



THE SOUL OF HALF WORLD WOMEN RIGHTS ARE HUMAN RIGHTS

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Abstract

About half of the world's population is women, which in human civilization was considered by men as a luxury item. For centuries, women were subjected to inhuman atrocities, they were subjected to physical, mental, economic and social exploitation. The flame of democracy and industrialization gave the basis of their life, increased the cooperation of women in social, political, economic and many other fields. Today in the 21st century, all the society talks about the equality of women, also motivates them to come forward in political, economic and other fields. But when it comes to the social sector, it comes to the field of religion, sex. When it comes to the area, women are seen from the point of view of second caste or low, for which many evidences are available in every field. There are still many efforts to be made for complete equality of women.

Keywords

Equality, women's rights, women safety, sexual harassment, domestic violence, religious hypocrisy



INTRODUCTION

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women's human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination. The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However, important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds. These intersecting forms of discrimination must be taken into account when developing measures and responses to combat discrimination against women.

This publication provides an introduction to women's human rights, beginning with the main provisions in international human rights law and going on to explain particularly relevant concepts for fully understanding women's human rights. Finally, selected areas of women's human rights are examined together with information on the main work of United Nations human rights mechanisms and others pertaining to these topics. The aim of the publication is to offer a basic understanding of the human rights of women as a whole, but because of the wide variety of issues relevant to women's human rights, it should not be considered exhaustive.

WOMEN'S RIGHTS IN PUBLIC AND POLITICAL LIFE

Historically, women have been excluded from political life and decision-making processes. Women's campaigns for participation in the public and political arena date back to the nineteenth and twentieth centuries and continue today.

At the time of the First World War, few parliamentary democracies recognized women's right to vote. In 1945, when the United Nations was established, more than half of the 51 nations that ratified the Charter still did not allow women to vote or gave them only restricted voting rights.¹

According to the Universal Declaration of Human Rights, everyone has the right to take part in the government of his or her country. One of the first tasks of the Commission on the Status of Women was to write the 1952 Convention on the Political Rights of Women.² The Convention on the Elimination of All Forms of Discrimination against Women builds on previous conventions and its article 7 concerns women's access to decision-making in political and public life. Article 7 guarantees the right of women to vote in all elections and public referendums and to be eligible for election to all publicly elected bodies, the right to participate in the formulation of government policy and its implementation, to hold public office and perform all public functions at all levels of government, and the right to participate in non-governmental organizations (NGOs) or associations concerned with the public and political life of the country. Article 8 requires State parties to "take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations."

Although women's right to vote has been secured in nearly every country of the world, in practice, the right to vote can sometimes be meaningless when other conditions make it virtually impossible or very difficult for both men and women to vote, such as the absence of free and fair elections, violations of freedom of expression, or lack of security, which tends to affect women disproportionately. In some countries, women cannot register to vote because they are missing a birth certificate or identity papers that are issued only to men. Other obstacles such as stereotyping and traditional perceptions of men's and women's roles in society, as well as lack of access to relevant information and resources, also inhibit women's possibilities or willingness to exercise their right to vote fully.³ Traditional working patterns of many political parties and government structures continue to be barriers to women's participation in public life, and women may be discouraged from seeking political office because of their double burden of work and the high cost of seeking and holding public office, in addition to discriminatory attitudes and practices.⁴ Among the countries that have ratified the Convention on the Elimination of All Forms of Discrimination against Women few have a legal bar to the eligibility of women, yet women remain seriously underrepresented at all levels of government. States have adopted different forms of quota systems. The most common are political party quotas, legislative quotas and reserved seats. Political party quotas are usually voluntary, party-specific and put in place to increase the number of women party candidates or elected representatives, through setting a percentage of women. Legislative quotas are binding national policies that are enforced through legislation, requiring all political parties to include a certain number of women in their lists of candidates for elections. Another method is to reserve seats for women in parliament through a national policy, which ensures a certain number of female legislators.⁵ Since the Beijing World Conference, States have increasingly adopted quotas to boost women's participation, counter discrimination and accelerate the slow pace at which the number of women in politics is rising. These measures are meant to correct some of the obstacles, especially institutional and systemic barriers, that still prevent women's equal access to politics.

