**QUESTIONNAIRE**

**“NON - DISCRIMINATION AND EQUALITY IN FAMILY AND CULTURAL LIFE”**

In accordance with its mandate, the UN Working Group on the issue of Discrimination against Women in Law and Practice (hereinafter “the Working Group”) developed this questionnaire to gather information on how laws and practices discriminate against women within the family and cultural life. Additionally, this questionnaire has the objective of highlighting good practices and lessons learned in advancing equality between women and men within the family and in cultural life.

Regarding family life, the questionnaire focuses on issues of equality in marriage and rights and responsibilities within the family. In relation to cultural life, the questionnaire addresses issues linked with the right to have access, participate in and contribute to all aspects of cultural life, including arts, sports and cultural activities.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) clearly establishes the State obligation to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations”[[1]](#footnote-1). It also establishes the obligation to modify the socio-cultural patterns and gender stereotypes to eradicate all practices based on the inferiority or superiority of either of the sexes as well as to ensure that family education recognizes the common responsibility in the upbringing and development of children.[[2]](#footnote-2) Moreover, the Convention reaffirms the State obligation to eliminate discrimination and guarantee equality in the cultural sphere.[[3]](#footnote-3)

In addition, the International Covenant on Economic, Social and Cultural Rights recognizes the right of all people to enjoy their cultural rights in conditions of equality as well as the right to enjoy the benefits of scientific progress.[[4]](#footnote-4) Furthermore, the Human Rights Committee in its General Comment 28 on the *Equality of Rights Between Men and Women* also reaffirms that the right to equality before the law include equal status within the family and regardless of marital status.[[5]](#footnote-5)

The UN Working Group wishes to thank all stakeholders for responding to this questionnaire by **31 July 2014.**

**Questionnaire**

**General**

1. What status/hierarchy does your Constitution gives to international human rights treaties versus domestic law?

Please explain.

Article 25 sentence 1 of the Basic Law stipulates that, in Germany, customary international law and general legal principles are directly applicable and take precedence over federal law. International treaty law must be transformed which usually takes place in the context of national ratification (treaty law under Art. 59(2) of the Basic Law) and is equivalent to a Federal statute.

1. Has your State ratified international human rights treaties with reservations to provisions dealing with equality in family life?

Yes ( ) No ( X )

If yes, are there plans to withdraw these reservations?

Yes ( ) No ( )

Please explain.

1. Are the principles of non-discrimination on the basis of sex/gender and equality between men and women established in the Constitution of your State?

Yes ( X ) No ( )

If yes, please provide references, describe how they are defined (name the specific articles) and whether they cover family and cultural life.

***German Basic Law, Article 3  
[Equality before the law]***

*(1) All persons shall be equal before the law.*

*(2) Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.*

*(3) No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability.*

Promoting equal opportunities for women and men is an essential component and strategy for success in all of the government’s political activity. All measures, whether laws, projects or research programmes, must also be oriented towards a policy of equality; they shall not discriminate against women or men, and they shall not reinforce role stereotypes, while they must serve to counteract discrimination.

The Basic Law thus provides for comprehensive gender equality, making it a directly enforceable right binding on the administration, courts of law and the legislator. The Basic Law obliges the responsible organs of the state to work towards de facto equal rights and the elimination of gender-related disadvantages for women. The objective is not only protection against discrimination, but rather the active promotion of gender equality.

1. Are there any specific anti-discrimination or gender equality laws in your State?

Yes ( X ) No ( )

If yes, please provide references and briefly describe the content of this law(s), in particular whether it covers family and cultural life.

1. see link to the **General Act on Equal Treatment:**

<http://www.antidiskriminierungsstelle.de/EN/TheAct/theAct_node.html>

1. The **Federal Act on Gender Equality (BGleiG)** serves to establish the equality of women and men, to eliminate existing discrimination on grounds of sex and prevent it in future, to promote women in order to reduce discrimination, and to improve the reconciliation of family and gainful employment in the Federal Administration.
2. The aim of the **Act on Appointing and Seconding Women and Men to Committees and Bodies within the Remit of the Federal Government** (Bundesgremienbesetzungsgesetz – BGremBG) is to create or maintain equal participation of women in bodies.
3. Have there been any recent legal reforms in your State to guarantee non-discrimination and equality between men and women in family and cultural life?

