007.<sup>293</sup>

### **Responses to issues raised with regard to the combined sixth and seventh reports of**

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<sup>290</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 91.

<sup>291</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 100.

<sup>292</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 106.

<sup>293</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 96, at 119.

## Australia

**Issue/question 1:** please provide further information on the process of preparing the report, including what Government departments and institutions were involved and whether the report was adopted by the Australian Government and presented to Parliament. Please also provide information on the nature and extent of the involvement of non-governmental organizations, particularly women's organizations, in this process.

2. In 2008, the Australian Government undertook formal consultations with women from around Australia, in each state and territory capital city. At these consultations, the Australian Government Office for Women met with over 200 women representing 104 state-based and national women's organizations. The Australian Government Office for Women also convened four round tables in Canberra in March and April 2008, to gain greater insight into issues concerning rural and remote women, women with **disabilities**, migrant and refugee women, and Aboriginal and Torres Strait Islander women, as these marginalized groups were not strongly represented at the community consultation sessions. Fifty women representing 42 women's organizations from around Australia were funded by the Australian Government to take part in the round tables. The Australian Government also funded non-governmental organizations to conduct their own consultations and prepare an independent "shadow" report for consideration by the Committee on the Elimination of Discrimination against Women.<sup>294</sup>

**Issue/ question 2.** Please provide updated information on the statistical data disaggregated by sex and ethnicity pertaining to the main areas and provisions of the Convention. Please indicate what steps have been taken to establish regular collection and analysis of data to capture the real situation of women belonging to disadvantaged groups, especially older women and women with **disabilities**.

4. The Australian Government Office for Women publication, *Women in Australia 2009*, contains relevant updated statistical data disaggregated by sex and an analysis of a wide range of issues affecting women, including population characteristics, family and living arrangements, health, work and economic resources, education and training, safety and crime, and leadership. *Women in Australia 2009* is available from: [www.fahcsia.gov.au/sa/women/pubs/general/womeninaustralia/2009/Pages/default.aspx](http://www.fahcsia.gov.au/sa/women/pubs/general/womeninaustralia/2009/Pages/default.aspx).<sup>295</sup>

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<sup>294</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined sixth and seventh periodic rep. 46<sup>th</sup> sess, July 12-30, 2010, at 2, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/223/59/PDF/N1022359.pdf?OpenElement> (Jan 29, 2010).

<sup>295</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 2-3.

5. In October 2009, the Commonwealth, State, Territory and New Zealand Ministers' Conference on the Status of Women approved the development of a set of high-level national indicators on gender equality, to track and measure changes in the status of women over time, and inform policy and programme development. The Australian Bureau of Statistics also routinely disaggregates data by sex, including labour force, health and education related statistics.<sup>296</sup>

6. In addition, the Australian Government has developed the Gender Equality Strategic Research Plan 2009-2012, which provides details on the Government's priority areas for research over the next three financial years in the area of gender equality. It will assist researchers and policymakers in the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, and across other Government and non-governmental agencies and organizations, to identify research questions that will inform the Government on areas in which gender equality needs to be improved. The Australian Government has committed \$A 400,000 per annum to fund the research questions identified by the Gender Equality Strategic Research Plan.<sup>297</sup>

**Issue/ question 9.** Please provide information on how the State party intends to strengthen its efforts towards the elimination of all forms of violence against women, especially perpetrated against indigenous women. Please provide information on any specific legislative provisions that define and criminalize acts of domestic violence. Please indicate the number of the convictions and sanctions imposed on perpetrators, including the number of reported cases of murders of women by their current husbands, partners or ex-partners. Do women victims of violence, in particular women belonging to vulnerable or disadvantaged groups, such as indigenous women, women with **disabilities**, older women, rural women, migrant women and women disadvantaged due to their sexual orientation and gender identity, have equal and adequate access to shelters and other protection and support services in all states and territories?

64. The Australian Government's policy stance on domestic and family violence and sexual assault is zero tolerance. In May 2008, the Australian Government established an 11-member National Council to Reduce Violence against Women and their Children to advise on the development of an evidence-based plan of action. The Council conducted significant research, consulted over 2,000 Australians and developed five documents, including *Time for Action: the National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009-2012*.<sup>298</sup>

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<sup>296</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 3.

<sup>297</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 3.

<sup>298</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 13.

65. As part of the National Plan to Reduce Violence against Women and their Children, the Australian Government has agreed to immediately take action on 18 of the 20 priority recommendations from the *Time for Action* report at an initial investment of \$A 42 million, including:

- \$A 12.5 million for a new telephone and online crisis service.
- \$A 23 million for primary prevention activities, including Respectful Relationships programmes and social marketing.
- \$A 3 million to support research on perpetrator treatment and the greater harmonization of federal, state and territory laws.<sup>299</sup>

66. The Australian Government, through the Department of Families, Housing, Community Services and Indigenous Affairs also provides funding to support individuals affected by indigenous family violence in the following ways:

- The Family Violence Partnership Program builds on the Australian Government's commitment to tackle family violence and child abuse. The programme provides funding for partnerships with state and territory governments to jointly fund initiatives that address family violence. Funding can be provided for projects and initiatives that aim to develop a sustainable reduction in, and prevention of, indigenous family violence and child abuse through the enhancement of existing, or establishment of new, services and initiatives.
- The Family Violence Regional Activities Program aims to provide practical and flexible support for grass-roots projects that have been identified by indigenous communities as a local priority for addressing family violence, sexual assaults and child abuse.
- The Family Support Package works to protect the safety and well-being of indigenous women and children. It provides 22 safe places across 15 remote communities in addition to Alice Springs and Darwin. It also provides a Mobile Child Protection Team and Remote Aboriginal Family and Community Workers in at least 13 communities.<sup>300</sup>

67. All women in all states and territories have equal access to shelters and other protection and support services, although some services cater to specific target groups.<sup>301</sup>

68. In Tasmania, rural and isolated women who do not have access to a women's shelter are supported through an accommodation brokerage scheme, to ensure they have access to safe accommodation outside of the family home when needed.<sup>302</sup>

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<sup>299</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 13.

<sup>300</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 13-14.

<sup>301</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 14.

<sup>302</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 14.

69. The Queensland Department of Communities provides funding to the Immigrant Women's Support Service to provide culturally appropriate support, information, short-term counseling and referral to women who are or have been in violent domestic situations or who have experienced sexual assault. In 2007, the Queensland Police Service established a Domestic and Family Violence Unit to take a proactive approach to investigating domestic and family violence. The Queensland Police Service responds to the needs of clients, and that includes referring clients to support agencies that are culturally appropriate.<sup>303</sup>

### **Legislation**

70. The Australian Government Solicitor has undertaken a comparative analysis of the laws relating specifically to domestic violence in Australia and New Zealand. The report provides an overview of all state and territory and New Zealand domestic violence-specific laws that provide for the issuance of protection orders, a breach of which may be subject to fines of up to \$A 50,000 and/or terms of imprisonment of up to five years. An electronic copy of the report is available for downloading from:

[www.fahcsia.gov.au/sa/women/pubs/violence/np\\_time\\_for\\_action/domestic\\_violence\\_laws/Pages/default.aspx](http://www.fahcsia.gov.au/sa/women/pubs/violence/np_time_for_action/domestic_violence_laws/Pages/default.aspx).<sup>304</sup>

71. In all jurisdictions, the domestic violence-specific legislation only applies where the victim of violence or threatened violence is, or has been, in a particular kind of relationship with the perpetrator. In most jurisdictions, a wide range of relationships is comprehended by the legislation, including spouses and de facto partners (including same-sex partners), children and stepchildren, the child of a person's de facto partner and other persons who are generally regarded as "relatives."<sup>305</sup>

72. The capacity for protection orders to be enforced across jurisdictions is an important issue for victims of domestic violence. Domestic violence legislation throughout Australia recognizes the need for this "portability" of orders. A person protected by a domestic violence protection order made in one state or territory (or in New Zealand) may apply, in any of the other states and territories, for the order to be registered.<sup>306</sup>

73. Violence committed by strangers is dealt with under the criminal code provisions of each

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<sup>303</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 14.

<sup>304</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 14.

<sup>305</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 14.

<sup>306</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 14-15.

state and territory.<sup>307</sup>

### **Domestic homicide**

74. The Australian Institute of Criminology is Australia's leading national research and knowledge centre on crime and criminal justice issues. It conducts research on the extent, nature and prevention of crime in order to provide timely, policy-relevant advice to meet the needs of Government and the community.<sup>308</sup>

75. In December 2008, the Institute hosted the first International Conference on Homicide: Domestic-related Homicide. The international conference highlighted research and practice in the field and domestic-related homicide was a major theme.<sup>309</sup>

76. The Institute also maintains a detailed database of homicides committed in Australia through its National Homicide Monitoring Program, whose annual report showed that there had been 65 victims of intimate-partner homicide in 2006/07 and that 65 per cent of intimate-partner homicide victims had been women. The report also showed that in 43 per cent of homicides between intimates, there had been a domestic violence history with police.<sup>5</sup> For further information regarding domestic homicide rates in Australia, please refer to annex I.<sup>310</sup>

**Issue/ question 11:** The report states that according to data sourced from the 2005 Personal Safety Survey, 90 per cent of women who had experienced sexual assault did not access crisis support, legal help or other support services, including telephone help lines. What measures have been taken to address factors preventing women from availing themselves of these support services and to encourage them to seek justice? Please indicate, if available, the conviction rates with regard to sexual assault cases reported by women per year. Please provide information on any initiatives designed to address sexual abuse of women with disabilities who, according to information provided in the report, are among the groups with the highest risk of assault, rape and abuse.

80. Violence against women is unacceptable and causes significant personal, social and economic costs for all in our community. The Australian Government is providing leadership for developing a national plan through the Council of Australian Governments, which is intended to have a radical, long-term effect on the incidence of violence against women and their children. The plan will identify specific actions through a series of four 3-year action plans and sets out

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<sup>307</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 15.

<sup>308</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 15.

<sup>309</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 15.

<sup>310</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 15.

responsibilities and time frames for reducing violence against women and children, including women with disabilities.<sup>311</sup>

### **Law reform**

81. The Australian Government also recognizes that domestic and family violence is a criminal offence and that the Australian legal system has an important part to play in its prevention. The Government has therefore asked the Australian Law Reform Commission to work with all state and territory law reform commissions to examine the interrelationship of laws that relate to the safety of women and their children.<sup>312</sup>

82. In 2004, the New South Wales Government established the Criminal Justice Sexual Offences Taskforce. Its mandate was to examine the way in which issues of sexual assault are prosecuted. Its report highlighted the need to provide greater protection to people with intellectual disabilities and other cognitive impairments, and to improve police investigations and the court process for those people.<sup>313</sup>

83. In response, the New South Wales Government has overhauled a range of laws, including vital legislation, to introduce an “objective fault test” into the law in relation to sexual assault in order to define the concept of “consent” and expand the circumstances in which consent is negated. One of those circumstances is where the complainant is incapable of understanding or appreciating the nature of the act. A major aim of this new provision is to provide greater protection for women with disabilities.<sup>314</sup>

### **Awareness-raising**

84. The South Australian Government has launched a public education and awareness campaign called “Don’t Cross the Line,” which places responsibility for gendered violence on the perpetrator and thereby attempts to change community attitudes that contribute to victims of sexual violence feeling responsible for the assault.<sup>315</sup>

85. The Australian Government has provided \$A 9.1 million to improve the quality and uptake of Respectful Relationships programmes for school-age young people. Respectful Relationships is a primary prevention strategy that seeks to prevent domestic and family violence through education. The strategy focuses on preventing violent behaviour by educating and facilitating

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<sup>311</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 16.

<sup>312</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 16.

<sup>313</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 16.

<sup>314</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 16.

<sup>315</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 16.

young people to develop skills and knowledge on how to behave in positive and respectful ways in intimate relationships. The initiative increases awareness and knowledge of sexual assault and issues relating to intimacy and ethical behaviour.<sup>316</sup>

### **Education**

86. The Australian Centre for the Study of Sexual Assault provides access to current information, research and resources for policymakers, researchers, service providers and practitioners working in the field of sexual assault. The Centre publishes newsletters, in-depth papers and practice resources for supporting and developing strategies that aim to prevent, respond to, and ultimately reduce, the incidence of sexual assault. It is a specialist unit within the Australian Institute of Family Studies and is funded by the Australian Government.<sup>317</sup>

87. In 2006, the Queensland Police Service commenced Project USA (Unreported Sexual Assault) with a view to targeting the underreporting of sexual assaults by forging partnerships with sexual assault support services throughout the State. In 2009, the project was expanded to provide a web-based resource package for victims of adult sexual assaults, known as Project ARO (Alternative Reporting Options). This package included information on making an official complaint, the investigative and court process, alternative reporting options, and support agencies.<sup>318</sup>

### **Conviction rates**

88. The breakdown of conviction rates with regard to sexual assault cases reported by Australian women per year is not available.<sup>319</sup>

**Issue/ question 20.** Please provide information on the measures taken to tackle the persistent disparity which indigenous women face in accessing the educational system, including those living in remote areas. Please also provide information on measures taken to improve the quality of education for girls and women living in remote areas, in particular those belonging to indigenous groups and other disadvantaged groups such as students with **disabilities**. Please indicate results achieved through implementation of such measures and programmes.

130. The Australian Government is committed to improving the quality of education for all Australian students, including those from low socio-economic backgrounds, particularly indigenous students and students from regional and remote areas. There have been positive

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<sup>316</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 16-17.

<sup>317</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 17.

<sup>318</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 17.

<sup>319</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 17.

advances in this area in recent years, with indigenous female student participation in higher education increasing by 2.4 per cent in 2008. Indigenous female student higher degree completions increased by 10.8 per cent between 2006 and 2007, compared with a 1.5 per cent increase in completions for all (indigenous and non-indigenous) Australian female higher education students.<sup>320</sup>

131. The Australian Government and the states and territories have agreed to take urgent action to close the gap between the life outcomes of indigenous and non-indigenous Australians. To drive this action, the Prime Minister, Premiers and Chief Ministers have agreed through the Council of Australian Governments (COAG) to six ambitious targets based on the strategic “building blocks” of early childhood, schooling, health, economic participation, healthy homes, safe communities, and governance and leadership.<sup>321</sup>

132. The Australian Government is working with the states and territories to implement a National Partnership Agreement on Literacy and Numeracy, with \$A 540 million in funding over the next four years. The National Partnership will support improvements in student literacy and numeracy through a focus on three priority reform areas.

- Strong school leadership and engagement with literacy and numeracy
- Effective and evidence-based teaching of literacy and numeracy
- Effective use of student performance information to deliver sustained improvements in literacy and numeracy outcomes for all students, especially indigenous students and those who are at risk of falling behind.<sup>322</sup>

133. The Australian Government is also working with states and territories under the \$A 550 million Smarter Schools — Quality Teaching National Partnership agreement to support the indigenous reform initiatives of COAG. Within the agreement there is a focus on providing support for indigenous teachers’ and school leaders’ engagement with community members. The aim of this reform is to build community and family demand for education, improve students’ attendance and support parental engagement in their children’s learning, including through measures to increase family literacy levels.<sup>323</sup>

134. In addition, the Government is working with education providers in the Northern Territory to fund 200 additional teachers for remote schools to assist in the education of around 2,000

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<sup>320</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 24-25.

<sup>321</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 25.

<sup>322</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 25.

<sup>323</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 25.

additional young people of compulsory school age who are currently not enrolled in school in prescribed communities in the Northern Territory.<sup>324</sup>

135. The Australian Government has also allocated \$A 56.4 million to trial a number of specific projects aimed at improving indigenous student literacy and numeracy achievement and providing support to teachers for the implementation of personalized learning plans for all indigenous students up to year 10. These projects will contribute to the evidence base of what works in improving the literacy and numeracy outcomes of indigenous students and support the expansion of high impact strategies and programmes.<sup>325</sup>

136. Under the Trade Training Centres in Schools Program, funding is prioritized in order to assist secondary school communities that support indigenous students and students from rural, regional or other disadvantaged communities. In the first phase of the programme, 32 per cent of approved projects will benefit schools in rural or remote regions and 44 per cent will support schools with significant indigenous student populations.<sup>326</sup>

137. Improving the learning outcomes of educationally disadvantaged school students, including students from rural areas or those with **disabilities**, is also a major priority. Since 2004, the number of female students with a disability enrolled in higher education in Australia has increased by 3,437 students, or 21 per cent. In 2008, 4,183 women with a **disability** completed a higher education award: 1,219 at the postgraduate level and 2,964 at the undergraduate level.<sup>327</sup>

138. Australian Government funding for non-Government schools is provided under the Schools Assistance Act 2008. Targeted funding for students with **disability** in non-Government schools is provided through the Literacy, Numeracy and Special Needs programme, which includes approximately \$A 814 million for the period 2009-2012 to help students who are educationally disadvantaged, including students with **disability**. Responsibility for the allocation of funding to individual schools rests with the non-Government education authorities in each state and territory.<sup>328</sup>

139. With respect to Australian children affected by an **autism spectrum disorder**, the Government is providing targeted support for these children, their parents, careers, teachers and

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<sup>324</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 25.

<sup>325</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 25.

<sup>326</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 25-26.

<sup>327</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 26.

<sup>328</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 26.

other professionals through the Helping Children with Autism package. The \$A 190 million package is being delivered by the Department of Families, Housing, Community Services and Indigenous Affairs; the Department of Health and Ageing; and the Department of Education, Employment and Workplace Relations.<sup>329</sup>

140. The Department of Education, Employment and Workplace Relations is responsible for delivering two initiatives under the package that aim to foster positive partnerships between schools and families for improving the educational outcomes of children with an **autism spectrum disorder**. The initiatives, which have been named “Positive partnerships: supporting students on the autism spectrum,” provide:

- Professional development for teachers, school leaders and other school staff for building their understanding, skills and expertise in working with children with an **autism spectrum disorder**.
- Workshops and information sessions for parents and careers to assist them in working with their child’s teachers, school leaders and other staff.<sup>330</sup>

## **Employment**

**Issue/ question 23.** Please provide information on the employment situation of women belonging to indigenous groups, asylum seekers, migrants and women with **disabilities** and on the results of programmes and measures designed to address barriers to the enjoyment of their right to work. Please also provide information on measures taken to protect these women from exploitation. Please also indicate steps taken to address significantly lower incomes of employed indigenous women in comparison to non-indigenous employed women.

### **Women with **disability****

150. The Australian Government values the contribution people with disability make to Australian society and believes that people with disability should be supported in their efforts to obtain and remain in employment. The Australian Government will invest more than \$A 1.2 billion in new disability employment services, designed to increase the employment participation of people with **disability**.<sup>331</sup>

151. The new Disability Employment Services model will be demand-driven, meaning that all eligible people with **disability** will have access to the services they require to address their vocational and non-vocational barriers to employment. The model will provide individually tailored assistance for job seekers based on their skills, abilities and circumstances; will increase

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<sup>329</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 26.

<sup>330</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 26.

<sup>331</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 28.

early assistance to the most disadvantaged job seekers; and will better meet the skill needs of employers.<sup>332</sup>

152. The **Disability** Employment Services model was developed with a strong focus on social inclusion, through more than 12 months of engagement and consultation.<sup>333</sup>

153. Under the Employer Incentives Scheme, the Australian Government also offers a number of incentives for encouraging employers to employ people with **disability**, including financial assistance for special equipment and assistive technology, workplace modifications and Auslan (Australian sign language) interpreting for job interviews and work activities.<sup>334</sup>

154. The Australian Government conducted comprehensive consultations with the community in developing a National Mental Health and Disability Employment Strategy as part of a new Social Inclusion Agenda. As a result of consultations with more than 700 interested people and over 300 written submissions, the Employer Incentives Scheme has been enhanced and subsumed into a new Employment Assistance Fund from 1 March 2010; its purpose is to address the barriers to employment participation faced by people with **disability**, including those suffering from mental illness.<sup>335</sup>

**Issue/ question 30:** The sexual and reproductive health needs of women are not equally met within all states and territories of the State party. What is the policy of the national Government towards adopting harmonious laws relating to the termination of pregnancy? Please indicate what progress has been achieved in ensuring equal access to sexual and reproductive health services of high standards. Please also provide information on steps taken with regard to education, information and awareness-raising for both women and men, girls and boys, on sexual and reproductive health and rights, including with regard to sexually transmitted diseases, and results achieved.

190. The Government is committed to providing Australians with access to a broad range of sexual and reproductive health options that meet the needs of people in different circumstances and provide the opportunity for choice.<sup>336</sup>

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<sup>332</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 28.

<sup>333</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 28.

<sup>334</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 28.

<sup>335</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 28.

<sup>336</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 36.

191. State and territory governments are responsible for legislation relating to the performance of abortions. The Australian Government respects the rights of state and territory governments to manage legislation relevant to their jurisdictions and has not announced any plans to intervene in abortion legislation.<sup>337</sup>

### **Access to sexual and reproductive health services**

193. Family Planning New South Wales is funded by New South Wales Health and the Australian Government. It provides reproductive and sexual health services, information and education to women and men, as well as clinical training in reproductive and sexual health to health professionals. This role includes Healthline, a New South Wales phone and e-mail information and advisory service staffed by experienced nurses. Family Planning New South Wales has a significant health promotion role in providing projects, campaigns, resources and community education aimed at improving and maintaining the reproductive and sexual health of the New South Wales community in rural, regional and urban areas. It has particular expertise with young people, people with a **disability**, Aboriginal and Torres Strait Islander communities, same-sex attraction, culturally and linguistically diverse communities, and women's and men's sexual health.<sup>338</sup>

### **Vulnerable groups of women**

**Issue/ question 31.** Please provide information on progress achieved regarding the situation of women living in poverty, especially those belonging to vulnerable groups such as indigenous women, women asylum-seekers and women with **disabilities**. Please indicate whether the State party is developing any comprehensive poverty reduction strategy and social inclusion strategy to address poverty among women belonging to these vulnerable groups.

198. The Australian Government's vision of a socially inclusive society is one in which all Australians feel valued and have the opportunity and support they need to participate fully in community life, develop their own potential and be treated with dignity and respect. Analysis of the most recent Australian Bureau of Statistics general social survey shows that approximately 10 per cent of the Australian population aged 15 years and over experience multiple disadvantages that impact adversely on their ability to learn, work, engage in their community and have a voice in decisions that affect them. Women account for 60 per cent of these people.<sup>339</sup>

199. Improving women's economic and social outcomes is important in developing a stronger and fairer Australia. Increased payments and significant structural reforms to the Australian

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<sup>337</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 36.

<sup>338</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 36.

<sup>339</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 37.

pension system have been of particular benefit to women, because more women than men in Australia retire with few accumulated savings and therefore rely on the age pension. It is therefore vital for women's economic futures that the pension system delivers an adequate standard of living. Australia's 3.3 million age pensioners, disability-support pensioners, carers, wife pensioners and veteran income-support recipients will benefit from the Government's \$A 14.2 billion pension reform package. It has increased the maximum base rate of the single pension from 25 per cent to 27.7 per cent of the male total average weekly earnings, an increase of more than 10 per cent of the rate of the pension. These increases provide significant additional financial support for older women, who comprise almost three quarters of single age pensioners.<sup>340</sup>

200. In implementing its social inclusion agenda, the Government is changing the way Government policies and programmes are designed, developed and coordinated across Government. This is being supported by new partnerships between all levels of Government, businesses and third sector organizations (not for profit and charities). New ideas or ways of working are encouraged, with a greater focus on the needs of disadvantaged groups and places.<sup>341</sup>

201. The Government has identified six early priority areas in which to focus:

- Addressing the incidence and needs of jobless families with children, including the vulnerable unemployed (comprising the long-term unemployed, the recently unemployed and low-skilled adults).
- Delivering effective support to children at greatest risk of long-term disadvantage.
- Focusing on particular locations, neighbourhoods and communities to ensure programmes and services are getting to the right places.
- Addressing the incidence of homelessness.
- Employment for people living with a disability or mental illness.
- Closing the gap for indigenous Australians.<sup>342</sup>

202. New initiatives and programmes have already been implemented for these six areas and more are being developed. In designing actions for increasing participation for excluded groups, particular attention will also be given to vulnerable new arrivals and refugees. Women are not identified as a specific priority group, but are considered in the groups listed above and are

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<sup>340</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 37.

<sup>341</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 37-38.

<sup>342</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 38.

recognized to be overrepresented in some groups, for example in the jobless families with children group.<sup>343</sup>

203. The Australian Social Inclusion Board was established in May 2008 to act as the main advisory body to the Australian Government on ways to achieve better outcomes for the most disadvantaged in our community. One of the Board's tasks is to report annually on the nation's progress with respect to social inclusion. The key focus of this year's annual report, currently under development, will be to provide a baseline against which progress can be measured in future years using indicators of social inclusion developed by the Government in consultation with the Board.<sup>344</sup>

## Annex II

### Indigenous women, migrant women and disabled women in the workforce

#### Women with disability

#### Employment rates for people with disability, age 15-64 years (2003) (percentage)<sup>345</sup>

Women with disability 43.0

Men with disability 54.1

People without disability 76.5

#### Unemployment rates for people with disability, age 15-64 (2003) (percentage)<sup>346</sup>

Women with disability 8.3

Men with disability 8.8

#### Labour participation rates for people with disability, age 15-64 (2003) (percentage)<sup>347</sup>

Women with disability 46.9

Men with disability 59.3

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<sup>343</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 38.

<sup>344</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 38.

<sup>345</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 47.

<sup>346</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 48.

<sup>347</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 131, at 48.

## Fiji

### Executive Summary

Fiji's Constitution has not changed since the initial report to the CEDAW Committee and it contains an anti-discrimination clause-section 38 (2) that encompass remedies for both direct and indirect discrimination on the grounds of gender, disability and sexual orientation.<sup>348</sup>

In addition, the Convention was also used by the Fiji Human Rights Commission to support and justify a Court's decision. Other achievements included the proposed Draft National Policy on Disability (2006-2016).<sup>349</sup>

### Poverty Alleviation

38. This is one of the critical issues which successive Governments have attempted to address through its various policies and programmes. Government's policy objectives for the medium term include:

- Ensuring a social safety net to support the livelihoods of those that are genuinely poor and are unable to support themselves, particularly those with permanent disabilities;<sup>350</sup>

### Women and the Law

57. The law can accord or deny women equal rights. The principle of non-discrimination on the basis of gender is guaranteed in the Constitution of the Fiji Islands as well as in a number of human rights conventions to which Fiji is a party such as the Convention on the Elimination of All Forms of Discrimination Against Women. Guarantees of equality of rights cannot totally eliminate the natural differences between men and women; they can, however, attempt to eradicate unjust culturally- determined inequalities. Treating everyone alike in all situations could also bring about inequalities as certain classes of persons require special treatment such as those with disabilities, children and young persons. Guarantees of equality would need to be balanced against their needs.<sup>351</sup>

### Employment Relations Promulgation

70. The definition of discrimination is also contained in Part 1 of the Employment Relations

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<sup>348</sup> Comm. on the Elimination of Discrimination against Women , Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 46<sup>th</sup> sess, July 12-30, 2010, at 7 , available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/222/42/PDF/N1022242.pdf?OpenElement> (Jan. 28, 2010).

<sup>349</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 7.

<sup>350</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 20.

<sup>351</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 25.

Promulgation.

*s4 'discrimination means any distinction, exclusion or preference based on the grounds set out in sections 6(2) and 75'*

*s6(2) 'No person shall discriminate against any worker or prospective worker on the grounds of ethnicity, colour, gender, religion, political opinion, national extraction, sexual orientation, age, social origin, marital status, pregnancy, family responsibilities, state of health including real or perceived HIV status, trade union membership or activity, or disability in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.'*<sup>352</sup>

### **Women with Disability**

97. The Disabled Persons Act 1994 provides the legal framework for those with special needs. Consequently, Government established the Fiji National Council of Disabled Persons which is responsible for the overall development of persons with disability.<sup>353</sup>

98. Women with disabilities are one of the most marginalized groups in societies, as they are multiply disadvantaged through their status as women, as persons with disabilities, and are over-represented among persons living in poverty. Women and girls with disabilities, to a greater extent than boys and men face discrimination within the family, are denied access to health care (especially reproductive health care and advice), education, vocational training, employment and income generating opportunities, and are often excluded from social and community activities.<sup>354</sup>

99. Services and programmes for persons with disability are in most cases provided by NGOs and Community based organisations, for example Fiji Association of Disabled Persons, Red Cross and others. The services they offer range from care giving to education and skills training for both paid and self-employment. To address their educational needs, Government and private run schools for the disabled are located throughout the nation. In terms of highest educational achievement, females have a relatively lower attainment than males. About 49% of handicapped females had no schooling at all while another 39% were educated up to primary level while only 10% had attained Junior Secondary compared to 15% of males handicapped.<sup>355</sup>

### **Draft National Policy for Persons with Disabilities 2006-2016**

100. Through consultations coordinated by the Fiji National Council for Disabled Persons (FNCDP), a draft national policy has been put together to provide a framework for addressing

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<sup>352</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 32.

<sup>353</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 40.

<sup>354</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 40-41.

<sup>355</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 41.

**disability** in Fiji. This policy is in line with the “*Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights based Society for All in Asia and the Pacific.*” Although, the FNCDP is guided by the principles in the: Constitution of Fiji 1997, Social Justice Act 2001, FHRC Disability Action Plan, Biwako +10 and other UN Disability-related declarations, mandates and conventions, the adoption of this policy will help break barriers hindering the full participation of people with **disabilities** in the social and economic life of Fiji.<sup>356</sup>

### **Human Rights Awareness Training**

102. The Fiji Human Rights Commission drives education and human rights training and awareness through workshops, seminars and the media. However, there is a need to continue to pursue human rights awareness for women at all levels of society for all women, including young women, those who are poor and **disabled** and other marginalised groups. In addition, more public awareness is necessary so men and women can know their rights under the Constitution and also assist in changing traditional attitudes and mindset towards these marginalised groups.<sup>357</sup>

### **Special Education**

203. The new curriculum for special education was developed in 2006 in line with the National Curriculum Framework. An important feature of the new curriculum is the provision of relevant resources to support communications for students with severe degrees of impairment. Although the framework is inclusive, one of the key factors is access to education especially for those living in rural areas. These **disabled** children are further disadvantaged and marginalised due to the non availability of special education facilities in those areas.<sup>358</sup>

221. The ERP [employment regulation bill] provides a statutory framework which promotes the welfare and prosperity of all Fiji’s people by –

- (A) Creating minimum labour standards that are fair to workers and employers alike, and to build productive employment relationships;
- (B) Helping to prevent and eliminate direct and indirect discrimination in employment on the basis of race, colour, gender, sexual orientation, age, physical or mental **disability**, HIV/AIDS Status, marital status, religion, political opinion, national extraction or social origin;<sup>359</sup>

### **Disabled Women**

239. The rights of a **disabled** person who is working are guaranteed in the Employment Relations

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<sup>356</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 41.

<sup>357</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 41.

<sup>358</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 70.

<sup>359</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 75.

Promulgation 2007 and subsection (2) of section 6 provides:

*“No person shall discriminate against any worker or prospective worker on the grounds of ethnicity, colour, gender, religion, political opinion, national extraction sexual orientation, age, social origin, marital status, pregnancy, family responsibilities, state of health including real or perceived HIV status, trade union membership or activity, or disability in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.”<sup>360</sup>*

### **Right to Health**

258. The right to health is a basic human right as articulated in Article 25(1) of the Universal Declaration for Human Rights:

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control.<sup>361</sup>

### **Family Assistance Scheme**

367. The Family Assistance Allowance is a non-contributory scheme in which families and individuals in destitute conditions are provided with financial assistance. This supplementary form of cash allowance between \$60-\$100 is paid on a monthly basis to family/households that do not have sufficient means of support and the ability to cope. The target groups of recipients are: the elderly (over 60years), physically disabled, chronically ill, widow/widower, deserted spouse/single parent and Prisoner dependent. It also includes those families who have been deprived of earnings due to permanent physical disability, death of the breadwinner, imprisonment of the breadwinner, old age and chronic illness.<sup>362</sup>

### **Follow up questions:**

17. Please provide information on community-based early identification and intervention services which identify girls with disabilities, including in remote areas, to ensure they attend schools.

