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The Five Questions

- 1. Do you consider that there is a need for a separate legally binding treaty on violence against women with its separate monitoring body?***
- 2. Do you consider that there is an incorporation gap of the international or regional human rights norms and standards?***
- 3. Do you believe that there is a lack of implementation of the international and regional legislation into the domestic law?***
- 4. Do you think that there is a fragmentation of policies and legislation to address gender-based violence?***
- 5. Could you also provide your views on measures needed to address this normative and implementation gap and to accelerate prevention and elimination of violence against women?***

AMENDING GENERAL RECOMMENDATION 19

The answers to all 5 questions have been amalgamated.

There is a need for a New Treaty/Optional Protocol to CEDAW

There is a need for a **Treaty or Optional Protocol of CWEDAW with its own monitoring system** that specifically addresses the elimination of all forms of violence against women and girls because such gender based violence is one of the most prevalent human rights abuses in the world. It is therefore of paramount importance to adopt such an agreement at the international legal level – for the globe.

CEDAW GENERAL RECOMMENDATION 19 is a good instrument that unfortunately has no legally binding effect. **Any amendment will be an amendment to soft law only – not a new normative legally binding enforceable instrument.** Therefore efforts should be focussed on finding the political will to end the most prevalent human rights violation in the world today: VAWG. The political will comes from international, regional and national actors working together to eliminate VAWG and to hold states accountable for their lack of progress. The best way to progress this vital agenda, is to progress it at UN level.

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) does not contain a specific article dealing with VAWG (only trafficking). There is thus a need for a new international law instrument with its own monitoring body that specifically recognises, identifies, and provides legally binding obligations to deal with all manifestations of violence against all women and girls.

Most examples of VAWG measures are in ‘soft law’. These are not legally binding such as: The Vienna Declaration and Programme of Action, the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action, numerous resolutions from different UN bodies, and General Comments and recommendations of treaty bodies, the General Recommendation No. 12 (1989) on violence against women, the CEDAW Committee, General Recommendation No. 19 on violence against women. CEDAW’s Article 2, interpreted with General Recommendation 19, is the existing legal mandate for the creation of laws prohibiting violence against women. General Recommendation 30 adopted in 2013 addresses the situation of VAWG in conflict and post-conflict settings. However, **although soft laws may be influential in developing norms, their non-binding nature effectively means that States cannot be held responsible for violations.**

There are regional human rights treaties that address violence against women, namely the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), the 2003 Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) and the 2014 Council of Europe Convention on preventing and combating violence against women and domestic violence

(Istanbul Convention). These regional instruments are being utilised successfully in certain countries, but they are not suitable as instruments to cover the globe. That also leaves many regions not covered in terms of normative law: (e.g. Asia, the Pacific and the Middle East among others).