Yes ( X ) No ( )

If yes, please explain and provide examples.

EXAMPLE:

The Federal Act on Parental Allowance and Parental Leave (BEEG) came into force in 2007. It provides for the substitution of 67% of the income forfeited as a result of the birth of a child for a maximum of 12 months for one parent, or 14 months if shared by both parents. They are free to divide the time taken among them. As of July 2015, parental allowance will be augmented by parental allowance plus. This will allow parents who work part-time to receive parental allowance for a longer period of time, thus compensating for the disadvantage that previously resulted for those working part-time and receiving parental allowance. Parental allowance plus will be augmented by a partner bonus, to which recipients of parental allowance who simultaneously work 25 to 30 hours a week will be entitled.

1. Are there any customary, religious law or common law principles/provisions that discriminate against women in family and cultural life?

Yes ( ) No ( X )

If yes, please explain and provide examples.

1. Are there any good practices that you can share regarding the elimination of sex discrimination in family and cultural life in your State?

If yes, please explain and provide examples.

EXAMPLES:

With the corporate programme "Success Factor Family" (since 2006), the Federal Government has been successfully promoting the organisation of a family-conscious working world in close cooperation with the business associations and the trade unions in order to make family-friendliness a trademark of German economy. The corporate programme includes the largest network – with over 5,000 members nationwide – of companies interested in or already active in family-conscious personnel policy.

By signing the "Charter for Family-Conscious Working Hours" in 2011, the Federal Government, the business associations and the German Confederation of Trade Unions committed themselves to an effort to establish a modern understanding of flexible working hours throughout society. The initial success of the joint efforts is already evident: according to a study, 80.7% of those in responsible positions in companies nowadays consider family-friendliness to be important.

1. What actions have been taken by your State to eradicate negative gender stereotypes, including in the media?

Please provide examples.

*Extract from the Response of the Government of the Federal Republic of Germany*

*to the UNECE Questionnaire on the Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcome Document of the 23rd Special Session of the General Assembly (2000), June 2014:*

*Presentation of women and girls in the media*

Women are most frequently mentioned in the news as victims, where reports on disasters, acts of violence and accidents have high priority in the news business.

Since 1982, and on the initiative of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) and the German Women's Council, the German Advertising Council has, among other things, dealt with complaints with the aim of containing the number of advertisements discriminating against women and including aspects of women's policy in the assessment of advertising measures. In advertising, the ban on discrimination on grounds of sex applies to all kinds of media presentation, i.e. TV and radio spots, posters or online advertising. In 2013, the Advertising Council received 1,350 complaints from individuals or organisations in connection with 522 motifs or advertising activities.

Owing to the great importance of fictional media for the career choices of girls, from 2007 to 2013 the Federal Ministry of Education and Research (BMBF) funded the "Motif – MINT and Equal Opportunities in TV Drama Formats" project, as well as the "MINT and Equal Opportunities Entertainment Excellence: Assessing and Improving MINT-E-E" follow-up project of Technical University Berlin. It was shown that only insufficient use has so far been made of the opportunities for presenting the (career) world of science and technology and socially relevant STEM[[6]](#footnote-6) topics through fictional formats, i.e. TV films and TV series. To strengthen cooperation between science and fiction, an advice centre and the "Science Meets Fiction" series of events were created in the framework of the Motif project, and a script-writing competition was held.

Established in September 2012, the "Centre for Child Protection on the Internet" works towards promoting the fight against images of abuse on the Internet through improved national and international cooperation of the governmental and non-governmental players involved. At the same time, concrete projects for up-to-date youth media protection on the Internet are to be developed and implemented in collaboration with relevant companies.

1. Are tribunals upholding the principles of equality and non-discrimination in matters relating to family and cultural life?