The Fiji National Council for Disabled Persons (FNCDP) has branches throughout Fiji, to which any development needs of disabled persons in the rural communities is reported to this forum. At the District level, with regards to education and health issues, the District Officer makes submission to the Director of FNCDP for services to be accessible to people with disabilities.

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<sup>360</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 81.

<sup>361</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 86.

<sup>362</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 185, at 120.

FNCDP also has vocational programmes offered to disabled children.<sup>363</sup>

**Also: see chart: Goal: Achievement of gender equality and empowerment of women**<sup>364</sup>

One strategy: adoption of a central data & information management information system to reflect gender statistics and indicators disaggregated by ethnicity, age, **disability**, and employment status and other relevant status.<sup>365</sup>

## ***2. SENTENCING AND PENALTIES DECREE 2009***

The Decree offers to make comprehensive provision for the sentencing of persons for criminal offences and to reform processes applicable to the prescription of penalties in the laws of Fiji and the determination and enforcement of a range of sentencing options imposed by the courts and of related purpose. Under section 4 (3) of the Decree, courts are required to give special consideration to the sentencing of the perpetrators of domestic violence. These include the physical, psychological or other characteristics of the offence including the age of the victim, whether the victim was pregnant and whether the victim suffered any **disability**. They also include the presence of children during the offence, the effect of the violence on the victim (emotional, psychological and physical) and any hardship or dislocation experienced by the victim. Also relevant is the conduct of the offender and any act showing he has taken responsibility for the violence.<sup>366</sup>

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<sup>363</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined second, third and fourth periodic rep. 46<sup>th</sup> sess, July 12-30, 2010, at 23, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/223/42/PDF/N1022342.pdf?OpenElement> (Jan. 27, 2010).

<sup>364</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 200, at 13-15.

<sup>365</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 200, at 15.

<sup>366</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 200, at 18.

## Papua New Guinea

### 2.7 Workplace Conditions

There is the 5th Draft currently a Bill before the Parliament for an ACT entitled *Industrial Relations Act* which is intended to provide for a fair and effective industrial relations system which promotes the development of Papua New Guinea and the welfare and prosperity of its people by giving effect to the constitutional right to freedom of association, freedom of employment and equality of citizens; and prohibiting discrimination in employment on the basis of race, colour, sex, sexual orientation, age, disability, marital status, family responsibilities, pregnancy, religion, political opinion, actual or perceived HIV status, national extraction or social origin.<sup>367</sup>

### 1.0 Bougainville's Constitutional and Legal Framework guaranteeing equal rights

Bougainville's approved Constitution uses male gendered language throughout, stating that "words importing the masculine gender include females," but it does contain special provisions for women. In addition to those provisions mandating representation and involvement of women in the new government, the Constitution lists several "Objectives and Directive Principles," which include fair representation of women and other marginalized groups and welfare for widows, children, orphans, the aged and the disabled. It also asserts that "the role and welfare of women in traditional and modern Bougainville society shall be recognized and encouraged and shall be developed to take account of changing circumstances."<sup>368</sup>

### Article 2 Obligations to Eliminate Discrimination

Article 19 of the Constitution calls for fair representation of women and marginalized groups on all constitutional and other bodies, with the Article 20 encouraging customary practices of provision of care for widows, children, orphans, the aged and the disabled. Article 28 gives recognition and encouragement to the role and welfare of women in traditional and modern Bougainville society which shall be developed to take account of changing circumstances.<sup>369</sup>

### No Follow Up

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<sup>367</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the Convention on the Elimination of All Forms of Discrimination against Women. 46<sup>th</sup> sess, July 12-30, 2010, at 34, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/349/16/PDF/N0934916.pdf?OpenElement> (May 22, 2009).

<sup>368</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 204, at 106.

<sup>369</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 204, at 106.

## Russia Federation

### Article 3

14. The policy of the Russian Federation, as a social State, is aimed at creating conditions that provide for a dignified life and for the free development of the human being. In accordance with the Constitution, the labour and the health of people is safeguarded in the Russian Federation, a guaranteed minimum wage is set, State support for families, motherhood, fatherhood, and childhood as well as for **disabled** and elderly citizens is provided, the system of social services is being refined, and State pensions as well as benefits and other guarantees of social protection are established. Citizens of the Russian Federation are guaranteed the right to work, a free choice of profession or type of occupation, unemployment protection, relaxation, and social welfare, which includes receiving benefits and pensions, protecting health and safe working conditions, education, professional training, retraining, and advanced training. The equality of men and women in work situations has been reinforced in the Labour Code of the Russian Federation, including equality of rights and opportunities, professional advancement, equal pay for equal work, equal conditions in work of equal importance, and equal approaches to evaluating the quality of work regardless of the gender of the worker.<sup>370</sup>

16. Beginning in 2006, the transition has been accomplished to programme-based, targeted methods of administration (programmes have been adopted that extend until 2010, 2015, 2025, etc.). The federal budget for the 2006 fiscal year was the first budget to be drawn up in the context of a three-year financial plan, in which the financing of a significant number of social programmes was stipulated, especially of priority national projects that are oriented towards improving the quality of life of the population especially of basic target groups, such as children, the **disabled**, pensioners, pregnant women, women with underage children, and families in general. The majority of these measures have been implemented since 2006 in the context of the priority national projects, “Health,” “Education,” “Affordable housing,” and “Development of the agricultural industrial complex.” Moreover, with regard to the general approaches to programmes, measures have begun to be inaugurated whose implementation corresponds to the interests of women and fosters the expansion of their rights and opportunities towards a fuller and more wide ranging development and progress.<sup>371</sup>

18. A large series of questions affecting the interests of women with children are being addressed by the federal targeted programme, “Children of Russia” for the years 2007-2010. Specifically, this includes promoting safe maternity and healthy children, protecting the health of children and adolescents, providing vaccinations, reducing childhood and adolescent illnesses, **disablement**, and mortality, and preventing social difficulties for families with children, including domestic violence.<sup>372</sup>

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<sup>370</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. 46<sup>th</sup> sess, July 12-30, 2010, at 8-9, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/258/60/PDF/N0925860.pdf?OpenElement> (Mar. 9, 2009).

<sup>371</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 9.

<sup>372</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 10.

19. Questions of expanding the opportunities for women in the social and economic sphere and on the labour market have been organically integrated in the Conception of demographic policy of the Russian Federation for the period up to 2025, as confirmed by a Decree of the President of Russia in October 2007.

Among its basic goals is the future development of a system of providing benefits in connection with childbirth and childrearing, including their regular review and indexation for inflation, strengthening the stimulating role of supplemental measures of State support for families with children, and also creating mechanisms of supplemental support for families of various kinds (single-parent, multi-child, families providing education for children who have been left without a guardian, and those having **disabled** children, etc.), creating conditions for improving access to housing, developing mortgage credits, assisting in providing employment, creating favourable conditions for carrying out family and professional responsibilities, including the creation of a system of advanced training and retraining for new professions for women who are returning from maternity leave, expanding the flexible forms of employment (working at home, part-time employment), etc.<sup>373</sup>

#### **Article 11**

71. For the purpose of preventing discrimination against women, the Labour Code of the Russian Federation provides for the dissemination of norms of labour law to organizations and enterprises of the private sector, including obligations to observe the law-based labour rights of women. Women who work in the private sector as hired workers and individual women entrepreneurs, upon condition of the voluntary payment of insurance premiums into the mandatory social insurance fund, have the right to receive benefits for temporary **disability**, pregnancy and birth, one-time benefits paid to women who are registered in medical institutions during early stages of their pregnancy, benefits for adopting a child, one-time benefits for the birth of a child, and monthly benefits for a child until he or she reaches the age of one and a half years. The payment of benefits in such a case is taken entirely from the Fund with respect to the amount and the procedure as established by the normative legal acts regarding benefits for State social insurance.<sup>374</sup>

72. Four types of State pensions exist: pensions for years of service, old-age pensions, **disability** pensions, and social pensions (provided to disabled citizens).

The right to a worker's old-age pension is afforded to men at the age of 60, assuming an insurance period of no less than five years, and to women at the age of 55, assuming an insurance period of not less than five years. Individual categories of citizens have the right to an early granting of a labour pension under conditions stipulated by law.

Women with multiple children, five or more children, who have raised them to an age of eight years, mothers of persons **disabled** from birth, who have raised them to an age of eight years, and women who work with special working conditions have the right to an early pension at age 50. The right to a worker's pension for **disability** is afforded to persons who have limitations on their working activity of I, II, or III steps, in accordance with medical opinion. In

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<sup>373</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 10.

<sup>374</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 26.

the event of the loss of the breadwinner, a worker's pension is granted to members of the family of the deceased breadwinner, who are not able to work and who were dependent on him or her.

The total number of recipients of all forms of pensions is 38.5 million persons, of whom 30 million receive old-age pensions, and 2.2 million receive social pensions. More than 6.2 million persons receive pensions for disability and due to the loss of a breadwinner. Women account for the majority of pensioners: according to statistics, in 2007 of all pensioners, women numbered 25,735,000 and men 12,732,000.<sup>375</sup>

73. In 2002, the pension law was reformed. The following federal laws entered into force: "On workers' pensions in the Russian Federation," "On State pension provision in the Russian Federation," "On mandatory pension insurance," and "On investing funds for financing the savings portion of a worker's pension in the Russian Federation." A mechanism for pension reform has been introduced in the country, directed at modifying the existing system of distributing pension supplements, contributing to it a savings component and a personal calculation of the insurance obligations of the State with respect to each citizen.<sup>376</sup>

82. The employer is obligated to establish a partial working day or partial working week upon the request of a pregnant woman, of one of the parents (guardian, trustee) who has a child up to the age of 14 years (or a **disabled** child up to the age of 18 years), or of persons providing care for a sick member of the family in accordance with medical opinion.<sup>377</sup>

## Article 12

90. In the event of illness, the loss of work capacity, and other cases, citizens have the right to medical and social assistance, which includes preventative, diagnostic, intensive-care, prostheticorthopaedic and prosthetic-dental assistance, as well as measures of a social nature for caring for the sick, those unable to work, and the **disabled**, including paying benefits for the temporary incapacity for work. Medical and social assistance is provided by medical and social workers and other specialists in institutions of State, municipal, and local systems of health care, and also in institutions of the social welfare system for the general population.<sup>378</sup>

## Article 13

105. Physical culture and sports are among the most effective means for the complete or partial rehabilitation of people from various degrees of **disability** to normal social activity. A significant role in this is played by the all-Russian competitions and the festivals of the disabled with the support of social organizations, in which disabled women take active part.<sup>379</sup>

## Follow up questions

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<sup>375</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 26.

<sup>376</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 26.

<sup>377</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 30.

<sup>378</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 33.

<sup>379</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 207, at 41.

2. Please provide updated information on the statistical data disaggregated by sex and ethnicity pertaining to the main areas and provisions of the Convention. Please indicate what steps have been taken to establish regular collection and analysis of data to capture the real situation of women belonging to disadvantaged groups, especially older women and women with **disabilities**.

8. Please provide information on concrete measures taken by the State party to investigate all instances of violence against women, whether it occurs in the home, in the workplace, the community or society in general. Please also provide information about the prosecution and punishment of perpetrators as well as the granting of adequate compensation and support to victims. Please indicate if the existing laws and norms on violence against women criminalize all acts of violence, including marital rape and whether the vulnerability of older women and women with **disabilities** was taken into consideration.

### **Vulnerable and disadvantaged groups of women**

29. Please provide information on programmes and services for women with **disabilities** including any assistance given to them during pregnancy and after childbirth, or in their housework. Please also provide information on the health services and social benefits provided to older women.

### **Answer**

#### **Items 7-11**

Liability for rape is established by article 131 of the Criminal Code of the Russian Federation. Spousal rape is not distinguished as an independent category of crime. The Criminal Code of the Russian Federation contains no specific provisions concerning the protection of elderly women or women with a **disability**; non-specifically, the commission of a crime against a defenseless or helpless person or a person who is dependent on the guilty person (sub-item h of part 1 of article 63 of the Criminal Code of the Russian Federation) is an aggravating circumstance.<sup>380</sup>

In 2,400 cases of crimes accompanied by violent acts the victims were women with a **disability**.<sup>381</sup>

The Criminal Code of the Russian Federation does not contain any specific provisions concerning the protection of elderly women or women with a **disability**; non-specifically, the commission of a crime against a defenseless or helpless person or a person who is dependent on

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<sup>380</sup> Comm. on the Elimination of Discrimination against Women, Responses on the list of issues and questions with regard to the consideration of the combined sixth and seventh rep., 46<sup>th</sup> sess, July 12-30, 2010, at 15, *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/278/11/PDF/N1027811.pdf?OpenElement> (May 22, 2010).

<sup>381</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 15.

the guilty person (subitem h of part 1 of article 63 of the Criminal Code of the Russian Federation) is an aggravating circumstance.<sup>382</sup>

## Item 20

The most common violations of labour legislation for women which were identified in the course of the inspections were as follows:

- non-payment of state social insurance benefits during leave to care for a child (article 255 of the Labour Code of the Russian Federation);
- involvement of women who have children under three years of age and of workers who have children with disabilities up to the age of eighteen years in overtime work or in work during the night, on days off or on public holidays without written consent and medical recommendations (article 259 of the Labour Code of the Russian Federation);<sup>383</sup>

## Item 21

In order to assess the status of flexible forms of employment in 70 constituent entities of the Russian Federation, a sample survey of employers and of persons providing care for children with disabilities was conducted, the results of which indicate negligible use by employers of part-time work schedules and of teleworking for particular categories of workers, including for women raising children with disabilities.<sup>384</sup>

The greatest demand for the forms of employment mentioned is among women raising children with disabilities.<sup>385</sup>

Registers of persons caring for children with disabilities and of their needs for state services in the areas of health care, education, employment and social protection are organized and maintained in the constituent entities of the Russian Federation.<sup>386</sup>

In accordance with legislation on employment, executive agencies of the constituent entities of the Russian Federation exercising devolved powers in the area of employment promotion organize and maintain registers of the recipients of government services with regard to employment, which also contain information on women raising children with disabilities.<sup>387</sup>

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<sup>382</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 15.

<sup>383</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 28.

<sup>384</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 30.

<sup>385</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

<sup>386</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

<sup>387</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

Social protection, health care and education agencies of the constituent entities of the Russian Federation maintain records of children with **disabilities** which make it possible to identify and meet the requirements of families, including women, with respect to the relevant types of services. At the same time, many of the constituent entities of the Russian Federation are setting up electronic systems for keeping records of children with **disabilities** (Chuvash Republic, Pskov, Nizhny Novgorod and Saratovoblasts and others).<sup>388</sup>

In the majority of the constituent entities of the Russian Federation, measures for developing flexible forms of employment are being put into effect as part of the implementation of federal target programmes “Children of Russia” (sub-programme “Family and Children”, focal area “Families with children with **disabilities**”) and “Social support for the disabled for the period 2006-2010,” regional programmes adopted in constituent entities of the Russian Federation to build on the federal target programmes and special normative legal acts of the constituent entities of the Russian Federation on matters relating to social protection for citizens, including women, who have children with **disabilities** and for children with **disabilities**.<sup>389</sup>

For example, in the Republic of Karelia the regional target programme “Children of Karelia for the period 2008-2011” includes a focal area “Families with children with **disabilities**,” with provision for solving problems including those of broadening the range and raising the quality of services provided for families with children with **disabilities**, ensuring the geographical accessibility of social services for children with special needs and developing support mechanisms for families with children with **disabilities** unable to take care of themselves.<sup>390</sup>

In Novgorod oblast, measures to develop flexible forms of employment are being implemented as part of the oblast’s target programme “Development of a system of social protection for the population of Novgorod oblast for the period 2009-2012” and the oblast’s target programme “Children with special health needs and children with **disabilities** for the period 2009-2011.”<sup>391</sup>

In Chelyabinsk oblast, additions have been incorporated in the list of measures of the oblast’s target programme “Social support for the **disabled** in Chelyabinsk oblast” for the period 2007-2010, stipulating a range of measures to develop flexible forms of employment (conducting a survey of persons caring for children with **disabilities**, organizing training in rehabilitation methods for these persons).<sup>392</sup>

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<sup>388</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

<sup>389</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

<sup>390</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

<sup>391</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

<sup>392</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 31.

In Sverdlovsk oblast, as part of a public-private partnership to develop flexible forms of employment and provide rehabilitation services for people caring for children with disabilities, work is being carried out with families raising children with special needs in the vocational rehabilitation division of the state regional social services institute, the “Talisman Rehabilitation Centre for Children and Teenagers” (Ekaterinburg). During the summer, the institute collaborates with a private entrepreneur, the owner of a gift shop, in providing home-based work for older teenagers and mothers of children with special needs.<sup>393</sup>

As part of the work of the boards of trustees of institutions, one of the measures for assisting families is the recruitment of people caring for children with disabilities. Representatives of a number of sponsoring organizations have expressed their willingness to recruit parents raising a child with disabilities. The provisions of a trilateral agreement for the region for 2009-2010 include obligations upon employers to include in collective agreements provisions for introducing variable (flexible) working hours at the request of a pregnant woman or one of the parents (guardian) of an infant (child with disabilities up to the age of 18 years) where the production/work process allows this.<sup>394</sup>

#### **Item 22**

Under item 2 of article 5 of the Employment Act, state policy with regard to assisting people into employment is aimed at securing equal opportunities for all citizens, regardless of gender and other factors, and at implementing measures facilitating the employment of persons experiencing difficulties finding a job, including single parents and parents of large families who are raising children of minority age or children with disabilities (in the Russian Federation, these are mainly women). Additional employment guarantees for this category of citizens are provided through the development and implementation of programmes to promote employment and to create additional jobs and specialized organizations.<sup>395</sup>

#### **Item 29**

Records are kept in the constituent entities of the Russian Federation of elderly citizens and persons of all ages with disabilities, which makes it possible for social support measures which are expenditure commitments of the constituent entities of the Russian Federation to be set out in detail.<sup>396</sup>

The provision of medical care for women with disabilities is implemented in accordance with the laws of the Russian Federation and the laws of the constituent entities of the Russian Federation as part of a programme of state guarantees to provide citizens of the Russian Federation with free medical care which determine the kinds of medical care, the regulations governing the scope of medical care, the regulations governing financial expenditure and the procedure for drawing up

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<sup>393</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 32.

<sup>394</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 32.

<sup>395</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 33.

<sup>396</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 44.

tariffs for medical care which are provided free of charge.<sup>397</sup>

The provision of medical care is financed out of the funds from compulsory medical insurance, as well as from budgetary funds on all levels of the budgetary system of the Russian Federation.<sup>398</sup>

Primary health care in outpatient polyclinic, inpatient polyclinic and hospital organizations, including for women during pregnancy and during and after childbirth, is provided out of the budgetary funds of municipal entities.<sup>399</sup>

Order No. 808n of the Ministry of Health and Social Development of the Russian Federation of 2 October 2009 established Procedures for the Delivery of Obstetric and Gynecological Care, which provide for the delivery of medical, psychological and social care for women with **disabilities**, in particular with respect to the influencing of reproductive behaviour.<sup>400</sup>

For example, in connection with Moscow's designation of 2009 as a Year of Equal Opportunities, Order No. 349 of Moscow's Department of Health of 7 April 2009 provided for an increase in the accessibility of obstetric and gynecological care for women with **disabilities** and, in particular, provided for the provision of obstetric medical and preventive treatment facilities under its jurisdiction with medical equipment (adjustable height gynecological chairs, obstetric beds, transformers, etc.) to cater to women with disabilities with disorders of the musculoskeletal system.<sup>401</sup>

Social services for the **disabled** are implemented in accordance with and on the basis of procedures determined by the government agencies of the constituent entities of the Russian Federation with the participation of public associations for the disabled.<sup>402</sup>

The executive agencies of the constituent entities of the Russian Federation are establishing special social services for the **disabled**, including for the delivery of groceries and manufactured goods to the **disabled**, and are approving a list of disability conditions for which they are entitled to a concessionary service.<sup>403</sup>

Persons with **disabilities** requiring outside care and assistance are provided with medical and

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<sup>397</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 44.

<sup>398</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 44.

<sup>399</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 44.

<sup>400</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 44.

<sup>401</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 44-45.

<sup>402</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

<sup>403</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

domestic services at home or in inpatient institutions.<sup>404</sup>

Organization of the provision of social services for people with **disabilities** is regulated by a National Standard of the Russian Federation “Social Service of the Population. Social Services for Persons with **Disabilities**. GOST R 53059-2008”, established by Order No. 436-st of the Federal Agency for Technical Regulation and Metrology”, which entered into force as of 1 January 2010.<sup>405</sup>

Said standard extends to social services provided for persons with **disabilities**, including children with disabilities, by state social service institutions and social service institutions of other ownership types, as well as by citizens engaging in entrepreneurial activity in the field of social services without forming a legal person.<sup>406</sup>

Persons with **disabilities** are provided with the necessary telecommunication service means, special telephone sets (including for subscribers with hearing defects) and shared-use call offices. They are also provided with household appliances and facilities for the visually impaired and hearing **impaired** which are required for social integration. The technical servicing and repair of technical equipment for the rehabilitation of persons with **disabilities** is carried out on a priority basis with exemption from payment or on discounted terms.<sup>407</sup>

The provision of the material needs of persons with **disabilities** includes monetary payments for various reasons (pensions, benefits, insurance payments where the risk of health impairment was insured, payments in respect of compensation for damage caused to health, etc.) and a monthly payment which is set by federal law at a fixed amount of money and depends on the degree of incapacity of the person with a **disabilities** for work activity, as well as compensation in cases established by legislation of the Russian Federation.<sup>408</sup>

A federal target programme “Social support for persons with **disabilities** for the period 2006-2010” is currently being implemented. More than 4.2 billion roubles have been allocated to it, 2.5 billion roubles of which come from the federal budget. Implementation of this programme should secure the return to work activity of around 160,000 persons with disabilities and the partial rehabilitation of around 2.2 million persons with **disabilities**. Analogous programmes are being implemented in the constituent entities of the Russian Federation.<sup>409</sup>

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<sup>404</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

<sup>405</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

<sup>406</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

<sup>407</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

<sup>408</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

<sup>409</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 217, at 45.

## Turkey

### Article 2

Article 122 of Turkish Penal Code, provides that persons practicing discrimination on grounds of language, race, colour, sex, **disability**, political opinion, philosophical belief, religion, sect or similar reasons and preventing a person from accessing goods or services on such grounds shall be subject to punishment.<sup>410</sup>

Table 27: Number of Men and Women Benefited from Labour Force Training and Development Courses in 2006 (included persons with **disabilities**).<sup>411</sup>

*f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.*

Article 50 of the Constitution adjudges that no one shall be required to perform work unsuited to his age, sex, and capacity, minors, women and persons with physical or mental **disabilities**, shall enjoy special protection with regard to working conditions, all workers have the right to rest and leisure, rights and conditions relating to paid weekends and holidays, together with paid annual leave, shall be regulated by law.<sup>412</sup>

### Follow up:

#### **Vulnerable groups of women, including refugee women and minority women**

30. Please provide information and sex-disaggregated data on the situation of refugee, displaced and asylum-seeker women and girls in Turkey. Please provide data on the economic, employment, health and educational situation of minority women and girls, including trafficked women and girls as well as Kurdish women and other groups of women subject to multiple forms of discrimination, such as women with **disabilities**, and on their participation in decision-making at all levels. Please include information on the effectiveness of measures taken to improve the situation of these vulnerable groups of women.

### Employment

**QUESTION 22.** *The report shows the significant differences between women and men in labour force participation (CEDAW/C/TUR/6, pg. 45). It refers to education as a very important factor to access to the labour force (CEDAW/C/TUR/6, pg. 47). Please provide detailed information on all measures and efforts carried out by the Government to eliminate occupational segregation, in particular, information with regard to education and training of women. Please specify whether the State party has put in place a policy aimed at accelerating de facto equality of women in the area of employment. If so, please indicate what steps have been taken to implement this policy.*

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<sup>410</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. 46<sup>th</sup> sess, July 12-30, 2010, at 4, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/617/58/PDF/N0861758.pdf?OpenElement> (Nov. 24, 2008).

<sup>411</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 247, at 53.

<sup>412</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 247, at 58.

**ANSWER 22.** In our country; women’s participation to labor force and employment is quite low in comparison with men. According to 2008 data; women’s employment rate is 21.6 percent, and men’s employment rate is 62.6 percent. Taking into account the value added to be created by women in the labor market; it is evident that increasing women’s participation to labor force and employment needs to be amongst the labor market priorities of our country. As a matter of fact, there are measures within the most fundamental policy documents of our country with regard to increasing women’s involvement in economic life. The “Increasing Employment” axis of the 9h Development Plan (2007 – 2013) contains the following:

- Under the “Developing Active Labor Policies” heading, there is reference to the importance attached to active labor market policies as an efficient tool in increasing employment. The active labor policies, which aim to improve the qualifications and skills of the labor force for increased employability, consist of the following dimensions: labor force training, vocational training and labor force adjustment programs, orientation and professional counseling and guidance services, development of job seeking strategies, employment of the disadvantaged groups such as the unemployed, disabled, women and youth, entrepreneurship trainings and employment guaranteed programs.
- The section on “Improving the Labor Market” states that equal opportunities will be provided for the women, the young, the long-term unemployed, the disabled and former convicts who encounter difficulties in the labor market. With the aim of increasing women’s participation in the labor force and employment; their access to childcare and other similar services will be facilitated. Programs will be developed to provide the young with experience in the labor market.<sup>413</sup>

In our country, discrimination against the disabled, another disadvantaged group, is prohibited and the policies aimed towards the handicapped are based on combating discrimination.<sup>414</sup>

Turkey is one of the first signatories (30 March 2007) of the United Nations Convention on the Rights of Persons with Disabilities that promotes the right of persons with disabilities to equal enjoyment of all human rights and fundamental freedoms. The main principles of the convention safeguard the rights and freedoms of persons with disabilities in terms of making independent decisions for their lives based on their free consent and in line with the innate human rights and dignity of persons.<sup>415</sup>

Moreover; Turkey has changed her policy on persons with disabilities, and thus considers these persons as subjects with rights rather than objects of charity. The main target of the new policy is to ensure that persons with disabilities can effectively exercise their rights to education, healthcare, care, accessibility, employment and social security without any discrimination and on

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<sup>413</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the sixth periodic rep. 46<sup>th</sup> sess, July 12-30, 2010, at 41, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/239/04/PDF/N1023904.pdf?OpenElement> (Feb. 12, 2010).

<sup>414</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 54.

<sup>415</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 54.

the basis of equal opportunities.<sup>416</sup>

The data on the general status of persons with **disabilities** in our country is based on the results of the Turkey **Disability** Survey, co-run by Turkish Statistical Institute and the Administration for **Disabled** People. According to the survey, carried out in 2004, the persons with **disabilities** constitute 12.29 percent of the total population in our country. The proportion of men with **disabilities** to the total population is 11.10 percent and the proportion of women with **disabilities** to the total population is 13.45 percent.<sup>417</sup>

The health findings of the said survey indicate that the ratio of men receiving treatment is higher than women receiving treatment in all forms of **disability**. In this context; while 43.78 percent of men with disabilities have access to treatment services in our country, it is only 33.61 percent for women with **disabilities**.<sup>418</sup>

The educational findings of the said survey show that the rate of educated girls with **disabilities** is lower than both the rate of educated boys with **disabilities** and educated girls without any **disabilities**. The proportion of illiterate men with, orthopedic, hearing, language and articulation, visual and mental, **disabilities** to the general population is 28.14 percent and the proportion of illiterate women with similar **disabilities** to the general population is 48.01 percent. The illiteracy rate amongst persons with **disabilities** that have a chronic sickness is 9.78 percent for men and 35.04 percent for women.<sup>419</sup>

As for the status of women with **disabilities** in the labor market; it is observed that they are generally, if they are recruited, employed under low wage, low status and bad working conditions. The factors effecting the status of women with disabilities in the labor market are as follows: unemployment in our country; the social resistance that prevents women from participating in the work life; the low educational level of women with disabilities; their lack of qualifications demanded by the labor market; lack of vocational rehabilitation; limitedness of job opportunities for women with **disabilities**; and high labor costs.<sup>420</sup>

Solving the employment problem of persons with **disabilities** is the only way to ensure their and their families' involvement in the production life and improve their ability to live independently with enhanced quality of life. The essence of the concept of social law state, set forth in our Constitution, is securing a dignified life for all individuals, with or without **disabilities**, and providing the necessary conditions for free personal development. The following table gives information on the status of persons with **disabilities** in terms of job placement.<sup>421</sup>

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<sup>416</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 54.

<sup>417</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 54.

<sup>418</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 54.

<sup>419</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 54.

<sup>420</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 55.

<sup>421</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 55.

Table. Job Placement Status of Persons with **Disabilities** (2005- 2008)  
Source: TURKSTAT Monthly Statistics Bulletins.<sup>422</sup>

The persons with **disabilities**; who could not find employment opportunities, experience economic poverty and are in need of care; are provided with home and institutional care. The General Directorate of Social Services and Child Protection Agency covers a certain portion of the service charges (up to two minimum wages). If deemed appropriate; for the person with **disability** whose care is provided by a family member or a relative, the caregiver is paid a monthly amount valued at the minimum wage. As of September 2009; there are 199 thousand citizens with **disabilities** who receive home care payments.<sup>423</sup>

As per the Law on Persons with **Disabilities**; citizens with disability rates of 40 to 69 percent receive an allowance of approximately 120 U.S dollars, and those with disability rates of 70 percent and above receive an allowance of approximately 182 U.S dollars. At present; there are approximately 407 thousand citizens with **disabilities** that benefit from these allowances.<sup>424</sup>

The citizens with **disabilities** using specialized vehicles are exempt from Special Consumption Tax and Motor Vehicles Tax. One of the residences owned by the citizens with disabilities is also exempt from the real estate tax.<sup>425</sup>

Moreover; the Municipalities are assigned with obligations on the vocational rehabilitation of persons with **disabilities** and a series of new arrangements have been put in place in order to open special centers. The necessary legal arrangements with regard to vocational training and rehabilitation needs of persons with **disabilities** have been realized. MONE covers up to approximately 281 U.S Dollars in terms of the educational costs for the **disabled** in need of special education. There are currently 206 thousand children with **disabilities** that benefit from this education.<sup>426</sup>

The Law on Social Insurance and General Health Insurance standardized the voluntary early retirement scheme for all the covered citizens. The self-employed persons with **disabilities** and working women with children in need of care are also granted the right of early retirement.<sup>427</sup>

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<sup>422</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 55.

<sup>423</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 55.

<sup>424</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 55-56.

<sup>425</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 56.

<sup>426</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 56.

<sup>427</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 56.