However, if adopted in isolation, these measures are usually not enough to ensure equality. Moreover, they require adaptation to the local context. Quotas for women have often been criticized for various reasons, e.g., if the women are chosen by political parties or leaders to

serve political interests which may be contrary to ensuring equality or because quotas put too little emphasis on actual merits.⁶ Quotas for women need to be coupled with other measures to create an enabling environment for women to participate. Particularly, the positive impact of increasing women's representation in public and political life will not be felt if the women who gain access are not also empowered to actively participate in the discussions and exercise influence in decision-making.⁷

Participation in public life is, however, much broader than elections or being elected to public office. The Committee on the Elimination of Discrimination against Women has explained that the Convention's article 7 extends to all areas of public and political life and is thus not limited to those specified in the article itself. According to the Committee, the political and public life of a country is a broad concept, and can refer to the exercise of political power, in particular legislative, judicial, executive and administrative powers, all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. Women's right to participation also includes participating in civil society, public boards, local councils and the activities of political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life. The Committee's general recommendation No. 23 (1997) on women in political and public life emphasizes States' responsibility to appoint women to senior leadership positions, at all levels (local, national, international) of government, all government bodies, the judiciary, and to encourage political parties to do the same. States should ensure women's access to information and take measures to overcome barriers such as illiteracy, language, poverty and barriers to women's freedom of movement.

Women's participation specifically in peacebuilding and peacemaking processes is particularly important if post-conflict societies are to be rebuilt based on respect for human rights and democratic values. United Nations Security Council resolution 1325 (2000) and its follow-up resolutions and reports on women, peace and security, recognize women's important contribution to peace and call for increased representation of women at all levels of decision-making, in all mechanisms for the prevention, management and resolution of conflicts. This topic is dealt with more in depth in section F below.

Women human rights defenders

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the Declaration on Human Rights Defenders, recognizes the important role of human rights defenders, including that of women defenders, and outlines the rights of all human rights defenders and the obligations of States.

The Special Rapporteur on the situation of human rights defenders has drawn attention to the specific challenges facing women human rights defenders and those working on women's rights or on gender issues (A/HRC/16/44). Women human rights defenders are subject to the same types of risks as other human rights defenders, but as women they are also targeted for or exposed to gender-specific threats and gender-specific violence.³¹ The reasons for this are multifaceted and complex, and depend on the specific context in which the individual woman is working. Often, the work of women human rights defenders is seen as challenging traditional notions of family and gender roles in society, which can lead to hostility by the general population and the authorities. They are therefore stigmatized and ostracized by community leaders, faith-based groups, families and communities that consider them to be threatening religion, honour or culture through their work.

In addition, the work itself or what they are striving to achieve (for instance, the realization of women's rights or any gender-related rights) also makes them targets for attack. Their families also become targets for threats and violence, aiming to discourage women human rights defenders

from pursuing their work. The Special Rapporteur on the situation of human rights defenders has acknowledged that women defenders are more at risk of being subjected to certain forms of violence and other violations, prejudice, exclusion and repudiation than their male counterparts. It is therefore important to strengthen protection mechanisms and other—local and international—responses to their specific concerns.

The Special Rapporteur has recommended that States should ensure that protection programmes for human rights defenders integrate a gender perspective and address the specific needs of women human rights defenders. This must include prompt investigation of intimidation, threats, violence and other abuses against women human rights defenders whether committed by State or non-State actors. In practice, however, women human rights defenders are often without effective protection mechanisms.

Although the State has the primary responsibility to protect defenders when they are threatened or attacked, the international community as well as the United Nations presences on the ground also have a responsibility to support and protect them, bearing in mind the basic principles of confidentiality, do no harm and the informed consent of the person.⁸

The right to a nationality

Women's ability to participate in public and political life is integrally related to their ability to claim citizenship and nationality-related rights. The Convention on the Elimination of All Forms of Discrimination against Women calls on States to "grant women equal rights with men to acquire, change or retain their nationality" and to "ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband" (art. 9). It also requires State parties to "grant women equal rights with men with respect to the nationality of their children". The Committee has explained that nationality is critical to full participation in society and that not having one has a serious impact on the enjoyment of other rights such as

stand for public office, access public benefits and choose a residence. Article 15 requires State parties to "accord to women equality with men before the law" as well as identical legal capacity in civil matters. The Committee has further explained that any restriction in this field seriously limits the woman's ability to provide for herself and her dependants. The Committee has also noted with concern the high number of reservations to articles 9, 15 and 16, and called on States to withdraw them and to enact and enforce legislation in accordance with these articles.

SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

Reproductive health is defined in the Programme of Action of the International Conference on Population and Development as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes." In 2004, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health defined sexual health as a state of physical, emotional, mental and social well-being related to sexuality, not merely the absence of disease, dysfunction or infirmity (E/CN.4/2004/49). This definition is based on the recognition in the Programme of Action that the purpose of sexual health "is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases."

