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Dear Ms Connors,

GOOD PRACTICES IN THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN IN POLITICAL AND PUBLIC LIFE

Amnesty International requests that the following information be brought to the attention of the Working Group on discrimination against women in law and practice (the Working Group). The organization welcomes the opportunity to submit information on good practices in the elimination of discrimination against women in political and public life. A report on this topic has the potential to have a positive impact on the manifold forms of discrimination faced by women in political and public life, by clarifying the obligations that exist in international law to eliminate this discrimination and providing guidance as to how these obligations can be implemented in practice.

In its initial report it is important that the Working Group ensures that the report consider all forms of participation and analyse discrimination in all areas of political and public life. The Committee on the Elimination of Discrimination against Women (CEDAW) states, in its General Recommendation 23, that

The political and public life of a country is a broad concept. It refers to the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers. The term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. The concept also includes many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.¹

Amnesty International considers that it would be important for the Working Group's report to reflect this definition and provide practical steps as to how states can adhere to their obligation to avoid discrimination in the broadest sense.² Amnesty International is concerned that some states are failing to make the required and appropriate effort to change law, policy and practice to ensure equality for women. The current economic climate is used as an excuse for this failure to ensure equality, perpetuating an unwillingness to tackle culturally, politically or socially approved practices of discrimination. There is a need to reinforce the understanding of the binding legal obligation to eradicate discrimination and ensure equality. The appropriateness of temporary special mechanisms, as outlined in General Recommendation 25 of Convention on the Elimination of All Forms of

¹ Committee on the Elimination of Discrimination against Women, General Recommendation 23 on political and public life (1997) paragraph 5.

² Article 29 of the Convention on the Rights of Persons with Disabilities provides a useful framework in this sense.

Discrimination against Women (the CEDAW Convention), is important here: many states persist in identifying these as a form of discrimination against men. This will be discussed in more detail below.

Although the organization endeavours to ensure that gender and other forms of equality are promoted in all our work, Amnesty International's work on women's right to equality in political and public life has often focused on participation in political and public life in conflict and post conflict situations. This research has revealed many challenges faced by women seeking to participate, but also at times demonstrated good practice (see below).

We also have research and information more generally on the obstacles faced by women in participating in political and public life, including in terms of intersecting forms of discrimination faced by women from Indigenous or minority groups, lesbian, bisexual and transgender (LBT) women, women living in rural communities or urban slums, or resource-poor women.

Amnesty International notes that, often, a significant barrier to women's participation in political and public life relates to discrimination in accessing economic, social and cultural rights, such as the rights to education, work, health care and own property. While we recognise that the Working Group intends to address discrimination against women in economic, social and cultural life in a later report, it is important for it to acknowledge this link in the current report also, due to the indivisibility of these rights in theory and lived reality of women. This is relevant to the issue of temporary special measures, discussed below.

This submission does not seek to cover all concerns of Amnesty International in relation to discrimination against women in political and public life. The focus here is on particular concerns that arise during times of political transition, the importance of temporary special measures in this context, and obstacles faced by particular groups (specifically Indigenous and minority women, LBT women, obstacles related to stereotypes and women human rights defenders).

Times of political transition – particular concerns

Times of political transition, whether the result of conflict, revolution or other political developments, can be a great opportunity to advance gender equality. However, they can also pose serious risks, including backlashes against women and the adoption of retrograde measures. Therefore, it is of fundamental importance that, during these times, the active and effective participation of women, on the basis of equality with men, is ensured in all aspects of the transition, including peace negotiations, the drafting of new constitutions and other foundational documents, measures to re-build national institutions, and measures redressing gross violations of human rights and crimes under international law, that may have been committed prior to, or during the transition process. Women's participation in these and other transition related activities is fundamental, not only to removing discriminatory practices and attitudes, but also to a successful transition.

However, all too often, opportunities to remove entrenched gender-based discrimination in the post-conflict transition period are missed: a phenomenon that has gained the attention of the Security Council. It has recognised that there are persistent obstacles to the participation of women in post conflict political and public life, most recently in its Resolution 1889.³ In this connection, the Security Council urged states to ensure gender mainstreaming, including women's active participation, in post-conflict peace building and recovery.⁴

The UN Secretary-General has also explicitly recommended that women's political presence should begin before the conflict ends, as their participation during peace negotiations helps to establish their legitimacy as valid actors in post conflict political life.⁵ Practical guidance as to how to ensure women's

³ Security Council resolution 1889, chapeau.

⁴ Security Council resolution 1889, paragraphs 1 and 8.