The Law on Persons with Disabilities stipulates that there shall be no discrimination against persons with **disabilities** in any area, including job applications.<sup>428</sup>

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

**47th session (4 - 22 October 2010), Geneva, Palais des Nations, Salle XVI**

### **Bahamas**

#### **VI. General legal framework within which women's rights are protected**

56. The Constitution of the Bahamas provides significant protections for women against virtually all forms of discrimination, and also provides a favorable environment for women to enjoy equal rights and full empowerment in the country. The Bahamian Constitution provides for equal protection for all persons throughout the Commonwealth of the Bahamas and maintains a thoroughly balanced governmental structure to administer these protections.<sup>429</sup>

#### **Proposed domestic legislation**

67. The Government keeps under review the reform and enhancement of existing legislation and the enactment of new laws so as to remain in the forefront of countries advocating the advancement of human rights practices internationally. The Government of the Bahamas has under active review legislation to improve the provisions of law relating to: the administration of justice, protection and guardianship of children, education, health insurance, improved protection for the **handicapped**, emergency relief assistance, land and estate administration, industrial relations, and immigration.<sup>430</sup>

#### **Constitutional provisions which protect women in Bahamas**

73. Education: In its bid to ensure equality in relation to access to education for all Bahamians, the Education Act by virtue of Section 22(3) provides that no pupil who has attained the age of sixteen (16) shall be required to leave any maintained school, unless he is incapable of benefiting from the types of education and instruction available. The language of the law is not yet gender sensitive to include references to he/she, however domestic legislation is in place which protects the rights of women in the Bahamas. Further, Section 23 places a responsibility on parents to secure the education of their children and to secure regular attendance at school.<sup>431</sup>

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<sup>428</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 250, at 56.

<sup>429</sup> Comm. on the Elimination of Discrimination against Women, Considerations of rep. submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 33-34, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/535/32/PDF/N0953532.pdf?OpenElement> (Oct. 1, 2009).

<sup>430</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 37.

<sup>431</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 40.

74. Employment: In the case of employment, the Bahamas Employment Act 2001 has made great provisions for both sexes and emphasizes special provisions for women. The Employment Act 2001 has provided increased maternity leave benefits, from eight to twelve weeks; established equal pay for equal work; granted parental leave; established minimum wages and addressed unfair dismissal. See table 16 in the Annex of this State report.<sup>432</sup>

### **Legal and other remedies for women who are victims of discrimination**

76. If the discriminatory practice is one that is protected by the Constitution, the woman can appeal to the Supreme Court, which decides upon the constitutionality or otherwise of the act. Women can also seek legal redress from other government bodies or departments, such as the Police, depending on the form of discrimination.<sup>433</sup>

77. Other remedies for women who are victims of discrimination include the soliciting of help and support from local women's Non-Governmental Organizations (NGOs); seeking counseling from specialized social groups and churches; as well as appealing to human rights institutions.<sup>434</sup>

### **State machineries dealing with specific legal issues**

79. The BWA is the Government/ State Machinery mandated to ensure that the rights of women are legally and otherwise protected. The BWA has led active educational campaigns with the public, including local women's NGOs, on relevant legislation as well as on other issues that impact women. The Child Protection Act, 2006 was passed after extensive public consultations along with the Domestic Violence (Protection Orders) Act 2007.<sup>435</sup>

80. The BWA has also played an integral role in coordinating the national public awareness campaign on Trafficking in Persons (TIP) which is an emerging issue in the Caribbean. This has included participating in national delegations to international meetings on this issue as well as public education and making presentations to NGOs and other agencies that requested information. Given a high level of public interest on human trafficking, the collaboration with other agencies has been quite strong. As the majority of cases of human trafficking are related to the sexual exploitation of women and girls, the BWA has been an active member of the national committee on Trafficking in Persons and will continue to collaborate with relevant agencies both nationally and internationally, as part of its commitment to address the challenges that face the women of the Bahamas.<sup>436</sup>

## **Section B. Information relating to specific articles of the Convention**

### **Article 1: Defining Discrimination against Women**

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<sup>432</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 40.

<sup>433</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 40.

<sup>434</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 40.

<sup>435</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 41.

<sup>436</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 41.

111. The Constitution of the Bahamas is the supreme law of the land. In general, it embodies the Universal Declaration of Human Rights (UDHR). By virtue of Chapter 3 Section 15 it provides equality for all citizens regardless of race, place of origin, political opinions, colour, creed or sex. Likewise, section 26 states that "...no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the function of any public office or any public authority."<sup>437</sup>

112. The Constitution of the Bahamas does not however, specifically include sex in its definition of 'discriminatory', which it describes as:

"Affording different treatment to different person attributable wholly or mainly to their respective descriptions by race, place of origin political opinions colour or creed whereby person of one such description are subjected to **disabilities** or restrictions to which person of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description."<sup>438</sup>

### **Anti-discriminatory legislation passed since 1993**

120. In order to eliminate discrimination against women in health, education and employment, the Government of the Bahamas has passed the following domestic legislation:<sup>439</sup>

121. Health: Several legal provisions have been made to regulate equality in health services throughout the Bahamas. Health care is generally provided to all citizens. However, due to traditional gender roles and cultural practices ascribed to women, the major responsibility for the health of the average Bahamian family falls on women. Therefore, the focal point of health services in the Bahamas concentrates on women. The Government of the Bahamas is currently making efforts to encourage men and young boys to take greater interest in their health through programmes such as the Male Health Initiative. Efforts are also being made to allow greater access to health care, especially reproductive health. Family Life and Health Education (FLHE) programmes were strengthened and are now taught in most schools. The Adolescent Reproductive Health Programme was also expanded and is helping to re-socialize teenagers, especially males, about the responsibility of parenting.<sup>440</sup>

122. Education Act: To promote gender equality in access to education for all Bahamians, the Education Act by virtue of Section 22(3) provides that no pupil who has attained the age of sixteen (16) shall be required to leave any maintained school, unless he/she is incapable of benefiting from the types of education and instruction available. While the language of the law could be more gender sensitive to include references to he/she, the principle of completing education and training will support the equality of both girls and boys. In addition, Section 23 of the Education Act places a responsibility on parents to secure the education of their children and to ensure regular attendance at school. Steps taken to diversify the curriculum employed

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<sup>437</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 48.

<sup>438</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 48-49.

<sup>439</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 50.

<sup>440</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 50.

throughout the Bahamian educational system has substantially benefited girls in schools and these are addressed in Article 10.<sup>441</sup>

123. Employment Act: To promote gender equality in employment, the Bahamas Employment Act 2001 has made great provisions for both sexes and emphasizes special provisions for women. This Act has increased maternity leave benefits from eight to twelve weeks; established equal pay for equal work; granted parental leave; established minimum wages and addressed unfair dismissal. Mechanisms to protect the rights of workers as a result of the International Labour Office (ILO) and other Conventions are also considered as part of an enabling environment for gender equality.<sup>442</sup>

### **Article 3: Measures to ensure the full development and advancement of women**

132. The Government of the Bahamas along with its respective ministries and organizations has continued to work towards the development and advancement of women in the Bahamas. Women have continued to advance meaningfully in areas such as: politics, public life, education and employment. However, one significant failure for the Bahamas has been that not all women are advancing at the same pace. Those specially disadvantaged are women in the lower socio-economic classes, some women in the Family Islands (Rural women) and migrant Haitian women; who need special attention as they are the most marginalized group of women in the country. In addition, women with disabilities are also in need of more attention from the Government of the Bahamas, NGO's and local entities, due to the tremendous shortfalls in addressing disabilities in the Bahamas.<sup>443</sup>

### **Article 10: Ensuring equal rights for women in education**

#### **Equal access to education**

237. Legislation: The Education Act (1962) and its Amendment of 1996 provide for universal and equal access to education for men and women. The Amendment also stipulates that students remain at school until the age of 16 years. These support CEDAW as well as the commitment of the Bahamas to the Millennium Declaration (2000) and the eight Millennium Development Goals. Consistent with this Act, education is mandatory for girls and boys aged 5-16 years. Equal rights to education are also supported by special measures. These include a Scholarship Plan for students of MICAL, and the Government's Scholarship Loan Plan. Section 4 of the Education Act also states that: "It shall be the duty of parents of every child of compulsory age to cause him/her to receive full education suitable to his or her age." See table 25 in the Annex of this State report for details on the national numbers of students in the Bahamian educational system.<sup>444</sup>

### **Article 11: Ensuring equal rights for women in employment**

#### **Legislation to eliminate discrimination in employment and wages**

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<sup>441</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 50-51.

<sup>442</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 51.

<sup>443</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 53.

<sup>444</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 74.

295. The Employment Act (2001) establishes equality for all Bahamian citizens. Section 6 states that, “No employer or person acting on behalf of an employer shall discriminate against an employee or applicant for employment on the basis of race, creed, sex, marital status, political opinion, age or HIV/AIDS status by :-

(a) refusing to offer employment to an applicant for employment or not affording the employee access to opportunities for promotion, training or other benefits, or by dismissing or subjecting the employee to other detriment solely because of his or her race, creed, sex, marital status, political opinion, age or HIV/AIDS status;

(b) paying him at a rate of pay less than the rate of pay of another employee, for substantially the same kind of work or for work of equal value performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions except where such payment is made pursuant to seniority, merit, earnings by quantity or quality of production or a differential based on any factor other than race, creed, sex, marital status, political opinion, age or HIV/AIDS status; (c) Pre-screening for HIV status.<sup>445</sup>

### **Article 12: Ensuring equality for women in access to health care Measures to eliminate discrimination against women in health care**

326. Women’s health receives special attention especially in the area of reproductive health services which is quite comprehensive. This includes information on reproductive health as well as the role of men in this process. The Government has also incorporated the FLHE Curriculum into all grade levels of school from grades one to twelve.<sup>446</sup>

### **Efforts to ensure that women have equal access to health care services**

327. There are no legislative provisions that specifically ensure equality in access to health care. However, the policy framework is being strengthened to provide health care to all male and female citizens using a life cycle approach. Women and men have equal access to vaccinations, immunization and access to pharmaceutical drugs. Women are however underserved in accessing emergency contraceptives and natal care during and after abortions. Services for pre-menopausal and menopausal women are inadequate.<sup>447</sup>

### **Follow up question:**

#### **Natural disaster**

28. Please inform the Committee how natural disasters impact on women in the State party and whether a gender perspective has been incorporated into national disaster relief strategies and national policies aimed at combating the negative impact of climate change.

#### **Reply**

72. In the Bahamas, in excess of 65 per cent of the households are managed by women. In the

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<sup>445</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 95.

<sup>446</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 100.

<sup>447</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 266, at 100.

aftermath of a disaster, such as a major hurricane or storm, an assessment is carried out and priority assistance is given as follows: (a) Elderly; (b) **Disabled** and Indigent; (c) Single parents with children.<sup>448</sup>

## **Burkina Faso**

### **1. 2 PROGRAMMES AND MEASURES IMPLEMENTED**

41. The measures taken by the Government and non-governmental organizations to promote the rights of women and girls include the implementation of the programme covering sexual health and human rights, formerly sexual health, HIV/AIDS, human rights and combating trafficking in children and the worst forms of child labour; the first phase of the programme, which is supported by German cooperation, took place from 2004 to 2006.<sup>449</sup>

#### **2.1 MEASURES TO COMBAT VIOLENCE AGAINST WOMEN**

##### **Legislative measures**

48. It has not been possible to adopt new legislative measures against domestic violence. The emphasis has been primarily on information and raising women's awareness of their family rights and ways and means of defending them. In addition, the preferred strategy of the judicial authorities and legal advisory services (social services, Ministry for the Advancement of Women, NGOs and associations) is mediation, because the separations that follow domestic violence are mostly disadvantageous for the woman. To the same end, the Ministry of Justice has started a debate on the establishment of community justice centres to encourage cooperation between the State and civil society, in order better to support victims of violence. Draft laws on child pornography on the Internet and violence in schools have already been included in the programme of the national codification commission. The Government is submitting a draft law aimed at combating human trafficking and similar practices and protecting victims to the National Assembly for adoption. Mention may also be made of the adoption in 2005 of the Reproductive Health Act, articles 17 and 18 of which penalize failure to inform a partner of HIV infection and voluntary transmission to partners.<sup>450</sup>

## **EDUCATION**

### **8.2 PROGRESS ACHIEVED**

84. The progress achieved in education relates to infrastructures, living and working conditions,

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<sup>448</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined initial to fourth periodic rep., 47<sup>th</sup> sess, Oct. 4-22, 2010, at 12, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/439/23/PDF/G1043923.pdf?OpenElement> (July 27, 2010).

<sup>449</sup> Comm. on the Elimination of Discrimination against Women, Considerations of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 17, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/535/44/PDF/N0953544.pdf?OpenElement> (Oct. 1, 2009).

<sup>450</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 18.

higher staffing levels and improvement of the quality of teaching in the formal and non-formal sectors. (i) Improvement of educational infrastructures.<sup>451</sup>

85. The various projects and programmes that have been implemented have helped to improve the educational situation of people in general and girls in particular by increasing the availability of education. The number of primary educational establishments rose from 614 in the school year 2000-2001 to 1,128 in 2005-2006, an increase of 83.7%. At the same time, the number of classes rose from 2,285 to 4,356, an increase of 90.6%.<sup>452</sup>

## **EMPLOYMENT**

115. In terms of professional categories, women in public service represented 19.7% of senior management (category A), 31.2% of middle management (category B), 24.4% of junior officials and 5.0% of support staff. As can be seen, most women work in middle management, because it is at that level that functions traditionally performed by them such as education, health etc. are found.<sup>453</sup>

116. Male/female disparities are appreciable in the private sector, in which women are poorly represented. Data available from the National Social Security Fund (CNSS) show that in 2005 26,869 women, or 17%, in all sectors taken together were regularly declared to the Fund, against 135,503 men, or 83%. There was even a decline of 0.43% compared with 1998, despite the fact that educational enrolment of women had jumped. Private-sector employers prefer men to women; they justify this partly by the greater availability of men and partly by their more specialized skills. However, in some positions, such as cashiers, secretaries, telephonists or receptionists, women are preferred. In technical posts, however, representatives of the private sector report a virtual absence of women, who do not choose this type of training.<sup>454</sup>

## **HEALTH**

### **10.1.3. PROGRESS ACHIEVED**

128. Health units have been acquired and provided with medical and technical material. The table below shows an increase in health facilities in the period 2003-2006: the number of CSPSPs rose from 1,147 in 2003 to 1,211 in 2006, an increase of 64; 22 dispensaries and 39 maternity units were converted into CSPSPs.<sup>455</sup>

## **MEASURES TO GUARANTEE BETTER ECONOMIC AND SOCIAL CONDITIONS FOR WOMEN (ARTICLE 13)**

172. In the specific case of **disabled** women, Government action has focused mainly on:

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<sup>451</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 28.

<sup>452</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 28.

<sup>453</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 35.

<sup>454</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 35.

<sup>455</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 38.

- support for mobility and independence: this has involved the provision of various forms of material assistance to **disabled** women to allow them to reach and maintain an optimal functional level and greater independence. From 2001 to 2006, disabled persons were provided with 42 white sticks, 433 simple tricycles, 5 motorized tricycles, 220 wheelchairs, 2 orthopaedic prostheses and 76 hearing aids;
- support to enhance the operational capacity of organizations for the **disabled**. During the period, Burkina Faso granted a subsidy amounting to CFAF 114,700,000 to support organizations for the disabled in carrying out publicity work;
- the opening in 2001 of a national trade apprenticeship centre for the mobile **disabled**. The centre currently has 63 apprentices, of whom 27 are women.
- support for the emergence of associations for the advancement of **disabled** women: the number of disabled women's associations in Burkina Faso has progressed from just three in 1998 to about 30 at the present time.<sup>456</sup>

173. **Disabled** women's associations have worked to promote IEC activities through awareness-raising, education/training of their members, lobbying and enhancing the social and economic integration of their members.<sup>457</sup>

175. Training activities have covered women's rights, HIV/AIDS and, especially, the United Nations Convention on the Rights of Persons with Disabilities, now being drafted. More than 200 persons have received training in these areas. Lobbying for the adoption of laws and regulations on the access of **disabled** people to employment was also undertaken in 2006.<sup>458</sup>

176. Despite the work done by the Government and civil society, it is evident that the needs of **disabled** persons in general and disabled women in particular are still not sufficiently being met in national and sectoral policies and programmes, and the social and economic integration of disabled women remains a challenge. Illiteracy and poverty are among the many constraints on the provision of support to **disabled** women.<sup>459</sup>

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<sup>456</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 50-51.

<sup>457</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 51.

<sup>458</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 51.

<sup>459</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 286, at 51.

## **Czech Republic**

### **Institutional safeguards for the implementation of the policy of equal opportunities for women and men**

11. The Committee repeats its recommendations to the State party to strengthen the institutional structure of the existing state apparatus and calls upon appointing an experienced person as the gender focal point (clause 12 of the Recommendation). Until December 2007, technical aspects of the agenda regarding equal opportunities for women and men were entrusted to the Ministry of Labour and Social Affairs, specifically department for equality of women and men. Since 1 January 2008, coordination of the equal opportunities agenda has been entrusted to the Minister of the Czech Republic Government for Human Rights and National Minorities.<sup>460</sup>

### **Legislative measures (letter b)**

19. The new Labour Code, which was adopted in 2006, prohibits any form of discrimination in labour relations. For more information see Art. 11 Measures to eliminate discrimination against women in employment.<sup>461</sup>

20. The new Health Insurance Act partially eliminates inequality in the field of provision of financial assistance in maternity.<sup>462</sup>

### **Domestic violence**

27. The Council of Europe organized in 2006-2008 a campaign against violence committed against women, which was also joined by the Czech Republic. The guarantee for the campaign was assumed in 2007 by the Ministry of the Interior, which also prepared a Final Report on National Activities of the Czech Republic.<sup>463</sup>

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<sup>460</sup> Comm. on the Elimination of Discrimination against Women, Considerations of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 6, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/346/17/PDF/N0934617.pdf?OpenElement> (May 22, 2009).

<sup>461</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 7.

<sup>462</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 7.

<sup>463</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 9.

29. Considering the implementation of this Act (clause 16 of the Recommendation), it is possible to note that the first year of its practical application proved that the Act represents a comprehensive legal framework for prevention of domestic violence. It allows thwarting dangerous attacks against life and health by means of police expulsion; at the same time, it creates conditions for the provision of immediate psychological and social-legal assistance to persons threatened by domestic violence in intervention centres and promotes interdisciplinary cooperation between the state, municipal and non-state organizations which take part in the prevention of domestic violence and provision of help to persons threatened by domestic violence and their minor children.<sup>464</sup>

### **Art. 3 Measures to safeguard full development and advancement of women**

#### **Non-legislative measures**

46. The Ministry of the Interior elaborated and distributed in 2005 a brochure “Equal Opportunities for Women and Men in Security Forces from the Legal Perspective.” A series of seminars was also organized within the middle management education programme with the topics “Protection of Women’s Rights and Safeguarding Equality between Men and Women” and “Basics of Labour Law and Employee Remuneration.”<sup>465</sup>

### **Art. 10 Equal Conditions for election of employment and occupation, access to studies and all types of vocational training (letter a)**

88. The Czech Republic does not apply any differences based on sex or other grounds as regards enrolment into the educational system, including lifelong education courses.<sup>466</sup>

89. The Committee expresses its concern that Roma women and girls remain in vulnerable situation and on the margin of interest (clause 21). Activities focused on participation of Roma women and girls in education, which were implemented in the monitored period, comply with the action plan of the Decade of Roma Inclusion 2005–2015. It may be said that the number of Roma girls enrolled in secondary schools and universities is increasing (they are supported by the Ministry of Education, Youth and Sports by way of a subsidy programme of support of Roma secondary school students). One of the topics of the support programme for integration of the Roma community is preschool preparation of Roma children and parent involvement in these activities. Schools employ pedagogic assistants for pupils from socially disadvantaged environment. Most of those assistants are women.<sup>467</sup>

90. As regards education, it is a fact that a substantial part of Roma girls face major obstacles in completing basic school attendance. Hence, they lose an opportunity to succeed at the labour market. The reasons of these difficulties also include weak social-economic background of the

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<sup>464</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 9.

<sup>465</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 12.

<sup>466</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 19.

<sup>467</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 19.

family and other related problems. The Agency for Social Inclusion in Roma Localities, which launched its pilot operation in February 2008, aims at the improvement of the quality of life of inhabitants of these localities, stopping the expansion of Roma ghettos and setting up the most effective model of use of funds, particularly from the European Structural Funds, for Roma community integration purposes.<sup>468</sup>

## **Art. 11**

### **Measures to eliminate discrimination against women in the field of employment (par. 1) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment (letter b)**

#### **Legislative measures**

103. The new Labour Code became effective on 1 January 2007. This Labour Code prohibits any discrimination in labour relations. Employers are obliged to ensure equal treatment of all employees, as regards their working conditions, remuneration for work and provision of other monetary performance and performance of monetary value, vocational training and occasion for career or other promotion in employment. Unlike the previous Labour Code, the new Labour Code does not define such terms as direct and indirect discrimination, harassment, sexual harassment, persecution, giving instruction and instigating discrimination, but refers to the Antidiscrimination Act, which has not yet been adopted. The Antidiscrimination Act should also regulate legal means of protection against discrimination in labour relations.<sup>469</sup>

#### **Czech Republic responds**

7. The situation faced by **disabled** women is addressed by the National Plan for the Creation of Equal Opportunities for Persons with **Disabilities**. The National Action Plan for 2010–2014, which was approved under Government Resolution No. 253 of 29 March 2010, covers the situation of **disabled** women in Part Two.<sup>470</sup>

**Question 8:** The report indicates that under the Anti-discrimination Act a special antidiscrimination department is to be established in the Office of the Ombudsman, thus creating an “equality body” within the meaning of the relevant European Union directive (para.10). Please provide information on the mandate and functions of this “equality body” as well as its responsibility in relation with the elimination of discrimination and gender equality.

28. Section 21b of the Ombudsman Act lays down that the Ombudsman shall contribute to the promotion of the right to equal treatment of all persons irrespective of racial or ethnic origin, nationality, sex, sexual orientation, age, **disability**, religion or belief, and to this end shall: (a)

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<sup>468</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 19.

<sup>469</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 297, at 21.

<sup>470</sup> Comm. on the Elimination of Discrimination against Women, Responses to list of issues and questions with regard to the consideration of the combined fourth and fifth periodic rep., 47<sup>th</sup> sess, Oct. 4-22, 2010, at 4, *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/438/96/PDF/G1043896.pdf?OpenElement> (July 26, 2010).

provide victims of discrimination with the methodological assistance they need in pursuing their complaints about discrimination, (b) carry out surveys, (c) publish reports and issue recommendations on matters relating to discrimination, and (d) arrange for the exchange of available information with the competent European bodies. The methodological assistance consists mainly of providing the client with a written, qualified legal analysis (final report) of the situation in which the client regards him- or herself to be a victim of discrimination. The client is helped in the gathering of evidence if necessary. The Ombudsman is also ready to arrange mediation for victims of discrimination, where appropriate, and in particular to propose the best way of proceeding in their specific case. If a case of alleged discrimination is put to a court for a ruling, the Ombudsman cooperates with the Czech Bar Association. However, the Ombudsman is not entitled to bring an action to a court of his/her own accord.<sup>471</sup>

**Question 9:** Please also provide information on the establishment of regional and local gender equality machinery and on measures taken to ensure effective coordination among relevant mechanisms and entities on gender equality at all levels, as recommended by the Committee in its previous concluding observations (CEDAW/C/CZE/CO/3, para. 12). Please also clarify the roles and responsibilities of the Minister for Human Rights and National Minorities and the Council for Equal Opportunities for Women and Men thereof. The report indicates that since 2005 each Ministry is obliged to create at least one full-time or two half-time jobs for employees working on gender equality (para. 14). Please inform the Committee on any concrete development in this regard.

### **Minister for Human Rights and Government Council for Equal Opportunities for Women and Men**

30. The position of Minister for Human Rights was created in 2007, with responsibility for human rights, the rights of national minorities, including the Roma situation, people with **disability** and NGOs. As mentioned above, on 1 January 2008 the Minister for Human Rights took over the gender equality agenda from the Ministry of Labour and Social Affairs. As a member of the Government (the Cabinet), the Minister for Human Rights participated in Government decision-making on all issues and promoted gender equality at Cabinet meetings. Besides the post of Minister for Human Rights, the post of Government Commissioner for Human Rights continued to exist. On 19 April 2010, following the resignation of the Minister for Human Rights, the Government named Michael Kocáb (the resigning Minister for Human Rights) as the new Government Commissioner for Human Rights, thus ensuring continuity in this area. The Commissioner is also responsible for the gender equality agenda.<sup>472</sup>

**Question 29:** The report is silent on the situation of women with **disabilities**, refugee and

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<sup>471</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 307, at 8.

<sup>472</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 307, at 9.

migrant women and girls. Please provide such information, in particular with regard to their economic and social situation and indicate what measures are in place to support these groups of women. Please give details about the situation of older women, in particular in terms of their entitlements to pension benefits and other forms of social assistance.

### **Women with disabilities**

166. In the future, the Czech Republic wants to pay more attention to the situation of disabled women through its National Plan for the Creation of Equal Opportunities for Persons with Disabilities, approved under Government Resolution No. 253 of 29 March 2010. With this in mind, it tasked the Government Board for People with Disabilities to conduct a specific analysis focused on women with disabilities in the Czech Republic, i.e. to determine whether there are differences in their position compared with men in the Czech Republic and compared with the situation of women based on the results of existing expert studies in the EU and the world, including their position in the labour market and their wages. Based on the results of the analysis, specific measures will be set to improve the situation of women with disabilities.<sup>473</sup>

167. At the same time, the Government enjoined all members, when adopting all organizational, legislative and factual measures that relate to the lives of persons with disabilities, to ensure equal conditions for women with disabilities.<sup>474</sup>

### **India\***

#### **Report on an exceptional basis**

##### **(g) Information disaggregated by sex, on the 5,000 or so Muslim families displaced by the violence and measures taken by the Government for their resettlement and rehabilitation**

There were 86 colonies in different part of Gujarat housing 3,644 riot affected families with population of 19,107. In many of the colonies there was availability of varying levels of household and general civic amenities. However, considerable amount of rehabilitative work was done in terms of providing individual entitlements in these colonies as per details given below:

1. Primary schools with midday meal centre in all the 86 colonies within a distance of 2 km.
2. Fully functional integrated Child Development Service Centers, providing services for health, nutrition and development of children in 85 colonies.
3. Public distribution shops in all the 86 colonies, within a distance of 3 km, providing subsidized food grains.
4. Most of the families were given ration cards, with 3,322 families getting Antodaya cards

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<sup>473</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 307, at 32.

<sup>474</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 307, at 32

making them eligible to get food grains at highly subsidized rates.<sup>475</sup>

### **(h) Information on measures taken to enable economic rehabilitation of the affected communities and rebuilding of basic infrastructures destroyed during the riots**

Following measures had been taken for economic rehabilitation:

1. As per the provisions made by Government in Revenue Department's resolution dated 20 March 2002, Rs. 178.2 million has been paid in rural areas to 11,204 beneficiaries under Indira Awas Yojna.
2. Rs. 122.8 million has been paid to 18,037 beneficiaries in urban areas under Valmiki Awas Yojna. This amount has been paid from the Central Government's package of Rs. 1.5 billion.
3. Further, a Scheme has been implemented by the State Government through Gujarat Women Economic Development Cooperation under NORAD training programme to provide vocational training to the riot affected women staying in the relief camps and 5,731 women were provided with training for different trades.<sup>476</sup>

### **Malta\***

#### **The Constitution of Malta**

In 1991, gender equality was strengthened with the amendment in the Constitution to include the prohibition of discrimination on the basis of sex. This was in congruence with the United Nations Convention on the Elimination of all Forms of Discrimination against Women. Article 14 of Malta's Constitution states that: "The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise: the State shall in particular aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men."<sup>477</sup>

#### **1.2 Other Gender Equality Legislation**

Protection against discrimination in Maltese law is provided for by both general and specific laws. Besides the provisions found in the Constitution of Malta and the European Convention

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<sup>475</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 6, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/625/96/PDF/N0962596.pdf?OpenElement> (Dec. 1, 2009).

<sup>476</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 312, at 6-7.

<sup>477</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 3, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/359/34/PDF/N0935934.pdf?OpenElement> (June 29, 2010).

Act which contain general prohibitions against discriminatory treatment, there are other special laws which contain specific anti-discrimination provisions in certain spheres, mainly employment, or addressed to specific categories, mainly persons with **disability** and provisions on the basis of sex.<sup>478</sup>

The Employment and Industrial Relations Act stipulates that an employer should not subject his or her employees or prospective employees to any discriminatory treatment, on the basis of their sex, marital status, pregnancy or potential pregnancy, colour, **disability**, religious conviction, political opinion or membership of a trade union or an employers' association.<sup>479</sup>

### **Article 3: Guarantee of Basic Human Rights and Fundamental Freedoms**

#### **3.1 Gender Equality Policy**

The Government of Malta has unremittingly reaffirmed its commitment to the achievement of equality between men and women through its various initiatives and policy measures. The Maltese legislation was supplemented by practical measures which promote de facto equality.<sup>480</sup>

The Government constantly stresses the notion that equality is a priority on the national agenda. Therefore, through knowledge-building, education, policy measures, and initiatives adopted, the implementation of gender equality in all strata of society is shifting from an equality of opportunity from advocacy towards equality of outcome.<sup>481</sup>

#### **3.5 Employment**

In Malta, it is estimated that only 8.1% of single mothers are full-time employees. Such statistical analysis portrays a situation which needs to be studied analytically in order to probe into the causative factors which are inhibiting the female population from actively participating in the labour economy.<sup>482</sup>

The challenge of achieving better reconciliation between professional work and family life is central to a whole range of social issues. As it stands today, balancing family and professional responsibilities is more the responsibility of women. Fluctuations in the composition of the labour force, new forms of work organisations, the restructuring of social protection, changes in the distribution of childrearing between women and men; all these components have an intense

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<sup>478</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 4.

<sup>479</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 4.

<sup>480</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 17.

<sup>481</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 17.

<sup>482</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 20.

bearing on families.<sup>483</sup>

### **3.6 Education**

Maltese citizens enjoy equal access to education, which is free of charge from the initial stages of kindergarten schooling to university. To date, women represent the majority of students at tertiary level which is synonymous to the population of the Maltese Islands were women outnumber men by some percentage points. However women are not represented equally in every area of study, although this is changing slowly. The areas of study least popular with women are Architecture, Civil Engineering, and Mechanical and Electrical Engineering.<sup>484</sup>

The relatively large increase in female graduates is producing an added value to Malta's human resources. However, the decrease in female employment is producing what is known as the 'leaking pipe syndrome,' where large numbers of qualified women leave the workforce for family or other reasons.<sup>485</sup>

### **5.4 Equal Access to Education**

Courses which were once marked by a clear demarcation in gender roles are now being broken down, where both sexes have the possibility to follow studies which were once thought to be traditionally female or exclusively male. The diversity in occupational roles attests to the claim that demarcation of roles along sex lines is arbitrary.<sup>486</sup>

Although policy statements are there binding institutions to have gender sensitive education, many observe that, at the implementation level, gender sensitive curricula, materials and methods are few and far between. This is the difference between de jure equality and de facto equality.<sup>487</sup>

'Education for all' needs to be interpreted as education for all women and all men, through the delivery of the right messages. Only when that happens can education for all stop being a slogan and start being a reality.<sup>488</sup>

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<sup>483</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 20.

<sup>484</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 21.

<sup>485</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 21.

<sup>486</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 30.

<sup>487</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 30.

<sup>488</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 314, at 30.

## Tunisia

### Introduction

7. Since Tunisia presented its last report to the Committee on 14 July 2002, a new impetus has been given to national policies for promoting the rights of women and gender equality, as a means of consolidating women's gains in the sense of modernity, combating all forms of discrimination against women, and promoting their effective enjoyment of human rights.<sup>489</sup>

### Articles 1, 2 and 3. The national context: the means available to the State for combating discrimination and promoting women's rights and gender equality

14. Although the Constitution contains no definition of discrimination against women or any specific wording prohibiting discrimination against them, it has raised the principle of non-discrimination to the status of a constitutional norm with legal supremacy. Thus, article 6 of the Constitution provides that "all citizens have the same rights and the same duties". Moreover, it should be noted that international instruments duly ratified by Tunisia, including the CEDAW, have authority higher than that of laws.<sup>490</sup>

#### A. The place of the CEDAW in national legislation

15. In one of its recommendations, the CEDAW Committee requested the State "to ensure adequate mechanisms to enable women to seek and obtain redress from the courts for violation of the rights protected by the Convention and the Constitution" and "provide, in its next report, information about complaints filed in courts based on the Convention, as well as any court decisions that refer to the Convention" (see Concluding Comments of the CEDAW Committee: Tunisia 2002, A/57/38, para. 193). In follow-up to this recommendation, Tunisia has strengthened the mechanisms for giving precedence to ratified international instruments over domestic laws, in particular by requiring mandatory referral to the Constitutional Council for a favourable opinion and making international human rights instruments, including the CEDAW, directly enforceable by judges.<sup>491</sup>

### Article 10. Education

154. During the period covered by this report, Tunisia pursued its efforts to promote women's right to education and training without discrimination. Law No. 2002-80 of 23 July 2002 on

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<sup>489</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 5, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/346/23/PDF/N0934623.pdf?OpenElement> (May 20, 2009).