Women's sexual and reproductive health is related to multiple human rights, including the right to life, the right to be free from torture, the right to health, the right to privacy, the right to education and the prohibition of discrimination. The Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women have both clearly indicated that women's right to health includes their sexual and reproductive health. This means that States have obligations to respect, protect and fulfil rights related to

women's sexual and reproductive health. The Special Rapporteur on the right to health maintains that women are entitled to reproductive health-care services, goods and facilities that are: (a) available in adequate numbers; (b) accessible physically and economically; (c) accessible without discrimination; and (d) of good quality (A/61/338). Despite these obligations, violations of women's sexual and reproductive health rights are frequent. These take many forms, such as denying access to services that only women require, providing poor-quality services, subjecting access to third-party authorization or performing procedures without the woman's consent, including forced sterilization, forced virginity examinations and forced abortion. Women's sexual and reproductive health rights are also at risk when they are subjected to female genital mutilation and early marriage.

Violations of women's sexual and reproductive health rights are often deeply ingrained in societal values pertaining to women's sexuality. Patriarchal concepts of women's roles within the family mean that women are often valued according to their ability to reproduce. Early marriage and pregnancy or repeated pregnancies spaced too closely together, often as the result of efforts to produce male offspring because of the preference for sons, have a devastating impact on women's health with sometimes fatal consequences. Women are also often blamed for infertility, and ostracized and subjected to various human rights violations as a result.

The Convention on the Elimination of All Forms of Discrimination against Women guarantees women equal rights in deciding "freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (art. 16). It also specifies that women's right to education includes "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning" (art. 10). Furthermore, sexual and reproductive health is considered to be a vital element of the right to the highest attainable standard of physical and mental health. Women's childbearing role can also have an impact on their enjoyment of other rights such as the rights to education and to work. The Beijing Platform for Action states that "the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence." The Committee on the Elimination of Discrimination against Women, in its general recommendation No. 24 (1999) on women and health, recommends that States should prioritize the "prevention of unwanted pregnancy through family planning and sex education." In its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights explained that the provision of maternal health services is comparable to a core obligation which cannot be derogated from under any circumstances, and State parties have the immediate obligation to take deliberate, concrete and targeted steps towards fulfilling the right to health in the context of pregnancy and childbirth.

Access to information about sexual and reproductive health

Women's right to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to exercise this right requires attention to their access to information on modern methods of contraception and comprehensive sex education.

Women's access to modern methods of contraception

According to the United Nations Population Fund, there were 1.4 billion women of reproductive age (between 15 and 49) in 2008, of whom 818 million, or more than half, wanted to avoid a pregnancy. Of those, 603 million were using modern contraceptive methods and 215 million were not. Unintended pregnancies are overwhelmingly attributable to the unmet need for modern contraception. Of the women who became pregnant unintentionally, 66 per cent were not using any method of contraception and 16 per cent relied on traditional methods, such as periodic abstinence and withdrawal, which have higher rates of failure than modern methods. Women's and girls' susceptibility to

contracting HIV and other sexually transmitted diseases is another serious consequence of not using modern contraception.

Women's lack of information on contraception has a direct impact on their right to decide on the number and spacing of their children, as well as on their right to health. The Committee on the Elimination of Discrimination against Women, in its general recommendation No. 21 (1994), explained that "in order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention." Such information should be scientifically accurate and free from discrimination. While practitioners have a right to conscientious objection, the protection of that right must not infringe on women's right to accurate and objective information on contraception. The European Court of Human Rights, for instance, has held that pharmacists may not refuse to sell contraceptives based on their personal religious beliefs.⁹ The Committee on the Rights of the Child, in its general comment No. 4 (2003) on adolescent health and development, specified that "States parties should ensure that [adolescents] have access to appropriate information [on sexual and reproductive issues, including family planning, contraception and the prevention of sexually transmitted diseases], regardless of their marital status and whether their parents or guardians consent." Access to services and medicines Ensuring that women have access to services which are required only by women is a key aspect of eliminating discrimination against women. Guaranteeing the availability, accessibility, quality and acceptability of these services and medicines is central to ensuring women's sexual and reproductive health rights. The Committee on the Elimination of Discrimination against Women, in its general recommendation No. 24 (1999), further specified that "it is discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women", highlighting that "laws that criminalize medical procedures only needed by women and that punish women who undergo those procedures" are barriers to women's access to health care.