⁵ Security Council, *Women's participation in peacebuilding: Report of the Secretary-General A/65/354-S/2010/466*, paragraph 20.

participation would be invaluable. This should, among other things, include as fundamental the conditions needed to enable participation, including for example security and health care for women, to ensure they were not put at further risk by participating in conflict resolution and peace building.

During this phase, the influence of other states, such as neighbours, donor or others assisting in transitional efforts, may be higher than usual. Therefore, it is also important to encourage them to press for gender equality during all phases of change. This should include ensuring that women are not discriminated against in practice in participating in any decision-making forums.⁶ Further, they should insist on women's participation in any assistance programmes they provide for as part of re-building efforts, and ensure that they do not perpetuate gender-based discrimination. In this regard, it would be the assisting state that would be under the obligation to refrain from discriminating against women in the assistance they provide.⁷

Equally, it is important that any United Nations (UN) assistance during times of transition ensure gender equality both in terms of gender balance among staff members and others providing assistance, as well as ensuring that the nature of the assistance provided does not perpetuate gender stereotyping or discrimination.⁸ The Secretary-General provides some guidance as to how the UN can seek to maintain a gender balance in these operations, including by appointing more women at all levels including to senior positions and ensuring (local) women's groups are genuinely consulted during negotiations.⁹ Practical guidance on how to assist states and the UN to use the opportunity of rebuilding efforts to address entrenched gender based discrimination would be very useful.

Non-state actors may also be unusually influential during rebuilding efforts, for example as aid providers, expert advisers, contractors or consultants. Their work also, directly and indirectly, impacts on women's ability to participate in political and public life, whether by failing to adopt a gender sensitive approach to service or aid delivery, or by retaining discriminatory aspects in their internal procedures. It would be useful therefore for the Working Group to provide guidance on the adoption of accountability mechanisms for these actors to ensure they do not perpetuate gender discrimination in their rebuilding efforts or in subsequent political and public life. Such accountability measures should acknowledge that states continue to have the primary obligation to protect human rights, including the right to be free from discrimination.

As you know, the CEDAW is currently working toward a General Recommendation on women in conflict and post conflict situations.¹⁰ Amnesty International urges the Working Group to continue its collaboration with the CEDAW on the conceptual issues included in this General Recommendation, as many will have particular relevance to this report.

Temporary special measures

As the UN Secretary-General has recognised, "it is insufficient merely to remove overt obstacles to the assumption by women of decision-making roles. Special measures are required as well..."¹¹ Temporary special measures can be a useful mechanism to shift entrenched discrimination against women, which prevents them from engaging in political and public life. It would be useful for the Working Group to

⁶ Security Council, *Women's participation in peacebuilding: Report of the Secretary-General A/65/354-S/2010/466*, paragraph 33.

⁷ General Recommendation 23 on political and public life (1997) notes that women continue to be underrepresented in diplomatic circles, including in permanent missions to the United Nations, paragraph 36 and 37.

⁸ Security Council resolution 1325 encourages the Secretary General to seek to expand the role of women in UN field based operations: S/RES1325/2000, paragraph 4.

⁹ Security Council, *Women's participation in peacebuilding: Report of the Secretary-General A/65/354-S/2010/466*, paragraph 28.

¹⁰ See Committee on the Elimination of Discrimination against Women: General Discussion on "women in conflict and post-conflict situations" 18 July 2011, <http://www2.ohchr.org/english/bodies/cedaw/discussion2011.htm> (accessed 8 February 2012)

¹¹ Security Council, *Women's participation in peacebuilding: Report of the Secretary-General A/65/354-S/2010/466*, paragraph 41.

outline how these kinds of measures could be used in the specific context of political transition to ensure women are not discriminated against in political or public life during that process. In this connection, women should have a role in designing, implementing and evaluating temporary special measures seeking to redress entrenched discrimination.¹² Participation will be particularly important for those directly affected by discrimination prior to or during times of political upheaval or conflict.

CEDAW General Recommendations 23 and 25 outline various steps that can be, and have successfully been, taken by states and political parties to increase gender equality in public and political life. Suggestions include setting goals and quotas for women participating in public office and developing campaigns directed at equal participation¹³ The Secretary-General has suggested that the single most effective way to ensure more women hold public office is the existence of "legally enforceable provisions requiring that women hold a minimum proportion of seats in elected bodies ... and appointed positions in State institutions."¹⁴ It would be useful for the Working Group, 15 years after the adoption of General Recommendation 23, to reflect on all of these recommendations and provide guidance regarding the use of temporary special measures to states in times of political transition.