<sup>490</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 7.

<sup>491</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 7.

education and school instruction declares (article 1) that “education is an absolute national priority and instruction is a fundamental right guaranteed to all Tunisians without discrimination based on sex, social origin, colour or religion”. Equal access for all to education, with no discrimination, is not only a right guaranteed by law but a legal obligation that can be enforced through the courts.<sup>492</sup>

#### **A. Protection of women in labour matters**

180. Tunisia’s accession to international conventions enshrining equality of opportunity and treatment between the sexes in labour matters reflects a political determination to promote the economic rights of women and to reinforce their inalienable right to work and to be financially independent.<sup>493</sup>

181. Labour legislation in both the public and private sectors explicitly guarantees equality of opportunity in employment, with no discrimination between the sexes, and it protects female workers in their dual capacity as women and mothers, in accordance with international labour standards.<sup>494</sup>

182. The pay schedules attached to the personnel statutes of public enterprises are calculated solely as a function of the worker’s or agent’s category and seniority in each grade, with no reference to sex or to any other discriminatory or subjective criterion.<sup>495</sup>

183. The labour code and the standard collective agreement prohibit discrimination between the sexes and give women access to all types of employment, on an equal footing with men, without discrimination in their classification or pay. In order to protect women’s health, and in the application of international labour standards (International Labour Conventions 45 Underground Work (Women)), women are prohibited from engaging in night work or underground work.<sup>496</sup>

#### **Article 12. Health**

197. During the period covered by this report, Tunisia took all the appropriate steps to eliminate discrimination against women in the health-care field and to put them on an equal footing with men in accessing medical services, including family planning services.<sup>497</sup>

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<sup>492</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 33-34.

<sup>493</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 38.

<sup>494</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 38.

<sup>495</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 38.

<sup>496</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 38.

<sup>497</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 41.

## **A. Promotion of human and material resources**

198. The integrated approach that the country has taken to health facilities has played an important role in improving women's health.<sup>498</sup>

199. 90.6 per cent of local hospitals and primary health-care centres (representing the first resort for women and children to specific services such as pregnancy checkups and normal childbirth, as well as for contraception advice) are now providing curative and preventive care, and integrated maternal-child health and family planning services.<sup>499</sup>

## **A. Women's access to social and family services**

### **A.1 Social security**

228. Over the period covered by this report, social coverage was extended to groups not yet covered by the Social Security system (domestic employees in particular, most of whom are women). At the same time the number of female pensioners in the public and private sectors combined rose from 609,678 (or 27.8 per cent of all pensioners) in 1999 to 1,042,676 (or 32 per cent) in 2007.<sup>500</sup>

### **A.2 Social protection and integration**

229. The CEDAW Committee asked Tunisia to include in its next report information on the situation of single women with children born out of wedlock, including the measures taken to ensure that their rights are protected (see Concluding Comments of the CEDAW Committee: Tunisia 2002, A/57/38, para. 205). In this regard, we may note that new mechanisms and new approaches have been implemented since 2004 for achieving the national strategy for social protection and integration.<sup>501</sup>

**Follow up question 22:** Please provide data and information on the education levels and access to education of women and girls from rural areas, women with **disabilities**, women belonging to minority groups, including women from the Amazigh communities, and non-nationals.

220. Measures have been taken to ensure that all sectors of the population have access to education; including children from urban as well as rural areas, children with **disabilities** and

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<sup>498</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 41.

<sup>499</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 41.

<sup>500</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 45.

<sup>501</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 326, at 45.

children with specific needs.<sup>502</sup>

228. [The Outline] Act was strengthened by Act No. 2005-83 of 15 August 2005 on the advancement and protection of persons with **disabilities**, which is designed to guarantee equality of opportunity for persons with disabilities and to promote their interests and protect them against all forms of discrimination. It also stipulates that “the rehabilitation, education, schooling and vocational training of persons with disabilities are considered to be the responsibility of the State.”<sup>503</sup>

231. Girls with **disabilities** enjoy the same rights to access to education as other students. In addition to the specialized schools for children with severe disabilities run by the Ministry of Social Affairs, Solidarity and Tunisians Abroad, the State is implementing a school integration programme to allow children (both girls and boys) with minor disabilities to attend mainstream schools and integrate into society.<sup>504</sup>

232. This programme establishes integrated classes and provides appropriate training to help teachers adjust their teaching methods to the children’s needs. It also involves structural improvements to schools so that students with **disabilities** can access the buildings, move about the grounds and have unrestricted access to the various services available.<sup>505</sup>

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<sup>502</sup> Comm. on the Elimination of Discrimination against Women, Written replies from the Government of Tunisia to the list of issues and questions (CEDAW/C/TUN/Q/6) with regard to the consideration of the combined fifth and sixth periodic rep., 47<sup>th</sup> sess, Oct. 4-22, 2010, at 3, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/445/78/PDF/G1044578.pdf?OpenElement> (Aug. 18, 2010)

<sup>503</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 339, at 33.

<sup>504</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 339, at 33.

<sup>505</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 339, at 33.

## Uganda

### 2.2 Measures taken to remove De Jure Discrimination

#### 2.2.1 Progress registered by the State party and remaining difficulties

21. The Employment Act, 2006 is another piece of legislation that contains provisions that seek to address discrimination against women in the field of employment. (the provisions of this Act are discussed in detail under Art .11).<sup>506</sup>

22. Other significant measures to eliminate de jure discrimination include the enactment of the Equal Opportunities Commission Act-2007 and the National Equal Opportunities Policy. The Act derives its mandate from Arts 32 (3), (4) and 21 of the 1995 Constitution of Uganda which require Parliament to make laws to establish the Equal Opportunities Commission (EOC) and provides for the equal treatment of women with men, respectively. The EOC Act provides a legal basis to challenge laws, policies, customs, traditions, etc. that discriminate against women.<sup>507</sup>

### 3.0 Article 3

#### 3.1 The development and advancement of women

36. The Committee was concerned about the absence of comprehensive, systematic strategies and support mechanisms to facilitate sustainable implementation of the provisions of the Convention.

A comprehensive program of gender mainstreaming in all government ministries and a comprehensive awareness campaign which should also target civil servants on the provisions of the Convention was proposed.<sup>508</sup>

### 4.0 Article 4

#### 4.1 The acceleration of equality between women and men

##### 4.1.2 Progress registered by the State and remaining difficulties in implementing

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<sup>506</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 47<sup>th</sup> sess, Oct. 4-22, 2010, at 16, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/348/49/PDF/N0934849.pdf?OpenElement> (May 25, 2009).

<sup>507</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 16.

<sup>508</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 19.

## **Affirmative Action**

54. A number of appropriate measures have been taken by Government in the sector 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.<sup>509</sup>

### **7.2 Women's Participation in Peacebuilding and Reconciliation Efforts**

95. The Committee was concerned that many girls and women in the conflict areas have been victims of violence, including abduction and slavery.

It was recommended that the GOU should include women in national reconciliation and peacebuilding initiatives. To this end it was suggested that women from all ethnic groups affected by armed conflict should be included in peace negotiations. It was further proposed that the peace negotiations should include measures of accountability, redress and rehabilitation for women and girls who have been victims of violence, including enslavement in these conflicts.<sup>510</sup>

96. Women's participation in the political life of the country goes beyond elective office and has extended to other spheres, including peace building and reconciliation efforts as stipulated by United Nations resolution 1325(2000).<sup>511</sup>

#### **7.2.1 Progress registered by the State party in Facilitating Women's Participation in Peacebuilding and Reconciliation Efforts and remaining difficulties**

101. Challenges experienced in ensuring women's participation include a limited understanding of UNSCR 1325 (2000) at all levels. Experience from the previous rehabilitation programme – the Northern Uganda Social Action Fund (NUSAF) showed that there is a tendency for women to lose the status they have acquired during the times of conflict and return to the subordinate status. Women are not sufficiently consulted nor involved in decision-making processes on the various resettlement programmes. This is aggravated by women's low literacy levels and the cultural norms on women's position; and inadequate co-ordination of women initiatives at the grass root level.<sup>512</sup>

102. Some of these challenges are being addressed by CSO-led initiatives that have facilitated skills training for women leaders, cross learning visits and consultative meetings at community level in a bid to put UNSCR 1325 ( 2000) into practice.<sup>513</sup>

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<sup>509</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 23.

<sup>510</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 33.

<sup>511</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 33.

<sup>512</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 34.

<sup>513</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 34.

## **10. Article 10**

### **10.1. Equality in the field of Education**

#### **10.1.1 Progress registered by the State party in ensuring Equality in Education and remaining difficulties**

##### **Primary Education**

112. The Universal Primary Education (UPE) policy has contributed to narrowing enrollment disparities in primary school education. The proportion of girls in primary school improved from 44.2% in 1990 to 49.8% in 2006.<sup>514</sup>

##### **Secondary Education**

114. In a bid to strengthen its program of expanding access to education the Government has introduced the Universal Post Primary and Technical Education Policy which was adopted in 2007. Under this scheme free secondary education is provided by Government.<sup>515</sup>

##### **Tertiary Education**

115. Gender equality efforts in tertiary education have entailed implementation of the 1.5 scheme. The scheme was introduced in 1990 in a bid to increase enrolment figures for women at the Makerere University as well as enable more women to enroll in male-dominated courses such as engineering veterinary and human medicine. Under the scheme all female applicants enrolling for undergraduate courses are automatically awarded a bonus point of 1.5. The scheme has contributed to an increment in enrolment of female students from 25% in 1990 to 43% in 2003. The University registered a higher ratio of female to male graduates (51.6%) at the graduation of the academic year 2005/06 where 6,519 students graduated.<sup>516</sup>

## **11.0 Article 11**

### **11.1 Employment**

#### **11.1.1 Progress registered by the State party in Eliminating Discrimination in Employment and remaining difficulties**

122. Labor legislation passed by the State party contains a number of provisions which comply with the constitutional provisions on economic rights of women. Of particular relevance is the Employment Act which contains a number of provisions that protect the rights of women in employment. These are:

- A broad definition of discrimination, which includes discrimination on the basis of sex in field of employment.

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<sup>514</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 36.

<sup>515</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 37.

<sup>516</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 37.

- Prohibition of sexual harassment in employment and requiring employers to put in place measures to prevent sexual harassment. The definition of sexual harassment is extensive and includes both express and implied incidences of sexual harassment.
- Prohibition of employment of children.
- Increment of maternity leave from 45 calendar days in the public service and 6 weeks in the private sector to 60 working days for both the public service and private sector. This applies to both childbirth and miscarriage.
- Provision for 4 days' paternity leave.
- A right to return to the same job after maternity leave, even in sickness related to pregnancy and child birth.<sup>517</sup>

## **12.0 Article 12**

### **12.1. Equality and access to appropriate healthcare**

131. The Committee was disheartened about the high rate of teenage pregnancy and its implications for girls' rights to education and health. Related to this was the high rate of maternal mortality among teenage girls, particularly in the rural areas, frequently as a result of clandestine abortion.<sup>518</sup>

132. The Committee was concerned about the high incidence of violence against women, such as domestic violence, rape including marital rape, incest, sexual harassment at the workplace and other forms of sexual abuse of women. The lack of a legal and policy framework to address violence against women was also another area of concern. The continued existence of Female Genital Mutilation in some districts was identified as another area of concern.

The Committee proposed the design and implementation of a national health programme that includes reproductive health programmes designed to prevent early pregnancies and induced abortions in rural and urban areas. Another area for further improvement was the development and implementation of sexual and reproductive health programmes targeting both girls and boys. The Government of Uganda was also urged to provide safe and affordable contraceptives.<sup>519</sup>

## **13.0 Article 13**

### **13.1 Economic and social benefits**

#### **13.1.1 Progress registered by the State party in Reducing Prevalence of Poverty among Women and remaining difficulties**

177. Poverty in Uganda has a predominantly female face. 31% of the Ugandan population lives below the poverty line – the majority of whom are women. Research studies have shown that

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<sup>517</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 39.

<sup>518</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 43.

<sup>519</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 43-44.

women experience severe constraints, including limited access to the key factors of production: land, capital as well as several legal and administrative obstacles that constrain their level of entrepreneurship. Women frequently lack the necessary information and connections to procure sizeable business opportunities.<sup>520</sup>

178. Since the last status report, there has been considerable progress in making poverty reduction policies and programmes more gender responsive. A significant breakthrough was achieved through the Uganda Participatory Poverty Assessment Process (UPPAP, 2002) which provided evidence of how differently women and men perceive and are affected by poverty; and therefore made the case for the integration of gender perspective in order to increase the effectiveness of the existing poverty reduction policies.<sup>521</sup>

179. The process has been progressive and the State party's efforts to strengthen gender integration in its policies have included the establishment of a PEAP Gender Group (PEAP/GG); gender reviews of Uganda's poverty eradication initiatives; and development of PEAP sector guidelines for gender mainstreaming. The analysis from these processes informed the PEAP revision exercise and the PEAP 2004/2008 for the first time explicitly recognised gender inequality as a key poverty issue, causing both deprivation and inefficiency.<sup>522</sup>

#### **14.1.1 Progress registered by the State party in Improving the Socio–Economic Status of Rural Women and remaining difficulties**

186. GOU programs target primarily the rural population where the majority of the poor, including women, live. A number of measures have been implemented by Government in the agricultural, education, health sectors, and rural financial services as well as in the political sphere to address the low socio-economic status of rural women.<sup>523</sup>

### **15.0 Article 15**

#### **15.1 Equality before the Law: Enhancing access to justice for women**

##### **15.1.1 Progress registered by the State party and remaining difficulties**

205. A number of measures have been taken by Government to develop the capacity of justice agencies to address gender-based obstacles in accessing justice. Constitutional guarantees on non-discrimination of women are enforceable by competent courts as provided for in Art. 50 (1) of the Constitution of the Republic of Uganda 1995. The Constitutional Court has been

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<sup>520</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 53-54.

<sup>521</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 54.

<sup>522</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 54.

<sup>523</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 55.

successfully petitioned to repeal laws that discriminate against women.<sup>524</sup>

## Follow up questions

### Rural women, vulnerable groups

27. The report is silent on the situation of older women, women with **disabilities**, widows, refugee and migrant women and girls. Please provide such information, in particular the economic and social situation and measures in place to support these groups of women. Please also provide information on the human rights situation of internally displaced women and girls in relation to access to education, employment, safe water and health services as well as protection from violence.

### 2. Women with disabilities

131. Uganda has domesticated the 22 standard rules for equalization of opportunities for persons with **disabilities** (PWDs). Article 32 of the Constitution reaffirms affirmative action for marginalized groups, including women with **disabilities**. The Local Government Act (1997) provides for two PWDs (one male and one female) at each level of governance from village to district levels. At the national level, PWDs are represented by five Members of Parliament, and there is a Minister responsible for PWDs and the Elderly.<sup>525</sup>

132. Programmes have been set up to create awareness on the special needs of PWDs, including women with **disabilities**. Their issues have been mainstreamed into other Government programmes, albeit with limited success. For example, the Universal Primary Education provides for children with disabilities, although with many challenges. The Employment Act provides a framework for employment opportunities for PWDs. Since the 2009/2010 financial year, Government has been providing funds to groups of persons with disabilities in the form of a special grant to help them start up income-generating activities for self-empowerment.<sup>526</sup>

133. Furthermore, a National Policy on **Disability** was formulated in 2008 to promote equal opportunities for empowerment, participation and protection of the rights of PWDs irrespective of gender, age and type of **disability**. It also guides and informs the planning process, resource allocation, implementation, monitoring and evaluation of activities with respect to PWDs at all levels.<sup>527</sup>

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<sup>524</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 344, at 61.

<sup>525</sup> Comm. on the Elimination of Discrimination against Women, Responses to list of issues and questions with regard to the consideration of the combined fourth to seventh periodic rep., 47<sup>th</sup> sess, Oct. 4-22, 2010, at 21, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/450/15/PDF/G1045015.pdf?OpenElement> (Sept. 21, 2010).

<sup>526</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 362, at 21.

<sup>527</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 362, at 21.

### **3. Refugees and migrant women**

134. Measures in place to support refugee and migrant women and girls are provided by international humanitarian agencies, including the United Nations High Commission for Refugees (UNCHR), International Rescue Committee, American Refugee Committee, International Committee of the Red Cross, which are coordinated by the Office of Prime Minister which also provides policy guidelines. The services provided include food and welfare, health, education, water and sanitation.<sup>528</sup>

#### **Internally displaced women and girls**

135. Internally displaced women face double jeopardy because of the **conflict** situation and the patriarchal practices in society. Northern Uganda has had the most internally displaced persons because of the armed **conflict** in the area for more than two decades. The situation has relatively improved since the majority of IDPs are returning to their homes following the cessation of hostilities.<sup>529</sup>

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

**48th session (Geneva, 17 January - 4 February 2011)**

**Geneva, Palais des Nations, Salle XVI**

#### **Bangladesh\***

### **2. General Framework for the Protection and Promotion of Human Rights**

#### **National Council for Women's Development and National Policy for Women's Advancement**

47. National Council for Women's Development (NCWD) was established in 1995 consisting of 49 members including Ministers and Secretaries, representatives of civil society, women's organizations, with Honourable Prime Minister as the Chair. Government has adopted National Policy for Women's Advancement (NPWA) within the framework of the CEDAW and as a follow-up to the Beijing Conference on Women. The policy goal is to eliminate all forms of discrimination against women by empowering them with abilities to be equal partners of men in the development process. Until recently there were two separate Councils – NCWD for women and NCCD for children – that have been merged to form NCWCD.<sup>530</sup>

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<sup>528</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 362, at 21.

<sup>529</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 362, at 21.

<sup>530</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan. 17- Feb. 4, 2011, at 22, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/51/PDF/N1028851.pdf?OpenElement> (Mar. 24, 2010).

## **Section II: Convention-specific Document**

69. Observation 20: The Committee requests that the definition of discrimination against women be brought into conformity with article 1 of the Convention, and in particular that the State party's responsibility to eliminate all forms of discrimination against women be extended to discrimination perpetrated by private actors.<sup>531</sup>

70. The definition of discrimination against women as laid down in article 1 of CEDAW is well reflected in the Constitution of Bangladesh. According to Article 27 (Bangladesh Constitution) "All citizens are equal before law and are entitled to equal protection of law"; Article 28 (1), "The State shall not discriminate against any citizen on grounds only for religion, race, caste, sex or place of birth"; and Article 28 (2), "Women shall have equal rights with men in all spheres of the State and of public life". Article 31 provides the right to be treated in accordance with law. Furthermore, Part III of the Constitution contains all fundamental rights including right to life and personal liberty (Article 32), right to freedom of thought, conscience and speech (Article 39) that are equally applicable for women. Fundamental Principles of State Policy contained in Part II of the Constitution also provides in Article 10, participation of women in national life to the following effect – steps shall be taken to ensure participation of women in all spheres of national life.<sup>532</sup>

72. Observation 22: The Committee calls upon the State party to incorporate without delay the provisions of the Convention into its domestic law and requests the State party to ensure that the provision of the Convention be fully reflected in the Constitution and all legislations.<sup>533</sup>

73. In Bangladesh Constitution and in some of the related laws, Articles of CEDAW are well reflected. The Constitution does not only provide equal rights to women it also contains the provision for taking appropriate measures for the development and advancement of women in Bangladesh. By dint of these provisions, State has formulated and adopted some Laws and Acts accordingly. It included in the 'Fundamental Principles of State Policy', Part II of the Bangladesh Constitution that, "Steps shall be taken to ensure participation of women in all spheres of national life." (Article 10).<sup>534</sup>

### **A. Part I**

#### **Article 1: Definition of Discrimination**

172. Article 2: Obligations to eliminate discrimination against women by all appropriate means, e.g. policy, legislative, institutional, practical and other measures.<sup>535</sup>

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<sup>531</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 25.

<sup>532</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 25-26.

<sup>533</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 26.

<sup>534</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 26.

<sup>535</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 43.

173. Bangladesh Government has taken several steps to eliminate discrimination against women in the different socio economic sphere of women's lives. To achieve international gender equality policy commitments made in CEDAW, PFA and MDGs, Bangladesh Government has adopted, under the coordination of the Ministry of Women and Children Affairs (MoWCA) the National Plan of Action for Women's Advancement for the implementation of PFA's twelve concerns. Under the coordination of General Economics Division (GED) of the Ministry of Planning (MoP), Government has adopted its National Strategy for Accelerated Poverty Reduction (NSAPR) I and II to implement the international commitments made in CEDAW, MDGs and PFA. These two important GoB instruments have emphasized on various strategies and activities to eliminate discrimination against women.<sup>536</sup>

### **C. Part III**

#### **250. Article 10: Equal Rights in the Field of Education**<sup>537</sup>

251. Education is one of the rights of every woman and man of Bangladesh. It is also the principal instrument in eliminating discrimination against women. With a view to supporting girl's education up to higher secondary level, the Government of Bangladesh launched female secondary and higher secondary programs in 1993 and 2002 respectively. Criteria for female education stipend include attainments of 75 percent attendance, 45 percent marks and remain unmarried (to prevent child marriage). The female stipend programs have been proved effective in raising enrolment of female students at secondary and higher secondary levels and preventing dropouts as well as early marriage. Tuition fees of girl students up to class XII have been exempted for enhancing socio-economic status and empowerment of women through massive expansion of female education. Moreover, they are provided additional financial assistance for purchasing books as well as payment of examination fees. From 2000 to 2008, about 26.3 million girl students at secondary level have received Tk. 17,367.1 million as stipend. Curriculum and teacher training modules have been designed to ensure a girl-friendly school environment. As a result more than 50 percent of the students studying in secondary level are girls; and their enrolment in higher secondary level has also increased significantly.<sup>538</sup>

252. Government is committed to employ 30 percent women teachers in the secondary level. With this view, a development project to promote employment, training and accommodation of the women teachers in rural non-Government secondary schools has been implemented.<sup>539</sup>

#### **258. Article 11: Equal Employment and Training Opportunities**<sup>540</sup>

259. Women's participation in the labour force has increased significantly from 9.4 percent in

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<sup>536</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 43.

<sup>537</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 59.

<sup>538</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 59-60.

<sup>539</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 60.

<sup>540</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 61.

1985-86 to 24.4 percent in 2005-2006. However, women's role and contribution to the national economy through the informal sector is not accounted for.<sup>541</sup>

260. The Ministry of Primary and Mass Education has carried out following activities in the area of Employment and Training:

- 60 percent posts of primary school teachers have been reserved for women candidates. The current percentage of women teachers in primary schools has already reached 49.76 percent.
- To encourage more women to join primary schools as teachers, steps have been taken to raise the residential capacity of women's hostels at the Primary Training Institutes (PTIs).
- During 2008, 14 women officials have participated in international training and study tours.<sup>542</sup>

## 5. Different Groups of Women

304. This sub section addresses the implementation of the Convention with respect to different groups of women, in particular those subject to multiple forms of discrimination.<sup>543</sup>

305. The different groups of women include those from the adivasi (indigenous) community, religious minorities, other socially disadvantaged groups and people with **disability**. All forms of discrimination against the socially excluded groups will be eliminated. The Government is committed to fully implement the 1997 Chittagong Hill Tracts Peace Accord and will put more efforts towards the development of the underdeveloped adivasi areas. The activities of the Land Commission will be made effective for settling land disputes. Efforts will be taken for peaceful coexistence of hill adivasis and the settlers through preserving and protecting the rights of the adivasis. Ways and means will be devised to protect the land rights of the plain land adivasis. The adivasis will be constitutionally recognized and their cultural heritage will be preserved and protected.<sup>544</sup>

306. The Government is committed to ensure the entitlement of all the marginalized and ethnic groups to equal opportunity in all spheres of state and social life with special measures as per constitutional provisions. Special programs will be designed for education, marketable skill training and credit with stipend (for education) and quota system (for employment). Measures will be taken for creating enabling environment for diversification of the occupations of these down trodden groups for betterment of their earning opportunities.<sup>545</sup>

309. Rules and regulations will be framed for implementing the Bangladesh **Disability** Welfare

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<sup>541</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 61.

<sup>542</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 61.

<sup>543</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 69.

<sup>544</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 69.

<sup>545</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 69.

Act, 2000.<sup>546</sup>

310. NSAPR II mentioned that disability and gender issues will be addressed both as a humanitarian and also as a development issue. Measures will be taken for ensuring proper housing and accessibility to all physical facilities for **disabled** persons. Shelter homes will be provided for women with severe **disabilities**. They will also be given preference under safety net measures.<sup>547</sup>

### **Follow up questions**

22. Are there any data to measure the success of the following programmes: Widow Allowance; Elderly Persons Allowance; Maternity and Lactating Mothers allowances and allowances for persons with **disabilities**?

### **Reply**

64. The success of certain programmes, namely, the Widow Allowance; Elderly Persons Allowance; Maternity and Lactating Mothers allowances and allowances for persons with **disabilities**, can be measured as follows.<sup>548</sup>

67. Allowance for Distressed **Disabled** Persons is provided to 200,000 persons who are given Tk.220 per month.<sup>549</sup>

68. As per the draft National Labour Policy 2010, government will put special emphasis on social security of disadvantaged, **disabled**, elderly women workers.<sup>550</sup>

### **Rural, older and other disadvantaged women**

27. The report lacks information on the situation of rural and other disadvantaged women, including older women. Please provide information on their situation in relation to their access to health, education and social benefits, as well as all other areas covered by the Convention.

### **Reply**

76. According to the Sample Vital Registration System (SVRS) 2007, Bangladesh Bureau of Statistics (BBS), the crude **disability** rate per 1,000 population was 8.63 for rural women and 6.24 for urban women. The prevalence of **disability** per 1,000 population for women was 8.04. In terms of age-specific disability rate per 1,000 population for women, it was found that the age group of 60 years and above had the highest rate of 46.40.<sup>551</sup>

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<sup>546</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 69.

<sup>547</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 367, at 70.

<sup>548</sup> Comm. on the Elimination of Discrimination against Women, Responses to list of issues and questions with regard to the consideration of the combined sixth and seventh periodic rep., 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 12, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/400/93/PDF/G1140093.pdf?OpenElement> (Jan. 10, 2011).

<sup>549</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 12.

<sup>550</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 12.

<sup>551</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

77. NSPAR II mentions the following proposed actions in the health sector with regard to persons with **disabilities**:

- Strengthen early detection of symptoms of disability and provide primary medical rehabilitation
- Undertake a nutrition programme for pregnant women
- Appoint trainee doctors, nurses and other caregivers to deal with disability issues
- Introduce support services of assistive devices and equipment at the health centres<sup>552</sup>

78. Education benefits that can be accessed by disadvantaged women and girls include:

- Stipend programme for students with **disabilities**
- Socio-economic training centres for women
- Vocational training and production centre for destitute women
- Training and rehabilitation centres for socially disadvantaged girls<sup>553</sup>

79. NSAPR II mentions that measures will be taken so that persons with **disabilities** can have access to all information and communication facilities, educational services in special and integrated schools, and vocational rehabilitation.<sup>554</sup>

80. Various kinds of social benefits that can be accessed by disadvantaged women, including older women are mentioned below:

- Allowance for Distressed **Disabled** Persons is provided to 200,000 persons who are given Tk.220 per month.
- Safe custody for women and adolescent girls (safe home)
- Programme for socially disadvantaged women (sex workers)<sup>555</sup>

81. NSAPR II mentions that services like the fitting of artificial aids and appliances, and microcredit will be provided to persons with **disabilities** through community based rehabilitation (CBR) programmes in rural areas.<sup>556</sup>

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<sup>552</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

<sup>553</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

<sup>554</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

<sup>555</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

<sup>556</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

82. As per the draft National Labour Policy 2010, government will put special emphasis on social security of disadvantaged, **disabled** and elderly women workers.<sup>557</sup>

## **Belarus\***

### **B. Socio-economic and political situation of women**

61. The labour market presents the greatest difficulties to women raising young children, school graduates with no work experience, women close to retirement age, **disabled** women and women in fields where the current market favours men (engineering, technical, construction and other specializations).<sup>558</sup>

66. In order to find jobs for the unemployed who are in special need of social welfare assistance and are unable to compete on an equal basis in the labour market, which mostly means single women and women with many children, those raising young children and those with **disabled** children, a quota system for jobs has been widely used in Belarus.<sup>559</sup>

## **Part II: Implementation of the Convention**

### **Article 2. Elimination of discrimination against women**

96. Under article 22 of the Constitution of the Republic of Belarus (hereinafter the Constitution), all are equal before the law and have the right, without discrimination, to equal protection of their rights and legal interests. Women and men of marriageable age have the right, on a voluntary basis, to marry and establish a family. The spouses have equal rights in family relations (article 32 of the Constitution). Women are provided with opportunities equal to those provided to men in terms of access to education and vocational training, obtaining work and advancement at work, and participation in socio-political, cultural and other spheres of activity, and the same measures to protect the work place and health (article 32 of the Constitution). Women and men, adults and minors, have the right to equal compensation for work of equal value (article 42 of the Constitution). Elections of representatives and other persons elected to Government service by the people are open to all: the right to elect representatives belongs to all citizens of the Republic of Belarus who are at least 18 years of age (article 64 of the Constitution).<sup>560</sup>

### **Article 3. Ensuring equality between men and women**

105. The State is taking all necessary measures to ensure the comprehensive development and

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<sup>557</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 385, at 13.

<sup>558</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan. 17- Feb. 4, 2011, at 11, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/69/PDF/N1028869.pdf?OpenElement> (Mar. 24, 2010).

<sup>559</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 12.

<sup>560</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 15.

advancement of women and respect for their rights equally with men.<sup>561</sup>

106. Article 32 of the Constitution guarantees women equal opportunities in education, vocational training, employment and promotion at work and in the socio-political, cultural and other spheres, as well as the promotion of conditions for the protection of their labour and health.<sup>562</sup>

#### **Article 4. Temporary special measures to ensure de facto equality between men and women**

(1) The adoption of temporary special measures

108. In evaluating the performance of the State and civil society actors in implementing policies aimed at improving the social status of women and ensuring equal rights and opportunities for men and women during the reporting period, we consider that Belarus has made progress in the right direction.<sup>563</sup>

109. Active efforts have been made to improve national legislation and bring it into conformity with international legal standards.<sup>564</sup>

110. In addition to previously signed international instruments aimed at ensuring equal opportunities for men and women, the Act of the Republic of Belarus entitled "On ratification of the Optional Protocol to the United Nations Convention on the Elimination of All Forms of Discrimination against Women" was adopted on 30 October 2003. In further support of the principles of the equality of women in employment, the protection of motherhood and ensuring the health and security of mothers and children, the Act of the Republic of Belarus entitled "On ratification of the Convention on the revision of the 1952 Maternity Protection Convention (Revised) (ILO Convention 183)" was adopted on 4 November 2003.<sup>565</sup>

111. Amendments and addenda have been introduced into the Labour Code of the Republic of Belarus and the Code on Marriage and the Family of the Republic of Belarus, which are aimed at ensuring equal rights and opportunities for women and men.<sup>566</sup>

#### **Article 10. Education**

238. During the reporting period the Republic of Belarus took important steps to further develop the national education system. According to the UNDP Human Development Report 2007 Belarus is ahead of all CIS countries with respect to adult literacy (99.6 per cent) and also has

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<sup>561</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 17.

