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Commission on the Status of Women

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Follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly entitled “Women 2000: gender equality, development and peace for the twenty-first century”: gender mainstreaming, situations and programmatic matters

Results of the forty-sixth, forty-seventh and forty-eighth sessions of the Committee on the Elimination of Discrimination against Women

Note by the secretariat

Summary

The present note reflects the results, including decisions taken, of the forty-sixth, forty-seventh and forty-eighth sessions of the Committee on the Elimination of Discrimination against Women, held in New York from 12 to 30 July 2010 and in Geneva from 4 to 22 October 2010 and from 17 January to 4 February 2011.

* E/CN.6/2011/1.

I. Introduction

1. In its resolution 47/94, the General Assembly recommended that the sessions of the Committee on the Elimination of Discrimination against Women be scheduled, whenever possible, to allow for the timely transmission of the results of those sessions for information to the Commission on the Status of Women.

2. The Committee held its forty-sixth, forty-seventh and forty-eighth sessions from 12 to 30 July 2010, from 4 to 22 October 2010 and from 17 January to 4 February 2011, respectively. At its forty-sixth session, the Committee adopted a statement on the tenth anniversary of Security Council resolution 1325 (2000) on women and peace and security (see annex I), and decided to extend the mandate of the Rapporteur on follow-up, Dubravka Šimonović, and her alternate, Barbara Bailey, until 31 December 2012. At its forty-seventh session, the Committee adopted a general recommendation on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (see annex II) and a general recommendation on older women and the protection of their human rights (see annex III). The Committee also adopted a statement welcoming the establishment of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) (see annex IV) and a joint statement by the Chairs of the Committee on the Rights of the Child, the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of Discrimination against Women on the floods in Pakistan (see annex V). The Committee decided to prepare a general recommendation on women in armed conflict and post-conflict situations and to request an exceptional report from the Democratic Republic of the Congo, in accordance with article 18 of the Convention. It also decided to include “Follow-up procedures” as a standing item in the agenda. At its forty-eighth session, the Committee elected Silvia Pimentel as Chair; Nicole Ameline, Victoria Popescu and Zohra Rasekh as Vice-Chairs; and Violet Awori as Rapporteur. In addition, the Committee decided to prepare a draft general recommendation on access to justice and to establish a working group in this issue. Lastly, it established a task force on gender equality in the context of displacement and statelessness.

3. As at 4 February 2011, the closing date of the forty-eighth session of the Committee, there were 186 States parties to the Convention and 101 States parties to the Optional Protocol to the Convention. A further 59 States had accepted the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee. In order to bring the amendment into force, two thirds of States parties to the Convention, in other words 124 States, are required to deposit their instruments of acceptance with the Secretary-General.

II. Results of the forty-sixth, forty-seventh and forty-eighth sessions of the Committee

A. Reports considered by the Committee

4. At its forty-sixth session, the Committee considered the reports of seven States parties submitted under article 18 of the Convention, namely Albania (CEDAW/C/ALB/3), Argentina (CEDAW/C/ARG/6), Australia (CEDAW/C/AUL/7),

Fiji (CEDAW/C/FJI/2-4), Papua New Guinea (CEDAW/C/PNG/3), the Russian Federation (CEDAW/C/USR/7) and Turkey (CEDAW/C/TUR/6).

5. At its forty-seventh session, the Committee considered the reports of six States parties submitted under article 18 of the Convention, namely Burkina Faso (CEDAW/C/BFA/6), the Czech Republic (CEDAW/C/CZE/5), Malta (CEDAW/C/MLT/4), Tunisia (CEDAW/C/TUN/6) and Uganda (CEDAW/C/UGA/7). In addition, it considered the exceptional report of India (CEDAW/C/IND/SP.1).

6. At its forty-eighth session, the Committee considered the reports of seven States parties submitted under article 18 of the Convention, namely Bangladesh (CEDAW/C/BGD/6-7), Belarus (CEDAW/C/BLR/7), Israel (CEDAW/C/ISR/4), Kenya (CEDAW/C/KEN/7), Liechtenstein (CEDAW/C/LIE/4), Sri Lanka (CEDAW/C/LKA/5-7) and South Africa (CEDAW/C/ZAF/2-4).

7. Representatives of United Nations entities, specialized agencies and non-governmental organizations attended the sessions. The reports of the States parties, the Committee's lists of issues and questions, the States parties' replies and their introductory statements are posted on the website of the Office of the United Nations High Commissioner for Human Rights (www.ohchr.org).

8. In regard to each of the States parties considered, the Committee adopted concluding observations, which are also available on the website.

B. Action taken in relation to the implementation of article 21 of the Convention

General recommendation on the core obligations of States parties under article 2 of the Convention

9. During the forty-sixth session, the Committee further considered the draft general recommendation on the core obligations of States parties under article 2 of the Convention and requested that Cees Flinterman, Chair of the working group relating to this issue, also composed of Dorcas Coker Appiah, Meriem Belmihoub-Zerdani, Silvia Pimentel, Victoria Popescu and Dubravka Šimonović, circulate a revised draft of the general recommendation to the Committee integrating comments made by Committee members at the forty-sixth session. At the forty-seventh session, the draft general recommendation was further revised and finalized. It was adopted on 19 October 2010 as decision 47/V of the Committee (see annex VI). Although the general recommendation was adopted by consensus, certain paragraphs were adopted by vote of the Committee (see the supplement to chapter VII of the report of the Committee).

General recommendation on older women and protection of their human rights

10. During the forty-sixth session, the Committee considered the draft general recommendation on older women and the protection of their human rights. The Committee requested Ferdous Ara Begum, Chair of the working group relating to this issue, also made up of Barbara Bailey, Niklas Bruun, Saisuree Chutikul, Naela Gabr, Yoko Hayashi and Violeta Neubauer, to present a revised draft of the general recommendation taking into consideration additional comments received during the forty-sixth session. At its forty-seventh session, the Committee further reviewed and revised the draft general recommendation, which was finalized and adopted on

19 October 2010 as decision 47/VI of the Committee (see annex VI). Although the general recommendation was adopted by consensus, certain paragraphs were adopted by vote of the Committee (see the supplement to chapter VII of the report of the Committee).

General recommendation on the economic consequences of marriage and its dissolution

11. The Committee decided that the working group entrusted with the preparation of the draft general recommendation on the economic consequences of marriage and its dissolution, composed of Ruth Halperin Kaddari (Chair), Nicole Ameline, Violet Awori, Indira Jaising, Pramila Patten, Silvia Pimentel and Dubravka Šimonović, should present a revised draft to the Committee at its forty-sixth session. During the forty-sixth session, the Committee considered the draft general recommendation on the economic consequences of marriage and its dissolution and decided to review the draft further at its forty-seventh session with a view towards its adoption. No action was taken on the draft general recommendation at the forty-seventh session. During the forty-eighth session, the Committee further revised the general recommendation with a view to adopting it before the end of 2011.

Joint general recommendation on harmful practices

12. At its forty-seventh session, the Committee considered a draft outline of the joint general recommendation of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child on harmful practices. At the forty-eighth session, owing to the retirement of several members, the working group on harmful practices was expanded to include Feride Acar, Violet Awori and Xiaoqiao Zou, in addition to the existing members, namely Barbara Bailey, Naela Gabr, Violeta Neubauer (Chair) and Dubravka Šimonović. The Committee considered a revised draft outline of the joint general recommendation and met with members of the Committee on the Rights of the Child to discuss further the outline and a plan of action. The Committee and the working group also discussed the issue. The Committee endorsed the draft outline and authorized the working group to start preparing the draft. A meeting of both committees' working groups was held prior to the end of the session to discuss the revised draft outline and to develop a road map for the further preparation of the general recommendation.

General recommendation on women in armed conflict and post-conflict situations

13. At its forty-seventh session, the Committee decided to prepare a general recommendation on women in armed conflict and post-conflict situations and to establish a working group relating to this issue (decision 47/I). At the forty-eighth session, members of the working group were confirmed and a background note was presented on the topic by Pramila Patten (Chair). Additional information was provided by UN-Women on the applicable international conventions relating to civilians and armed conflict. The working group also met during the session to discuss the scope and elements of the draft general recommendation. The members of the working group were Nicole Ameline, Magalys Arocha, Niklas Bruun, Ismat Jahan, Victoria Popescu, Zohra Rasekh and Meriem Belmihoub-Zerdani.