Yes ( X ) No ( )

If yes, please provide any relevant case-law/jurisprudence.

Upholding the principles of equality and non-discrimination in matters relating to family and cultural life is implicit in all relevant judgements.

1. Are there any other mechanisms to monitor draft legislation, specific provisions in draft legislation or reverse decisions discriminating against women in family or cultural life?

Yes ( X ) No ( )

If yes, please provide any relevant examples.

With its Cabinet decision dated June 1999, the Federal Government recognised the equality of women and men as a continual guiding principle and decided to promote this task as a cross-sectional task using the strategy of gender mainstreaming. In the Joint Rules of Procedure (Gemeinsame Geschäftsordnung) of the Federal Ministries, accordingly the obligation on all departments has been established to observe the mainstreaming approach in all policy, legislative and administrative measures of the Federal Government (section 2 of the Joint Rules of Procedure).

**Family Life ­- Equality within marriage**

1. Is there a legal designation of head of household?

Yes ( ) No ( X )

If yes, is the head of household the male member of the family? What rights or obligations are attributed to the head of household?

1. Do women have the same rights as men in your State in relation to:

( X ) The minimum age for marriage – if the age of marriage is different for men and women, please provide information

( X ) The right to enter into marriage

( X ) The freedom to choose a spouse and to express consent

1. With permission or authorization from parents/guardians/courts, at what minimum age can men and women marry in your State? What enforcement measures are provided by law in this regard?

Section 1303 (2) to (4) of the Civil Code provides for the option to marry at the age of 16 years. For this to be permitted, however,

* the applicant's future spouse must be of full age and
* the family court with jurisdiction must grant exemption from the majority requirement.

1. Is there a reference to dowry in the legislation of your State, for example, in marriage contracts or in traditional practice?

Yes ( ) No ( X )

If yes, please explain.

1. Are forced marriages prohibited in your formal and customary laws?

Yes ( X ) No ( )

If yes, please provide any relevant references.

Forced marriages are offences against multiple German laws; specifically, they match the definitions of forced marriage, human trafficking and abduction, commonly also that of rape.

A separate offence of forced marriage was also established in penal law in 2011 with the "Act to Combat Forced Marriages and to Better Protect the Victims of Forced Marriages, and to Amend Further Provisions Governing Residence and Asylum Law".

1. Are forced marriages or arranged marriages practiced in your State?

Yes ( X ) No ( )

If yes, please explain.

A 2011 study commissioned by the Federal Ministry for Family Affairs put the minimum number of individuals affected in Germany at 3,400, noting that only 615 out of the overall 1445 German counselling services had provided feedback for this study.

1. Is polygamy illegal in your State?

Yes ( X ) No ( )

If no, is it legal for both men and women?

1. Is the registration of marriage compulsory in the following cases?

( X ) civil marriage

( ) religious marriage

1. Are same sex-marriages allowed in your State?

Yes ( X ) No ( )

If yes, please provide references.

The Act on Registered Partnerships which entered into force on 1 August 2001 introduced the separate legal institution of life partnership. This Act helps to reduce discrimination against persons of same-sex orientation, to respect other ways of living and to promote stable human relationships. The effect of the establishment of a life partnership is that the life partners are obliged to care for and support one another and to plan their lives together and bear responsibility for one another.

1. Are same-sex relations criminalized in your State?

Yes ( ) No ( X )

If yes, please provide references.

1. Is equality guaranteed between husband and wife in law and practice with respect to:

( X ) The right to choose a family name

( X ) The right to choose a profession and occupation

( X ) The right to choose the place of residence

( X ) The right to have and retain one’s nationality

( X ) The freedom of movement (including the right to travel abroad)

Please provide references.

see answer to question 3

1. Do both spouses have the same rights in law and practice with respect to:

( X ) ownership of property and land

( X ) management and administration of property and land

( X ) enjoyment and disposition of property and land

Please provide references.

see answer to question 3

1. Are women who get married subjected to any form of male guardianship?

Yes ( ) No ( X )

If yes, what are the specific conditions of this guardianship and what kind of restrictions does it impose on women?