<sup>562</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 17.

<sup>563</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 17.

<sup>564</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 17.

<sup>565</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 17.

<sup>566</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 17.

one of the world's highest literacy levels among young people (99.8 per cent).<sup>567</sup>

239. In 2002-2007, changes were introduced to improve the legislation in the field of education, so as to create the legal, institutional, economic and social foundations needed for the functioning and development of the education system in the Republic of Belarus, establish the conditions needed for the formation and development of the individual and give effect to the right of everyone to education.<sup>568</sup>

### **Article 11. Employment**

288. It was noted, in the combined fourth, fifth and sixth periodic report, that the Constitution of the Republic of Belarus guarantees equal access for women and men to any post in State bodies, in accordance with their abilities and training (article 39); the right to choose a profession, occupation or work in accordance with their inclinations, abilities, education and training, bearing in mind their social needs; the right to enjoy healthy and safe working conditions (article 41); the right to equal pay for equal work (article 42); and the right to health care and education (article 49) and to social security in old age (article 47).<sup>569</sup>

290. On 1 January 2008 the labour, employment and social protection bodies of the Republic of Belarus reported that 44,100 people were registered as unemployed, of whom 28,900 were women (65.6 per cent). Women predominate in all age groups of those registered as unemployed. Most of these women are between 20 and 34 years old, amounting to 18,200 women or 42.2 per cent of the unemployed, or in the pre-retirement age group, namely 50 to 54 years old (12.5 per cent). The average age of the Belarusian unemployed women is 37.1 years.<sup>570</sup>

291. In 2007, women accounted for 45.3 per cent of the registered unemployed, including those discharged owing to job eliminations (4.4 per cent) and those who quit work on their own (15.2 per cent).<sup>571</sup>

292. Women have a harder time finding work. This is reflected both in the average length of time a job search lasts and in the number women who have been looking for work for more than a year. The statistics show that in 2007 unemployed men found a new job within 1.5 months, whereas for women the search required 3.1 months. As a result, women spend longer periods in unemployment, 5.4 months compared to 4.0 months for men. Among those registered as unemployed for more than a year, 78.2 per cent are women. The long search for work is one aspect of the vulnerability of women in the labour market.<sup>572</sup>

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<sup>567</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 32.

<sup>568</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 32.

<sup>569</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 40.

<sup>570</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 40.

<sup>571</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 40.

<sup>572</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 40.

### Paragraphs 335 and 356

557. Other measures taken to overcome the effects of the Chernobyl accident include:

- Presidential Decree No. 10 of the Republic of Belarus of 25 April 2001 entitled “On measures for the socio-economic rehabilitation of areas affected by the Chernobyl disaster”;
- Decision No. 1175 of the Council of Ministers of the Republic of Belarus of 8 August 2001 entitled “On the size of benefits and additional payments to people affected as a result of the disaster at the Chernobyl nuclear power station”;
- Decision No. 57 of the Ministry of Health of the Republic of Belarus of 31 August 2001 entitled “On improving the clinical examination of victims of the Chernobyl disaster and similar groups in the population”;
- Presidential Decree No. 565 of 29 November 2005 entitled “On some measures to regulate housing relations”;
- Presidential Decree No. 128 of 19 March 2007 entitled “On some issues regarding the provision and use of residential premises in the public housing stock”;
- Presidential Decree No. 80 of 7 February 2006 entitled “On the rules for admission to higher and secondary special educational institutions”;
- Presidential Decree No. 542 of 28 August 2006 entitled “On the treatment and rehabilitation of the population at sanatoriums.”<sup>573</sup>

558. The Act of the Republic of Belarus entitled “On the social protection of citizens victims of the disaster at the Chernobyl nuclear power station” provides for a number of benefits to parents to care for sick children:

- The payment of sick leave for one parent of a sick child, or for another person who actually provides care for the child, in the amount of 100 per cent of wages for the entire period of the illness, including sanatorium treatment, if that person is at the sanatorium with the child ;
- Travel free of charge with a sick child using any means of transport (except taxi) to the hospital and back, with the right to buy tickets without standing in line;
- A monthly payment of a basic allowance to non-working women with children who have disabilities and need, in the view of the medical advisory board, home care provided by an outsider.<sup>574</sup>

559. Women living in radioactively contaminated areas are eligible to receive a prenatal leave of 90 calendar days and 56 days after birth (in the event of a difficult childbirth or the birth of two or more children - 70). Women who live in settlements in areas of subsequent resettlement and who have been granted the right of resettlement, will receive an allowance for child care until the child reaches the age of three years in an amount double that received in the rest of the country,

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<sup>573</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 74-75.

<sup>574</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 75.

as established for the country as a whole under the legislation of Belarus.<sup>575</sup>

### Follow up questions

#### Minority women and disadvantaged groups of women

27. While providing detailed information and data on migrants, the report is silent regarding the economic, employment, education and health situation of minority women, rural women, women with **disabilities**, and older women. Please provide the above-mentioned information, as requested by the Committee in its previous concluding observations (A/59/38, part one, para. 360).

#### Reply

32. Women and men, adults and minors, have the right to equal remuneration for work of equal value. Article 14 of the Labour Code prohibits discrimination in matters of employment. Under the provisions of that article, all discrimination — namely, the restriction of employment rights or the granting of any benefit on the basis of sex, race, ethnic origin, language, religious or political views, membership or non-membership of trade unions or other voluntary associations, wealth or official status, or physical or mental **disabilities** that do not hinder the performance of the work duties concerned — is prohibited. Clauses of collective contracts and agreements that are discriminatory have no validity.<sup>576</sup>

113. At the end of 2009 there were more than 2.4 million pensioners in Belarus, 67.7 per cent of whom were women. Of the total number of women retirees, 21.9 per cent remain in employment; for men, the corresponding figure is 25.8 per cent. On average, women's pensions measure 95.3 per cent of those of their male counterparts. In Belarus, there are more than 267,000 disabled women receiving **disability** pensions. More than 540,000 women pensioners live in the villages and countryside. By a decision dated 29 July 2010, the Government ratified a comprehensive programme of social services for the period 2011–2015, designed to strengthen the social protection of veterans, the victims of **war**, the elderly and the **disabled**. Figures showing the programme's expected outcomes and indicators are not disaggregated by sex. Under the programme, however, a range of social support services are to be provided in response to needs identified during the annual survey of living conditions. Annually some 100,000 veterans, **war** victims and elderly people and persons with category I and II **disabilities** living alone will receive such support.<sup>577</sup>

116. Considerable social and economic benefits will accrue from the return to work, community and home of some 20,000 fully rehabilitated and some 12,000 partly rehabilitated **disabled** persons. Through measures to ensure their professional and occupational rehabilitation more and more disabled persons will be able to acquire new skills and to return to their jobs and other

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<sup>575</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 395, at 75.

<sup>576</sup> Comm. on the Elimination of Discrimination against Women, Replies of the Government of Belarus to the list of issues and questions (CEDAW/C/BLR/Q/7) with regard to the consideration of the seventh periodic rep. (CEDAW/C/BLR/7), 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 5, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/465/97/PDF/G1046597.pdf?OpenElement> (Nov. 10, 2010)

<sup>577</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 413, at 18.

activities. At the same time, the number of institutions providing vocational and higher education to persons with **disabilities** will be extended, together with the range of specialized fields in which persons in this category can receive training. Provisions are also made under the comprehensive programme for the development of social partnership and cooperation with voluntary associations.<sup>578</sup>

## Israel\*

### Fourth periodic report

#### Article 1- Definition of Discrimination against Women

##### Equal Rights Legislation

34. Since our previous report, several significant developments took place on the legislative level, with regard to women's representation in public bodies.<sup>579</sup>

35. In June 2004, Amendment no. 9 to the Equal Employment Opportunities Law, 5748-1988 (“Equal Employment Opportunities Law”) added pregnancy as one of the grounds of prohibited discrimination in the workplace, both as a job applicant and as an employee.<sup>580</sup>

##### Women with Disabilities

###### General and Legal Framework

69. According to estimates by the Commission for Equal Rights for People with **Disabilities** within the Ministry of Justice, people with **disabilities** make up about 10% of the Israeli population; about half of them are women. According to the Commission, women with **disabilities** suffer from “twofold” discrimination.<sup>581</sup>

70. On March 22, 2005 the Knesset approved Amendment no. 2 to the Law on Equal Rights for People with **Disabilities** 5758-1998, (“Equal Rights for People with **Disabilities** Law”). The amendment to the law obligates the state to make new buildings and infrastructures accessible. The law also requires that the service granted to the public, be made accessible to people with **disabilities**. Public buildings, areas of commerce, public institutions, schools, clinics, institutes of higher education, employment centers must all be made accessible to people with **disabilities**. The provisions of the law set up a period of 6 years for the implementation of the law in the privately-owned public areas and a period of 12 years for its implementation in public authorities.<sup>582</sup>

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<sup>578</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 413, at 19.

<sup>579</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan. 17- Feb. 4, 2011, at 12, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/373/19/PDF/N0537319.pdf?OpenElement> (June 2, 2005).

<sup>580</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 12.

<sup>581</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 20.

<sup>582</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 20.

## General Economic and Personal Situation

73. Information regarding people with **disabilities** originates from details on various disability benefits given to the six main categories of **disabled** people. These categories determine the source and type of support provided and they are based on: general social security **disability** pension, employment disability pension, IDF (Israel Defence Force) **disability** pension, hostile operations **disability** pensions, Holocaust and anti-Nazi operations **disability** pensions, and children receiving disabled child pensions. Men are the major recipients of **disability** pensions in most categories, except for a slightly higher number of women among those receiving hostile operations and Holocaust and anti-Nazi operations **disability** pensions. The men's rate is particularly higher among the IDF **disability** pension recipients and the employment **disability** pension recipients. Women make up 5% and less than 9.8% of these last two groups respectively.<sup>583</sup>

74. Women make up less than half (42%) of the general social security **disability** pension recipients, mostly due to the higher standard of **disability** required for women homemakers. Homemakers are still required to prove 50% medical **disability** (as opposed to the usual 40%) in order to be eligible for a pension. Their ability to function in the house is examined to assess their eligibility and they are not entitled to a dependent supplement for their unemployed partner, but only for their children.<sup>584</sup>

## Special Health Concerns of Women with Disabilities

75. A nationwide accessibility survey found that most health clinics are not fully accessible to people with **disabilities** (95.4%). Also, in a sample survey of gynecological clinics, not one of the 24 clinics sampled addressed all basic requirements of women with **disabilities**, and only 6 clinics corresponded with most of these requirements.<sup>585</sup>

## Employment

76. The majority of people with severe disabilities are unemployed and most of them have never held steady jobs. Over 70% of the people with severe **disabilities**, physical illnesses and mental deficiencies, as well as approximately 72% of the blind and 20% of the deaf are unemployed. Of those employed, there is a higher number of men than women (20% to 12%) and 42% of the men work full time, whilst that figure is only 33% for women.<sup>586</sup>

## Article 11 – Employment

### Legal Protection from Discrimination within the Workplace

281. In June 2004, Amendment no. 9 to the Equal Employment Opportunities Law, added pregnancy as one of the grounds upon which a person cannot be discriminated against in the

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<sup>583</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 20-21.

<sup>584</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 21.

<sup>585</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 21.

<sup>586</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 21.

workforce, both as a job applicant and as an employee.<sup>587</sup>

282. In 2001, the Minister of Labor and Welfare issued the Employment of Women Regulations (Prohibited Work, Restricted Work and Hazardous Work), 5761-2001 (“Employment of Women Regulations (Prohibited Work, Restricted Work and Hazardous Work)”), expanding the Employment of Women Regulations (Prohibited Work and Restricted Work), 1979 designed to further protect fertile and pregnant women from exposure to chemical and biological materials which may harm a fetus or a baby.<sup>588</sup>

283. Israel has been a party to the following International Labor Organization conventions regarding equality and prohibition of gender discrimination: C100 Equal Remuneration Convention, 1951 (since 1965) and the C111 Discrimination (Employment and Occupation) Convention, 1958 (since 1959).<sup>589</sup>

### **Employment of Women - Data and Analysis**

#### **Women’s Participation in the Workforce**

290. In 2003, the Israeli civil workforce totaled 1.4 million men and 1.2 million women. Compared to 2002, the workforce grew by 24,000 men and 39,300 women, ergo women accounted for roughly 60% of the increase.<sup>590</sup>

291. In 2003, women's proportion of the labor force increased to 49.1%, compared to 48.2% in 2001 and 46.3% in 1998. Men's proportion decreased to 60.1%, from 60.7% in 2001 and 61.2% in 1998.<sup>591</sup>

292. In 2003, 27% of the women in the labor force had 16 years or more of schooling, compared to 23% of the men. The level of education is a conclusive factor in female participation rates in the labor force and the rates escalate as the level of education rises. The general education level of women in the labor force is higher than that of men.<sup>592</sup>

#### **Work Patterns**

293. In 2003, 87.4% of men and 62.6% of women worked full-time. Most of the usually part-time employed persons in the labor market were women (401,400 women compared to 159,500 men). 14.1% of the women stated that the motivation for part-time employment was care for their children and/or household.<sup>593</sup>

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<sup>587</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 62.

<sup>588</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 62.

<sup>589</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 62.

<sup>590</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 64.

<sup>591</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 64.

<sup>592</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 64.

<sup>593</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 64.

294. As detailed in our previous report, temporary absence from work is higher for women when compared to men. In 2003, 15,900 women were absent due to maternity leave. In the same period, the number of absent men due to army reserve duty was 4,800.<sup>594</sup>

295. In 2003, 1,072,600 women were employed (compared to 1,257,600 men), 978,000 were salaried employees. 984,600 of the employed persons were Jewish women, 895,800 of them were salaried employees. At the same time, most of the employed men (81.9%) were salaried employees and 8.8% were self-employed. 91.2% of the employed women were salaried employees and only 4.6% were self-employed. In 2002, 17,000 men and 20,000 women received their wages from manpower contractors, compared to 22,000 and 26,000 respectively, in 2001.<sup>595</sup>

## **Fifth periodic report**

### **Women with Disabilities**

#### **General and Legal Framework**

65. In 2007, Israel signed the International Convention on the Rights of Persons with Disabilities, and began the process of ratifying the convention.<sup>596</sup>

67. In 2005, the Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability) 5766-2005 (the “Investigation and Testimony Procedures Law (Suitability to Persons with Mental or Physical Disability)”), was enacted. This is an unprecedented law that regulates methods adjusted to investigate people with mental or intellectual disabilities and also adjusted methods for their testimonies. The Law applies to every disabled suspect, victim and witness, and to specific offences enumerated in the Law which are violence offences, sexual assaults and prostitution. The application of the Law to victims and witnesses will move forward gradually until the year 2010.<sup>597</sup>

70. Regulation on Equal Rights for People with Disabilities (State Participation in Financing Adjustments) 5766-2006. According to the regulation, employers are entitled to a refund from the Government on expenses made in order to adjust the workplace to the disability, work and daily needs of disabled employees, subject to a maximal sum per employee. *The Equal Rights for People with Disability (Licensed Building, Infrastructure and Environment Accessibility Experts) Regulations, 5767-2007* and the Equal Rights for People with Disabilities (Licensed Service Accessibility Experts) Regulations, 5767-2007, promulgate the prerequisites for the registration of licensed building, infrastructure and environment accessibility experts and licensed service

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<sup>594</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 64.

<sup>595</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 416, at 64.

<sup>596</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan 17-Feb. 4, 2011, at 23, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/83/PDF/N1028883.pdf?OpenElement> (Mar. 24, 2010).

<sup>597</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 23.

accessibility experts respectively.<sup>598</sup>

### **Special Health Concerns of Women with Disabilities**

75. Amendment No. 2 to the Equal Rights for People with **Disabilities** Law, 5758-1998 (the “Equal Rights for People with **Disabilities** Law”) added a chapter regarding accessibility of health services which makes comprehensive provisions regarding accessibility to health and medical services for persons with disabilities, both in relation to the infrastructure and health services. The Ministry of Health together with the Israel Center for Technology and Accessibility have begun to map out, and to promote the accessibility of, women’s health clinics. Currently there are 10 accessible women health clinics: most of them are adapted for women with physical **disabilities**. Unique in nature is the ‘Maayaney Ha’yeshua’ Hospital in which the personnel are trained to give health services for persons with mental, emotional and cognitive disabilities.<sup>599</sup>

### **Employment**

82. With respect to employment opportunities for persons with **disabilities**, a law enacted in 2007 is dedicated to the promotion of the integration of persons with disabilities into the workforce and to the improvement of their rehabilitation process. The Rights of Persons with Disabilities Employed During Rehabilitation Law (Temporary Order) defines a rehabilitating person, for the purposes of the Law, as a person whose employment capability, due to his or her disability, is at least 81% less than regular employment capability of a similar employee without disabilities. The Law stipulates that employer-employee relations cannot be established with regard to a rehabilitating employee, and grants the rehabilitating employee similar rights to those granted under Israel’s labor laws.<sup>600</sup>

83. According to the Commission for Equal Rights of Persons with **Disabilities**, most adults with disabilities are of employment age, yet make up roughly one fifth of the total population of working age in the state of Israel. The rate of employment among persons with **disabilities** is lower than that of the rest of the population, especially among those with severe **disabilities**, thus contributing to increased levels of poverty and social exclusion. Furthermore, the rate of unemployment among the **disabled** population is very high, especially for persons with severe **disabilities**. Nevertheless, recent data indicates a moderate improvement in the rate of persons with **disabilities** participating in the workforce, especially among those with severe **disabilities** (42% in 2005, compared to 36% in 2002).<sup>601</sup>

84. **Employment of Persons with **Disabilities** by Gender.** Examination of the relative employment status of men and women with disabilities shows no significant difference between the two genders. The rate of employment of women between the ages of 20 and 64 stands at about 80% of the rate of men, for persons with and without **disabilities**.<sup>602</sup>

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<sup>598</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 23-24.

<sup>599</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 25.

<sup>600</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 26.

<sup>601</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 26.

<sup>602</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 27.

85. The National Insurance Institute is in charge of payment of pensions to certain populations, as defined by law and regulations. The General Disability Pension is designed to act as minimum income to provide for the daily life of persons with disabilities.<sup>603</sup>

## **Article 10- Education**

### **Administrative Developments**

338. The former Minister of Education and her Director General were both women, and feminists themselves. The Minister of Education has repeatedly and explicitly declared that gender equality is not merely a “program” or a “project”, but a lifestyle. To that end, all schools are instructed to create and maintain an educational climate conducive to gender equality and mutual respect.<sup>604</sup>

339. The Ministry of Education offers numerous In-Service Training Programs for teachers, pupils and parents in order to increase their awareness of, and skills in promotion of, gender equality. Nationwide programs such as “Women circles” and “Girls and boys leading a change” empower high school pupils, while the school curriculum formally addresses issues such as gender, government, and politics.<sup>605</sup>

## **Article 11- Employment**

### **Legal Protection from Discrimination within the Workplace**

388. In accordance with an Amendment to the Equal Employment Opportunities Law, dated January 3, 2006, the Equal Employment Opportunities Commission was established, within the Ministry of Industry, Trade and Labor (ITL). The Commission is charged with the promotion, implementation and civil enforcement of the following laws and statutory provisions: Equal Employment Opportunities Law, 5748-1988; Male and Female Workers (Equal Pay) Law 5756-1996 (the “Male and Female Workers (Equal Pay) Law”); Women’s Employment Law; Prevention of Sexual Harassment Law (in relation to employment) and other statutory provisions relating to: discrimination on religious grounds and army reserve duty service, discrimination on the part of public and private employment agencies, affirmative action for women, people with disabilities, Israeli Arabs and persons of Ethiopian origin in the public sector and legislation protecting workers who “blow the whistle” on violations of the above laws and statutory provisions.<sup>606</sup>

389. The Commission is also charged, inter alia, with a wide range of duties, including fostering public awareness through education, training and information; encouraging programs and activities; cooperation with relevant persons and bodies; conducting research and gathering information; intervention, with the courts approval, in ongoing legal proceedings; handling complaints regarding the violation of equal employment legislation; submission of requests for

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<sup>603</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 23.

<sup>604</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 82.

<sup>605</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 83.

<sup>606</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 95.

general orders; and instructing employers to take general measures regarding all or part of their workforce or employment applicants, designed to ensure compliance with duties imposed by employment equality legislation or to prevent violations of such duties.<sup>607</sup>

## **Social Benefits and the Welfare State**

### **Social Benefits**

528. As stated in Israel's previous report, Israel has an advanced social insurance system, protecting against major contingencies of income loss prevalent in a modern society. This includes long-term payments, guaranteeing resilience to those permanently unemployed due to old age or **disability**, to dependents and to families struggling with the economic burden of raising children, and short-term payments substituting the wages of those temporarily unemployed (on account of dismissal, work injury, child bearing or military reserve service). The National Insurance Institute (NII) is the governmental body responsible for the administration of the social insurance programs.<sup>608</sup>

### **General Disability Pension**

558. **Disability** insurance provides entitlement to a **Disability** Pension, meant to guarantee a minimum income for subsistence to persons with disabilities. The Disability Pension is paid to residents of Israel between the ages of 18 and retirement age who meet all the conditions of entitlement. There are two main groups of entitled persons, according to the entitlement test: **disabled** persons whose earning capacity has been lost or reduced as a result of their impairment (henceforth: "earners") and **disabled** housewives whose capacity to function in their household has been lost or reduced (henceforth: "housewives").<sup>609</sup>

## **Follow up questions**

### **Health**

**Question 28.** Please inform the Committee of the measures taken by the State party to ensure that the blockade imposed on the Gaza Strip did not negative impact the health of women, including older women and **disabled** women, in the Gaza Strip and in particular their access to adequate health services (including adequate equipment) and care.

### **Reply**

Critical to assessing and interpreting Israel's obligations pursuant to the Convention, is the changing reality and the recent dramatic developments on the ground since Israel's last appearance before the Committee in 2005. These include Israel's disengagement initiative in August 2005, involving the full withdrawal of all Israeli forces, the dismantling of its military administration and the evacuation of over 8,500 civilians from the Gaza Strip, and the rise of a Hamas-led terrorist administration, committed to violence and to the destruction of Israel. In these circumstances Israel can clearly not be said to have effective control in the Gaza Strip, in

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<sup>607</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 95.

<sup>608</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 137.

<sup>609</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 433, at 143.

the sense envisaged by the Hague Regulations.<sup>610</sup>

It is against this background that Israel is called-on to consider the relationship between different legal spheres, primarily the Law of Armed **conflict** and **Warfare** and Human Rights Law. This relationship remains a subject of serious academic and practical debate. For its part, Israel recognizes that there is a profound connection between human rights and the Law of Armed **conflict**, and that there may well be a convergence between these two bodies-of-law in some respects. However, in the current state of international law and state-practice worldwide, it is Israel's view that these two systems-of-law, which are codified in separate instruments, nevertheless remain distinct and apply in different circumstances.<sup>611</sup>

Furthermore, Israel has never made a specific declaration in which it reserved the right to extend the applicability of the Convention with respect to the West Bank or the Gaza Strip. Clearly, in line with basic principles of interpretation of treaty law, and in the absence of such a voluntarily-made declaration, the Convention, which is a territorially bound Convention, does not apply, nor was it intended to apply, to areas outside its national territory.<sup>612</sup>

If we examine the different rights mentioned in the convention, we would come to the conclusion that the convention cannot be in fact applied by Israel in the Gaza Strip, since the Israeli Government has no effective control in that area.<sup>613</sup>

**Question 36.** Please inform the Committee of any obstacles to the enjoyment of the rights guaranteed under the Convention by older women and disabled women, and the measures taken by the State Party to address them.

### **Reply**

#### Senior Citizens

According to the Ministry of Senior Citizens Affairs, one of the main obstacles to the enjoyment of the rights according to the law, is the lack of knowledge regarding certain rights. Therefore, the Ministry is currently working of a bill proposal regarding informing senior citizens regarding their rights. According to the bill proposal, public authorities will be obligated to transfer the Ministry of Senior Citizens Affairs, information regarding rights and benefits of senior citizens as they reach retirement age, and the Ministry will be obligated to publicize such information. The bill is currently still being drafted.<sup>614</sup>

### **Women with Disabilities**

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<sup>610</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined fourth and fifth periodic rep., 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 5, available at [http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.ISR.Q.5.Add.1\\_en.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.ISR.Q.5.Add.1_en.pdf) (Dec. 8, 2010).

<sup>611</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 447, at 5.

<sup>612</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 447, at 5.

<sup>613</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 447, at 5.

<sup>614</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 447, at 70.

According to the 2009 report of the Commission for Equal Rights for Persons with Disabilities, in 2007, women comprised the majority of the population of persons with disabilities in Israel. Of 1.2 million persons with disabilities, 650,000 were women. The reason for their majority is the longer life expectancy of women in the total population. This majority is more evident in older ages, in which the rate of the **disabilities** is also higher.<sup>615</sup>

To date no updated aggregated data regarding obstacles to the enjoyment of the rights guaranteed under the Convention by older women and **disabled** women is available.<sup>616</sup>

## Kenya\*

### ARTICLE 1- DEFINITION OF DISCRIMINATION

7. Definition cognizant of CEDAW, Article 1 requirement was included in both versions of the revised (proposed) constitution. In the Proposed New Constitution, discrimination was defined in section 37 (1) to include discrimination on the basis of sex as follows:

“The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, **disability**, religion, conscience, belief, culture, dress, language or birth.”<sup>617</sup>

### ARTICLE 2 – MEASURES FOR ELIMINATION OF DISCRIMINATION AGAINST WOMEN

12. **Kenya government has taken a number of legislative, judicial, administrative and programmatic actions towards elimination of discrimination against women in a number of sectors** since the presentation of the last country report. In the area of legislation, a number of laws have been passed which explicitly outlaw discrimination against women. For example, the new Employment Act, No. 11 of 2007 which came into force in December 20, 2007 expressly prohibits discrimination and harassment of actual and prospective employees on the basis of sex in section 5(3)(a) thereof. It provides that: “No employer shall discriminate directly or indirectly against an employee- on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, **disability**, pregnancy, mental status or HIV status; in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.”<sup>618</sup>

14. **The National Cohesion and Integration Act, No. 12 of 2008**, has been enacted to address

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<sup>615</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 447, at 70.

<sup>616</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 447, at 70.

<sup>617</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan. 17- Feb. 4, 2011, at 3, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/89/PDF/N1028889.pdf?OpenElement> (Mar. 24, 2010).

<sup>618</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 454, at 4.

the issue of ethnicity in recognition of ethnicity as a catalyst for violence and discrimination, including discrimination against women. Kenya's Parliament, soon after post-election violence in early 2008, enacted the National Cohesion and Integration Act, No. 12 of 2008 whose objective is "to encourage national cohesion and integration by outlawing discrimination..." Section 3 of the Act prohibits discrimination on ethnic grounds while Section 4 of the Act forbids "discrimination by way of victimization." Section 7 of the Act forbids discrimination in employment on the basis of ethnicity. Other key sections of the Act are 11 and 12 which forbid discrimination in access to land and discrimination in access to other property, respectively.<sup>619</sup>

34. **Vision 2030** -The Government has developed an ambitious national plan and strategy for the country dubbed Vision 2030. This plan sets out a national vision to be achieved in the year 2030 through three key pillars i.e. political, economic and social pillars. Under the social pillar, Vision 2030 goal is "A just and cohesive society enjoying equitable social development in a clean and secure environment." The social pillar has identified Gender concerns and in particular equity in power and resource distribution between the sexes as a priority. It aims at increasing all round opportunities among women and increase the participation of women in all economic, social and political decision making processes. It seeks to do this by starting with higher representation of women in Parliament, improving access to business opportunities, health services, education services, housing and justice to all disadvantaged groups including women, persons with **disabilities**, the youth, people living in arid and semi-arid lands (ASAL'S) etc, minimizing vulnerabilities through prohibition of harmful cultural practices such as Female Genital Mutilation/Cutting (FGM/C), increasing school enrolment for girls and children from nomadic communities and poor rural and slum communities, attaining gender parity and fairness in the delivery of justice including up scaling training for people with **disabilities** and special needs.<sup>620</sup>

220. **The vision 2030 is based on economic pillar, social pillar and political pillar with an agenda for gender.** The agenda of vision 2030 for gender, youth and vulnerable groups is gender equity, improved livelihoods for vulnerable groups, and a responsible, globally competitive and prosperous youth (as elaborated in para 35). The 5 year goal for 2012 is to increase opportunities all-round for women, youth and all disadvantaged groups. Specific strategies involve: increasing the participation of women in all economic, social and political decision-making processes ( through higher representation in Parliament); improving access of all disadvantaged groups (through business opportunities, health and education services, housing and justice); and, minimizing vulnerabilities through prohibition of retrogressive practices ( such as female genital mutilation, child labour) and by scaling up training for people with **disabilities** and special needs.<sup>621</sup>

### **Follow up question**

#### **Older women, women with **disabilities****

33. In its previous concluding observations (CEDAW/C/KEN/CO/6, para. 45), the Committee

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<sup>619</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 454, at 5.

<sup>620</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 454, at 10.

<sup>621</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 454, at 64.

requested that information be provided in the seventh periodic report about the situation of older women and women with **disabilities** in the areas covered by the Convention. The report, however, does not provide any information on the situation of older women in the country and includes only a cursory reference to the situation of women with disabilities when introducing the national plan and strategy titled “Vision 2030” (paras. 34 and 220). Please provide information thereon.

### **Reply**

#### **Older women, women with **disabilities****

The situation of older women and women with disabilities in the areas covered by the Convention. Situation of older women: Section 57 of the new constitution obligate the government ensures the rights of older persons, and to ensure that older people can fully participate in society. It also obliges the state to ensure that older people live dignity and respect and that they are free from abuse; finally section 57 entitles older people to care and assistance from both their family and the State.<sup>622</sup>

The government is committed to ensuring that the elderly lead meaningful and fulfilling lives while enjoying all rights without discrimination. The government intends to facilitate the creation of an environment where older women and men are given opportunities to continue utilizing their skills knowledge and experience. A National Policy for Older Persons has been developed. The policy recognizes that gender variations in ageing and proposes development of specific programmes including addressing older persons with **disabilities**. The National Hospital Insurance Fund has also been reviewed to include contributing members beyond 60 years.<sup>623</sup>

The government has established National Social Protection Strategy 2009 -2012, with two main objectives one to meet the needs of the poorest and most vulnerable including elderly women, particularly those in the rural areas and in the long term to establish and integrate a social protection system to protect vulnerable women and men from unforeseen events likely to affect their well-being. These include intervention in the areas of life cycle, health, employment, livelihood and natural disasters. The government intends to increase progressively the budgetary allocation for social protection to meet the needs of vulnerable persons. It is too soon to establish the impact of this Strategy. Under the National Social Protection Fund elderly men and women in designated districts have started receiving regular funds and assistance to help them lead meaningful and fulfilling lives as well as live in dignity.<sup>624</sup>

#### **Situation of women with **disabilities**:**

The new constitution obligates the government to promote the development of Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with

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<sup>622</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the seventh periodic rep., 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 19, *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/CEDAW-C-KEN-Q7-Add1.pdf> (Dec. 10, 2010).

<sup>623</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 459, at 19.

<sup>624</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 459, at 19.