Task force on gender equality in the context of displacement and statelessness

14. At the forty-seventh session, the Committee was briefed by Dorcas Coker Appiah, Chair of the working group on women of concern to the Office of the United Nations High Commissioner for Refugees (UNHCR), on the status of the concept paper on gender equality in the context of displacement and statelessness, and decided to postpone the matter to the forty-eighth session owing to the retirement of several members of the working group, namely Dorcas Coker Appiah, Ferdous Ara Begum and Cees Flinterman. At its forty-eighth session, the Committee met with representatives of UNHCR who presented a working paper on a draft general recommendation on gender equality in the context of displacement and statelessness. Following an exchange on the matter, the Committee decided to establish a task force to study further the issue of a possible draft general recommendation. The task force is made up of the remaining two members of the above-mentioned working group, Pramila Patten and Dubravka Šimonović, and Feride Acar, Merium Belmihoub-Zerdani, Niklas Bruun, Yoko Hayashi, Ismat Jahan, Victoria Popescu, Zohra Rasekh and Patricia Shultz.

C. Action taken in relation to ways and means of expediting the work of the Committee

Enhancing the Committee's working methods under article 18 of the Convention

Follow-up procedure

15. At its forty-sixth session, the Committee adopted the report of the Rapporteur on follow-up, including letters sent to Canada, Finland, Guatemala and Myanmar in response to their follow-up reports. It was decided to extend the mandate of the Rapporteur on follow-up, Dubravka Šimonović, and her alternate, Barbara Bailey, until 31 December 2012.

16. At its forty-seventh session, the Committee adopted the report of the Rapporteur on follow-up, including reminders sent to Azerbaijan, Iceland, Nigeria, Tuvalu, the United Republic of Tanzania and Yemen, as those countries had not yet submitted follow-up reports for information on steps taken to implement specific recommendations contained in the concluding observations within the established deadlines.

17. At its forty-eighth session, the Committee adopted the report of the Rapporteur on follow-up and considered the follow-up reports of Bahrain (CEDAW/C/BHR/CO/2/Add.1), Canada (CEDAW/C/CAN/CO/7/Add.1 and Corr.1), Lithuania (CEDAW/C/LTU/CO/4/Add.1), Myanmar (CEDAW/C/MMR/CO/3/Add.2) and Slovenia (CEDAW/C/SVN/CO/4/Add.1). The reports are available through the Official Document System of the United Nations (<http://documents.un.org/>) under the symbols indicated above.

18. The Committee also sent letters to the following States whose follow-up reports were overdue: Belgium, Ecuador, El Salvador, Kyrgyzstan, Madagascar, Mongolia, Portugal and Uruguay. In addition, the Committee sent reminders to the following States to which it had already written requesting overdue follow-up reports: Iceland, Nigeria, United Republic of Tanzania and Yemen.

Request for overdue reports

19. The Committee decided that the secretariat should systematically remind States parties whose reports are five years or more overdue to submit their reports as soon as possible. An updated status report was provided to the Committee at its forty-eighth session, in which it was indicated that the following States parties' reports were five years or more overdue: Afghanistan, Antigua and Barbuda, Barbados, Brunei Darussalam, Central African Republic, Comoros, Dominica, Iraq, Kiribati, Latvia, Micronesia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Senegal, Seychelles, Solomon Islands, Swaziland and Trinidad and Tobago. The secretariat also informed the Committee that pursuant to reminders and additional follow-up by the secretariat regarding 15 States whose reports were 10 or 20 years or more overdue, 11 reports had been received and considered or were scheduled for consideration (Bahamas, Chad, Côte d'Ivoire, Djibouti, Grenada, Guinea-Bissau, Haiti, Lesotho, Liberia, Papua New Guinea, and Tuvalu), 1 had been considered in the absence of a report (Dominica) and 3 were to be considered in the absence of a report (Central African Republic, Comoros and Seychelles).

Dates of future sessions of the Committee

20. The Committee confirmed the dates of its forty-ninth and fiftieth sessions as follows:

Forty-ninth session

- (a) Twentieth session of the Working Group on Communications under the Optional Protocol: 6-8 July 2011, New York;
- (b) Plenary: 11-29 July 2011, New York;
- (c) Pre-session working group for the fifty-first session: 1-5 August 2011, New York;

Fiftieth session

- (a) Twenty-first session of the Working Group on Communications under the Optional Protocol: 28-30 September 2011, Geneva;
- (b) Plenary: 3-21 October 2011, Geneva;
- (c) Pre-session working group for the fifty-second session: 24-28 October 2011, Geneva.

Reports to be considered at future sessions of the Committee

21. The Committee confirmed that it will consider the reports of the following States parties at its forty-ninth session: Costa Rica, Djibouti, Ethiopia, Italy, Nepal, Republic of Korea, Singapore and Zambia. In addition, it will consider the reports of the following States parties at its fiftieth session: Chad, Côte d'Ivoire, Kuwait, Lesotho, Mauritius, Montenegro, Oman and Paraguay.

D. Action taken by the Committee in respect of issues arising from article 2 of the Optional Protocol

22. At its forty-sixth and forty-seventh sessions, the Committee endorsed the report of the Working Group on Communications under the Optional Protocol on its seventeenth and eighteenth sessions. The Committee decided that the Working Group, which convenes three times a year, for a total of 10 working days, will meet immediately prior to the scheduled sessions of the Committee, except when the election of new experts to the Committee resulted in the expiration of the mandate of the Working Group's members. In that case, the Working Group would meet after the Committee's session at which members of the Working Group are appointed. The Committee also took action on communication No. 18/2008 and decided, upon the recommendation of the working group, to close its follow-up procedure in relation to communication No. 4/2004. No action was taken by the Committee at its forty-eighth session regarding article 2 of the Optional Protocol since the nineteenth session of the Working Group on Communications was to be held following the forty-eighth session of the Committee.

Annex I

Statement of the Committee on the Elimination of Discrimination against Women on the tenth anniversary of Security Council resolution 1325 (2000) on women and peace and security

Armed conflict exacerbates inequalities which exist between women and men in different forms and to varying degrees in all societies and that make women particularly vulnerable when armed conflict breaks out. On the occasion of the tenth anniversary of Security Council resolution 1325 (2000) on women and peace and security, the Committee on the Elimination of Discrimination against Women wishes to reaffirm its commitment to the spirit of that resolution and its integral link with the Convention on the Elimination of All Forms of Discrimination against Women.

The adoption of Security Council resolution 1325 (2000) marked an important international political recognition that women and gender are relevant to international peace and security. For the first time the Security Council addressed the disproportionate and unique impact of armed conflict on women and recognized the under-valued and under-utilized contributions women make to conflict prevention and resolution, peacekeeping and peacebuilding, conflict resolution and peacebuilding. It also stressed the importance of women's equal and full participation as active agents in peace and security.

Security Council resolution 1325 (2000), recognized as a historic and unprecedented document, has built on a number of global policy documents, resolutions, statements and reports and treaties including the Convention, which provides an overall framework for its full implementation. The Convention is a comprehensive women's human rights instrument aimed at eliminating all forms of discrimination and violence against women which is applicable in times of peace and in situations of armed conflict.

Security Council resolution 1325 (2000) recalls the preamble to the Convention, which spells out that the cause of peace requires the full participation of women on equal terms with men in all fields and, by so doing, holds out a promise to women across the globe that their rights will be protected and that all barriers to their equal participation and full involvement in the maintenance and promotion of sustainable peace will be removed.

The Convention and Security Council resolution 1325 (2000) seek to move forward the gender equality agenda in conflict and post-conflict situations and seek to ensure that women's experiences, needs and perspectives are fully incorporated into the political, legal and social decisions that are aimed at achieving durable peace, reconciliation and development.

The adoption by the Security Council of resolutions 1325 (2000), 1820 (2008) and 1889 (2009), bears testimony to the progress made, during the last decade, in the area of women and peace and security. These resolutions have brought a much-needed and welcomed visibility to the importance of gender mainstreaming at all stages of peace process, including peacekeeping, peacebuilding, and post-conflict reconstruction.

While much has been done in response to Security Council resolution 1325 (2000) in the 10 years since its adoption, progress in implementation is still limited,

and armed conflict continues to have a devastating impact on women and girls. Conflicts are often accompanied by gender-based violence and evidence suggests an increasing scale and brutality of sexual violence with rape often used as a tool of war. Women and girls are increasingly targeted as a tactic of war to humiliate, dominate, instil fear in, punish, disperse and/or forcibly relocate members of a community or ethnic group.

Ten years after the adoption of resolution 1325 (2000), the situation remains far from satisfactory with gaps and challenges remaining, particularly in the post-conflict period, where women's potential contribution to peacebuilding is constrained owing to their exclusion from decision-making processes. While women are widely recognized as effective agents of peace, they still have little access to power and peace negotiations. There remain major gaps in the implementation of resolution 1325 (2000) and no mechanism of accountability to ensure its implementation has yet been instituted by the Security Council.