1. Do parents have same rights and responsibilities regarding to:

( x ) Deciding the number and spacing of children

( X ) Guardianship, wardship and trusteeship

( X ) Adoption of children

( X ) Care of children

( X ) Education of children

( X ) Alimony

Please provide references.

see answer to question 3

1. Are de facto unions recognized in law in your state?

Yes ( ) No ( X )

If yes, please explain in which law(s) and how this is defined.

1. Do men and women have the same legal rights with respect to dissolution of marriage?

Yes ( X ) No ( )

If yes, please explain in which law(s) and how this is defined.

see answer to question 3

1. Do men and women have the same rights in law and practice when a marriage or union ends in terms of:

( X ) Equal share of the marital property and land

( X ) Custody of children

( X ) Remarriage

Please provide any references.

see answer to question 3

1. Is it contemplated in the legislation of your State that, in the event of a divorce, women should remain in the family or common household?

Yes ( ) No ( X )

If yes, please explain in which law(s) and how this is defined.

1. Are legal provisions guaranteeing non-financial contributions, including care of children, the sick and elderly in the family, taken into account in the division of marital property upon divorce?

Yes ( X ) No ( )

If yes, please provide references.

These provisions are incorporated in matrimonial property law and in maintenance law.

1. Are rights of widow(er)s the same for women and men in terms of:

( X ) Custody of children

( X ) Property and land distribution

( X ) Remarriage

( X ) Freedom to choose residence

Please provide references.

see answer to question 3

1. Do women have access to legal aid in relation to family matters?

Yes ( X ) No ( )

If yes, please explain.

Legal aid is granted under specific conditions - to women and men equally.

**Equality within the family**

1. What is the legal definition/concept of “family” in your State?

While a prominent place in German law guarantees the **family** the special protection of the State ([Article 6 of the Basic Law](http://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0034)), there is no established legal definition of this concept.

In German society, family mostly is regarded as a community where children grow up.

1. In law (including customary law) are men and women equal in the family in your State?

Yes ( X ) No ( )

If yes, please provide any references.

see answer to question 3

1. Do men and women have the same social status within the family in your State?

Yes ( X ) No ( )

If yes, please provide any references.

see answer to question 3

1. Does your State have data on the number of hours spent by women and by men on functions in the home or in care for family members, including children and the elderly?

If yes, please explain.

The third wave of the time-use study (Zeitverwendungsstudie) is in progress. Like the first two waves (1991/92 and 2001/2002), it is being drafted by the Federal Statistical Office on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The study provides insights into the occupations/activities the population engages in at any one time of the day, with the current wave being the first to survey subjective well-being. The study relies on detailed journaling by the participants who take down what they are doing at ten-minute intervals.

The Federal Statistical Office is currently reviewing and tabulating the collected data. Evaluation, monitored by an outside advisory board, is scheduled to begin this autumn, a brochure with initial results is due out at the end of the year. Submission of the full data and report and a press conference to present the study to the public are planned to take place next summer.

1. Do men and women in the family have the same rights, in law and practice, with regards to inheritance (including equal rank in the succession)?

Yes ( X ) No ( )

If yes, please explain. In addition, is there evidence of waiver of inheritance rights by women?

see answer to question 3

1. Does family education in your State include a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of the children?

Yes ( X ) No ( )

If yes, please provide any references.

For instance, one of the tasks of the **Federal Centre for Health Education** (BZgA) is:

Promotion of a process of constructive discussion between the woman and the man regarding the distribution of family work and employment on a partnership basis, or flexible offers of assistance for different lifestyles and family forms.

**Examples for Internet Offerings by the BZgA:**

[**www.loveline.de**](http://www.loveline.de/)  
Website for young people on love, partnership, sexuality and contraception. Chats, a lexicon, knowledge games, FAQs, surveys, news and monthly focal topics enable young people to interactively expand their knowledge with up-to-date information.