**disabilities**-Article 3.The new constitution also places state organs under a duty to address the needs of vulnerable groups within society, including women, older members of society and persons with **disabilities** –Article 21 (3)<sup>625</sup>

Article 54 of the new constitution which specifically addresses the needs of person with disabilities including women, entitles persons with **disabilities** to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning. It also accords them the right to educational institutions, reasonable access to all places, public transport and information; access materials and devices to overcome constraints arising from their disability. Finally Article 54 obligates the state to ensure the progressive implementation of the principle that at least five percent of the members of the elective and appointive bodies are persons with **disabilities**.<sup>626</sup>

It also provides for the fair representation of persons with disabilities and, requires that their needs are taken in account in all electoral processes – Article 82. The new constitution also requires persons with **disabilities** be part of twelve members nominated by parliamentary political parties. Furthermore the constitution requires that the Senate of the new government o have two members, one man and one woman, representing persons with **disabilities** Article 98 (1) (d).<sup>627</sup>

The National Social Protection Strategy Includes responses by the state to protect persons with **disabilities** from risks, vulnerabilities and deprivation, measures envisaged by this protection entail; measures to secure education, healthcare social welfare, livelihood, access to stable income as well as employment.<sup>628</sup>

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<sup>625</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 459, at 19.

<sup>626</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 459, at 19.

<sup>627</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 459, at 19-20.

<sup>628</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 459, at 20.

## **Liechtenstein**

### **III. Remarks on the individual articles of the Convention**

#### **Article 2 Policy measures to eliminate discrimination against women**

The Office of Equal Opportunity fulfills its responsibilities relating to gender equality in accordance with the provisions of the Gender Equality Act. So far, the focus of its activities in this area has been the compatibility of family and career, women in the workplace, women and politics, violence against women, basic and continuing education of girls and women, the social status of women, gender mainstreaming, and networking with NGOs and the relevant regional offices in the neighboring countries of Switzerland and Austria. The Office of Gender Equality is active in the implementation of the provisions both of the Equal Opportunity Act and of the Platform for Action of the Beijing+5 Conference held in 2000, as well as the relevant reporting obligations. Each month since June 2008, the SCG has reported on the ongoing implementation of gender equality projects by way of a newsletter.<sup>629</sup>

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<sup>629</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan.

## **Equality Act for People with Disabilities**

On 1 January 2007, the Equality Act for People with Disabilities entered into force. The law is an important precondition for efficient measures against multiple discrimination of women with disabilities. To ensure implementation of the law, an Office for the Equality of People with Disabilities has been established at the Liechtenstein Association of People with Disabilities. In collaboration with the Office for the Equality of People with Disabilities, the Office of Equal Opportunity has launched several projects, including a study on the “Social Situation of People with Disabilities in Liechtenstein” and guidance entitled “Accessible Liechtenstein”. The guidance provides information on the accessibility of public buildings in Liechtenstein.<sup>630</sup>

Since September 2006, the Office of Equal Opportunity has accompanied an editorial team composed primarily of people with disabilities, most of whom are women. Each year, the editorial team designs and publishes five to eight newspaper pages in both national newspapers under the heading “mittendrin”. With their newspaper contribution, the “mittendrin” editorial team aims to raise awareness of the concerns and needs of people with disabilities.<sup>631</sup>

## **Ensuring the full development and advancement of women**

### **Development cooperation**

The principle of solidarity with people who are disadvantaged with respect to their circumstances and quality of life and the protection and preservation of the interests of these people are the starting point and goal of Liechtenstein’s engagement within the framework of International Humanitarian Development and Cooperation (IHDC). The principles, goals, and core responsibilities of Liechtenstein IHDC are set out in the International Humanitarian Cooperation and Development Act (IHDC Act), which entered into force on 29 June 2007. Article 1, paragraph 4 of the IHDC Act expressly emphasizes the promotion and protection of vulnerable groups, such as women: “Cooperation is carried out on a broad basis and according to the principle of non-discrimination. The promotion and protection of vulnerable groups, in particular women, children, people with disabilities, and older persons, shall be taken especially into account.” As an overarching topic, the area of gender plays a very important role in development cooperation projects. Additionally, Liechtenstein makes voluntary contributions to the United Nations Development Fund for Women (UNIFEM) and other projects for the protection and

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17- Feb. 4, 2011, at 9, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/77/PDF/N1028877.pdf?OpenElement> (Mar. 24, 2010).

<sup>630</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 13.

<sup>631</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 13.

promotion of women that are conducted by international organizations such as the Council of Europe and the OSCE (see Contributions by Liechtenstein to Women's Projects, Appendix 2).<sup>632</sup>

## **Article 10 Education**

### **Education Statistics**

Liechtenstein education statistics show that significant progress has been made in recent decades with respect to the equality of girls and young women in the education process. Just over 30 years ago, significantly more girls than boys attended the Realschule (medium-track secondary school) and significantly more boys than girls attended Gymnasium (academic secondary school), the share of girls in the Gymnasium has increased steadily and surpassed the share of boys in 2005. Girls and boys can thus be considered to have achieved equality in the area of scholastic education.<sup>633</sup>

There has also been a clear trend toward equality in the area of tertiary education, i.e., universities. While only 12 of 128 university students were women in 1975, women have constituted almost half (43%) of university students in recent years. Compared with 1990, about 13% more women chose an academic career in 2000. Since then, the share of women among university students has stayed more or less the same. With respect to choice of subjects, Liechtenstein university students continue to follow rather traditional patterns. In 2007/08, 37% of female students studied humanities and social sciences, 23% law, and 13% medicine and pharmaceuticals. Male colleagues primarily chose economics and business (26%), followed by humanities and social sciences (24%), law (17%), and exact and natural sciences (16%).<sup>634</sup>

## **Article 11 Workplace, maternity, social insurance**

### *The employment of women*

In summary, there has been a general trend toward increased employment of women and thus a convergence toward the employment behavior of men. Nevertheless, pronounced differences still exist, which appear clearly upon a more detailed analysis of employment, especially with respect to working hours and position in the hierarchy.<sup>635</sup>

## **Article 12 Health**

### *General health services*

In general, Liechtenstein's compulsory health insurance and unimpeded access to medical

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<sup>632</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 19.

<sup>633</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 38.

<sup>634</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 39.

<sup>635</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 42.

services guarantees good health care.<sup>636</sup>

### **Article 13 Other areas of economic and social life**

Although Liechtenstein is a wealthy country, low-income population groups exist. In particular single parents (especially single mothers) with children, but also families with multiple children and only one working parent are often confronted with financial challenges. Families in Liechtenstein are therefore supported by various measures (see remarks relating to article 5(b)).<sup>637</sup>

If, despite the relief mentioned under article 5(b), the income of the parents is not sufficient to cover the costs of living for family members, the affected persons may apply for income support (welfare) from the Liechtenstein State. Financial support is determined on a case-by-case basis, taking into account a reasonable expenditure of the family's own efforts and resources.<sup>638</sup>

Participation in cultural life and the achievements of scientific progress is guaranteed equally in Liechtenstein to women and men.<sup>639</sup>

### **Follow up question**

#### **Disadvantaged groups of women**

30. The report indicates that one of the objectives of the State Employees Act is support for integration and employment of people with disabilities (p. 12). Please provide information on measures taken to improve the employability of women with disabilities and on results achieved through their implementation, as well as on the impact of the entering into force of the Equality Act for People with Disabilities in January 2007 (p. 13) on the improvement of the situation of women with disabilities in all relevant areas covered by the Convention.

#### **Reply**

73. Firstly, the employability of women with disabilities is improved with the following educational offerings: The Alpstein Education Club offers adult education for people with mental disabilities in the Swiss cantons of St. Gallen and Appenzell and the Principality of Liechtenstein. The educational offerings are advertised twice a year. The current offerings range from a computer course and self-determination to wheelchair dancing and language and massage courses. The Therapeutic-Pedagogical Centre in Liechtenstein offers courses on the topics of cultural techniques and orientation in the environment for employees in the workshops. The Liechtenstein Seniors Association has operated a Computeria since 2002. Seniors help each other

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<sup>636</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 52.

<sup>637</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 55.

<sup>638</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 55.

<sup>639</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 466, at 55.

with problems relating to computers. People with **disabilities** are also welcome. Through the Social Pedagogical Office, the Liechtenstein Association of People with **Disabilities** supports and accompanies people with **disabilities** in regard to continuing education and facilitates course attendance by providing financial support. The State of Liechtenstein supports the educational wishes of a deaf woman by funding a sign language interpreter during classroom instruction.<sup>640</sup>

74. Secondly, various measures and projects aim to make the job search more successful for women with **disabilities**. The Brandis Work and Integration Project (ABP), an initiative of the Association for Assisted Living, offers services for professional rehabilitation and integration with training opportunities in various activity areas. ABP also offers care at the external workplace as a means to secure employment. Liechtenstein **Disability** Insurance supports potential employment with various services. It offers career counseling, assumes the additional costs for professional basic and continuing employment due to disability and funds trial employment relationships to assess employability. With capital assistance, it encourages **disabled** persons to start up their own business. Wage subsidies motivate businesses to employ people with reduced work performance. An important instrument is early assessment. The purpose is to prevent **disability** cases to the extent possible thanks to early intervention and reintegration measures. The Social Pedagogical Office of the Liechtenstein Association of People with **Disabilities** supports persons seeking work by means of meticulous joint consideration of realistic employment options and demands at the future workplace and it helps in the job search.<sup>641</sup>

## **Sri Lanka\***

### **Post Tsunami Initiatives**

71. Immediately after the Tsunami, and based upon the premise that those in the tsunami affected areas are more vulnerable to abuse, the Legal Aid Commission (LAC) implemented a programme to create awareness among the general public, school children, Police officers and Public Officials regarding the provisions of the Act. Several actions for Protection Orders have been obtained from court on the intervention of the LAC offices. The LAC continues to provide assistance to women and children to seek the remedy of protection afforded by the Act.<sup>642</sup>

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<sup>640</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the fourth periodic rep., 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 16, *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/471/83/PDF/G1047183.pdf?OpenElement> (Dec. 10, 2010).

<sup>641</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 477, at 16.

<sup>642</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan. 17- Feb. 4, 2011, at 27, *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/38/PDF/N1028838.pdf?OpenElement> (Mar. 24, 2010).

## **Article 10- EDUCATION**

79. The State's commitment since 1945 to free education at primary, secondary and tertiary levels was reiterated in the policy statement of the new Government that came into power in December 2005. The investment in education has, as its ultimate objective, the increase in national income, reduction of poverty and the promotion of human development. In Sri Lanka, education is viewed as a basic right and is supported by a Government policy that has made schooling compulsory for those between 5 – 14 years.<sup>643</sup>

80. As at 2006, there were 10,459 schools (public, private and pirivena's<sup>7</sup>) island wide with a school population of 3,999 million students. Of this number 50.14 % were girls. 97.3 % of the student population was in State schools. Of the teaching cadre, 69% were women.<sup>644</sup>

81. Sri Lanka has almost achieved the second MDG of achieving universal primary education. The achievements in respect of the three indicators, i.e. Net enrolment ratio in primary education, proportion of pupils starting Grade I who reach Grade 5 and the Literacy rate of 15 to 24 year olds, are referred to below.<sup>645</sup>

## **Article 11- EMPLOYMENT**

100. Economic independence is a crucial determinant of social and economic empowerment of women, and an encouraging trend is that the number of women entering the Labour Force continues to rise. The inequitable gender division of labour in employment still persists although there is a steady increase in the number of women moving from what were once perceived as gender appropriate areas of employment to non- traditional areas.<sup>646</sup>

## **Article 12- HEALTH CARE**

117. The Government continues to support its long-standing policy of providing universal health services of good quality to its people, free of charge, at all government institutions, and has sustained a strong primary health care network that has been a pillar of strength for several decades. The Government Agency mandated with responsibilities relating Healthcare is the Ministry of Healthcare and Nutrition which has formulated a Health Master Plan and identified several thrust areas which seek to provide adequate healthcare to women. The Master Plan identifies as a priority area the improvement of healthcare to the vulnerable populations such as those in the estates, remote rural areas, and **conflict** and disaster-affected areas and also the

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<sup>643</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 479, at 28.

<sup>644</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 479, at 28.

<sup>645</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 479, at 28.

<sup>646</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 479, at 38.

improvement of health and nutrition among infants, pre-school children and pregnant mothers.<sup>647</sup>

### **Follow up question**

#### **Rural women, older women and women with disabilities**

23. Further to paragraphs 33-38 of the report, please provide more information on the human rights situation of older women and women with disabilities, with respect to education, employment, access to health services, access to land rights and protection from violence.

### **Reply**

57. In the case of disabilities, women, similar to men and children are included in a community based rehabilitation programme. Since Sri Lanka as a developing country has no financial resources for an individual therapy approach as in developed countries, the most cost effective which is a community based approach is adopted. Within the CBR, family members are trained in providing care by trained family members.<sup>648</sup>

58. For disabilities related to sight, hearing, etc. there are initiatives by both the Government as well as civil society organizations. There are only a few institutions available for those who have severe disabilities, where community/family may not be available. This includes those who have a total lack of sight and hearing as well as those who have chronic mental conditions and who cannot be managed in homes.<sup>649</sup>

## **South Africa\***

### **ARTICLE I: DEFINITION OF DISCRIMINATION AGAINST WOMEN**

#### **The Constitution of South Africa**

1.1 The Constitution of the Republic of South Africa, Act 108 of 1996, which took effect on 4 February 1997 is the supreme law of the land. It seeks to "...establish a society based on

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<sup>647</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 479, at 51.

<sup>648</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined fifth, sixth and seventh periodic rep., 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 9, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/457/77/PDF/G1045777.pdf?OpenElement> (Jan. 6, 2011).

<sup>649</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 485, at 9.

democratic values, social justice and fundamental human rights” It provides for the establishment of one sovereign state, a common South African citizenship and a democratic system of government committed to achieving equality between men and women and people of all races. It further provides for the prohibition of racial, gender and all other forms of discrimination, and promotes the celebration of formal (de jure) and substantive (de facto) equality. Section 9 provides that neither the state, nor any person, may discriminate directly or indirectly on the grounds of gender, sex, pregnancy, marital status or any other ground or combination of grounds listed or unlisted in s9 (3). To clarify its approach to equality, the Constitution further states that:

*“Equality includes the full and equal enjoyment of all rights and freedoms. To promote equality, legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination may be taken.”*<sup>650</sup>

Equality is also given prominence in the Preamble to the Constitution where it is stated that: *“South Africa belongs to all who live in it, United in our diversity”*<sup>651</sup>

## **ARTICLE 10: EDUCATION**

10.2 The key law reform measures to transform the education system to eliminate the inherited systemic deficiencies and inequalities in access to education were dealt with in South Africa’s First Report to the CEDAW Committee. In particular, the National Education Policy Act, 1996 (Act 27 of 1996) and the South African Schools Act, 1996 (Act 84 of 1996) promoted access, equality and democratic education; as well as compulsory education for children aged 7 to 15 years. The Further Education and Training Act, 1998 (Act 98 of 1998) regulates further education, and addresses the advancement of women in further education as well as in previously male-dominated fields. The Skills Development Act, 1998 (Act 97 of 1998) provides for upgrading and acquisition of new skills for employment and advancement in the labour sector; and requires the Department of Labour to consider the provisions for gender equality.<sup>652</sup>

### **Article 10(e): Continuing Education and Literacy Programmes**

10.34 The Further Education and Training Act, 1998 (Act 98 of 1998) provides the basis for developing a nationally coordinated Further Education and Training system aimed at ensuring representation and equal access to further education at the workplace by persons who have been

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<sup>650</sup> Comm. on the Elimination of Discrimination against Women, Consideration of rep. submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, 48<sup>th</sup> sess, Jan. 17- Feb. 4, 2011, at 22-23, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/288/63/PDF/N1028863.pdf?OpenElement> (Mar. 24, 2010).

<sup>651</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 23.

<sup>652</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 83.

marginalized in the past including women, the **disabilities** and the disadvantaged.<sup>653</sup>

## **ARTICLE 11: EMPLOYMENT**

11.2 South Africa has continued to implement labour market transformation measures that are aimed at equalising access to employment opportunities since 1998. A key focus of such interventions has been the implementation of the new legislative framework to transform labour market relations with a view to affirming women and enabling them to enter and advance in enclaves of the labour market that were previously closed to them. The principal instruments that have been implemented during the period under review include the Labour Relations Act, 1995 (Act 66 of 1995); Basic Conditions of Employment Act, 1997 (Act 75 of 1997); Employment Equity Act, 1998 (Act 55 of 1998); White Paper on Affirmative Action in the Public Service, 1995; Public Service Act, as amended in 1996 and 2001 (Act 30 of 2007); legislation dealing with social security and workplace health and safety. Legislation has been extensively addressed in prior articles, in particular articles 2, 4 and 7.<sup>654</sup>

## **Article 12: EQUALITY IN ACCESS TO HEALTH CARE**

12.1 The Health System in South Africa in 1994 was fragmented, inefficient and inequitable and based on apartheid policies. This posed a serious challenge for health reform in South Africa, since the majority of Black South Africans had poor access and inequitable health care as elaborated on in South Africa's first CEDAW Report in 1998. A human rights approach to health and health care was entrenched in the 1996 South African Constitution that guaranteed access to health-care services, including reproductive choice, and free maternal and child health-care, amongst others.<sup>655</sup>

12.2 The Policy on Universal Access to Primary Health Care, introduced in 1994, paved the way for effective health care delivery programmes. This policy provides for free health care to pregnant and lactating women and children under the age of six. One outcome of the implementation of universal access has been a marked increase in access to health facilities and high levels of utilization of primary health care (PHC) services.<sup>656</sup>

## **Women with **Disabilities****

12.7 The Government has established the mainstreaming of the Integrated National Disability Strategy White Paper and guidelines through the Office on the Status of Disabled Persons in the Presidency. The realisation of this policy allows for a multi-pronged approach to advance the

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<sup>653</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 92.

<sup>654</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 95.

<sup>655</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 105.

<sup>656</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 105.

rights of people with disabilities in all areas. The health needs are especially poignant in addition to targeted assistance, programmes and support in addressing inequities for economic, social, and cultural advancement.<sup>657</sup>

12.8 **Disability** and impairments along with attitudinal and environmental barriers hinder full and effective participation in society. Many impairments are preventable such those caused by violence; poverty; lack of accurate information about prevention and management of disability; failure of medical services; unhealthy lifestyles; environmental factors such as epidemics, natural disasters, pollution and trauma.<sup>658</sup>

12.9 The social segregation and inequalities in society are most pronounced for people with **Disabilities**. The vulnerable in this group includes women and children with disabilities, black and rural women and children; rural and informal settlements; persons with mental disorders; elderly women with disabilities; youth with disabilities; persons with disabilities who have been displaced by violence and **war**; persons with disabilities and HIV and AIDS; persons who acquire **disabilities** through **disabling** conditions brought on by the progression of HIV and AIDS and persons with multiple **disabilities**. The sections that follow address their access to health care within the integrated framework.<sup>659</sup>

### **ARTICLE 13: ECONOMIC AND SOCIAL LIFE**

13.1 Equality with respect to family benefits for men and women in South Africa remains unchanged. This includes equal entitlement to social benefits such as grants for elderly persons, people with **disabilities** and care givers. Government measures during the period under review focused on eradicating racial disparities as alluded to in the Lund Report that was mentioned in South Africa's First Report to the CEDAW Committee.<sup>660</sup>

13.5 The government of South Africa has given priority through legislation, policy and administrative reform to address racial and gender inequalities, for example, access to social grants and poverty alleviation programmes. The social grants include: an old-age grant, **disability** grant, **war** veterans' grant, grant-in-aid, foster child grant, child support grant, care dependency grant and social relief of distress. The income derived from social grants has improved the income and/or expenditure of the poorest, thus bringing the very poor closer to the poverty line, as the income of the poorest 10% and 20% in the country. However, on the other hand the income of the rich has grown even higher than that of the poor, and thus the inequality

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<sup>657</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 107.

<sup>658</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 107.

<sup>659</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 107.

<sup>660</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 121.

gap between the rich poor has not reduced.<sup>661</sup>

### **Follow up question**

Question 32. Please provide information on the situation of older women and women with disabilities in all areas covered by the Convention.

### **Reply**

#### **2.15 Older Women and Women with Disabilities**

The following programmes and services are available for older persons.<sup>662</sup>

**2.15.1 Intergenerational Programmes:** The programme is helping in sharing the wisdom of older persons as well as passing the youth issues. The older persons face a challenge of raising their orphaned grandchildren with very little understanding of the issues impacting on the children (youth) as well as the demands of society today. The youth are also looking at older persons as people who have lived in the past and have nothing or little to contribute in society today.<sup>663</sup>

**2.15.2 Economic Programmes:** Economic development programmes that ensure that older persons are not excluded from the issues of economic development in their communities. These programmes also ensure that the older persons are able to live in the community as long as possible coping with the financial demands.<sup>664</sup>

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<sup>661</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 487, at 123.

<sup>662</sup> Comm. on the Elimination of Discrimination against Women, Responses to the list of issues and questions with regard to the consideration of the combined second, third and fourth periodic rep., 48<sup>th</sup> sess, Jan. 17-Feb. 4, 2011, at 45, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/CEDAW.C.ZAF.Q4.Add1.pdf> (Dec. 2010).

<sup>663</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 499, at 45-46.

<sup>664</sup> Comm. on the Elimination of Discrimination against Women, *supra* note 499, at 46.



## Appendix C: Situation of Women and Girls with Disabilities, Especially in the Pre-Conflict, Conflict and Post-Conflict Environment

Numerous issues affect women with disabilities disproportionately when compared to men with disabilities and women without disabilities.<sup>665</sup> These areas concern the following issues: health, education, employment, violence, family rights, marriage, housing, and participation in public life, all of which are exacerbated by war and are seen globally.<sup>666</sup>

- Disability and Gender Background Data.

There are approximately One Billion persons with disabilities in the world, or 15 percent of the global population, although this number is increasing due to population growth, aging of the population and war and conflict.<sup>667</sup> The World Health Organization and the World Bank have just released (9 June 2011) a ground-breaking report entitled “World Report on Disability” and the report notes a dramatic increase in estimates of the number of persons with disabilities worldwide, stating: “About 15% of the world’s population lives with some form of disability, of whom 2-4% experience significant difficulties in functioning. The global disability prevalence is higher than previous WHO estimates, which date from the 1970s and suggested a figure of around 10%. This global estimate for disability is on the rise due to population ageing and the rapid spread of chronic diseases, as well as improvements in the methodologies used to measure disability.”<sup>668</sup> There are significant differences in the prevalence of disability (defined as “significant difficulties in their everyday lives”) between men and women in both developing and more developed countries: male disability prevalence rate is 12% and female disability prevalence rate is 19.2%.<sup>669</sup> With such a dramatic increase in the percentage of persons with disabilities, the urgent need to include women and girls with disabilities is even more urgent. An estimated 80 per cent of these persons live in developing countries, many in conditions of poverty. In both developed and developing countries, evidence suggests that persons with disabilities are disproportionately represented among the world’s poor and tend to be poorer than their counterparts without disabilities. It is estimated that of the world’s poorest people, meaning those who live on less than one dollar a day and who lack access to basic necessities such as food, clean water, clothing and shelter, 1 in 5 is a person with disabilities.<sup>670</sup> Given that persons with disabilities represent such a significant portion of the population, and are more likely to live in poverty than their peers without disabilities, ensuring that they are integrated into all development activities is essential in order to achieve international development goals.<sup>671</sup>

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<sup>665</sup> Natacha David, *Women with Disabilities – Dual Discrimination*, 137 *Trade Unions & Workers with Disabilities: Promoting Decent Work, Combating Discrimination* 17 (2004).

<sup>666</sup> See Arnade & Haefner, *supra* note 38, at 12.

<sup>667</sup> “Some Facts about Persons with Disabilities” Convention on the Rights of Persons with Disabilities, available at <http://www.un.org/disabilities/convention/facts.shtml> (last visited March 31, 2011).

<sup>668</sup> *World Report Disability*, *supra* note 10.

<sup>669</sup> See *id.* Table 2.1.

<sup>670</sup> See *id.*

<sup>671</sup> *Mainstreaming Disability*, *supra* note 13.

Persons with disabilities are the world's largest minority.<sup>672</sup> Women are certainly at least half of the human population and women with disabilities comprise at least a similar proportion of persons with disabilities. Globally, women make up three-fourths of persons with disabilities in low and middle income countries. Between 65% and 70% of these women live in rural areas.<sup>673</sup> According to one of the women who led the effort to ensure that the rights of women with disabilities were incorporated into the CRPD<sup>674</sup> “[g]ender is one of the most important categories of social organization, and patterns of disadvantage are often associated with the differences in social position of women and men. These gendered differences are reflected in the different life experiences of women with disabilities and men with disabilities. While women with disabilities have much in common with men with disabilities, women with disabilities have to face multiple discrimination in many cases, so that they are often more disadvantaged than men with disabilities in similar circumstances.”<sup>675</sup> Women and girls with disabilities are recognized to be doubly disadvantaged, experiencing exclusion on account of both their gender and their disability.

- A Feminist Analysis and Women with Disabilities

The gender-mainstreaming disability-inclusive approach outlined in this paper, draws upon a feminist-disability approach. Noted scholar Rosemarie Garland-Thomson asks the question: “Just what is feminist disability studies?” She answers:

It is more than research and scholarship about women with disabilities, just as feminist scholarship extends beyond women to critically analyze the entire gender system. Like feminist studies itself, feminist disability studies is academic cultural work with a sharp political edge and a vigorous critical punch. Feminist disability studies wants to unsettle tired stereotypes about people with disabilities. It seeks to challenge our dominant assumptions about living with a disability. It situates the disability experience in the context of rights and exclusions. It aspires to retrieve dismissed voices and misrepresented experiences. It helps us understand the intricate relation between bodies and selves. It illuminates the social processes of identity formation. It aims to denaturalize disability. In short, feminist disability studies re-imagines disability. Feminism challenges the belief that femaleness is a natural firm of physical and mental deficiency or constitutional unruliness. Feminist disability studies similarly questions our assumptions that disability is a flaw, lack, or excess. To do so, it defines disability broadly from a social rather than a medical perspective. Disability, it argues, is a cultural interpretation of human variation rather than an inherent inferiority, pathology to cure, or an undesirable trait to eliminate. In other words, it finds disability’s significance in interactions between bodies and their social and material environments. By probing the

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<sup>672</sup> *Fact Sheet Disabilities*, *supra* note 24.

<sup>673</sup> *See de Silva de Alwis*, *supra* note 8.

<sup>674</sup> *See CRPD*, *supra* note 37, art. 8(1)(b).

<sup>675</sup> *See Arnade & Haefner*, *supra* note 38, at 7.

cultural meanings attributed to bodies that societies deem disabled, feminist disability studies does vast critical cultural work.<sup>676</sup>

As described by noted scholar Rosemarie Garland-Thomson, disability-feminism “rejects the homogeneous category of women and focuses on the essential effort to understand just how multiple identities intersect. This analysis rejects an approach that obscures other identities and categories of cultural analysis – such as race, ethnicity, sexuality, class, and physical ability.” With respect to women with disabilities, gender must be seen as “an ideological and material category that interacts with but does not subordinate other social identities or the particularities of embodiment, history, and location that informs personhood.”<sup>677</sup> Through this philosophical approach, we can address issues such as violence, body image, sexuality, discrimination, access to education, employment and political and public life, all the issues that are vital in addressing the rights of women and girls with disabilities.

- Gender Stereotyping and Women with Disabilities

Women with disabilities experience both the stereotypical attitudes toward women and towards persons with disabilities. In the groundbreaking book, Gender Stereotyping: Transnational Legal Perspectives, Cook and Cusack define stereotyping as: "a generalized view or preconception of attributes' or characteristics possessed by, or the roles that are or should be performed by members of the particular group (e.g., women, lesbians, adolescents)."<sup>678</sup>

Both the CEDAW and the CRPD recognize the role of stereotypes in the denial of human rights to women with disabilities. The CEDAW Article 5(a) states: “States Parties shall take all appropriate measures: (a) [t]o 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.”<sup>679</sup>

The CRPD takes the CEDAW stereotype provisions one further step and recognizes that, in the case of women with disabilities, it is important to consider how gendered stereotypes coincide with stereotypes of persons with disabilities to harm and discriminate against them in compounded ways, thereby recognizing the intersection of both gender and disability stereotypes in the case of women with disabilities. The CRPD Article 8 on Awareness-raising states: Article 8(1) States Parties undertake to adopt immediate, effective and appropriate measures: (b)

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<sup>676</sup> Rosemarie Garland-Thomson, *Feminist Disability Studies: A Review Essay*, 30 SIGNS J. WOMEN CULTURE & SOC. 1557 (2005).

<sup>677</sup> Rosemarie Garland-Thomson, *Re-shaping, Re-thinking, Re-defining: Feminist Disability Studies*, (Barbara Waxman Fiduccia Papers on Women and Girls with Disabilities 2001), available at <http://www.centerwomenpolicy.org/pdfs/DIS2.pdf>; Sarah N. Heiss, *Locating the Bodies of Women and Disability in Definitions of Beauty: An Analysis of Dove's Campaign for Real Beauty*, 31 DISABILITY STUD. Q. (2011), available at <http://www.ds-q-sds.org/article/view/1367/1497>.

<sup>678</sup> COOK & CUSACK, *supra* note 100.

<sup>679</sup> See CEDAW, *supra* note 39, art. 5(a).

[t]o combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.”<sup>680</sup>

For those advocating for a separate article on women with disabilities, as well as the inclusion of a gender perspective throughout the CRPD, the recognition of this compounded discrimination was crucial. “In addition to the multiple discrimination women with disabilities have to experience, they face the problem of a double invisibility as women and as disabled persons.”<sup>681</sup>

Fine and Asch, authors of “*Disabled Women: Sexism without the Pedestal*,” note a significant impact of these stereotypical views of women with disabilities, discussing the important role of social roles: “Rolelessness, the absence of sanctioned social roles and/or institutional means to achieve these roles, characterizes the circumstances of disabled women in today’s society. ... The absence of sanctioned roles can cultivate a psychological sense of invisibility; self-estrangement, and/or powerlessness.”<sup>682</sup> Nonetheless, the authors strongly note that we should not: “... see disabled women as neither helpless nor hopeless victims unwilling to change their circumstances.”<sup>683</sup> Thus, these stereotypes of women with disabilities would certainly contribute to an understanding as to why women and girls with disabilities are so often absent from programs to address women’s rights and gender equality, except when they are occasionally seen as “victims” needing protection.

- Education

The limited statistics that are available indicate that, although the literacy rate for adults with disabilities is 3%, only a meager 1% of women with disabilities are literate.<sup>684</sup> Estimates of the percentage of children with disabilities not attending school is extremely variable, however, in general, children with disabilities are less likely to start school and have lower rates of staying and being promoted in school than their peers without disabilities. The correlation between low educational outcomes and having a disability is often stronger than the correlations between low education outcome and other characteristics such as gender, rural residence or poverty. Additionally, women with disabilities have few opportunities for vocational training.

- Employment

This lack of education opportunities, of course, makes it even more difficult for women with disabilities to participate in their communities and to advocate for their rights.<sup>685</sup> For this and many other reasons, women with disabilities have low employment rates, experience discriminatory hiring and promotion criteria, do not receive equal pay for equal work and are frequently steered into segregated and less remunerative occupations.<sup>686</sup> Women with non-severe disabilities earn less than their male counterparts; with women with severe disabilities

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<sup>680</sup> See CRPD, *supra* note 37, art. 8(1)(b).

<sup>681</sup> See Arnade & Haefner, *supra* note 38, at 10.

<sup>682</sup> Fine & Asch, *supra* note 104.

<sup>683</sup> See *id.* at 241.

<sup>684</sup> Rousso, *supra* note 121.