The Committee welcomes the elaboration of global indicators to track, measure and monitor implementation of Security Council resolution 1325 (2000) pursuant to paragraph 17 of Security Council resolution 1889 (2009).

The Committee also supports the adoption by States Members of the United Nations of national action plans on Security Council resolution 1325 (2000) as a key tool in national level implementation and it recommends that technical assistance be provided to build the capacity of States for the elaboration and adoption of national action plans as well as the development of comprehensive monitoring and evaluation mechanisms, all of which are closely linked to the implementation of the Convention.

On the occasion of the tenth anniversary of Security Council resolution 1325 (2000), the Committee emphasizes the synergy which exists between the standards in the Convention and those set out in resolution 1325 (2000) and reaffirms its determination to provide concrete strategic guidance to States parties for actions to be taken on the broad commitments outlined in resolution 1325 (2000).

The Committee recalls its reporting guidelines under which States parties are required to provide information on the implementation of Security Council resolution 1325 (2000) whenever appropriate and reaffirms its resolve to continue to address resolution 1325 (2000) in its constructive dialogue with States parties in the examination of their reports, in order to broaden and strengthen gender equality in the context of conflict, peacebuilding and post-conflict reconstruction by encouraging Governments to ensure that these rights are realized, by setting up adequate responses to women's needs and protection and by ensuring women's full participation in decision-making at national, regional and international levels.

In this world of continuing instability and violence, with civilian victims often outnumbering casualties among combatants, the Committee supports and echoes the call of the Security Council for all parties to come together for an improved protection of women and girls and commit themselves to ending impunity and prosecuting those responsible for all forms of violence, including rape and other sexual violence.

The Committee urges Member States to put resolutions 1325 (2000), 1820 (2008) and 1889 (2009) into practice by initiating, whenever appropriate, international investigation with special attention paid to sexual violence and urges

the Security Council to continue to support current efforts to resolve this situation in line with the principles those resolutions embody.

The Committee emphasizes the need for a concerted and integrated approach that would place implementation of Security Council resolutions 1325 (2000), 1820 (2008) and 1889 (2009) into a broader framework of the implementation of the Convention and its Optional Protocol. It also calls on States parties to enhance collaboration with civil society and non-governmental organizations working on implementation of resolutions 1325 (2000), 1820 (2008) and 1889 (2009) and stresses that this is a matter of concern to the guardians of global peace and security.

Annex II

General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women

I. Introduction

1. Through this general recommendation, the Committee on the Elimination of Discrimination against Women aims to clarify the scope and meaning of article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, which provides ways for States parties to implement domestically the substantive provisions of the Convention. The Committee encourages States parties to translate this general recommendation into national and local languages and to disseminate it widely to all branches of Government, civil society, including the media, academia and human rights and women's organizations and institutions.

2. The Convention is a dynamic instrument that accommodates the development of international law. Since its first session in 1982, the Committee on the Elimination of Discrimination against Women and other actors at the national and international levels have contributed to the clarification and understanding of the substantive content of the Convention's articles, the specific nature of discrimination against women and the various instruments required for combating such discrimination.

3. The Convention is part of a comprehensive international human rights legal framework directed at ensuring the enjoyment by all of all human rights and at eliminating all forms of discrimination against women on the basis of sex and gender. The Charter of the United Nations, the Universal Declaration of Human Rights,^a the International Covenant on Economic, Social and Cultural Rights,^b the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child,^c the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families^d and the Convention on the Rights of Persons with Disabilities^e contain explicit provisions guaranteeing women equality with men in the enjoyment of the rights they enshrine, while other international human rights treaties, such as the International Convention on the Elimination of All Forms of Racial Discrimination, are implicitly grounded in the concept of non-discrimination on the basis of sex and gender. The International Labour Organization (ILO) Conventions No. 100 (1951) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, No. 111 (1958) concerning Discrimination in Respect of Employment and Occupation and No. 156 (1981) concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, the Convention against Discrimination in Education, the Declaration on the Elimination of Discrimination against Women,^f the Vienna Declaration and Programme of Action,^g the Programme

^a General Assembly resolution 217 A (III).

^b General Assembly resolution 2200 A (XXI), annex.

^c United Nations, *Treaty Series*, vol. 1577, No. 27531.

^d *Ibid.*, vol. 2220, No. 39481.

^e General Assembly resolution 61/106, annex I.

^f General Assembly resolution 2263 (XXII).

of Action of the International Conference on Population and Development^h and the Beijing Declaration and Platform for Actionⁱ also contribute to an international legal regime of equality for women with men and non-discrimination. Likewise, the obligations of States entered into under regional human rights systems are complementary to the universal human rights framework.

4. The objective of the Convention is the elimination of all forms of discrimination against women on the basis of sex. It guarantees women the equal recognition, enjoyment and exercise of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, domestic or any other field, irrespective of their marital status, and on a basis of equality with men.

5. Although the Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2 (f) and 5 (a) indicates that the Convention covers gender-based discrimination against women. The term “sex” here refers to biological differences between men and women. The term “gender” refers to socially constructed identities, attributes and roles for women and men and society’s social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community. The application of the Convention to gender-based discrimination is made clear by the definition of discrimination contained in article 1. This definition points out that any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms is discrimination, even where discrimination was not intended. This would mean that identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied the exercise of a right because there was no recognition of the pre-existing gender-based disadvantage and inequality that women face. The views of the Committee on this matter are evidenced by its consideration of reports, its general recommendations, decisions, suggestions and statements, its consideration of individual communications and its conduct of inquiries under the Optional Protocol.

6. Article 2 is crucial to the full implementation of the Convention, since it identifies the nature of the general legal obligations of States parties. The obligations enshrined in article 2 are inextricably linked with all other substantive provisions of the Convention, as States parties have the obligation to ensure that all the rights enshrined in the Convention are fully respected at the national level.

7. Article 2 of the Convention should be read in conjunction with articles 3, 4, 5 and 24 and in the light of the definition of discrimination contained in article 1. The scope of the general obligations contained in article 2 should also be construed in the light of the general recommendations, concluding observations, views and other statements issued by the Committee, including the reports on the inquiry procedures

^g A/CONF.157/24 (Part I), chap. III.

^h *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

ⁱ *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

and the decisions of individual cases. The spirit of the Convention covers other rights that are not explicitly mentioned in the Convention, but that have an impact on the achievement of equality of women with men, which impact represents a form of discrimination against women.

II. Nature and scope of obligations of States parties

8. Article 2 calls on States parties to condemn discrimination against women in “all its forms”, while article 3 refers to appropriate measures that States parties are expected to take in “all fields” to ensure the full development and advancement of women. Through these provisions, the Convention anticipates the emergence of new forms of discrimination that had not been identified at the time of its drafting.

9. Under article 2, States parties must address all aspects of their legal obligations under the Convention to respect, protect and fulfil women’s right to non-discrimination and to the enjoyment of equality. The obligation to respect requires that States parties refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights. The obligation to protect requires that States parties protect women from discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women. The obligation to fulfil requires that States parties take a wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto, including, where appropriate, the adoption of temporary special measures in line with article 4, paragraph 1, of the Convention and general recommendation No. 25 on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures. This entails obligations of means or conduct and obligations of results. States parties should consider that they have to fulfil their legal obligations to all women through designing public policies, programmes and institutional frameworks that are aimed at fulfilling the specific needs of women leading to the full development of their potential on an equal basis with men.

10. States parties have an obligation not to cause discrimination against women through acts or omissions; they are further obliged to react actively against discrimination against women, regardless of whether such acts or omissions are perpetrated by the State or by private actors. Discrimination can occur through the failure of States to take necessary legislative measures to ensure the full realization of women’s rights, the failure to adopt national policies aimed at achieving equality between women and men and the failure to enforce relevant laws. Likewise, States parties have an international responsibility to create and continuously improve statistical databases and the analysis of all forms of discrimination against women in general and against women belonging to specific vulnerable groups in particular.

11. The obligations of States parties do not cease in periods of armed conflict or in states of emergency resulting from political events or natural disasters. Such situations have a deep impact on and broad consequences for the equal enjoyment and exercise by women of their fundamental rights. States parties should adopt

strategies and take measures addressed to the particular needs of women in times of armed conflict and states of emergency.

12. Although subject to international law, States primarily exercise territorial jurisdiction. The obligations of States parties apply, however, without discrimination to both citizens and non-citizens, including refugees, asylum-seekers, migrant workers and stateless persons, within their territory or effective control, even if not situated within the territory. States parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.