It is estimated that 287,000 women died in childbirth in 2010. In addition, every year an estimated 10 million women suffer a pregnancy-related injury, infection, disease or in some cases long-term disability. Ensuring universal access to skilled attendance at childbirth, emergency obstetric care, post-partum care, preventing unsafe abortion and widening contraceptive choices are some of the interventions that have been shown to reduce maternal mortality and morbidity.

In the case of *Alyne da Silva Pimentel Teixeira (deceased) v. Brazil*,¹⁰ the victim, a woman of African descent, died after a stillbirth and serious postnatal complications. Failures in diagnosing the complications suffered by the victim, delays in treating those complications, delays in referring her to a hospital with superior facilities and failures in the transmission of her records between health facilities, followed by lack of adequate response and redress for these failures, resulted in a finding of violations of the Convention.

The Committee found that the State party had violated its obligations under article 12 (in relation to access to health), article 2 (c) (in relation to access to justice) and article 2 (e) (in relation to the State party's due diligence obligation to regulate the activities of private health service providers), in conjunction with article 1, of the Convention. The Committee underlined in its decision that the State is directly responsible for the actions of its private medical institutions when it outsources its medical services, and that it maintains a duty to regulate and monitor private health-care institutions inline with its due diligence obligations. The Committee further noted that the State must ensure that its maternal health services meet the specific needs of women, that policies on maternal health are implemented in practice, and that adequate judicial remedies and effective protection are provided without discrimination.

Ensuring access to safe and affordable sexual and reproductive health services includes the need to ensure access to safe and affordable abortion. Although access to modern contraceptive

methods and family planning reduce the risk of an unplanned pregnancy, no contraceptive method is 100 per cent effective. The work of human rights mechanisms indicates that States should ensure access to abortion at least where there is a threat to the woman's life or health, or where the pregnancy is the result of rape or incest.¹¹ In its general recommendation No. 24 (1999), the Committee on the Elimination of Discrimination against Women also stated that "when possible, legislation criminalizing abortion could be amended to remove punitive provisions imposed on women who undergo abortion." Decriminalization of abortion services was also emphasized in the Beijing Platform for Action, which recommended that States should consider reviewing laws containing punitive measures against women who have undergone illegal abortions.¹² In all circumstances, access to post-abortion health services must be accessible, safe and affordable. Unsafe abortion is a leading cause of maternal mortality and morbidity, and ensuring that abortion services are accessible and safe is thus also an important part of the State's obligation to ensure that women are enabled to survive pregnancy. Regarding access to medicines, WHO has included modern methods of contraception, including emergency contraception, in its Model List of Essential Medicines. Recognizing that access to medicines to ensure sexual and reproductive health can sometimes be restricted on political, cultural or legal rather than medical grounds, the Special Rapporteur on the right to health has called on States to "ensure that access to essential medicines for treating ... sexual and reproductive health ... is based purely on health needs and evidence and not restricted on account of extraneous non-health considerations" (A/HRC/23/42, para. 73 (b)).

Consent

Ensuring women's sexual and reproductive health rights means that women's capacity to make decisions regarding their bodies must be respected. Requirements of third-party consent for access to certain services have been consistently criticized by human rights mechanisms contrary to women's rights. For instance, the Human Rights Committee, in its general comment No. 28 (2000), deemed legal provisions requiring the husband's consent for a woman to undergo sterilization a violation of the woman's right to privacy.¹³

According to the Committee on the Elimination of Discrimination against Women, in its general recommendation No. 19 (1992), compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes their right to decide on the number and spacing of their children. In *A.S. v. Hungary*,¹⁴ a doctor in a public hospital performed a forced sterilization procedure on a patient without providing adequate information to gain the patient's consent. The Committee found a violation of the petitioner's right to equality in education, especially regarding information pertaining to family planning, the right to equality in accessing health care and the right to equality in the family, especially regarding the right to decide the number, spacing and timing of children.

Persons with disabilities face particular risks of being subjected to involuntary medical procedures pertaining to their sexual and reproductive health. Article 23 of the Convention on the Rights of Persons with Disabilities reinforces the right of people with disabilities to found and maintain a family and to retain their fertility on an equal basis with others. Article 12 reaffirms the right of persons with disabilities to recognition everywhere as persons before the law and to enjoy legal capacity on an equal basis with others, including access to the support they may require to exercise their legal capacity. Article 25 clearly articulates that free and informed consent should be the basis for providing health care to persons with disabilities. The Committee on the Rights of Persons with Disabilities recommended "the abolition of surgery and treatment without the full and informed consent of the patient" in one of its first concluding observations to a State party.¹⁵

WOMEN'S RIGHT TO AN ADEQUATE STANDARD OF LIVING

The International Covenant on Economic, Social and Cultural Rights mentions the right to adequate food, clothing and housing, and the continuous improvement of living conditions as part of the right to an adequate standard of living for oneself and one's family (art. 11). Women's rights to land, property, food, water and sanitation, as well as work and social security, are intrinsically linked to the right to attain an adequate standard of living. All these rights are guaranteed under international human rights law, including the right to enjoy these rights on an equal basis with men, without discrimination. Women's access to services, to education and to productive resources is paramount to the realization of the above-mentioned rights.