Obstacles faced

As mentioned above, discrimination in accessing economic, social and cultural rights can have a direct impact on women's ability to participate. Persistent practical hurdles also include entrenched gender-roles and stereotyping regarding women's place as homemakers and primary care givers for children and elderly family members. For example, where women are the primary care givers for children, access to child care and careful timing of political party leadership meetings are crucial to women's ability to participate on an equal footing with men. Where women face backlash for transgressing traditional gender-roles for example accusations that their public participation results in neglect of their children or domestic responsibilities, or is immodest – governments need to undertake anti-discrimination information campaigns to overcome stereotypes. In post conflict situations, in particular, ensuring security and a functioning legal system can be pivotal to help women feel safe enough to participate in political and public life. To this end and where the UN has a role, the Secretary-General has stated that the UN will increase the proportion of female police officers and support access to justice and law enforcement institutions in an effort to empower and encourage them to report crimes, and to enhance women's ability to engage in public life.¹⁵ Providing best practice examples and guidance in relation to removal of these barriers would be useful.

Women often face multiple forms of discrimination in political and public life. Some of the areas of multiple forms of discrimination are outlined below. It would be helpful for the Working Group's report to include reference to the specific obstacles faced by women belonging to marginalised or minority groups, and to explore the relevance of temporary special measures designed specifically with these groups in mind.¹⁶

a) Participation of Indigenous and minority women

Ethnic, religious or linguistic minorities and Indigenous peoples are seriously underrepresented in political processes in most countries due to discrimination or a lack of political will to remove barriers

¹² General Recommendation 25 on temporary special measures (2004), paragraph 34.

¹³ General Recommendation 23 on political and public life (1997), paragraph 15; General Recommendation 25 on temporary special measures (2004), paragraph 22.

¹⁴ Security Council, *Women's participation in peacebuilding: Report of the Secretary-General A/65/354-S/2010/466*, paragraph 41.

¹⁵ Security Council, *Women's participation in peacebuilding: Report of the Secretary-General A/65/354-S/2010/466*, paragraph 46-7. Engagement in public life here refers to the Secretary General's references to empowering women to report crimes against them, and to "participate in the prosecution of sexual and gender-based violence and other crimes, register land and inheritance claims, pursue child custody and obtain State recognition of their citizenship", paragraph 47.

¹⁶ General Recommendation 25 on temporary special measures (2004), paragraph 38.

to their participation.¹⁷ Indigenous women and minority women frequently face additional barriers to their participation in political and public life. States which have requirements that public officials or candidates in elections meet particular literacy, language or other criteria may be disproportionately excluding minority or Indigenous women from participation. Minority or Indigenous women frequently have lower levels of education than women from dominant groups or minority or Indigenous men. States should remove those discriminatory criteria.

States may, under limited circumstances, restrict rights to political participation to citizens.¹⁸ Some states deny citizenship to particular groups in a discriminatory manner. For example, by requiring a nomadic or semi-nomadic Indigenous group to show, or pay for, identity papers or other documents proving long-term residence before they can receive citizenship, these groups may be effectively excluded from participating.¹⁹ Imposing difficult to meet evidentiary requirements for acquiring citizenship may have a disproportionately negative impact on Indigenous or minority women, for example, if documents must be paid for, families may prioritise obtaining those documents for men over obtaining them for women.

As mentioned above, in situations of post-conflict transition, women's participation is essential in redressing entrenched gender discrimination. Where the conflict has an ethnic or religious dimension, either because the root causes of the conflict were rights violations based on ethnicity or religion or because particular groups were disproportionately affected by being caught up in the conflict, it is vitally important to ensure the participation of women from those groups. No community is homogenous and the opinions of women could be very different to male community leaders, who are frequently chosen to take part in conflict resolution or peace building processes. It is also important to ensure that women from all affected groups participate, whether the group were direct participants in the conflict or not. For example where a minority or Indigenous community are not direct participants in a conflict, women may be forced to provide food or shelter for both sides in the conflict and they may, as a result, suffer violence, including sexual violence, from both sides because they are considered to be supporting the enemy. Women from that community may be left out of conflict resolution processes because of the lack of direct involvement of the group; however, a clear understanding of the violations they experienced is essential to ensure redress and their future protection.

b) Lesbian, bisexual and transgender women

Intersecting strands of discrimination make participation in political and public life particularly difficult and inaccessible for LBT women. These women already face the barriers and the discrimination all women are subject to on the basis of their sex; discrimination on the basis of sexual orientation and gender identity create additional barriers. The criminalization of consensual same sex conduct in over 70 countries worldwide makes it very difficult for LBT women in these countries to acknowledge their sexual orientation or gender identity in public, let alone run for public office, without risk of being charged with a criminal offence or harassed by the police. In countries where homosexuality has been decriminalized, but where high levels of community homophobia and transphobia still exist, LBT women face very high levels of harassment and violence. For example, despite South Africa having one of the most progressive constitutions worldwide when it comes to human rights for all, LBT women are subjected violent targeted attacks with slow government responses.²⁰

Criminalization of same-sex conduct, combined with high levels of community homophobia, mean that LBT women are discriminated against in many aspects of their lives, and that they are prevented from

¹⁷ Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation 2009, A/HRC/13/25 paragraph 6.