13. Article 2 is not limited to the prohibition of discrimination against women caused directly or indirectly by States parties. Article 2 also imposes a due diligence obligation on States parties to prevent discrimination by private actors. In some cases, a private actor's acts or omission of acts may be attributed to the State under international law. States parties are thus obliged to ensure that private actors do not engage in discrimination against women as defined in the Convention. The appropriate measures that States parties are obliged to take include the regulation of the activities of private actors with regard to education, employment and health policies and practices, working conditions and work standards, and other areas in which private actors provide services or facilities, such as banking and housing.

III. General obligations contained in article 2

A. Introductory sentence of article 2

14. The introductory sentence of article 2 reads: "States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women."

15. The first obligation of States parties referred to in the chapeau of article 2 is the obligation to "condemn discrimination against women in all its forms". States parties have an immediate and continuous obligation to condemn discrimination. They are obliged to proclaim to their population and the international community their total opposition to all forms of discrimination against women at all levels and branches of Government and their determination to bring about the elimination of discrimination against women. The term "discrimination in all its forms" clearly obligates the State party to be vigilant in condemning all forms of discrimination, including forms that are not explicitly mentioned in the Convention or that may be emerging.

16. States parties are under an obligation to respect, protect and fulfil the right to non-discrimination of women and to ensure the development and advancement of women in order that they improve their position and implement their right of de jure and de facto or substantive equality with men. States parties shall ensure that there is neither direct nor indirect discrimination against women. Direct discrimination against women constitutes different treatment explicitly based on grounds of sex and gender differences. Indirect discrimination against women occurs when a law, policy, programme or practice appears to be neutral insofar as it relates to men and women, but has a discriminatory effect in practice on women because pre-existing inequalities are not addressed by the apparently neutral measure. Moreover, indirect discrimination can exacerbate existing inequalities owing to a failure to recognize

structural and historical patterns of discrimination and unequal power relationships between women and men.

17. States parties also have an obligation to ensure that women are protected against discrimination committed by public authorities, the judiciary, organizations, enterprises or private individuals, in the public and private spheres. This protection shall be provided by competent tribunals and other public institutions and enforced by sanctions and remedies, where appropriate. States parties should ensure that all Government bodies and organs are fully aware of the principles of equality and non-discrimination on the basis of sex and gender and that adequate training and awareness-raising programmes are set up and carried out in this respect.

18. Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25.

19. Discrimination against women on the basis of sex and gender comprises, as stated in general recommendation No. 19 on violence against women, gender-based violence, namely, violence that is directed against a woman because she is a woman or violence that affects women disproportionately. It is a form of discrimination that seriously inhibits women's ability to enjoy and exercise their human rights and fundamental freedoms on the basis of equality with men. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, the violence that occurs within the family or domestic unit or within any other interpersonal relationship, or violence perpetrated or condoned by the State or its agents regardless of where it occurs. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence. States parties have a due diligence obligation to prevent, investigate, prosecute and punish such acts of gender-based violence.

20. The obligation to fulfil encompasses the obligation of States parties to facilitate access to and provide for the full realization of women's rights. The human rights of women shall be fulfilled by the promotion of de facto or substantive equality through all appropriate means, including through concrete and effective policies and programmes aimed at improving the position of women and achieving such equality, including, where appropriate, through the adoption of temporary special measures in accordance with article 4, paragraph 1, and general recommendation No. 25.

21. States parties in particular are obliged to promote the equal rights of girls since girls are part of the larger community of women and are more vulnerable to discrimination in such areas as access to basic education, trafficking, maltreatment, exploitation and violence. All these situations of discrimination are aggravated when the victims are adolescents. Therefore, States shall pay attention to the specific

needs of (adolescent) girls by providing education on sexual and reproductive health and carrying out programmes that are aimed at the prevention of HIV/AIDS, sexual exploitation and teenage pregnancy.

22. Inherent to the principle of equality between men and women, or gender equality, is the concept that all human beings, regardless of sex, are free to develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. States parties are called upon to use exclusively the concepts of equality of women and men or gender equality and not to use the concept of gender equity in implementing their obligations under the Convention. The latter concept is used in some jurisdictions to refer to fair treatment of women and men, according to their respective needs. This may include equal treatment, or treatment that is different but considered equivalent in terms of rights, benefits, obligations and opportunities.

23. States parties also agree to “pursue by all appropriate means” a policy of eliminating discrimination against women. This obligation to use means or a certain way of conduct gives a State party a great deal of flexibility for devising a policy that will be appropriate for its particular legal, political, economic, administrative and institutional framework and that can respond to the particular obstacles and resistance to the elimination of discrimination against women existing in that State party. Each State party must be able to justify the appropriateness of the particular means it has chosen and demonstrate whether it will achieve the intended effect and result. Ultimately, it is for the Committee to determine whether a State party has indeed adopted all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the Convention.

24. The main element of the introductory phrase of article 2 is the obligation of States parties to pursue a policy of eliminating discrimination against women. This requirement is an essential and critical component of a State party’s general legal obligation to implement the Convention. This means that the State party must immediately assess the de jure and de facto situation of women and take concrete steps to formulate and implement a policy that is targeted as clearly as possible towards the goal of fully eliminating all forms of discrimination against women and achieving women’s substantive equality with men. The emphasis is on movement forward: from the evaluation of the situation to the formulation and initial adoption of a comprehensive range of measures, to building on those measures continuously in the light of their effectiveness and new or emerging issues, in order to achieve the Convention’s goals. Such a policy must comprise constitutional and legislative guarantees, including an alignment with legal provisions at the domestic level and an amendment of conflicting legal provisions. It must also include other appropriate measures, such as comprehensive action plans and mechanisms for monitoring and implementing them, which provide a framework for the practical realization of the principle of formal and substantive equality of women and men.

25. The policy must be comprehensive in that it should apply to all fields of life, including those which are not explicitly mentioned in the text of the Convention. It must apply to both public and private economic spheres, as well as to the domestic sphere, and ensure that all branches of Government (executive, legislative and judicial branches) and all levels of Government assume their respective responsibilities for implementation. It should incorporate the entire range of

measures that are appropriate and necessary in the particular circumstances of the State party.

26. The policy must identify women within the jurisdiction of the State party (including non-citizen, migrant, refugee, asylum-seeking and stateless women) as the rights-bearers, with particular emphasis on the groups of women who are most marginalized and who may suffer from various forms of intersectional discrimination.

27. The policy must ensure that women, as individuals and groups, have access to information about their rights under the Convention and are able to effectively promote and claim those rights. The State party should also ensure that women are able to participate actively in the development, implementation and monitoring of the policy. To this end, resources must be devoted to ensuring that human rights and women's non-governmental organizations are well-informed, adequately consulted and generally able to play an active role in the initial and subsequent development of the policy.

28. The policy must be action- and results-oriented in the sense that it should establish indicators, benchmarks and timelines, ensure adequate resourcing for all relevant actors and otherwise enable those actors to play their part in achieving the agreed benchmarks and goals. To this end, the policy must be linked to mainstream governmental budgetary processes in order to ensure that all aspects of the policy are adequately funded. It should provide for mechanisms that collect relevant sex-disaggregated data, enable effective monitoring, facilitate continuing evaluation and allow for the revision or supplementation of existing measures and the identification of any new measures that may be appropriate. Furthermore, the policy must ensure that there are strong and focused bodies (national women's machinery) within the executive branch of the Government that will take initiatives, coordinate and oversee the preparation and implementation of legislation, policies and programmes necessary to fulfil the obligations of the State party under the Convention. These institutions should be empowered to provide advice and analysis directly to the highest levels of Government. The policy should also ensure that independent monitoring institutions, such as national human rights institutes or independent women's commissions, are established or that existing national institutes receive a mandate to promote and protect the rights guaranteed under the Convention. The policy must engage the private sector, including business enterprises, the media, organizations, community groups and individuals, and enlist their involvement in adopting measures that will fulfil the goals of the Convention in the private economic sphere.

29. The words "without delay" make it clear that the obligation of States parties to pursue their policy, by all appropriate means, is of an immediate nature. This language is unqualified, and does not allow for any delayed or purposely chosen incremental implementation of the obligations that States assume upon ratification of or accession to the Convention. It follows that a delay cannot be justified on any grounds, including political, social, cultural, religious, economic, resource or other considerations or constraints within the State. Where a State party is facing resource constraints or needs technical or other expertise to facilitate the implementation of its obligations under the Convention, it may be incumbent upon it to seek international cooperation in order to overcome these difficulties.