Land, property, housing

Rights to land, housing and property are essential to women's equality and well-being. Women's rights in, access to and control over land, housing and property are a determining factor in their living conditions especially in rural economies, essential to women and their children's daily survival, economic security and physical safety. Despite the importance of these rights for women and female-headed households, women still disproportionately lack security of tenure.⁴¹ This is often because property is registered in a man's name; the father, husband or brother. In the event of separation, divorce or widowhood, the man or his family often retains rights to the property or the land whereas the woman becomes homeless or will have to share the property with her in-laws without gaining control or rights over it.

Access to land and housing is governed through land tenure systems. Land tenure is the relationship, whether legally or customarily defined, among people, individuals and groups, with respect to land. According to general comment No. 4 (1991) on the right to adequate housing of

the Committee on Economic, Social and Cultural Rights, tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Regardless of the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.

Discriminatory legislation on and lack of control over property, land and housing also mean that women are excluded from community decision-making processes that are led by men who normally are the landowners. In rural communities, ownership of land determines both social status and the way in which control is exercised over a household's resources and income. Women's disadvantaged economic position in this regard creates a structural dependence on men for access to resources, which in turn can subject women to insecurity and violence.

Cultural and religious practices, as well as customary practices, can also have an impact on women's rights related to land, property and housing. These practices often exist in parallel with statutory laws. They may discriminate against women regarding property, land and housing, and sometimes trump national laws (these practices are never codified but can in practice supersede laws, for instance when implemented locally or when used as interpretation of statutory laws). This happens in particular in rural areas, where customs and practices still shape and influence family matters and determine the position of women. Most often, these customs or practices make women's access to or control over land, property and housing dependent on a man—the husband, father or brother. In practice, the interpretation of statutory laws is influenced by customary laws or practices to the detriment of women's rights. Customary forums for decision-making are normally dominated by men. Women can rarely participate in decision-making with respect to land, property and housing even though these issues affect them directly and seriously. Gender bias within the official administration also leads to the exclusion of women from decision-making on policies and programmes on housing and land.¹⁶

Women suffering from multiple forms of discrimination—e.g., older women, women with disabilities, women living with HIV/AIDS or women belonging to minority communities or indigenous groups—face additional obstacles in accessing land and property. For instance, in some places widows, often older women, are blamed for killing their husbands by infecting them with HIV and in-laws use this as a justification to dispossess them and evict them. Women then lose access to productive resources which they badly need to pay for their medical care.

The Universal Declaration of Human Rights establishes the right of everyone to own property regardless of sex (art. 17.1 and 2), the right to an adequate standard of living including housing and to security in the event of a lack of livelihood (art. 25), and states that everyone should have equal rights as to marriage, during marriage and at its dissolution (art. 16). The International Covenant on Civil and Political Rights, in its broad non-discrimination provision (art. 26), guarantees equality before the law and prohibits discrimination on the basis of sex. This applies equally to legislation and policies on property, housing and land rights. The International Covenant on Economic, Social and Cultural Rights also guarantees the right to adequate housing (art. 11). Furthermore, the Convention on the Elimination of All Forms of Discrimination against Women specifically requests States to undertake all appropriate measures to eliminate discrimination against rural women, and to guarantee their enjoyment of adequate living conditions, including housing (art. 14.2). It also stipulates that State parties should undertake all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations, and in particular to ensure the same rights for spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property (art. 16.1).

In the Beijing Platform for Action, States committed to “undertake legislation and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other forms of property, credit, inheritance, natural resources and appropriate new technology.” The 1996 United Nations Conference on Human Settlements (Habitat II) in Istanbul, Turkey, and its Istanbul Declaration and Habitat Agenda provide a plan of action on rights, including the rights of women in human settlements development. It commits States to providing legal security of tenure and equal access to land for all, including women and people living in poverty.