<sup>685</sup> See *id.*

<sup>686</sup> O’Reilly, *supra* note 123.

having the lowest earnings of any group, in both developed and developing countries.<sup>687</sup> Credit (including microfinance) and other productive resources are often denied to them, making it more difficult to start businesses. Incorporating women with disabilities into microfinance programs is an essential element for achieving financial self-sufficiency and to date, such inclusion is very limited.<sup>688</sup>

Women with disabilities are twice as unlikely to find work as disabled men. Although the majority of women with disabilities contribute significantly to their families through cooking, cleaning, and caring for children and relatives, 75% of women with disabilities worldwide, and up to 100% in some developing countries, are excluded from the workforce.<sup>689</sup> All of these factors contribute to the high poverty rates for women with disabilities and increases their invisibility.<sup>690</sup>

- Health

Inaccessible health care services is a significant barrier for women with disabilities, with respect to both physical inaccessibility of facilities and staff who lack the skills to communicate with women with various disabilities and/or who view them as asexual with respect to the provision of sexual and reproductive health care services.<sup>691</sup> Gender-based discrimination, sexual and other forms of violence, poverty, armed conflict, dislocation and other forms of social isolation contribute to increased risk of psycho/social disabilities amongst women. All of these health care deficits are amplified in the conflict environment and in situations of disaster, especially when women with disabilities are subjected to gender-based and other forms of violence.

- Housing

Women with disabilities generally face significant barriers in accessing adequate housing and services and, in conflict situations, housing is often scarce as a result of the conflict itself and this is exacerbated for women with disabilities.<sup>692</sup>

- Violence against Women with Disabilities

Of course, violence at all times and especially in times of war often contributes to the incidence of disability among girls and women. Both men and women with disabilities are more vulnerable to physical, psychological, sexual or financial violence, and in particular, they are vulnerable to neglect, entrapment, and degradation. Women with disabilities, youth and children are especially at higher risk of being mentally or physically abused. They are generally more

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<sup>687</sup> See also JANS & STODDARD, *supra* note 127; Stubbs & Tawake, *supra* note 124.

<sup>688</sup> Josh Goldstein, *supra* note 125.

<sup>689</sup> *Id.*

<sup>690</sup> Mainstreaming Disability, *supra* note 13.

<sup>691</sup> *Enjoyment Highest Attainable*, *supra* note 128.

<sup>692</sup> Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, U.N. Econ. & Soc. Council, ¶ 64, U.N. DOC., E/CN.4/2005/43 (Feb. 25, 2005) available at [http://www.un.org/womenwatch/enable/E-CN4-2005-43\\_Housing.pdf](http://www.un.org/womenwatch/enable/E-CN4-2005-43_Housing.pdf).

likely to experience abuse over a longer period and to suffer more severe injuries as a result of the violence.<sup>693</sup>

In addition, women with disabilities are twice as likely to experience domestic violence as non-disabled women. Often for disabled people, their abuser may also be their caregiver, someone that the individual is reliant on for personal care or mobility. Domestic violence and abuse are a significant cause of physical and mental disabilities in women.<sup>694</sup> Abuse by household members often remains unreported to avoid further stigmatization. Furthermore, people with disabilities, (especially women with disabilities) tend to lack access to legal protection.

Although there is limited reliable statistical data on incidences of sexual and gender based violence against women with disabilities, women with disabilities themselves frequently report experiencing high rates of such violence and abuse.<sup>695</sup> It is estimated that the rate of abuse among women with disabilities is two to four times the rate of violence experienced by women in general.<sup>696</sup> Depending on their disability, some women with disabilities may be unable to defend themselves, may not be able to flee the site of violence or know how to report incidents of violence. “Women and girls with disabilities are also not privy to the same information available to nondisabled women and girls needed to recognize and address violence, including sexual violence. Finally, the police and law enforcement community may not respond appropriately to reports of violence against women and girls with disabilities.”<sup>697</sup>

- Gender-based Violence as an Act of War

No discussion of violence against women in the context of war would be complete without an exploration of the use of gender-based violence as a tactic of war and indeed this reality was the basis for the series of United Nations Security Council Resolutions on Women, Peace and Security, especially United Nations Security Council Resolution 1820 (2008), which links the prevention of sexual violence with the maintenance of peace and security<sup>698</sup> and United Nations Security Council Resolution 1888 (2009), which mandates peacekeeping missions to protect women and girls from sexual violence in armed conflict.<sup>699</sup> Although neither of these resolutions recognize the violence women with disabilities experience, a 2010 Resolution of the United Nations Human Rights Council<sup>700</sup> recognizes that women with disabilities are subject to gender-based violence, that services must be accessible to them and that women with disabilities must be included in data collected on the prevalence of gender-based violence.

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<sup>693</sup> *See id.*

<sup>694</sup> *See id.*

<sup>695</sup> MARIT HOEM KVAM & STINE HELM BRAATHEN, VIOLENCE AND ABUSE AGAINST WOMEN WITH DISABILITIES IN MALAWI, (SINTEF, 2006), *available at* <http://www.sintef.no/upload/Helse/Levek%C3%A5r%20og%20tjenester/AbuseMalawi.pdf>.

<sup>696</sup> *Violence Against Women with Disabilities—Prevalence* (Baylor College of Medicine 2009), <http://www.bcm.edu/crowd/?pmid=1338> (last visited Mar. 23, 2011).

<sup>697</sup> *See de Silva de Alwis, supra note 8.*

<sup>698</sup> *See S.C. Res. 1820, U.N. DOC. S/RES/1820 (June 19, 2008).*

<sup>699</sup> *See S.C. Res. 1888, U.N. DOC. S/RES/1888 (Sept. 30, 2009).*

<sup>700</sup> Human Rights Council Res., *Accelerating efforts to eliminate all forms of violence against women: ensuring due diligence in prevention*, HRC Res. 14/12 U.N. DOC. A/HRC/RES/14/12 (June 23, 2010), *available at* [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/RES.14.12\\_AEV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/RES.14.12_AEV.pdf).

Parties in conflict situations often rape women, sometimes using systematic rape as a tactic of war. Other forms of gender-based violence committed in armed conflict include murder, sexual slavery, child prostitution, forced pregnancy, forced sterilization, acid burnings, and so-called “honor killings.”<sup>701</sup> The State itself, the administrative systems and authorities, armed combatants, military forces, and peacekeeping forces have committed acts of sexual and other forms of violence.<sup>702</sup>

Thus, as discussed previously, women with disabilities face higher levels of gender-based violence and this appears to be no different in times of war and, for this reason as well, women with disabilities must be included in any discussions and actions on violence against women in the conflict environment and in the United Nations Security Council resolutions on women, peace and security and in the programs to implement the resolutions.

- Women with Disabilities, HIV and Violence

Since women with disabilities are at increased risk of sexual abuse and assault, especially during conflict and disaster situations, they have greater vulnerability to HIV infection.<sup>703</sup> Limited data is available on the incidence of HIV infection among persons with disabilities. Strategies and programs fail to adequately address how disability affects men and women differently, and persons with disabilities have often been ignored in HIV interventions that provide prevention, treatment, care, support and impact mitigation. In addition to myths about their behavior and life experiences, the failure to distinguish between the different needs of persons with various disabilities, the inaccessibility of health information and services, insufficient training and negative attitudes of health professionals, as well as the social isolation of persons with disabilities have all had a negative impact on their ability to access HIV/AIDS-related health care, further increasing the vulnerability of persons with disabilities to HIV infection and also increasing the impact of HIV and AIDS on their lives once infected.<sup>704</sup>

- Increased Incidence of Disability for Women in Conflict Situations

Girls and women are more likely to become disabled as a result of violence, armed conflicts, aging and gender-biased cultural practices limiting their access to food, shelter, health care, safe working environments, marriage and social integration and these effects can be seen pre-conflict, during conflict and post-conflict.<sup>705</sup> At the same time, conflict situations make more women disabled directly with injury through land mines, bombs, combat, and other factors incident to a conflict situation.<sup>706</sup>

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<sup>701</sup> Swanee Hunt & Cristina Posa, *Women Waging Peace*, 124 FOREIGN POL’Y 38 (2001).

<sup>702</sup> Suk Chun & Inger Skjelsbaek, *Sexual Violence in Armed Conflicts*, International Peace Research Institute (2010), available at [http://www.peacewomen.org/assets/file/Resources/Academic/vaw\\_sexualviolenceinarmedconflicts\\_prio\\_jan2010.pdf](http://www.peacewomen.org/assets/file/Resources/Academic/vaw_sexualviolenceinarmedconflicts_prio_jan2010.pdf).

<sup>703</sup> Groce & Trasi, *supra* note 134.

<sup>704</sup> *Disability Global Survey*, *supra* note 135.

<sup>705</sup> WORLD DISASTER REP., *supra* note 16.

<sup>706</sup> BANK-SUPPORTED PROJECTS, *supra* note 17.

Land mine removal is also a physical risk that may result in disabilities.<sup>707</sup> The Beijing Platform for Action (1995) recognizes that women and children are particularly affected by the indiscriminate use of anti-personnel landmines.<sup>708</sup> Although men are generally involved in landmine removal, women also engage in this dangerous work. All-female demining teams are becoming increasingly prevalent, and there have been all-female teams in Cambodia, Croatia, Kosovo, the Lao People's Democratic Republic, Lebanon and one Muslim territory in Somaliland, for example.<sup>709</sup>

Furthermore, a recent innovative, rigorous analysis of the impact of armed conflict on female life expectancy relative to that of males found that over the entire conflict period, interstate and civil wars on average affect women more adversely than men.<sup>710</sup> In peacetime, women typically live longer than men.<sup>711</sup> Therefore, the study concluded that armed conflict tends to decrease the gap between female and male life expectancy.<sup>712</sup> Indeed, for every child killed in warfare, three are injured and acquire a disability.<sup>713</sup> Although entire communities suffer the consequences of armed conflict, women and girls are particularly affected in conflict situations because of their status in society, stereotyping of roles and attitudes toward women and girls with disabilities based on the compounded double discrimination they face because of disability and gender.<sup>714</sup>

Furthermore, conflict situations increase the vulnerability of women and girls who are already disabled, and their families, through the breakdown of economic structures and activities in which women and girls with disabilities were engaged, health care institutions and facilities, family and community support, education opportunities, housing, transportation and other infrastructures and they may have been forced to leave wheelchairs, medications, assistive aids and supportive animals, and prosthetics behind.<sup>715</sup> While those injured as a result of the disaster or conflict may be very visible, it is important to remember that many other people living in the affected areas may already be disabled, and may then become further marginalized and excluded on the basis of their disability in the aftermath.<sup>716</sup>

“Persons with disabilities, especially women and children, are particularly vulnerable to violence, exploitation and sexual abuse in such situations. Anyone affected by disasters or conflict is more vulnerable to mental health and psycho-social disabilities – which may result in misunderstandings and further isolation and social exclusion from families and communities.”<sup>717</sup>

Women who have been traumatized and disabled during violent conflict are often ostracized from their communities, deprived of liberty without any support, or subjected to involuntary interventions including forced psychiatric drugging. Providing support starts with asking what

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<sup>707</sup> *Gender Perspectives on Landmines*, *supra* note 18.

<sup>708</sup> Beijing Declaration, *supra* note 19.

<sup>709</sup> Canfield & McCoull, *supra* note 20.

<sup>710</sup> See Thomas Plümper & Eric Neumayer, *The Unequal Burden of War: The Effect of Armed Conflict on the Gender Gap in Life Expectancy*, 60 INT'L ORG. 723, 723-24 (2006).

<sup>711</sup> *See id.* at 723.

<sup>712</sup> *See id.* at 747.

<sup>713</sup> *Fact Sheet Disabilities*, *supra* note 24.

<sup>714</sup> *See de Silva de Alwis*, *supra* note 8.

<sup>715</sup> WORLD DISASTER REP., *supra* note 16.

<sup>716</sup> Kett & Twigg, *supra* note 27.

<sup>717</sup> *See id.*

the woman needs and really listening to what the woman says. It could involve voluntary access to trauma-informed counseling services.<sup>718</sup> The lack of provision of support and/or subjecting a woman to psychiatric interventions against her will are forms of violence that cause further psychological trauma that can lead to further disability.<sup>719</sup> The only way to stop this vicious cycle is to provide real support to women who have been traumatized and to include input from women who have survived such experiences in making policy and planning for the provision of support.<sup>720</sup>

Clearly, the ravages of war can also increase psycho-social disabilities. For example, the civil war in Cambodia is documented to have caused mental disabilities among women and “Cambodia has one of the world's highest ratios of persons with disabilities.”<sup>721</sup>

Girls often serve as child Soldiers (some estimate that as many as 30 percent of child Soldiers are girls).<sup>722</sup> They serve as fighters, cooks, porters, messengers, medics, spies, lookouts, raiders, domestic and agricultural labor, and are also forced to serve as sexual slaves to numerous males in forces, or, they may be given to one male for his exclusive use as a captive “wife.”<sup>723</sup> Such experiences often result in the development of multiple physical and psychosocial disabilities.<sup>724</sup> Generally, their needs are not met and they do not have the opportunity to participate in reintegration programs.<sup>725</sup>

- Disaster, access to food and water and environmental issues

Natural disasters have an especially horrific effect on women with disabilities. Women with disabilities are typically the last people to receive food and water rations but the first people to be exploited and abused both physically and sexually. For example, the earthquake that struck Haiti in 2010 has left many women with disabilities without much hope. Many women with disabilities who lost their homes in the earthquake were forced into the inaccessible makeshift camps established by aid organizations. Because of this inaccessibility, women with disabilities cannot access food and toileting facilities. The lawlessness rampant in these camps has led to the rapes of many women with disabilities and also led to an exploitative situation where many of these women are forced to engage in sexual activities to receive their food and water rations.<sup>726</sup>

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<sup>718</sup> *Violence Against Women*, *supra* note 29.

<sup>719</sup> *See* Cardozo et al., *supra* note 30; *see also* Klaric et al., *supra* note 30.

<sup>720</sup> *Torture*, *supra* note 31.

<sup>721</sup> *See* de Silva de Alwis, *supra* note 8.

<sup>722</sup> *Global Appeal: No Use of Child Soldiers*, RED HAND DAY, <http://www.redhandday.org/index.php?l=en&view=about> (last visited Mar. 26, 2011).

<sup>723</sup> Rep. of the Expert Group Meeting, *Elimination of All Forms of Discrimination and Violence Against the Girl Child*, ¶ 80 (2006), available at [http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report\\_FINAL.pdf](http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf).

<sup>724</sup> Rep. of the Expert Group Meeting, *Elimination of All Forms of Discrimination and Violence Against the Girl Child*, ¶¶ 67, 79-81 (Sept. 25-28, 2006), available at [http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report\\_FINAL.pdf](http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf).

<sup>725</sup> BANK-SUPPORTED PROJECTS, *supra* note 17.

<sup>726</sup> Ketty Luzincourt, *Haitian women: life at stake in the camps*, (Norwegian Peacebuilding Centre, 2010), available at [http://www.peacebuilding.no/eng/content/download/184273/743534/version/3/file/NorefArt\\_Luzincourt\\_Haiti\\_May\\_10.pdf](http://www.peacebuilding.no/eng/content/download/184273/743534/version/3/file/NorefArt_Luzincourt_Haiti_May_10.pdf).

This phenomenon of women with disabilities not being “seen” is only further exacerbated by disasters, which leads to increased discrimination against women with disabilities and increased violations of their human rights as they are excluded from humanitarian aid and intervention.<sup>727</sup> An increase in women disaster workers trained to work with women with disabilities would greatly assist in addressing some of these barriers.<sup>728</sup>

- Situation in Refugee Camps and Emergency Shelters

The situation of women and girls with disabilities in refugee camps and emergency shelters is dire because of many factors including dislocation, and inaccessible facilities and programs. A groundbreaking report by the Women’s Refugee Commission, entitled “Disabilities among Refugees,”<sup>729</sup> notes serious problems with the physical layout and infrastructure of refugee camps—few services are accessible to people with disabilities, including toilets, shelters and health facilities. In general, no special accommodations are made for getting food and other supplies that refugees with disabilities need on a daily basis. Because camps and facilities are generally inaccessible, most persons with disabilities are forced to remain in their shelters. Not surprisingly, their voices go unheard in decision-making activities for their communities.

This report also reveals disparities between refugee camps and urban areas, concluding that there is greater awareness of the needs of persons with disabilities in camps. On the other hand, the report finds in urban environments refugees with disabilities are unable to access services offered by the host government and virtually no one is providing special assistance to them. The Women’s Refugee Commission also found that persons with psycho-social disabilities did not receive services as most programs that did any work with persons with disabilities tended to focus on those with physical disabilities.<sup>730</sup>

In general, women are at greater risk for violence and abuse in refugee camps.<sup>731</sup> Those who escape and seek asylum rarely benefit from social and education programs because most States that receive immigrants do not address the needs of women and girls with disabilities. Furthermore, solely because of their disability, many are denied asylum.<sup>732</sup>

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<sup>727</sup> INTER-AGENCY STANDING COMMITTEE, PROTECTING PERSONS AFFECTED BY NATURAL DISASTERS: IASC OPERATIONAL GUIDELINES ON HUMAN RIGHTS AND NATURAL DISASTERS 8 (Brookings-Bern Project on International Displacement 2010).

<sup>728</sup> Asha Hans & Reena Mohanty, *Inclusion of Disability and Gender in Disaster Management and Response*, available at

[http://www.preventionweb.net/files/9661\\_InclusionofDisabilityGender.pdf](http://www.preventionweb.net/files/9661_InclusionofDisabilityGender.pdf).

<sup>729</sup> WOMEN, DISABILITY AND IDENTITY (Asha Hans & Annie Patri eds., 2003).

<sup>730</sup> *See id.*

<sup>731</sup> Special Rapporteur on Violence against Women, its causes and consequences, *Alternative Approaches and Ways and Means within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms*, Econ. & Soc. Council, U.N. DOC. E/CN.4/1998/54 (Jan. 26, 1998) (by Radhika Coomaraswamy), available at

<http://193.194.138.190/Huridocda/Huridoca.nsf/TestFrame/c90326ab6dbc2af4c125661e0048710e?Opendocument>.

<sup>732</sup> Nora Ellen Groce, *People with Disabilities*, in SOCIAL INJUSTICE AND PUBLIC HEALTH 145 (Barry S. Levy & Victor Sidel eds., 2006), available at [http://www.aidslex.org/site\\_documents/DB-0018E.pdf](http://www.aidslex.org/site_documents/DB-0018E.pdf).

- Access to Justice

Persons with disabilities are more vulnerable as victims of crimes from both strangers and persons who know them. However, the difficult experience does not end after the alleged crime is over, because often the police and other elements of the legal system treat persons with disabilities poorly when they seek to redress the wrong. Police stations are often inaccessible, police do not know how to work with victims with disabilities, sign language interpreter services are not available, and materials in alternative formats for victims who are blind are not provided. Often the most serious barrier is that persons with disabilities are not believed or are not viewed as credible and reliable witnesses by police and prosecutors. Unfortunately, little statistical data is available on crimes against persons with disabilities internationally.

There are a number of challenges for disability-based hate crime reporting. For instance, hate crimes against people with disabilities are often never reported to law enforcement agencies.<sup>733</sup> The victim may be ashamed, afraid of retaliation, or afraid of not being believed.<sup>734</sup> The victim may be reliant on a caregiver or other third party to report the crime, who fails to do so.<sup>735</sup> Or, the crime may be reported, but there may be no reporting of the victims' disability, especially in cases where the victim has an invisible disability that they themselves do not divulge.<sup>736</sup>

“Perhaps the biggest reason for underreporting of disability-based hate crimes is that disability-based bias crimes are all too frequently mislabeled as ‘abuse’ and never directed from the social service or education systems to the criminal justice system. Even very serious crimes — including rape, assault, and vandalism—are too-frequently labeled ‘abuse.’”<sup>737</sup>

For a comprehensive bibliography on crimes against persons with disabilities, see the work of Michelle Armstrong.<sup>738</sup> The unique crime experiences of women with disabilities are explored by Springtide Resources and by DAWN.<sup>739</sup> With appropriate accommodations and support, women with disabilities can be successful in getting relief for the crimes against them in the legal system. A study by Cape Mental Health in South Africa, described a highly successful project.<sup>740</sup>

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<sup>733</sup> *Id.*

<sup>734</sup> *Id.*

<sup>735</sup> *Id.*

<sup>736</sup> *Id.*

<sup>737</sup> LEADERSHIP CONFERENCE ON CIVIL RIGHTS, CONFRONTING THE NEW FACES OF HATE: HATE CRIMES IN AMERICA 2009, HATE CRIMES AGAINST INDIVIDUALS WITH DISABILITIES, <http://www.civilrights.org/publications/hatecrimes/disabilities.html> (last visited Feb. 27, 2011).

<sup>738</sup> See MICHELLE ARMSTRONG, VIOLENCE AND CRIMES AGAINST PEOPLE WITH DISABILITIES BIBLIOGRAPHY (Wyoming Inst. for Disabilities, 2008), available at

[http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=michelle\\_armstrong](http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=michelle_armstrong).

<sup>739</sup> SPRINGTIDE RESOURCES, ENDING VIOLENCE AGAINST WOMEN, FACES OF VIOLENCE AGAINST WOMEN WITH DEVELOPMENTAL DISABILITIES, <http://www.springtideresources.org/resources/show.cfm?id=12> (last visited Mar. 23, 2011); VOTE FOR EQUALITY, Q&A: HOW ARE WOMEN WITH DISABILITIES DISCRIMINATED AGAINST?, <http://dawn.thot.net/election2004/caefs4.htm> (last visited Mar. 23, 2011).

<sup>740</sup> Beverley Jo Dickman & Amanda Jane Roux, *Cape Mental Health, Complainants with Learning Disabilities in Sexual Abuse Cases: A 10-year Review of a Psycho-legal Project in Cape Town, South Africa*, 33 BRIT. J. LEARNING DISABILITIES 138, 143 (2005).

A legal framework is essential “for victims and witnesses to be able to approach law enforcement officials in safety and to be able to give evidence without fear of either retaliation or social or familial ostracism . . . [O]nerous procedural rules [often] inhibit women from testifying [and] stereotypes are [often] used to discredit their testimony.”<sup>741</sup>

One of the most obvious barriers to access to justice for persons with disabilities is the physical barriers to the courts and other institutions of the justice system. This remains one of the most egregious problems. Courthouses, the symbols of the justice system, are often inaccessible in many ways. For example, accessibility barriers include: steps to and inside the courthouse, inaccessible witness chairs and jury boxes, lack of technology to enable persons with disabilities to understand the proceedings, prohibitions on animals in the courthouse despite the fact that they are service animals, and other elements of courthouse design. Increasingly world-wide persons with disabilities and DPOs are fighting to remove these barriers.

The U.S. Access Board and the Canadian agency working on communication for persons with hearing disabilities have developed outstanding guides on how to make courthouses and their facilities and programs accessible to persons with disabilities.<sup>742</sup> Professor Peter Blanck, in a recent article, highlights the vast array of technological solutions available for the courtroom,<sup>743</sup> noting that assistive technology can, in addition to providing access to individuals with disabilities, enhance the experience and accuracy of proceedings to non-disabled individuals, such as: jurors, judges, and attorneys.<sup>744</sup> “This is particularly true when courtroom technology embodies concepts of ‘universal design,’ which enables all participants to engage meaningfully in the proceedings.”<sup>745</sup>

Victims and witnesses must be able to approach law enforcement officials in safety and be able to give evidence without fear of either retaliation or social or familial ostracism for meaningful law enforcement. There is little advantage in developing jurisprudence about the nature of international crimes against women if onerous procedural rules inhibit women from testifying, or if stereotypes are used to discredit their testimony.

Even during more peaceful times post-conflict, women with disabilities also face increased vulnerability because of the risk of physical and sexual abuse, especially the danger of leaving their villages to travel to sites where they could participate in the peace processes.<sup>746</sup> Without

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<sup>741</sup> Christine Chinkin & Hilary Charlesworth, *Building Women into Peace: The International Legal Framework*, 27 *THIRD WORLD Q.* 937, 949 (2006), available at <http://www.jstor.org/pss/4017787>.

<sup>742</sup> See COURTHOUSE ACCESS ADVISORY COMMITTEE COURTROOM MOCK-UP, <http://www.access-board.gov/caac/mock-up.htm> (last visited Feb. 27, 2011) (illustrating a model accessible courtroom); see also U.S. JUSTICE FOR ALL: DESIGNING ACCESSIBLE COURTHOUSES, (Nov. 15, 2006), <http://www.access-board.gov/caac/report.pdf> (last visited Feb. 27, 2011). See generally COMMUNICATION ACCESS TO JUSTICE SERVICES, <http://www.accpc.ca/ej-calc-01.htm> (last visited Feb. 27, 2011).

<sup>743</sup> Peter Blanck, et al., *Disability Civil Rights Law and Policy: Accessible Courtroom Technology*, 12 *WM. & MARY BILL RTS. J.* 825, 836 (2004).

<sup>744</sup> *Id.*

<sup>745</sup> *Id.*

<sup>746</sup> Pearl Praise Gottschalk, *How Are We in This World Now? Examining the Experiences of Persons Disabled by War in the Peace Processes of Sierra Leone*, (2007) (Masters of Art dissertation, University of Victoria), available at [http://siteresources.worldbank.org/DISABILITY/Resources/News---Events/463933-1184017167861/3975400-1229373211417/Gottshalk\\_Full.pdf](http://siteresources.worldbank.org/DISABILITY/Resources/News---Events/463933-1184017167861/3975400-1229373211417/Gottshalk_Full.pdf).

courts and judicial systems that are accessible to women with disabilities and that address their unique concerns, such processes will not provide them redress for the violations of their human rights.<sup>747</sup>

- Right to legal capacity and autonomy, including support to exercise this right

Often it is erroneously presumed that women with disabilities are incapable of making appropriate legal decisions involving their well-being.<sup>748</sup> However, the advent of Article 12 of the CRPD which recognizes the legal capacity of persons with disabilities and calls for “appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity”<sup>749</sup> has led to a slight shift in attitudes that empowers women with disabilities to make well-informed decisions for themselves with the provision of supportive services. Other women only require reasonable accommodation, such as sign language interpreters or materials in alternative formats to exercise their legal capacity.<sup>750</sup> Additionally, some women with disabilities are seen as lacking legal capacity simply because they are a woman with a disability.

- Political participation and access to the electoral process

Women with disabilities are often excluded from political participation. Although many women with disabilities would like to participate, in certain rural communities where political participation involves many informal gatherings, they are often not told about the time and location of the meetings and if they are present, their opinions are not always taken seriously in comparison to men and women without disabilities.<sup>751</sup>

- Sexuality and disability

In 2009, the World Health Organization developed its Guidance Note on Promoting Sexual and Reproductive Health for Persons with Disabilities, which recognized that to be a woman with a disability is to be doubly marginalized. Numerous obstacles are faced particularly by women and girls with disabilities, including the fact that women with disabilities are considered in some societies to be less eligible marriage partners and therefore find themselves in unstable relationships.<sup>752</sup> Additionally, if these unstable relationships become abusive, women with disabilities have fewer legal, social and economic options.<sup>753</sup>

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<sup>747</sup> *Id.*

<sup>748</sup> Indira Jaising, *Women with Disabilities and the Question of Autonomy*, available at <http://www.disabilityrights-southasia.org/Resources/Magazine%20Spl%20Issue/1.%20Women%20with%20Disabilities%20and%20the%20Question%20of%20Autonomy.pdf>.

<sup>749</sup> See CRPD, *supra* note 37, art. 12(3).

<sup>750</sup> *Jody Saxton's Story*, in *STICKS AND STONES: DISABLED PEOPLE'S STORIES OF ABUSE, DEFIANCE AND RESILIENCE* (Marsha Saxton ed., World Institute on Disability 2009).

<sup>751</sup> *Political Participation of Women with Disabilities in Cambodia*, (UNDP 2010), available at <http://www.un.org.kh/undp/knowledge/publications/political-participation-of-women-with-disabilities-in-cambodia>.

<sup>752</sup> PROMOTING SEXUAL HEALTH, *supra* note 129.

<sup>753</sup> See *id.*

Additionally, The International Conference on Population and Development Programme of Action (ICPD PoA) recognizes the basic right of all individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. This also includes the right to make decisions concerning reproduction free of discrimination, coercion and violence. Significantly, this Programme of Action also recognized that these rights specifically apply to persons with disabilities.<sup>754</sup>

- Access to sexual and reproductive health care, information and related services

Often women with disabilities do not receive general information on sexual and reproductive health and also have limited access to family planning services.<sup>755</sup> Women with disabilities face numerous barriers in accessing adequate healthcare. These barriers are not just a result of the woman's disability, but rather barriers inflicted by the ignorance and discriminatory attitudes of society and healthcare providers.<sup>756</sup>

- Lesbians with disabilities

Another aspect of sexuality for women with disabilities are the issues confronting disabled lesbians. A Canadian collection, *Pushing the Limits: Disabled Dykes Produce Culture*, edited by Shelley Tremain validates the "existence of disabled dykes" by addressing the cultural contradiction that lesbian is a sexual identity while disabled women are considered asexual.<sup>757</sup> The book *Restricted Access: Lesbians on Disability*, edited by Victoria A. Brownworth and Susan Raffo, addresses the important questions of what constitutes disability and sexuality, challenging the assigned abnormality and asexuality against which disabled lesbians must struggle.<sup>758</sup> Additionally, lesbians with disabilities confront both the social isolation of both disability and homosexuality.<sup>759</sup> Clare Beckett, in her article, "Crossing the Border: Locating heterosexuality as a boundary for lesbian and disabled women," notes that heterosexuality and ableism both function as a social matrix, with exclusionary practices that operate in similar ways towards lesbians with disabilities. Mechanisms may be different, but the experience of exclusion is similar, and is based on similar practices. Additionally, as noted herein with respect to accessing sexual and reproductive health care services for women with disabilities, this problem is compounded for lesbians with disabilities.<sup>760</sup>

- Women, aging and disability

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<sup>754</sup> *Population and Development*, *supra* note 131.

<sup>755</sup> PROMOTING SEXUAL HEALTH, *supra* note 129.

<sup>756</sup> *See id.*

<sup>757</sup> PUSHING THE LIMITS: DISABLED DYKES PRODUCE CULTURE (Shelley Tremain ed., Women's Press 1996).

<sup>758</sup> RESTRICTED ACCESS: LESBIANS ON DISABILITY (Victoria A. Brownworth & Susan Raffo eds., Seal Press 1999).

<sup>759</sup> Clare Beckett, *Crossing the Border: Locating heterosexuality as a boundary for lesbian and disabled women*, 5 J. INT'L. WOMEN'S STUD. 44 (2004), <http://www.bridgew.edu/SoAS/jiws/May04/Beckett.pdf> (noting that "leaving heterosexuality" as a person viewed as "being disabled.").

<sup>760</sup> *See id.*

Since, in general, women live longer than men, the numbers of women with disabilities will also increase, requiring greater attention by society to their needs. As women with disabilities age, certain daily routines may become more complicated. However, in certain situations, women with disabilities are better equipped to adapt to their environments because of greater experience in doing so and consequently, they may face less fear and anxiety in comparison to women without disabilities in regards to aging.<sup>761</sup>

- Mothers with disabilities

There exists a seeming dichotomy between a “feminist view” that seeks to overturn the view that motherhood is expected for all women and thereby a limitation on a women’s choices, and on the other hand, women with disabilities are often discouraged, if not forced to reject the role of mother, despite the choice or desire of some women with disabilities to fulfill this role.<sup>762</sup> Sterilization of women with disabilities still remains a critical problem.<sup>763</sup> Women with disabilities who elect to have a child are often criticized for their decision and face barriers in accessing adequate health care and other services for themselves and their child.<sup>764</sup> Additionally, if women with disabilities seek these services, they are often denied treatment and if pregnant, sometimes they are rebuked for deciding to have a child.<sup>765</sup> Disability rights activist Anne Finger challenges the medicalization of bodies and birthing for women with disabilities.<sup>766</sup> Additionally, Deborah Kent’s meditation on being a blind mother giving birth to a seeing child also captures these ambiguities and contradictions.<sup>767</sup>

- Women with disabilities as caregivers and as those receiving care services

Caring for a person with a disability within a household usually disproportionately falls on the woman in the house because of gender stereotyped roles ascribed to women as care givers.<sup>768</sup> Social isolation compounds the problem for a woman caring for a family member with a disability or for women with disabilities receiving care.<sup>769</sup> This social isolation is further compounded by the physical, mental, emotional and financial stresses accompanied with caring for an individual with disabilities (because of inadequate social supports available in most societies and communities), which consequently perpetuates a cycle of poverty.<sup>770</sup> Stigma, poverty, and lack of support systems take a toll on such families. Thus, support systems for care providers, as well as for persons with disabilities, are crucial – both formal systems, such as social security and health insurance, and informal social networks, such as community support

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<sup>761</sup> Wendy Pentland et al., *Women with Physical Disabilities: Occupational Impacts of Ageing*, 6 J. OCCUPATIONAL SCI. 111 (1999).