B. Subparagraphs (a) to (g)

30. Article 2 expresses the obligation of States parties to implement the Convention in a general way. Its substantive requirements provide the framework for the implementation of the specific obligations identified in article 2, subparagraphs (a) to (g), and all other substantive articles of the Convention.

31. Subparagraphs (a), (f) and (g) establish the obligation of States parties to provide legal protection and to abolish or amend discriminatory laws and regulations as part of the policy of eliminating discrimination against women. States parties must ensure that, through constitutional amendments or by other appropriate legislative means, the principle of equality between women and men and of non-discrimination is enshrined in domestic law with an overriding and enforceable status. They must also enact legislation that prohibits discrimination in all fields of women's lives under the Convention and throughout their lifespan. States parties have an obligation to take steps to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. Certain groups of women, including women deprived of their liberty, refugees, asylum-seeking and migrant women, stateless women, lesbian women, disabled women, women victims of trafficking, widows and elderly women, are particularly vulnerable to discrimination through civil and penal laws, regulations and customary law and practices. By ratifying the Convention or acceding to it, States parties undertake to incorporate the Convention into their domestic legal systems or to give it otherwise appropriate legal effect within their domestic legal orders in order to secure the enforceability of its provisions at the national level. The question of direct applicability of the provisions of the Convention at the national level is a question of constitutional law and depends on the status of treaties within the domestic legal order. The Committee takes the view, however, that the rights to non-discrimination and equality in all fields of women's lives throughout their lifespan, as enshrined in the Convention, may receive enhanced protection in those States where the Convention is automatically or through specific incorporation part of the domestic legal order. The Committee urges those States parties in which the Convention does not form part of the domestic legal order to consider incorporation of the Convention to render it part of domestic law, for example through a general law on equality, in order to facilitate the full realization of Convention rights as required by article 2.

32. Subparagraph (b) contains the obligation of States parties to ensure that legislation prohibiting discrimination and promoting equality of women and men provides appropriate remedies for women who are subjected to discrimination contrary to the Convention. This obligation requires that States parties provide reparation to women whose rights under the Convention have been violated. Without reparation the obligation to provide an appropriate remedy is not discharged. Such remedies should include different forms of reparation, such as monetary compensation, restitution, rehabilitation and reinstatement; measures of satisfaction, such as public apologies, public memorials and guarantees of non-repetition; changes in relevant laws and practices; and bringing to justice the perpetrators of violations of human rights of women.

33. According to subparagraph (c), States parties must ensure that courts are bound to apply the principle of equality as embodied in the Convention and to interpret the law, to the maximum extent possible, in line with the obligations of

States parties under the Convention. However, where it is not possible to do so, courts should draw any inconsistency between national law, including national religious and customary laws, and the State party's obligations under the Convention to the attention of the appropriate authorities, since domestic laws may never be used as justification for failures by States parties to carry out their international obligations.

34. States parties must ensure that women can invoke the principle of equality in support of complaints of acts of discrimination contrary to the Convention, committed by public officials or by private actors. States parties must further ensure that women have recourse to affordable, accessible and timely remedies, with legal aid and assistance as necessary, to be settled in a fair hearing by a competent and independent court or tribunal, where appropriate. Where discrimination against women also constitutes an abuse of other human rights, such as the right to life and physical integrity in, for example, cases of domestic and other forms of violence, States parties are obliged to initiate criminal proceedings, bring the perpetrator(s) to trial and impose appropriate penal sanctions. States parties should financially support independent associations and centres providing legal resources for women in their work to educate women about their rights to equality and assist them in pursuing remedies for discrimination.

35. Subparagraph (d) establishes an obligation of States parties to abstain from engaging in any act or practice of direct or indirect discrimination against women. States parties must ensure that State institutions, agents, laws and policies do not directly or explicitly discriminate against women. They must also ensure that any laws, policies or actions that have the effect or result of generating discrimination are abolished.

36. Subparagraph (e) establishes an obligation of States parties to eliminate discrimination by any public or private actor. The types of measures that might be considered appropriate in this respect are not limited to constitutional or legislative measures. States parties should also adopt measures that ensure the practical realization of the elimination of discrimination against women and women's equality with men. This includes measures that: ensure that women are able to make complaints about violations of their rights under the Convention and have access to effective remedies; enable women to be actively involved in the formulation and implementation of measures; ensure Government accountability domestically; promote education and support for the goals of the Convention throughout the education system and in the community; encourage the work of human rights and women's non-governmental organizations; establish the necessary national human rights institutions or other machineries; and provide adequate administrative and financial support to ensure that the measures adopted make a real difference in women's lives in practice. The obligations incumbent upon States parties that require them to establish legal protection of the rights of women on an equal basis with men, ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination and take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise also extend to acts of national corporations operating extraterritorially.

IV. Recommendations to States parties

A. Implementation

37. In order to satisfy the requirement of “appropriateness”, the means adopted by States parties must address all aspects of their general obligations under the Convention to respect, protect, promote and fulfil women’s right to non-discrimination and to the enjoyment of equality with men. Thus the terms “appropriate means” and “appropriate measures” used in article 2 and other articles of the Convention comprise measures ensuring that a State party:

(a) Abstains from performing, sponsoring or condoning any practice, policy or measure that violates the Convention (respect);

(b) Takes steps to prevent, prohibit and punish violations of the Convention by third parties, including in the home and in the community, and to provide reparation to the victims of such violations (protect);

(c) Fosters wide knowledge about and support for its obligations under the Convention (promote);

(d) Adopts temporary special measures that achieve sex non-discrimination and gender equality in practice (fulfil).

38. States parties should also adopt other appropriate measures of implementation such as:

(a) Promoting equality of women through the formulation and implementation of national plans of action and other relevant policies and programmes in line with the Beijing Declaration and Platform for Action, and allocating adequate human and financial resources;

(b) Establishing codes of conduct for public officials to ensure respect for the principles of equality and non-discrimination;

(c) Ensuring that reports of court decisions applying the provisions of the Convention on the equality and non-discrimination principles are widely distributed;

(d) Undertaking specific education and training programmes about the principles and provisions of the Convention directed to all Government agencies, public officials and, in particular, the legal profession and the judiciary;

(e) Enlisting all media in public education programmes about the equality of women and men, and ensuring in particular that women are aware of their right to equality without discrimination, of the measures taken by the State party to implement the Convention, and of the concluding observations by the Committee on the reports of the State party;

(f) Developing and establishing valid indicators of the status of and progress in the realization of human rights of women, and establishing and maintaining databases disaggregated by sex and related to the specific provisions of the Convention.

B. Accountability

39. The accountability of the States parties to implement their obligations under article 2 is engaged through the acts or omissions of acts of all branches of

Government. The decentralization of power, through devolution and delegation of Government powers in both unitary and federal States, does not in any way negate or reduce the direct responsibility of the State party's national or federal Government to fulfil its obligations to all women within its jurisdiction. In all circumstances, the State party that ratified or acceded to the Convention remains responsible for ensuring full implementation throughout the territories under its jurisdiction. In any process of devolution, States parties have to make sure that the devolved authorities have the necessary financial, human and other resources to effectively and fully implement the obligations of the State party under the Convention. The Governments of States parties must retain powers to require such full compliance with the Convention and must establish permanent coordination and monitoring mechanisms to ensure that the Convention is respected and applied to all women within their jurisdiction without discrimination. Furthermore, there must be safeguards to ensure that decentralization or devolution does not lead to discrimination with regard to the enjoyment of rights by women in different regions.

40. Effective implementation of the Convention requires that a State party be accountable to its citizens and other members of its community at both the national and international levels. In order for this accountability function to work effectively, appropriate mechanisms and institutions must be put in place.

C. Reservations

41. The Committee considers article 2 to be the very essence of the obligations of States parties under the Convention. The Committee therefore considers reservations to article 2 or to subparagraphs of article 2 to be, in principle, incompatible with the object and purpose of the Convention and thus impermissible under article 28, paragraph 2. States parties that have entered reservations to article 2 or to subparagraphs of article 2 should explain the practical effect of those reservations on the implementation of the Convention and should indicate the steps taken to keep the reservations under review, with the goal of withdrawing them as soon as possible.

42. The fact that a State party has entered a reservation to article 2 or to subparagraphs of article 2 does not remove the need for that State party to comply with its other obligations under international law, including its obligations under other human rights treaties that the State party has ratified or to which it has acceded and under customary international human rights law relating to the elimination of discrimination against women. Where there is a discrepancy between reservations to provisions of the Convention and similar obligations under other international human rights treaties ratified by a State party or to which it has acceded, it should review its reservations to the Convention with a view to withdrawing them.