¹⁸ International Covenant on Civil and Political Rights, article 25, refers to "every citizen" in relation to the right to take part in the conduct of public affairs, to vote and be elected and to have access to public service.

¹⁹ Report of the Independent Expert on Minority Issues, 2008, A/HRC/7/23

²⁰ Amnesty International, *South Africa: key human rights concerns in South Africa, Amnesty International's submission to the Universal Periodic Review, May-June 2012*, Amnesty International Index AFR 53/003/2012, page 5.

exercising their economic, social and cultural rights. Often they are refused treatment at medical facilities because medical staff refuse to treat them; they are expelled from schools as teenagers once their sexual orientation or gender identity becomes known, or even suspected; they are evicted from their homes; and many are unable to gain employment due to employers' prejudices and stereotypes regarding LBT women.

The intersection of discrimination on the basis of sex and discrimination on the basis of sexual orientation and gender identity creates a variety of barriers, for heterosexual women too. This is the case even in countries with comparatively low levels of homophobia and where there is no discrimination inscribed in law. Many women are targeted for discriminatory treatment because of their perceived transgression of gender norms, rather than for their sexual orientation per se. For example, an employer may not want to employ a masculine-looking woman, even if she identifies as heterosexual, or, a woman in a position of public or political power may be criticised for 'acting like a man', or for secretly being a lesbian.

c) Practical limitations, linked with stereotypes about women and caring responsibilities

Stereotypes in many societies impose burdens on women and girls, who are assumed to be responsible for care of the home, caring for children, elders, and the sick or disabled. Such stereotypes harm both men and women, as they lead to the valuable role of caring to be undermined as "unmanly" thus making hard for men and boys to take caring roles, whether professionally as nurses or child-care workers, or in their homes and families. Such caring roles are important in society, including in ensuring human rights of children and the right to health: men and women should be valued equally in taking on such work – it should not be dismissed as "only women's work" – an easy task which anyone can do, which can be taken for granted. It should be properly valued and paid for where it is done as a profession.

While these stereotypes remain, women continue to be disproportionately required to be responsible for caring work. When such stereotypes are still in force, states should respond by ensuring effective support for such caring responsibilities, to ensure that women can fulfil other work, including educational, political, or other roles.

d) Women human rights defenders – need for protection measures

Women human rights defenders are catalysts for the elimination of discrimination against women in political and public life, through the content of their advocacy and being role models to other women and girls. Their importance cannot be overstated. A positive example of how (women) human rights defenders can have a positive impact in eliminating discrimination against women can be found in Colombia. There, the Constitutional Court, in a 2008 ruling on (mostly armed-conflict related) displacement and sexual violence, noted that national and international human rights and women's rights organizations should be involved in government efforts to comply with the ruling (specifically that the ruling should be sent to these organizations to facilitate this involvement. NGOs in turn set up monitoring groups to follow implementation of the ruling. This demonstrated good practice both by the Court, in referring to human rights defenders organizations in the judgement, thereby ensuring effectiveness, participation, ownership and sustainability of the judgement. Secondly, in setting up the monitoring groups, civil society established an effective framework to ensure government accountability.²¹

Women human rights defenders face many risks in their work: often their safety is at risk, as they are targeted for violence, including gender-based violence, because of their work. Some are even killed. Their families are also targeted, in order to put pressure on women human rights defenders.

²¹ Amnesty International, *This is what we demand. Justice! Impunity for sexual violence in Colombia's armed conflict*, 2011, Amnesty International index AMR 23/018/2011 page 22; testimonies available on pages 27-29.

Women human rights defenders also face targeting for abuse, threats, stereotyping and personal attacks on their reputation and their work.

It would be very useful if the report could emphasise practical measures to assist these women at risk, and the need for states to design protection measures in cooperation and coordination with women human rights defenders, and that where risks come from state agents, that the state is absolutely obliged to allow women and girls to defend their rights, without discrimination, according to the provisions of *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*.²²

The Women Human Rights Defenders Coalition (of which Amnesty International is a member) launched a global report on the situation of women human rights defenders on 29 February 2012, which may be of interest to you for further information and case studies.²³

I hope that the above is of assistance to you in preparing this valuable report. Please do not hesitate to contact me if you have any queries on the above.

Yours sincerely



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²² UN Doc A/RES/53/144 of 9 December 1998.

²³ Available on <http://www.defendingwomen-defendingrights.org>