<sup>762</sup> See Garland-Thomson, *supra* note 33.

<sup>763</sup> Women With Disabilities Australia, *Sterilization of Women and Girls with Disabilities - An update on the issue in Australia* (2010), available at <http://www.wwda.org.au/sterilisationsynopsisDec2010.pdf>.

<sup>764</sup> PROMOTING SEXUAL HEALTH, *supra* note 129.

<sup>765</sup> See *id.*; Yanghee Lee, *supra* note 20.

<sup>766</sup> ANNE FINGER, PAST DUE: A STORY OF DISABILITY, PREGNANCY, AND BIRTH (Seal Press ed., 1990).

<sup>767</sup> Debroah Kent, *Somewhere a Mockingbird*, in *PRENATAL TESTING AND DISABILITY RIGHTS*, 64 (Erik Parens & Adrienne Asch eds., Georgetown Univ. Press, 2000).

<sup>768</sup> PROMOTING SEXUAL HEALTH, *supra* note 129.

<sup>769</sup> See *id.*

<sup>770</sup> See *id.*

groups. Significant feminist notions of independence and autonomy also place women with disabilities who may need personal assistants or other support services in a philosophical quandary. Furthermore, in a number of societies, if a child is born with a disability, it is assumed that the mother has been unfaithful or has otherwise sinned. She suffers significantly as a result of this assumption. Even without such stigma, the physical, mental and financial stresses, coupled with social isolation, result in rates of divorce and desertion often twice as high among mothers of children with disabilities as among their peers who do not have children with disabilities.

- Indigenous and rural women with disabilities and women with disabilities from racial and ethnic minority communities

Many women with disabilities from indigenous tribes and rural areas may not know about services that are available.<sup>771</sup> Women with disabilities in these societies are even more invisible and therefore more likely to not receive adequate health and social services and thus are more likely subject to abuse and exploitation.

Due to cultural barriers and traditional attitudes, special outreach efforts are needed to reach women with disabilities in racial minority communities.<sup>772</sup> Stigmatizations of women with disabilities can also vary from ethnic group to ethnic group as some disabilities may be highly revered in one ethnic group and disregarded in another.<sup>773</sup>

Substantial additional research and data collection is needed on the situation of women with disabilities in these communities.

- Media, body image and women with disabilities

Media images are a potent force in countering stigma and misinformation<sup>774</sup> and a powerful ally in changing perceptions, eliminating discrimination, and raising public awareness,<sup>775</sup> therefore society must ensure that women and girls with disabilities are included in publications, presentations, and other media products regarding women's rights and gender equality. The current media images contribute to the presumptions that the bodies of women with disabilities are unattractive, asexual and outside the societal ascribed norms of "beauty." The media generally describes the "normal" female body as the presence of high cheek bones, even skin tones, long legs, and the absence of fat, wrinkles, physical disabilities, and deformities.<sup>776</sup> This

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<sup>771</sup> See *id.*

<sup>772</sup> See *id.*

<sup>773</sup> See *id.*

<sup>774</sup> See BOSTON WOMEN'S HEALTH COLLECTIVE, *OUR BODIES, OURSELVES: A NEW EDITION FOR A NEW ERA* (Judy Norsigian, et al. eds., 2005) (discussing how women with disabilities are made to feel less womanly by the typical media images).

<sup>775</sup> DISABILITY RIGHTS EDUCATION & DEFENSE FUND, [http://www.dredf.org/Media\\_and\\_Disability/index.shtml](http://www.dredf.org/Media_and_Disability/index.shtml) (last visited Mar. 20, 2011).

<sup>776</sup> Jean Kilbourne, *Beauty and the Beast of Advertising*, in *WOMEN IN CULTURE: A WOMEN'S STUDIES ANTHOLOGY* 127 (L. J. Peach ed., Blackwell Publishing Inc. 1999); Jean Kilbourne, *Killing us softly: Advertising and the obsession with thinness*, in *FEMINIST PERSPECTIVES ON EATING DISORDERS* 395 (P. Fallon et al. eds., Guilford Press

contributes to how individuals value and identify with their own bodies. Dominant culture has been often represented by white, male, educated, wealthy, and able-bodied individuals.<sup>777</sup>

Women's rights advocates must adopt images that normalize the unique experiences of people with physical differences. Images must be sensational enough to gain the attention, but routine enough to position disability as everyday and commonplace. Generally, images only depicted people with disabilities as deserving of pity, thereby further stigmatizing them.<sup>778</sup> Additionally, people with disabilities are traditionally and incorrectly seen by society to be asexual.<sup>779</sup> These images must be confronted, re-envisioned and changed by those advocating for women's rights, gender equality and the rights of women with disabilities.<sup>780</sup>

The above overview of a few selected specific areas of concern to women and girls with disabilities only illuminates a few topics and their unique implications for women and girls with disabilities. Some areas are discussed in detail, others only get cursory attention and some are not mentioned at all. Nonetheless, this overview highlights the necessity for more detailed field and theoretical research. Such research must be undertaken with the involvement of and consultation with women and girls with disabilities and research conducted by women with disabilities should be emphasized and supported. Comprehensive data collection is clearly needed as there is limited global data on persons with disabilities, and especially on women with disabilities, data is unreliable, measurement techniques often vary from country to country, data is often not desegregated by type of disability, gender, age, race, ethnicity and other factors, and baseline data does not exist on many issues. This paucity of data makes it difficult, if not impossible, to monitor progress and to develop informed policies and programs. That being said, the information outlined herein makes it clear that women and girls with disabilities face many of the same challenges as all other women and girls face, but it also makes it starkly clear that women and girls with disabilities face unique challenges and that focused gender-mainstreaming and disability inclusive practices can go a long way to address these disparities.

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1994); Jean Kilbourne, *DEADLY PERSUASION: WHY WOMEN AND GIRLS MUST FIGHT THE ADDICTIVE POWER OF ADVERTISING* (Free Press 1999).

<sup>777</sup> Gary Kreps, *Disability and Culture: Effects on Multicultural Relations*, in *HANDBOOK OF COMMUNICATION AND PEOPLE WITH DISABILITIES* 177 (D.O. Braithwaite & T.L. Thompson eds., Lawrence Erlbaum 2000).

<sup>778</sup> Jack Nelson, *The Invisible Cultural Group: Images of Disability*, in *IMAGES THAT INJURE: PICTORIAL STEREOTYPES IN THE MEDIA* 119 (P. M. Lester ed., Praeger 1996).

<sup>779</sup> Sally Nemeth, *Society, sexuality, and disabled/able-bodied romantic relationships*, in *HANDBOOK OF COMMUNICATION AND PEOPLE WITH DISABILITIES* 37 (D.O. Braithwaite & T.L. Thompson eds., 2000).

<sup>780</sup> For more details on women and body image and for an insightful, detailed analysis of the issues of women with disabilities, media and advertising and body image, see the Love Your Body Campaign of the National Organization for Women, <http://loveyourbody.nowfoundation.org/>; see also Sarah N. Heiss, *Locating the Bodies of Women and Disability in Definitions of Beauty: An Analysis of Dove's Campaign for Real Beauty*, 31 *DISABILITY STUD. Q.* (2011), available at <http://www.dsqsds.org/article/view/1367/1497>.

## Appendix D: Strategies for Change

To achieve inclusion of women and girls with disabilities as a priority in the United Nations women, peace and security framework, this paper recommends strategies to increase engagement of women with disabilities and coordination among United Nations entities, governments and non-governmental organizations that address women's human rights, related gender issues, development, peacekeeping and **peacebuilding**:

- Coordinate within UN Women<sup>781</sup> to address issues of concern for women and girls with disabilities; appoint women with disabilities to leadership positions within UN Women.<sup>782</sup>
- Drawing on the approach articulated by Disabled Persons Organizations during the negotiations of the United Nations Convention on the Rights of Persons with Disabilities, “Nothing About Us Without Us,” women with disabilities must be part of the NGO Advisory Group to be appointed by UN Women Under-Secretary-General Michelle Bachelet.<sup>783</sup>
- Recognizing the importance of media images, in light of the fact that the media is a potent force in countering stigma and misinformation<sup>784</sup> and a powerful ally in changing perceptions, eliminating discrimination, and raising public awareness,<sup>785</sup> ensure that women and girls with disabilities – especially in the context of conflict and **peacebuilding** -- are included in publications, presentations, and other media products such as UN Women publications, the 16 Days Campaign on Violence Against Women, International Women's Day (March 8) and International Day for Persons with Disabilities (December 3) activities.
- \*As a United Nations specialized agency, UN Women and other United Nations entities focusing on women's rights should submit reports to the Committee on the United Nations Convention on the Rights of Persons with Disabilities (CRPD Committee) on the implementation of the CRPD in their activities with respect to incorporating a gender-sensitive and disability-inclusive approach to include women with disabilities in programs, policies and practices, under the CRPD Article 38 Relationship of the Committee with other bodies.<sup>786</sup>

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<sup>781</sup> Press Release, U.N. Women, UN Women Celebrates Launch as Powerful Driver Women's Equality, U.N. Press Release (Feb. 24, 2011), available at <http://www.unwomen.org/2011/02/un-women-celebrates-launch-as-powerful-driver-of-womens-equality/>.

<sup>782</sup> *In Historic Move, UN Creates Single Entity to Promote Women's Empowerment*, U.N. NEWS CENTRE, July 2, 2010, <http://www.un.org/apps/news/story.asp?NewsID=35224&Cr=gender&Cr1>.

<sup>783</sup> Disabled Peoples' International, *DPI CRPD Guide #44, The Unique Role of Civil Society*, available at <http://www.dpi-icrpd.org/index.php?q=en/node/67>; Michelle Bachelet, Under-Secretary-General and Exec. Dir., Opening of the First Regular Session of the Executive Board of the

United Nations Entity for Gender Equality and the Empowerment of Women (Jan. 24, 2011), available at <http://www.unwomen.org/2011/01/statement-to-the-first-regular-session-of-the-executive-board-united-nations-entity-for-gender-equality-and-the-empowerment-of-women/>.

<sup>784</sup> See BOSTON WOMEN'S HEALTH COLLECTIVE, *OUR BODIES, OURSELVES: A NEW EDITION FOR A NEW ERA* (Judy Norsigian, et al. eds., 2005) (discussing how women with disabilities are made to feel less womanly by the typical media images).

<sup>785</sup> DISABILITY RIGHTS EDUCATION & DEFENSE FUND, [http://www.dredf.org/Media\\_and\\_Disability/index.shtml](http://www.dredf.org/Media_and_Disability/index.shtml) (last visited Mar. 20, 2011).

<sup>786</sup> See CRPD, *supra* note 37, art. 38(a).

- Work with the UN Special Rapporteur on Violence Against Women<sup>787</sup> to support her commitment to ensure that violence against women with disabilities is addressed and that she has sufficient resources to visit countries to assess violence against women with disabilities and to specifically include women with disabilities in future mandates.<sup>788</sup>
- Encourage the establishment of a mechanism by which the UN Special Rapporteur on Violence Against Women coordinates and collaborates with the UN Special Rapporteur on Disability of the Commission on Social Development to address violence against women with disabilities.<sup>789</sup>
- Ensure that the UN Special Rapporteur on Disability has sufficient resources to visit countries to assess the situation of women and girls with disabilities, especially in post-conflict environments.<sup>790</sup>
- Ensure inclusion of women with disabilities in the 2011 16 Days Campaign on Violence Against Women.<sup>791</sup>
- Urge the UN system (including the UN Development Program (UNDP),<sup>792</sup> the World Health Organization (WHO),<sup>793</sup> and the International Labour Organization (ILO),<sup>794</sup> as well as governments and other institutions involved in development, health (including sexual and reproductive health),<sup>795</sup> education, employment, **peacebuilding** and reconciliation to address the rights and needs of women and girls with disabilities in their programs and reporting.<sup>796</sup>
- Work with the UN group of independent experts (whose role is to advise on ways to better protect women in conflict situations, to ensure that their voices are heard in peace processes and to include women in post-conflict reconstruction and governance structures), to appoint a member who is a

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<sup>787</sup> See United Nations Human Rights, Office of the High Commissioner for Human Rights, *Violence Against Women: South African Legal Expert Takes Over as New UN Special Rapporteur* (announcing the appointment of Rashida Manjoo as the new UN Special Rapporteur on violence against women, its causes and consequences), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=52&LangID=E>; see also Special Rapporteur on Violence Against Women, ITS CAUSES AND CONSEQUENCES, <http://www2.ohchr.org/english/issues/women/rapporteur/> (last visited July 16, 2010).

<sup>788</sup> Human Rights Council, *Mandate of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, A/HRC/16/L.26 (Mar 21, 2011).

<sup>789</sup> Various scholars and researchers, including this author, are now collaborating with both the Special Rapporteur on Violence against Women and the Special Rapporteur on Disability to produce a thematic report on violence against women and girls with disabilities.

<sup>790</sup> See U.N. SPECIAL RAPPORTEUR ON DISABILITY, <http://www.srdisability.org/> (last visited Aug. 21, 2010); THE SPECIAL RAPPORTEUR ON DISABILITY OF THE COMMISSION FOR SOCIAL DEVELOPMENT, <http://www.un.org/esa/socdev/enable/rapporteur.htm> (last visited Aug. 21, 2010).

<sup>791</sup> 16 DAYS AGAINST GENDER VIOLENCE CAMPAIGN, <http://16dayscwg1.rutgers.edu/about-16-days> (last visited Mar. 23, 2011).

<sup>792</sup> UNITED NATIONS DEVELOPMENT PROGRAMME, <http://www.undp.org/> (last visited Mar. 23, 2011).

<sup>793</sup> WORLD HEALTH ORGANIZATION, <http://www.who.int/en/> (last visited Mar. 23, 2011).

<sup>794</sup> INTERNATIONAL LABOUR ORGANIZATION, <http://www.ilo.org/global/lang--en/index.htm> (last visited Apr. 3, 2011).

<sup>795</sup> PROMOTING SEXUAL HEALTH, *supra* note 129.

<sup>796</sup> See CRPD, *supra* note 37, arts. 11, 31; INTER-AGENCY SUPPORT GROUP, <http://www.un.org/disabilities/default.asp?navid=43&pid=323> (last visited July 28, 2010).

woman with a disability with expertise on issues confronting girls and women with disabilities in such efforts.<sup>797</sup>

- Collaborate with the Special Representative of the Secretary General on Sexual Violence in Conflict<sup>798</sup> to ensure that she considers the needs and concerns of women and girls with disabilities.
- Revise UN Security Council Resolutions<sup>799</sup> and Indicators on women, peace and security<sup>800</sup> to include women and girls with disabilities. For example, the UN should amend UNSCR 1325 and its progeny to include women and girls with disabilities as active participants at all stages of **peacebuilding**, reconstruction, development, reconciliation and transition to ensure that women and girls with disabilities are not only included in protection programs in conflict zones, but also included as leaders and decision-makers, and also to ensure that the UNSCR 1325 Indicators developed by the UN Secretary General have detailed and specific measurements concerning women and girls with disabilities, and requirements to consult with women with disabilities as these actions are taken.<sup>801</sup>
- Collaborate with the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) as it drafts General Comments, to ensure that women with disabilities are included therein,<sup>802</sup> especially when they address issues of post-conflict **peacebuilding** and reconciliation, especially since the CEDAW Committee plans to hold a day of general discussion on women, peace and security on July 18, 2011.
- Raise awareness among police prosecutors and courts, including post-conflict tribunals and the International Criminal Court about the need to make the judicial system and reconciliation processes accessible to women with disabilities and to ensure that they support women and girls with disabilities who wish to bring forth claims of discrimination or claims regarding violence of any kind; include age and disability appropriate supports to enable women with

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<sup>797</sup> See, e.g., Press Release, U.N. Women, U.N. Creates New Structure for Empowerment of Women, U.N. Press Release (July 2, 2010), available at [http://www.unwomen.org/wp-content/uploads/2010/07/UNWomen\\_PressRelease\\_201007021.pdf](http://www.unwomen.org/wp-content/uploads/2010/07/UNWomen_PressRelease_201007021.pdf); *Civil Society Group to Help Advise UN on Role of Women in Peace and Security*, UN NEWS CENTRE, Mar. 5, 2010 (recognizing the establishment of the group of independent experts who will advise the UN on effective ways to implement resolution 1325 regarding the protection and integration of women in conflict situations), available at <http://www.un.org/apps/news/story.asp?NewsID=33992&Cr=gender+equality&Cr1>. For more on U.N. WOMEN visit, <http://www.unwomen.org/>.

<sup>798</sup> *Curbing sexual violence in conflict is 'mission irresistible' for new UN envoy*, UN NEWS CENTRE, Feb. 9, 2011, available at <http://www.un.org/apps/news/story.asp?NewsID=33723>.

<sup>799</sup> See S.C. Res. 1325, U.N. DOC. S/RES/1325 (Oct. 31, 2000); S.C. Res. 1820, U.N. DOC. S/RES/1820 (June 19, 2008); S.C. Res. 1888, U.N. DOC. S/RES/1888 (Sept. 30, 2009); S.C. Res. 1889, U.N. DOC. S/RES/1889 (Oct. 5, 2009); S.C. Res. 1894, U.N. DOC. S/RES/1894 (Nov. 11, 2009); S.C. Res. 1960, U.N. DOC. S/RES/1960 (Dec. 16, 2010).

<sup>800</sup> U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, para. 3, U.N. DOC. S/2010/173 (Apr. 6, 2010).

<sup>801</sup> See S.C. Res. 1325, *supra* note 799; S.C. Res. 1820, *supra* note 799; S.C. Res. 1888, *supra* note 799; S.C. Res. 1889, *supra* note 799.

<sup>802</sup> Comm. On the Elimination of Discrimination against Women, *General Recommendation 18 & 24*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>.

disabilities to participate in legal proceedings as parties or witnesses.<sup>803</sup>

Similar inclusive approaches should also be applied in the judicial systems of governments, consistent with Article 13 Access to Justice of the CRPD.<sup>804</sup>

- Hold focused side events -- in cooperation with UN entities, governments and/or non-governmental organizations -- concerning women and girls with disabilities during UN official meetings (such as the General Assembly, Human Rights Council, Economic and Social Council, Commission on the Status of Women.) considering the human rights of all women and girls. Such events would highlight the importance of incorporating the rights of women and girls with disabilities when resolutions and policies are drafted regarding women's human rights, as women and girls with disabilities are often left out in such discussions. For example, during the United Nations Security Council's discussions on the Tenth anniversary of UN Security Council Resolution 1325 on post-conflict **peacebuilding** and reconciliation processes, Stephanie Ortoleva, in collaboration with the UN Department of Economic and Social Affairs Secretariat for the CRPD, and with the co-sponsorship of several governments organized a side event on October 20, 2010 to discuss women with disabilities in situations of conflict.<sup>805</sup> While focused side events are important, women with disabilities should be integrated into more side events, not only disability-focused events. It is important to hold such side events in cooperation with relevant UN entities, governments and non-governmental organizations.<sup>806</sup>
- Incorporate the CRPD Empowerment and Social Models and Reasonable Accommodation and Accessibility Standards as well as a gender-sensitive and disability-inclusive approach in all activities and programs.
- Use the lens of the empowerment perspectives, as opposed to the vulnerability perspectives and apply a social model as opposed to a medical or charity model of disability to United Nations Women, Peace and Security programs and policies.<sup>807</sup>

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<sup>803</sup> See, e.g., COURTHOUSE ACCESS ADVISORY COMMITTEE COURTROOM MOCK-UP, <http://www.access-board.gov/caac/mock-up.htm> (illustrating a model accessible courtroom) (last visited July 28, 2010); JUSTICE FOR ALL: DESIGNING ACCESSIBLE COURTHOUSES, (Nov. 15, 2006), <http://www.access-board.gov/caac/report.pdf>; see also COMMUNICATION ACCESS TO JUSTICE SERVICES, <http://www.acpc.ca/ej-calc-01.htm> (outlining strategies to make courts accessible to people using alternative communications (AAC)) (last visited July 28, 2010). See generally *Tennessee v. Lane*, 541 U.S. 509 (2004) (holding that one particular individual had a right to physically access one particular court, but leaving open the question of whether any other persons with disabilities could gain relief when denied access to other justice elements, for example, as witnesses or jurors); United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, Italy, July 15-17, 1998, Rome Statute of the International Criminal Court, U.N. DOC. A/CONF.183/9 (July 17, 1998), available at <http://untreaty.un.org/cod/icc/statute/romefra.htm>.

<sup>804</sup> See CRPD, *supra* note 37, art. 13.

<sup>805</sup> For details on the panel discussion and other resources, see <http://www.forgottenpeacebuilders.org>.

<sup>806</sup> See Statement by the President of the Security Council, U.N. DOC. S/PRST/2010/8 (Apr. 27, 2010) (announcing the Secretary-General's report regarding the implementation of SC Res. 1325 will be given to the U.N. body in October 2010), available at <http://www.un.org/Docs/journal/asp/ws.asp?m=S/PRST/2010/8>; see also Civil Soc'y Advisory Group to the U.N. on Women, Peace, and Security, Letter dated June 21, 2010 (June 21, 2010), available at [http://www.gnwp.org/wp-content/uploads/2010/04/PDF\\_CSAG-Updated-Recommendations-on-10th-Anniversary-of-SCR1325-June-21-2010.pdf](http://www.gnwp.org/wp-content/uploads/2010/04/PDF_CSAG-Updated-Recommendations-on-10th-Anniversary-of-SCR1325-June-21-2010.pdf).

<sup>807</sup> See, e.g., CRPD, *supra* note 37, arts. 1, 3 (requiring the full integration of persons with disabilities in all segments of society so that they may fully participate and express themselves independently in social, legal, and

- At United Nations meetings discussing empowerment of women and girls, gender equality, peacekeeping and post-conflict **peacebuilding** and reconciliation, ensure that women with disabilities have the opportunity to have their unique ideas and initiatives for programming and policy development considered and that meetings are held in accessible locations, with appropriate accommodations for those who may have intellectual disabilities, hearing or visual disabilities, psycho-social disabilities or other disabilities.<sup>808</sup>
- Foster collaboration among women's rights groups, Disabled Peoples Organizations of women with disabilities, organizations and institutions working on development, refugee programs, peacekeeping, **peacebuilding**, and rule of law programming, with a view toward including women with disabilities in the dialogue, strategy and institution building.<sup>809</sup>
- Improve and expand data collection on the national and international levels, on women and girls with disabilities, including on issues such as violence, education, employment, health, etc., as well as on the situation of women with disabilities in conflict environments. Currently, global data on persons with disabilities are unreliable and baseline data for many issues, especially those concerning women with disabilities, are scarce or non-existent.<sup>810</sup> This paucity of data on disability remains an obstacle to the effective formulation of disability-inclusive policies and programs as well as in the monitoring and evaluation of progress. For these reasons, it is essential that women and girls with disabilities are included in the 1325 Indicators.<sup>811</sup>
- Develop training materials and modules, in collaboration with women with disabilities, to enhance their skills and the skills of their Disabled Persons Organizations on advocacy and understanding of the **peacebuilding** process; develop training materials and modules to enhance skills to build awareness for those working in development on the importance of inclusion of women with

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political life, promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and promoting respect for their inherent dignity, and including those persons with disabilities who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others).

<sup>808</sup> See CRPD, *supra* note 37, arts. 3(c),(f) & 9.

<sup>809</sup> See CRPD, *supra* note 37, arts. 29, 32 (requiring the active Promotion of an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including Participation in non-governmental organizations and associations concerned with the public and political life of the country and in the activities and administration; requiring international and national cooperation of State Parties and civil society); see also Rangita de Silva de Alwis, *The Intersection of CEDAW and CRPD Special Report* (2010), available at [http://www.wcwonline.org/component/page,shop.product\\_details/category\\_id,389/flypage,shop.flypage/product\\_id,1181/option,com\\_virtuemart/Itemid,175/](http://www.wcwonline.org/component/page,shop.product_details/category_id,389/flypage,shop.flypage/product_id,1181/option,com_virtuemart/Itemid,175/) (discussing various projects to integrate women with disabilities into legislative and policy advocacy in Bangladesh, Nepal, Cambodia and India).

<sup>810</sup> See CRPD, *supra* note 37, arts. 8(2)(c), 31(1)(a)-(b); U.N. Secretary-General, *Keeping the Promises: Realizing the MDGs for Persons with Disabilities towards 2015 and beyond: Rep. of the Secretary-General*, para. 22 U.N. Doc. A/65/173 (July 26, 2010).

<sup>811</sup> See generally The Washington Group on Disability Statistics, which is charged with promoting and coordinating international cooperation by developing sets of general disability measures, suitable for use in censuses, sample based national surveys, or other statistical formats, available at <http://unstats.un.org/unsd/methods/citygroup/washington.htm> and <http://www.cdc.gov/nchs/citygroup.htm>.

disabilities in processes; and test the modules and materials in developed and developing countries before final publication and distribution, ensuring that all materials incorporate an empowerment model and include information on the CRPD, the CEDAW, the CRC and the relevant United Nations Resolutions on Women, Peace and Security.<sup>812</sup> An excellent model is the ICRC Handbook “Women Facing War”, which unfortunately, only has minimal references to women and girls with disabilities.<sup>813</sup>

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<sup>812</sup> See CRPD, *supra* note 37, arts. 3(c), 4(3) (2006).

<sup>813</sup> Charlotte Lindsey, *Women Facing War: International Committee for the Red Cross, Study of the Impact of Armed Conflict on Women* (2001), available at <http://www.icrc.org/eng/resources/documents/publication/p0798.htm>.



## Appendix E: Example: Revision of United Nations Security Council Resolutions and Indicators on Women, Peace and Security to Include Women and Girls with Disabilities

- Example: Amend UNSCR 1325 and its progeny to include women and girls with disabilities at all stages of **peacebuilding**, reconstruction, development, reconciliation and transition and ensure that women and girls with disabilities are included in protection programs in conflict zones.<sup>814</sup>

Below are some possible paragraphs to incorporate in a new resolution to ensure that women with disabilities are included in the objectives set forth in United Nations Security Council Resolution 1325 and the women, peace and security framework. Similar paragraphs should be developed to address the issues covered in subsequent Resolutions on women, peace and security as well as those on other issues having an impact on women with disabilities.

1. Include a preambular paragraph: Reaffirming the principles of the UN Convention on the rights of Persons with Disabilities, with particular reference to Article 6 on women and Article 10 on Situations of Risk and Armed Conflict;
2. Include a preambular paragraph: Recognizing the unique circumstances confronting women with disabilities during and post-conflict;
3. Include a preambular paragraph: Recalling also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled “Women 2000: Gender Equality, Development and Peace for the Twenty-First Century” (A/S-23/10/Rev.1), in particular those concerning women and girls with disabilities;
4. Include a preambular paragraph: Recognizing that women with disabilities have not been included in **peacebuilding** activities and that they have a valuable contribution to make in the peace building process for the community at large and offer unique perspectives and must be included to ensure that their needs and concerns are addressed and effectively represented;
5. Include a preambular paragraph: Recognizing the urgent need to mainstream a gender perspective and a human rights centered approach toward women with disabilities, into peacekeeping and reconstruction programs;
6. Include a preamble paragraph: Noting the need to consolidate data on the impact of armed conflict on women and girls with disabilities;
7. Include an action paragraph: Encourages the Secretary-General to appoint experts on issues of concern to women with disabilities to any committee or task force the Secretary-General may appoint to address peacekeeping and/or **peacebuilding**;
8. Include an action paragraph: Requests the Secretary-General to provide to Member States training on the unique concerns of women and girls with disabilities in peacekeeping and guidelines and materials on the protection, rights and the particular needs of women with

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<sup>814</sup> S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000); S.C. Res. 1820, U.N. Doc. S/RES/1820 (June 19, 2008); S.C. Res. 1888, U.N. Doc. S/RES/1888 (Sept. 30, 2009); S.C. Res. 1889, U.N. Doc. S/RES/1889 (Oct. 5, 2009).

disabilities, as well as on the importance of involving women with disabilities in all peacekeeping and peace building measures;

9. Include an action paragraph: Calls on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:
  - (a) The special needs of women and girls with disabilities during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction, bearing in mind the stigma that women and girls with disabilities may face in the community;
  - (b) Measures that support local women's peace initiatives, indigenous processes for conflict resolution, that ensure access for persons with disabilities, and that involve women with disabilities in all of the implementation mechanisms of the peace agreements;
  - (c) Measures that ensure the protection of and respect for human rights of women and girls with disabilities, particularly as they relate to the constitution, the electoral system, the police and the judiciary.
  
- Modify the UN Security Council Resolution 1325 implementation indicators developed by the Secretary General for action by the Security Council to address the importance of including the voices and needs of women and girls with disabilities.<sup>815</sup>

Below are only some possible modifications to the proposed United Nations Security Council Resolution 1325 indicators to ensure that women with disabilities are included in these tools to assess progress in inclusion of women in peacekeeping and peace building.

Indicator 1: Incidence of sexual violence in conflict-affected countries - Data on this indicator are expected to be collected through consistent, replicable and ethical surveys, to be disaggregated by:

- Types of sexual violence
- Relevant vulnerable groups (internally displaced persons, returnees, refugees)

Suggestion: This indicator should also include measurement of incidents of sexual violence experienced by women and girls with disabilities.

Indicator 2: Extent to which United Nations peacekeeping and special political missions include information on violations of women's and girls' human rights in periodic reporting.

Suggestion: Reporting should include violations experienced by women and girls with disabilities.

Indicator 3 (b): Inclusion of representatives of women's and civil society organizations in the governance and leadership of human rights bodies.

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<sup>815</sup> U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, U.N. DOC. S/2010/173 (Apr. 6, 2010), available at [http://www.betterpeace.org/files/SGReport\\_Women\\_peace\\_security\\_S.2010.173\\_6Apr2010.pdf](http://www.betterpeace.org/files/SGReport_Women_peace_security_S.2010.173_6Apr2010.pdf).

Suggestion: Assess whether such women’s civil society groups include women with disabilities.

Indicator 8: Number and percentage of peace agreements with specific provisions to improve the security and status of women and girls.

Suggestion: Measure whether women and girls are included, especially in areas such as ability to participate in elections, inclusion within constitutional provisions, whether human rights and fundamental freedoms are ensured. Also, since women with hearing related disabilities may need services such as sign language interpreters, they should be included within “linguistic minorities.”

Indicator 10: Level of gender expertise in United Nations decision-making in conflict-affected countries.

Suggestion: Include women with disabilities knowledgeable about the specific issues of concern to women and girls with disabilities in the country.

Indicator 11 (a): Level of participation of women in formal peace negotiations

Suggestion: To ensure that the voices of women with disabilities are heard, measure the extent to which they have a seat at the table, with appropriate reasonable accommodations to meet their specific disability-related needs, e.g., sign language interpreters, meetings in accessible facilities, etc.

Indicator 13: Number and percentage of Security Council missions that address specific issues affecting women and girls in their terms of reference and the mission reports.

Suggestion: Terms of reference, etc. should address the specific needs of women and girls with disabilities.

This is a small selection of modifications to the proposed indicators, more should be developed.