Annex III

General recommendation No. 27 on older women and protection of their human rights

Introduction

1. The Committee on the Elimination of Discrimination against Women, concerned about the multiple forms of discrimination experienced by older women and that older women's rights are not systematically addressed in the reports of States parties, decided at its forty-second session, held from 20 October to 7 November 2008, pursuant to article 21 of the Convention on the Elimination of All Forms of Discrimination against Women, to adopt a general recommendation on older women and protection of their human rights.

2. In its decision 26/III of 5 July 2002, the Committee acknowledged that the Convention "is an important tool for addressing the specific issue of the human rights of older women".^a General recommendation No. 25 on article 4, paragraph 1, of the Convention (temporary special measures) also recognizes that age is one of the grounds on which women may suffer multiple forms of discrimination. In particular, the Committee recognized the need for statistical data, disaggregated by age and sex, in order to better assess the situation of older women.

3. The Committee affirms previous commitments to older women's rights enshrined in, inter alia, the Vienna International Plan of Action on Ageing,^b the Beijing Declaration and Platform for Action,^c the United Nations Principles for Older Persons (General Assembly resolution 46/91, annex), the Programme of Action of the International Conference on Population and Development,^d the Madrid International Plan of Action on Ageing 2002,^e Committee on Economic, Social and Cultural Rights general comment No. 6 on the economic, social and cultural rights of older persons (1995), and general comment No. 19 on the right to social security (2008).

Background

4. Current United Nations figures estimate that within 36 years there will be more people over the age of 60 than children under 15 years, globally. It is estimated that, by 2050, the number of older people will be over 2 billion, or 22 per cent of the global population, an unprecedented doubling of the present 11 per cent of the population that is over 60.

^a See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 38* (A/57/38, part one, chap. I, decision 26/III, and chap. VII, paras. 430-436).

^b *Report of the World Assembly on Ageing, Vienna, 26 July-6 August 1982* (United Nations publication, Sales No. E.I.16), chap. VI, sect. A.

^c *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

^d *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

^e *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002* (United Nations publication, Sales No. E.02.IV.4), chap. I, resolution 1, annex II.

5. The gendered nature of ageing reveals that women tend to live longer than men, and that more older women than men live alone. While there are 83 men for every 100 women over the age of 60, there are only 59 men for every 100 women over the age of 80. Further, statistics from the Department of Economic and Social Affairs of the United Nations Secretariat indicate that 80 per cent of men over 60 are married compared with only 48 per cent of older women.^f

6. This unprecedented demographic ageing, due to improved living standards and basic health-care systems as well as declines in fertility and rising longevity, can be considered a successful outcome of development efforts and one that is set to continue, making the twenty-first century the century of ageing. However, such demographic changes have profound human rights implications and increase the urgency of addressing the discrimination experienced by older women in a more comprehensive and systematic manner through the Convention.

7. The issue of ageing is shared by both developed and developing countries. The proportion of older persons in less developed countries is expected to increase from 8 per cent in 2010 to 20 per cent by 2050,^g while the proportion of children will decrease from 29 to 20 per cent.^h The number of older women living in less developed regions will increase by 600 million within the period 2010 to 2050.ⁱ This demographic shift presents major challenges for developing countries. The ageing of society is a well-established trend and a significant feature in most developed countries.

8. Older women are not a homogeneous group. They have a great diversity of experience, knowledge, ability and skills, but their economic and social situation is dependent on a range of demographic, political, environmental, cultural, social, individual and family factors. The contribution of older women in public and private life as leaders in their communities, entrepreneurs, caregivers, advisers, mediators, among other roles, is invaluable.

Purpose and objective

9. This general recommendation on older women and the promotion of their rights explores the relationship between the articles of the Convention and ageing. It identifies the multiple forms of discrimination that women face as they age, outlines the content of the obligations to be assumed by States parties with regard to ageing with dignity and older women's rights, and includes policy recommendations aimed at mainstreaming the responses to the concerns of older women into national strategies, development initiatives and positive action so that older women can fully participate in society without discrimination and on an equal basis with men.

10. The general recommendation also provides guidance to States parties on the inclusion of the situation of older women in their reports on the implementation of

^f United Nations, Department of Economic and Social Affairs, Population Ageing and Development 2009 Chart, available at <http://www.un.org/esa/population/publications/ageing/ageing2009.htm>.

^g Ibid.

^h United Nations, Department of Economic and Social Affairs, Population Division, World Population Prospects: The 2008 Revision Population Database, <http://esa.un.org/unpp/index.asp?panel=1>.

ⁱ Ibid.

the Convention. The elimination of all forms of discrimination against older women can only be achieved by fully respecting and protecting their dignity and their right to integrity and self-determination.

Specific areas of concern

11. While both men and women experience discrimination as they become older, older women experience ageing differently. The impact of gender inequality throughout their lifespan is exacerbated in old age and is often based on deep-rooted cultural and social norms. The discrimination that older women experience is often a result of unfair resource allocation, maltreatment, neglect and limited access to basic services.

12. Concrete forms of discrimination against older women may differ considerably under various socio-economic circumstances and in various sociocultural environments, depending on the equality of opportunities and choices regarding education, employment, health, family and private life. In many countries, the lack of telecommunication skills, access to adequate housing, social services and the Internet, loneliness and isolation pose problems for older women. Older women living in rural areas or urban slums often suffer a severe lack of basic resources for subsistence, income security, access to health care, information on and enjoyment of their entitlements and rights.

13. The discrimination experienced by older women is often multidimensional, with the age factor compounding other forms of discrimination based on gender, ethnic origin, disability, poverty levels, sexual orientation and gender identity, migrant status, marital and family status, literacy and other grounds. Older women who are members of minority, ethnic or indigenous groups, internally displaced or stateless often experience a disproportionate degree of discrimination.

14. Many older women face neglect as they are no longer considered useful in their productive and reproductive roles, and are seen as a burden on their families. Widowhood and divorce further exacerbate discrimination, while lack of or limited access to health-care services for diseases and conditions such as diabetes, cancer, hypertension, heart disease, cataract, osteoporosis and Alzheimer's disease, prevent older women from enjoying their full human rights.

15. The full development and advancement of women can be achieved only through a life cycle approach that recognizes and addresses the different stages of women's lives — from childhood through adolescence, adulthood and old age — and the impact of each stage on the enjoyment of human rights by older women. The rights enshrined in the Convention are applicable at all stages of a woman's life. However, in many countries, age discrimination is still tolerated and accepted at the individual, institutional and policy levels, and few countries have legislation prohibiting discrimination based on age.

16. Gender stereotyping, traditional and customary practices can have harmful impacts on all areas of the lives of older women, in particular those with disabilities, including family relationships, community roles, portrayal in the media, employers' attitudes, health-care and other service providers, and can result in physical violence as well as psychological, verbal and financial abuse.

17. Older women are often discriminated against through restrictions that hamper their participation in political and decision-making processes. For example, lack of identification documents or transportation may prevent older women from voting. In some countries, older women are not allowed to form or participate in associations or other non-governmental groups to campaign for their rights. Further, the mandatory retirement age may be lower for women than for men, which may be discriminatory against women, including those who represent their Governments at the international level.

18. Older women with refugee status or who are stateless or asylum-seekers, as well as those who are migrant workers or internally displaced, often face discrimination, abuse and neglect. Older women affected by forced displacement or statelessness may suffer from post-traumatic stress syndrome, which may not be recognized or treated by health-care providers. Older refugee and internally displaced women are sometimes denied access to health care because they lack legal status or legal documents and/or are resettled far from health-care facilities. They may also experience cultural and language barriers in accessing services.

19. Employers often regard older women as non-profitable investments for education and vocational training. Older women also do not have equal opportunities to learn modern information technology, nor the resources to obtain them. Many poor older women, especially those with disabilities and those living in rural areas, are denied the right to education and receive little or no formal or informal education. Illiteracy and innumeracy can severely restrict older women's full participation in public and political life, the economy, and access to a range of services, entitlements and recreational activities.

20. Women are fewer in the formal employment sector. Women also tend to be paid less than men for the same work or work of equal value. Moreover, gender-based discrimination in employment throughout their life has a cumulative impact in old age, forcing older women to face disproportionately lower incomes and pensions, or even no pension, compared with men. In general comment No. 19, the Committee on Economic, Social and Cultural Rights recognizes that non-contributory pensions will be required in most States since it is unlikely that everyone will be covered by contributory schemes (para. 4 (b)), while article 28, paragraph 2 (b), of the Convention on the Rights of Persons with Disabilities provides for social protection for older women, particularly those with disabilities. Since the old-age pension payable is usually closely linked to earnings during active life, older women often end up with lower pensions compared with men. Furthermore, older women are particularly affected by discrimination on the basis of age and sex, which results in a different mandatory retirement age than that for men. Women should be subject to an optional retirement age so as to protect older women's right to continue working if they wish to and to accumulate pension benefits, where applicable, at par with men. It is a known fact that many older women care for, and are sometimes the sole caregivers of, dependent young children, spouses/partners or elderly parents or relatives. The financial and emotional cost of this unpaid care is rarely recognized.