Women are disproportionately affected by forced evictions, protection against which is a key element of security of tenure and the right to adequate housing. Eviction can take place only under certain very exceptional circumstances and under strict criteria imposed by international law. States have to take certain measures to comply with international standards, such as adopt and implement special measures to protect women from evictions, for instance by conferring titles to land and housing to women. States have to assess the differentiated impact of evictions on women so that the specific impact on them is addressed appropriately. Women have equal rights to all relevant information, full consultation and participation throughout the entire process of eviction. In the event of eviction, remedies and compensation should be equally available to women and States should ensure that women are not subjected to discrimination or to sexual or gender-based violence. Women must be co-beneficiaries of any compensation packages, and widows or single women are entitled to their own compensation.

Violence against women and their right to housing

Research has demonstrated the links between domestic violence and women's right to adequate housing and this has been highlighted throughout the work of the Special Rapporteurs on violence against women and on the right to adequate housing. If women's right to adequate housing is not sufficiently protected, women become more vulnerable to violence. Domestic violence has been found to be a leading cause of women's (and often their children's) homelessness, and many women try to avoid homelessness by staying in abusive relationships. Women who are property owners or landowners experience less domestic violence, which points to the importance of guaranteeing women's security of tenure.

Assumptions that a woman has to "leave" an abusive home instead of removing the abusive husband and the lack of support for removing the abusive partner by local authorities, community and/or family laws and regulations, greatly undermine women's right to adequate housing as well as their right to live a life free of violence. Overcrowding, poverty and unemployment also have an impact on the above-mentioned rights and directly affect the level of violence and sexual abuse in homes and communities. In addition, insufficient protection for victims of domestic violence, including insufficient shelter homes, legal aid and information to women about their rights, has an impact on the level of domestic violence and women's homelessness. Consequently, States should address all these issues as issues of women's rights to property, land, housing, life, personal security, gender equality and being free from violence and discrimination.

A.T. v. Hungary (Committee on the Elimination of Discrimination against Women, communication No. 2/2003, Views adopted on 26 January 2005)

In *A.T. v. Hungary*, a case on domestic violence, the Committee ruled that shelter homes should always be available to provide effective protection to victims of domestic violence. Furthermore, the State party was called upon to take immediate and effective measures to guarantee the physical and mental integrity of A.T. and her family and ensure that she is given a safe home in which to live with her children, receives appropriate child support and legal assistance as well as reparation proportionate to the physical and mental harm undergone and to the gravity of the violations of her rights.

Food, water and sanitation

The rights to food, water and sanitation are equally crucial for women's well-being, dignity and enjoyment of other human rights. Poor female nutrition early in life reduces learning potential and productivity, and increases reproductive and maternal health risks. This undermines attempts to eliminate gender inequalities throughout a woman's lifespan, having an effect on issues such as women's access to resources. Investing in women's nutrition improves the overall development capacity of a country, considering the role women have in the household with regard to food production, food preparation and childcare. Women's and girls' disadvantaged health status and their traditional role in water collection and sanitation management in many societies have a negative impact on them, and it has been recognized that a lack of water and sanitation also disproportionately affects them. Women and girls have greater need for privacy when using toilets and when bathing, especially when menstruating, and in addition not having easy access to toilets and bathrooms makes them more vulnerable to rape and other forms of gender-based violence. The International Covenant on Economic, Social and Cultural Rights recognizes the right to food, and acknowledges that more immediate and urgent steps may be needed to ensure everyone's fundamental right to freedom from hunger and malnutrition (art.

11). The Committee on Economic, Social and Cultural Rights specified, in its general comment No. 12 (1999) on the right to adequate food, that this right entails that food has to be physically and economically accessible to all. According to the Committee, the State obligation is to take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food. This requires the development of a national strategy on food security, which has to specifically address the need to prevent discrimination in access to food or resources for food, including guaranteeing full equal access for women to economic resources, “including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology; measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families.”

According to the Special Rapporteur on the right to food, closing the gender gap in agriculture is essential for achieving Millennium Development Goal

1. For this purpose, the Special Rapporteur recommends measures such as “eliminating discriminatory laws and cultural practices; supporting the development of women’s cooperatives; employing more women in the extension services sector; titling schemes combined with broader agricultural support; issuing titles in the name of both the husband and wife; and encouraging more diverse farming practices such as diverse crop plantings and combining cash crops with subsistence crops”.¹⁷ The Special Rapporteur notes that women are a huge interest group and a major actor in realizing the right to food, but are rarely heard since they are underrepresented legally, economically and politically. While women make up 80 per cent of the world’s agricultural labour force, they own less than 1 per cent of land and account for less than 1 per cent of credit offered to farmers globally.¹⁸