**www.komm-auf-tour.de**  
The project by the name of "komm auf Tour - meine Stärken, meine Zukunft" ("Get going - My strengths, my future") gives new, action-oriented impulses for supporting pupils in Classes 7/8 of secondary modern and comprehensive schools, as well as other comparable school types, in discovering their strengths and interests at an early stage. The young people are given guidance and decision-making aids for forthcoming practical training stints in companies, and learn which realisable vocational options could await them. Topics from the private sphere of life, such as friendship, sexuality and contraception, are integrated in age-appropriate fashion.

1. If equality is guaranteed in law and practice, does this apply in all different types of families?

Yes ( X ) No ( )

If yes, please provide any references.

see answer to question 32

**Violence within the family and marriage**

1. Are there any of the following traditional practices in your State ?

( X ) Female Genital Mutilation

( X ) Honour Killings

( ) Son Preference

( ) Dowry Deaths

( ) Polygamy

( ) Prohibition of work or travel without the permission of a guardian

( ) Other

If yes, is there legislation prohibiting such practices in your State?

YES!

**FGM:**

In 2013, the protection offered by penal law against female genital mutilation was enhanced and the mutilation of female genitalia was made an offence in its own right. Compared to the old law, it includes a wider range of punishment of one to 15 years imprisonment.

**Honour Killings:**

German criminal law distinguishes between several types of homicide with intent to kill, among them manslaughter and murder. Section 212 of the Criminal Code defines manslaughter as the killing of a person without being a murderer; manslaughter carries imprisonment of not less than five years. Section 211 specifies the aggravating circumstances that constitute murder (such as base motives). Murder carries life-long imprisonment. Honour killings are frequently found to have been committed to satisfy base motives and thus punished as murder.

Please provide any information on other actions taken to eradicate these practices.

EXAMPLE:

The nationwide **"violence against women support hotline"** has been available since 2013. Barrier-free access to the helpline is available 24 hours a day and in a number of languages. Women who have experienced violence and their social environment can discuss all forms of violence with female professionals – confidentially and, if desired, anonymously. Particularly those persons for whom the way to a counselling centre represents a major physical, linguistic or cultural obstacle can find help in this way. Counselling via e-mail and chat is offered via the website.

1. Is/are there any anti-domestic violence legislation/regulations in your State?

Yes ( X ) No ( )

If yes, please provide any references.

The **Act to Improve the Civil Jurisdictional Protection against Violent Acts and Harass-ment and to facilitate the Assignment of the Marital Home upon Separation (Protec-tion against Violence Act**) entered into force in January 2002. In addition to simplified assignment of the marital home, it also includes express regulations regarding a “no-contact, non-molestation and stay-away” order.

1. Does your State have a legal definition of discrimination which covers gender-based violence or violence against women, which includes domestic violence?

Yes ( ) No ( X )

1. Does your State have a national policy to eliminate gender-based violence or violence against women, including domestic violence?

Yes ( X ) No ( )

1. Is marital rape considered a crime in the legislation of your State?

Yes ( X ) No ( )

1. Is adultery considered a crime in the legislation of your State?

Yes ( ) No ( X )

If yes, is it equally punished for men and women?

Please provide any references and further explanation.

45. Are there any public campaigns in your State to raise awareness that violence against women and girls is a human rights violation?

Yes ( X ) No ( )

If yes, do they attempt to change the attitudes of men?

YES

46. What measures have been taken in your State to raise awareness among law enforcement officials regarding violence against women and girls, including domestic violence?

Please explain and provide examples.

The Federal Government elaborated two action plans to prevent and combat violence against women in order to implement a comprehensive overall concept for effectively and sustainably combating all types of violence against women. It should be emphasised in this context that, due to the federal system in Germany, the prevention and elimination of all forms of violence against women and girls, the protection and support of the victims, as well as awareness raising measures among law enforcement officials, are important fields of action for the Laender. The Laender have different political instruments at their disposal for structuring and enforcing their measures and goals in the field of violence against women. Examples of this can be found in the Appendix of the Response of the Government of the Federal Republic of Germany to the UNECE Questionnaire on the Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcome Document of the 23rd Special Session of the General Assembly (2000).