21. Older women's rights to self-determination and consent with regard to health care are not always respected. Social services, including long-term care, for older women might be disproportionately reduced when public expenditure is cut. Post-menopausal, post-reproductive and other age-related and gender-specific physical

and mental health conditions and diseases tend to be overlooked by research, academic studies, public policy and service provision. Information on sexual health and HIV/AIDS is rarely provided in a form that is acceptable, accessible and appropriate for older women. Many older women do not have private health insurance, or are excluded from State-funded schemes because they did not contribute to a scheme during their working life in the informal sector or providing unpaid care.

22. Older women may not be eligible to claim family benefits if they are not the parent or legal guardian of children in their care.

23. Microcredit and finance schemes usually have age restrictions or other criteria that prevent older women from accessing them. Many older women, particularly those who are confined to their homes, are unable to participate in cultural, recreational and community activities, which leaves them isolated and has a negative impact on their well-being. Often, not enough attention is given to the requirements for independent living, such as personal assistance, adequate housing, including accessible housing arrangements and mobility aids.

24. In many countries, the majority of older women live in rural areas where access to services is even more difficult due to their age and poverty levels. Many older women receive irregular, insufficient or no remittances from their migrant-worker children. Denial of their right to water, food and housing is part of the everyday life of many poor, rural older women. Older women may not be able to afford proper food due to a combination of factors such as the high price of food and the inadequacy of their income (due to discrimination with regard to employment), social security and access to resources. Lack of access to transportation can prevent older women from accessing social services or participating in community and cultural activities. Such lack of access may be due to the fact that older women have low incomes and the inadequacy of public policy in providing affordable and accessible public transport to meet the needs of older women.

25. Climate change impacts differently on women, especially older women who, due to their physiological differences, physical ability, age and gender, as well as social norms and roles and an inequitable distribution of aid and resources relating to social hierarchies, are particularly disadvantaged in the face of natural disasters. Their limited access to resources and decision-making processes increases their vulnerability to climate change.

26. Under some statutory and customary laws, women do not have the right to inherit and administer marital property on the death of their spouse. Some legal systems justify this by providing widows with other means of economic security, such as support payments from the deceased's estate. However, in reality, such provisions are seldom enforced, and widows are often left destitute. Some laws particularly discriminate against older widows, and some widows are victims of "property grabbing".

27. Older women are particularly vulnerable to exploitation and abuse, including economic abuse, when their legal capacity is deferred to lawyers or family members, without their consent.

28. The Committee's general recommendation No. 21 (1994) states that "[p]olygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependants

that such marriages ought to be discouraged and prohibited” (para. 14). Nevertheless, polygamy is still practised in many States parties, and many women are in polygamous unions. Older wives are often neglected in polygamous marriages once they are no longer considered to be reproductively or economically active.

Recommendations

General

29. State parties must recognize that older women are an important resource to society, and that States parties have the obligation to take all appropriate measures, including legislation, to eliminate discrimination against older women. States parties should adopt gender-sensitive and age-specific policies and measures, including temporary special measures, in line with article 4, paragraph 1, of the Convention and general recommendations No. 23 (1997) and No. 25 (2004) of the Committee, to ensure that older women participate fully and effectively in political, social, economic, cultural and civil life, and any other field in their societies.

30. States parties have an obligation to ensure the full development and advancement of women throughout their life cycle in times of both peace and conflict, as well as in the event of any man-made and/or natural disaster. 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 older women.

31. States parties’ obligations should take into account the multidimensional nature of discrimination against women and ensure that the principle of gender equality applies throughout women’s life cycle, in legislation and in the practical implementation thereof. In this regard, States parties are urged to repeal or amend existing laws, regulations and customs that discriminate against older women, and ensure that legislation proscribes discrimination on the grounds of age and sex.

32. In order to support legal reform and policy formulation, States parties are urged to collect, analyse and disseminate data disaggregated by age and sex, so as to have information on the situation of older women, including those living in rural areas, areas of conflict, belonging to minority groups, and with disabilities. Such data should especially focus, among other issues, on poverty, illiteracy, violence, unpaid work, including care-giving to those living with or affected by HIV/AIDS, migration, access to health care, housing, social and economic benefits and employment.

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

34. States parties should enable older women to seek redress for and resolve infringements of their rights, including the right to administer property, and ensure that older women are not deprived of their legal capacity on arbitrary or discriminatory grounds.

35. States parties should ensure that climate change and disaster risk-reduction measures are gender-responsive and sensitive to the needs and vulnerabilities of older women. States parties should also facilitate the participation of older women in decision-making for climate change mitigation and adaptation.

Stereotypes

36. States parties have an obligation to eliminate negative stereotyping and modify social and cultural patterns of conduct that are prejudicial and harmful to older women, so as to reduce the physical, sexual, psychological, verbal and economic abuse that older women, including those with disabilities, experience based on negative stereotyping and cultural practices.

Violence

37. States parties have an obligation to draft legislation recognizing and prohibiting violence, including domestic, sexual violence and violence in institutional settings, against older women, including those with disabilities. States parties have an obligation to investigate, prosecute and punish all acts of violence against older women, including those committed as a result of traditional practices and beliefs.

38. States parties should pay special attention to the violence suffered by older women in times of armed conflict, the impact of armed conflicts on the lives of older women, and the contribution that older women can make to the peaceful settlement of conflicts and to reconstruction processes. States parties should give due consideration to the situation of older women when addressing sexual violence, forced displacement and the conditions of refugees during armed conflict. States parties should take into account relevant United Nations resolutions on women and peace and security when addressing such matters, including, in particular, Security Council resolutions 1325 (2000), 1820 (2008) and 1889 (2009).

Participation in public life

39. States parties have an obligation to ensure that older women have the opportunity to participate in public and political life, and hold public office at all levels and that older women have the necessary documentation to register to vote and run as candidates for election.

Education

40. States parties have an obligation to ensure equal opportunity in the field of education for women of all ages, and to ensure that older women have access to adult education and lifelong learning opportunities as well as to the educational information they need for their well-being and that of their families.

Work and pension benefits

41. States parties have an obligation to facilitate the participation of older women in paid work without discrimination based on their age and gender. States parties should ensure that special attention is paid to addressing problems that older women might face in their working life, and that they are not forced into early retirement or

similar situations. States parties should also monitor the impact of gender-related pay gaps on older women.

42. States parties have an obligation to ensure that the retirement age in both the public and private sectors does not discriminate against women. Consequently, States parties have an obligation to ensure that pension policies are not discriminatory in any manner, even when women opt to retire early, and that all older women who have been active have access to adequate pensions. States parties should adopt all appropriate measures, including, where necessary, temporary special measures, to guarantee such pensions.

43. States parties should ensure that older women, including those who have the responsibility for the care of children, have access to appropriate social and economic benefits, such as childcare benefits, as well as access to all necessary support when caring for elderly parents or relatives.

44. States parties should provide adequate non-contributory pensions, on an equal basis with men, to all women who have no other pension or insufficient income security, and State-funded allowances should be made available and accessible to older women, particularly those living in remote or rural areas.

Health

45. States parties should adopt a comprehensive health-care policy aimed at protecting the health needs of older women in line with the Committee's general recommendation No. 24 (1999) on women and health. Such policy should ensure affordable and accessible health care to all older women through, where appropriate, the elimination of user fees, training of health workers in geriatric illnesses, provision of medicine to treat age-related chronic and non-communicable diseases, long-term health and social care, including care that allows for independent living and palliative care. Long-term care provisions should include interventions promoting behavioural and lifestyle changes to delay the onset of health problems, such as healthy nutritional practices and an active lifestyle, and affordable access to health-care services, including screening for and treatment of diseases, in particular those most prevalent among older women. Health policies must also ensure that health care provided to older women, including those with disabilities, is based on the free and informed consent of the person concerned.

46. States parties should adopt special programmes tailored to the physical, mental, emotional and health needs of older women, with special focus on women belonging to minorities and women with disabilities, as well as women tasked with caring for grandchildren and other young family dependants due to the migration of young adults, and women caring for family members living with or affected by HIV/AIDS.