In 2010 the United Nations General Assembly recognized the right to clean water and sanitation as a human right, through its resolution 64/292. This right is intrinsically linked to the right of everyone to a decent standard of living (International Covenant on Economic, Social and Cultural Rights, art. 11.1) and the right to the highest attainable standard of physical and mental health (ibid., art. 12.1), according to the Committee on Economic, Social and Cultural Rights. Water is a prerequisite for living a life in dignity and the enjoyment of several other human rights depends on the accessibility of water. The Convention on the Elimination of All Forms of Discrimination against Women stipulates that State parties should ensure women’s adequate living conditions, inter alia in relation to water supply (art. 14.2). The Committee on Economic, Social and Cultural Rights underscores, in its general comment No. 15 (2002) on the right to water, that they should give particular attention to ensuring marginalized farmers, including women farmers, have equitable access to water and water management systems. Water has to be available, of sufficiently good quality, and accessible both economically and physically, without discrimination.

State parties have immediate obligations in relation to the right to water, including certain core obligations that represent a minimum level to which the obligations laid down in the Covenant have to be fulfilled at all times. Ensuring the right to access water and water facilities and services on a non-discriminatory basis, especially for marginalized or disadvantaged groups, is part of these core obligations. In relation to women’s right to water, general comment No. 15 (2002) specifies that States should take steps to ensure that women are not excluded from decision-making processes concerning water resources and entitlements, and that the disproportionate burden on women to collect water is alleviated. The Special Rapporteur on the human right to safe drinking water and sanitation explained in her report on stigma and the realization of the human rights to water and sanitation (A/HRC/21/42) how the intersection of different attributes can compound the discrimination faced by certain groups or persons, such as being a woman and a sex worker, a woman infected with HIV, or being a woman and belonging to a certain marginalized group. The stigma these groups of women face greatly affects their access to water and sanitation. Menstruating women also suffer stigma and menstruation remains a taboo in many countries. Women often lack the appropriate facilities and the needed privacy to

change or wash during menstruation, and cultural perceptions that menstruating women are “contaminated” or “impure” lead to their reduced mobility or even seclusion, as well as to dietary restrictions and restricted access to water resources and food during menstruation. The taboos and deeply rooted practices surrounding menstruation also have a negative impact on girls’ right to education, since girls may be absent from school during menstruation, either because there are no appropriate facilities at school or because they are isolated by their family owing to cultural practices. To combat silence and stigma, States should make sure that there is sufficient access to information on menstruation and hygiene, including comprehensive sexual education in schools on menstruation, targeting both girls and boys. The provision of adequate hygiene facilities must be ensured as well.

The right to decent work and to social security

In addition to other rights, the right to work and to social security is closely linked to the right to an adequate standard of living and the continuous improvement of living conditions for oneself and one’s family. According to the International Labour Organization (ILO), women experience systemic barriers in almost every aspect of work, ranging from whether they have paid work at all, to the type of work they obtain or are excluded from, the availability of support such as childcare, the level of their pay, their working conditions, their access to higher paying “male” occupations, the insecurity of their jobs, the absence of pension entitlements or benefits, and the lack of time, resources or information necessary to enforce their rights. Women make up the majority of the poor in both developed and developing nations, and they face multiple barriers to accessing social security too, owing to their roles as mothers, carers, informal workers, migrants, and precarious and part-time workers.

The general right to work is set out in the International Covenant on Economic, Social and Cultural Rights (art. 6). The Covenant further recognizes everyone’s right to enjoy just and favourable conditions of work, in particular the right to safe working conditions (art. 7). It also addresses collective rights related to the right to work, such as the right to form trade unions and the right to join a trade union of one’s choice (art. 8). As the Committee explains in its general comment No. 18 (2005) on article 6 of the Covenant, the work has to be decent, that is to say, respect the fundamental rights of the individual as well as those of the worker to safe working conditions and remuneration. States should therefore take measures to reduce to the extent possible the number of workers outside the formal economy (predominantly women) who thus lack any protection by the State. Work must be available, accessible without discrimination on any grounds, and acceptable to the individual worker. Again, the State has an immediate obligation to guarantee that the right to work will be enjoyed without discrimination, and to take deliberate, concrete, targeted steps towards the realization of the right to work and full employment.

The Committee further underlines the need for “a comprehensive system of protection to combat gender discrimination and to ensure equal opportunities and treatment between men and women in relation to their right to work by ensuring equal pay for work of equal value. In particular, pregnancies should not constitute an obstacle to employment and should not constitute justification for loss of employment.”