47. Are there special law enforcement units to respond to complaints of violence against women and girls, including domestic violence?

Yes ( X ) No ( )

If yes, do these include female law enforcement officers?

Yes, they exist in most of the German Laender.

48. Please provide information on the incidents/complaints of domestic violence, sexual assault including rape, and child abuse against women and girls in your State.

see the research study “Health, Well-Being and Personal Safety of Women in Germany”

<http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/Frauenstudie-englisch-Gewalt-gegen-Frauen,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf>

49. Are there shelters or safe houses for women and girls who are victims of gender-based violence, including domestic violence in your State?

Yes ( X ) No ( )

If yes, are these available to women and girls living in rural and remote areas?

YES

**Participation in cultural life**

50. Are men and women equally entitled in law and practice to interpret cultural traditions, values and practices in your State?

Yes ( x ) No ( )

If yes, please describe and provide examples.

*inter alia* in churches, NGOs

51. Are there restrictive dress codes for women which do not apply to men?

If yes, please describe and provide examples.

NO

52. Are women in the country allowed to be a member and fully participate in cultural and scientific institutions in your State?

Yes ( X ) No ( )

If yes, please describe and provide examples.

see answer to question 3

53. Are women entitled in law and practice, independently of their marital status, to decide freely whether or not to participate in certain cultural events, traditions and practices in your State?

Yes ( X ) No ( )

If yes, please describe and provide examples.

see answer to question 3

54. Are there any specific actions to recognize and value the contributions of women to culture in your State?

Yes ( ) No ( X )

If yes, please describe and provide examples.

55. Do you have data regarding the participation of women in arts, science, sports and in the proportion of public funding allocated to women in these activities?

If yes, please provide information.

NO

56. Has your State developed any temporary special measures to enhance the participation of women in arts, science, sports and any other cultural activity?

Yes ( X ) No ( )

If yes, please provide specific examples of these temporary special measures.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth supports several projects for woman in arts and film, e.g.

1. Gabriele Münter Preis (award) for female artists over 40 years
2. Internationales Frauenfilmfestival, festival programme with films from women as directors, scriptwriters, actresses etc.
3. Digital womens’ archive

57. Are women allowed and encouraged by your State to participate in all sports?

Yes ( X ) No ( )

If yes, please describe and provide examples.

see answer to question 3

58. Is any special dress code provided in the legal regulations for all women exercising sports in your State?

Yes ( ) No ( X )

If yes, please describe and provide examples.

59. Are there any differences in your State in conditions for women’s access, to museums, parks, theaters, sports stadiums and other facilities where culture, sports and science are disseminated in comparison with men?

Yes ( ) No ( X )

If yes, please explain and provide examples.

60. Is your State promoting the participation of women in the arts?

Yes ( X ) No ( )

If yes, please explain and provide examples.

See answer to question 56

61. Have there been any cases in your State in last decade of women artists prosecuted for the performance of art, allegedly violating public authority or morals?

Yes ( ) No ( X )

If yes, please describe.

1. Article 16, UN Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly on 18 December 1979 (AG Resolution 34/180) and entered into force on 3 September 1981. [↑](#footnote-ref-1)
2. *Ibid* art. 5. [↑](#footnote-ref-2)
3. Article 1, and 13(c), UN Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly on 18 December 1979 (AG Resolution 34/180) and entered into force on 3 September 1981. [↑](#footnote-ref-3)
4. International Covenant on Economic, Social and Cultural Rights adopted by UN General Assembly resolution 2200A (XXI) of 16 December 1966 and entry into force on 3 January 1976. [↑](#footnote-ref-4)
5. UN Human Rights Committee, General Comment No. 28 on article 3 “Equality of Rights between Men and Women”, adopted on 29 March 2000 (HRI/GEN/1/Rev.9 (Vol. I)). [↑](#footnote-ref-5)
6. STEM is referring to the academic disciplines of science, technology, engineering, and mathematics. [↑](#footnote-ref-6)