Economic empowerment

47. States parties have an obligation to eliminate discrimination in all its forms against older women in economic and social life. All barriers based on age and gender to accessing agricultural credit and loans should be removed and access to appropriate technology for older women farmers and small landholders should be ensured. States parties should provide special support systems and collateral-free microcredit, and encourage microentrepreneurship for older women. Recreational

facilities for older women should be created and outreach services should be provided to older women who are confined to their homes. States parties should provide affordable and appropriate transportation to enable older women, including those living in rural areas, to participate in economic and social life, including community activities.

Social benefits

48. States parties should take necessary measures to ensure that older women have access to adequate housing that meets their specific needs, and all barriers, architectural and other, that hinder the mobility of older persons and lead to forced confinement should be removed. States parties should provide social services that enable older women to remain in their homes and live independently for as long as possible. Laws and practices that negatively affect older women's right to housing, land and property should be abolished. States parties should also protect older women against forced evictions and homelessness.

Rural and other vulnerable older women

49. States parties should ensure that older women are included and represented in rural and urban development planning processes. States parties should ensure the provision of affordable water, electricity and other utilities to older women. Policies aimed at increasing access to safe water and adequate sanitation should ensure that the related technologies are accessible and do not require undue physical strength.

50. States parties should adopt appropriate gender- and age-sensitive laws and policies to ensure the protection of older women with refugee status or who are stateless, as well as those who are internally displaced or are migrant workers.

Marriage and family life

51. States parties have an obligation to repeal all legislation that discriminates against older women in the area of marriage and in the event of its dissolution, including with regard to property and inheritance.

52. States parties must repeal all legislation that discriminates against older widows in respect of property and inheritance, and protect them from land grabbing. They must adopt laws of intestate succession that comply with their obligations under the Convention. Furthermore, they should take measures to end practices that force older women to marry against their will, and ensure that succession is not conditional on forced marriage to a deceased husband's sibling or any other person.

53. States parties should discourage and prohibit polygamous unions, in accordance with general recommendation No. 21, and ensure that, upon the death of a polygamous husband, his estate is shared equally among his wives and their respective children.

Annex IV

Statement welcoming the establishment of the United Nations Entity for Gender Equality and the Empowerment of Women

The Committee on the Elimination of Discrimination against Women wishes to welcome the creation of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) as a new entity to accelerate progress in meeting the needs of women and girls worldwide. Its establishment is both timely and relevant for the strengthening and mainstreaming of gender issues in the United Nations system.

UN-Women represents a clear recognition of the centrality of women's advancement and gender equality for the United Nations. It gives greater visibility to these key objectives and brings the integrated treatment of gender issues in the United Nations system closer to reality. Gender equality is not only a basic human right, its achievement is a key factor for socio-economic development, security and peace.

The Committee is very pleased with the appointment of the former President of Chile, Michelle Bachelet, to lead UN-Women. Her internationally recognized commitment to the substantive equality of women, and her personal and professional qualifications are an assurance that the new entity will be under the most competent and highest level leadership.

UN-Women will have a key role in helping Member States to implement global standards and norms for the protection of women. The Convention on the Elimination of All Forms of Discrimination against Women provides a universal and comprehensive international human rights framework for the protection and advancement of women, and the Committee monitors its implementation by the States parties. Furthermore, the Committee through its Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women receives complaints from individuals or groups and undertakes inquiries with respect to grave or systematic violations of rights under the Convention.

The Committee trusts that the establishment of UN-Women will serve to bolster the role played by the Committee and serve as an inspiration and an additional incentive for the universal ratification of the Convention and its Optional Protocol.

The Committee considers that it is crucial to create and develop strong links between UN-Women and the Committee, and looks forward to establishing close cooperation with UN-Women to contribute to furthering progress in achieving gender equality and women's advancement, thus both enhancing their work and strengthening synergies within the United Nations system.

Annex V

Joint statement by the Chairs of the United Nations human rights treaty bodies on the floods in Pakistan

Pakistan has recently been gravely affected by the worst monsoon flooding in a century. At least 1,600 persons have died and over 2,000 persons have been injured. The number of people directly affected by the floods stands at 20.2 million, with over 1.9 million houses reportedly damaged or destroyed and women and girls comprising 85 per cent of the persons displaced by the floods. The Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of Persons with Disabilities express profound concern about the impact of the floods in Pakistan on the enjoyment of human rights and extend their deepest sympathy for the victims of the floods.

The Committees have noted the reported gaps in provision of relief and registration of the affected families for financial assistance. They note that members of minority communities, Afghan refugees, women, children and persons with disabilities, particularly those living in rural areas, were already among the most vulnerable in Pakistani society. The floods have disproportionately affected them.

The Committees commend the authorities and relief agencies for their extraordinary efforts to bring relief to the victims and, at the same time, urge them to strengthen the human rights-based approach of their efforts, in order to prevent further victimization of the affected population. This calls for special measures to prevent discrimination and protect the most vulnerable, active vigilance regarding human rights violations, and the establishment of channels of participation for all affected persons in the decisions now being taken towards long-term recovery.

In particular, the Committee on the Elimination of Discrimination against Women notes with alarm that 85 per cent of persons displaced by the flood are women and children. Of that percentage, 500,000 women are pregnant. Each day 1,700 women go into labour and hundreds will experience complications requiring life-saving medical intervention. Maternal mortality is high in Pakistan and the numbers will rise for lack of medical facilities (over 200 hospitals and clinics in the affected areas have been destroyed), and the absence of female health-care workers (many Pakistani women will not receive care from a male medical worker because of cultural and religious beliefs). In addition, a lack of proper nutrition and clean water in the camps for internally displaced persons will have dire effects on women, especially those breastfeeding, and on their children. As the floodwaters rise, they are at acute risk from starvation, exposure, disease, sexual assault, violence and trafficking. The Committee calls upon the Pakistani authorities and relief agencies to take concrete measures with respect to all of the Committee's concerns, including measures to prevent sexual and physical abuse and trafficking of girls and women. The Committee also urges authorities and aid agencies to combat any constraints women and girls may face from accessing basic services or humanitarian aid, including cultural barriers.

The Committee on the Rights of the Child expresses concern about the very high infant and under-5 mortality rates in Pakistan, where an estimated 500,000 under-5 infant deaths occur each year, due to preventable causes. It is deeply concerned that the floods are worsening infant and child mortality. The Committee is further concerned at the breakdown of communication and infrastructure in the

north-western area of the Khyber Pakhtunkwa Province of Pakistan, an area of pre-existing conflict, where women and especially girls are known to have been denied access to basic health and education services. The Committee expresses deep concern at the heightened risk that girls be discriminated against, sexually abused and trafficked. The Committee urges authorities and all persons involved with relief and humanitarian assistance to heighten their efforts to reach the youngest children and those most difficult to reach. Girls and children with disabilities should be the utmost priority.

The Committee on the Rights of the Child calls for special measures to be taken to ensure that the poor birth registration rate in Pakistan, which was noted by the Committee in 2009, does not further prevent children from accessing relief aid, health, education and other essential services. The Committee stresses that the children now being born must not be denied their right to birth registration owing to the requirement on the parents to first prove Pakistani citizenship. The Committee urges authorities and all persons involved with relief and humanitarian assistance to heighten their efforts to reach the youngest, the most hard to reach children, girls, and children with disabilities as their utmost priority.

Special attention must be paid to particularly vulnerable persons. Among them, persons with disabilities are often a part of society that is kept invisible, even under normal circumstances and more so in times of emergency. The Committee on the Rights of Persons with Disabilities calls upon the authorities to ensure the full rights of persons with disabilities to security and protection, in accordance with the Convention on the Rights of Persons with Disabilities, including by urgently locating affected persons with physical, sensory, intellectual and psychosocial disabilities; facilitating reunification with their families; and ensuring access to water, food, medical services, technical assistance, and rehabilitation, as well as to information during the emergency so as to allow the normalization of their lives as soon as possible. The Committee calls upon Pakistan to address accessibility requirements in the reconstruction of housing and public spaces, in the resumption of education processes, and in the integration of persons with disabilities in the labour force and in social security schemes. In this regard, the Committee also calls for international cooperation (article 32 of the Convention) towards the realization of these objectives, in favour of persons with disabilities.

Pakistan is a party to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. It is a signatory to the Convention on the Rights of Persons with Disabilities. The expert Committees monitoring these Conventions issued this joint statement during their respective sessions held simultaneously in Geneva in October 2010.

Annex VI

Decision 47/V

General recommendation on the core obligations of States parties under article 2 of the Convention

On 19 October 2010, the Committee adopted general recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.

Decision 47/VI

General recommendation on older women and protection of their human rights

On 19 October 2010, the Committee adopted general recommendation No. 27 on older women and the protection of their human rights.