The main ILO convention relevant to gender equality with respect to work is the Discrimination (Employment and Occupation) Convention No. 111 (1958), which stipulates that States are to declare and pursue a national policy to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination, which would include discrimination based on sex. Other notable conventions are the Equal Remuneration Convention No. 100 (1951), which specifically addresses equal remuneration for work of equal value, the Workers with Family Responsibilities Convention No. 156 (1981) and the Maternity Protection Convention No. 183 (2000). Numerous other ILO conventions are relevant from a gender perspective including conventions on employment promotion, working conditions, as well as on specific categories, such as persons with HIV/AIDS, indigenous and tribal people,

migrant workers, and domestic workers.¹⁹

The right to social security, including social insurance, is also provided for in the International Covenant on Economic, Social and Cultural Rights (art. 9). According to the Committee's general comment No. 19 (2007) on the right to social security, social security is of central importance in guaranteeing human dignity for all persons, when they are faced with circumstances that deprive them of their capacity to fully realize their Covenant rights. The right to social security encompasses the right to access and maintain benefits without discrimination in order to secure protection, inter alia, from lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member, unaffordable health care or insufficient family support, particularly for children and adult dependants.

The right to social security has to be enjoyed equally by men and women (International Covenant on Economic, Social and Cultural Rights, arts. 2.2 and 3). In its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee notes that the implementation of article 3 in conjunction with article 9 requires, for instance, equalizing the compulsory retirement age for both men and women, ensuring that women receive the equal benefit of public and private pension schemes, and guaranteeing maternity leave for women, paternity leave for men and parental leave for both men and women. In its general comment No. 19 (2007) on the right to social security, the Committee explains that State parties should take steps to eliminate factors that prevent women from contributing equally to social security schemes that link benefits to contributions. Differences in the average life expectancy of men and women need to be taken into account in the design of schemes, since they can lead to de facto discrimination, and non-contributory schemes also have to take into account that women more often than men live in poverty and often have the sole responsibility for the care of their children. Contributory pension schemes can accentuate inequalities, with older women more likely to receive lower pensions and other contributory benefits. General recommendation No. 27 (2010) on older women and protection of their human rights further discusses the different types of discrimination older women face. Women are less present in the formal sectors of employment and tend to be paid less for the same work or work of equal value. According to the Committee, such gender-based discrimination throughout women's lives has a cumulative effect in old age, leading to disproportionately low incomes and low pensions or even no pension.

VIOLENCE AGAINST WOMEN

The Declaration on the Elimination of Violence against Women defines "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

Since the beginning of the 1990s, violence against women has gained much attention in the human rights discourse. However, it took a long and persistent struggle by the women's rights movement to persuade the international community to discuss violence against women as a human rights concern and recognize that gender-based violence is a serious violation of human rights of global importance which poses a threat to human development as well as international peace and security.

The agenda for the 1993 World Conference on Human Rights held in Vienna did not originally mention women or any gender aspects of human rights. It was the women's rights movement that brought attention to the issue of violence against women during the Conference, leading inter alia to the recognition, in the Vienna Declaration, of the elimination of violence against women in public and private life as a human rights obligation.²⁰ Subsequently, the General Assembly adopted the Declaration on the Elimination of Violence against Women in December 1993. This was the first international instrument to specifically address this issue. It recognizes that violence against

women constitutes a violation of the rights and fundamental freedoms of women and a manifestation of historically unequal power relations between men and women. The Declaration calls on States to condemn violence against women and work towards its eradication. The Commission on Human Rights appointed a Special Rapporteur on violence against women, its causes and consequences in 1994. The creation of this mandate has enabled a dynamic development of human rights standards to respond to contemporary challenges and emerging issues with respect to violence against women. The Special Rapporteur has, through her research, significantly developed concepts and legal frameworks pertaining to women's human rights and violence against women.²¹ The Fourth World Conference on Women reaffirmed the conclusions of the Vienna World Conference, listing violence against women as one of 12 critical areas of concern.²²

The Convention on the Elimination of All Forms of Discrimination against Women does not explicitly mention violence against women, but the Committee, in its general recommendation No. 19 (1992) on violence against women, asserted that violence against women is "violence directed against a woman because she is a woman or affects women disproportionately". This violence seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men. The adoption of this general recommendation was a critical precursor to the recognition of this issue at the Vienna World Conference.

Women in all countries, irrespective of status, class, age, caste or religion, experience violence in virtually all spheres of life, whether in the home, at work, on the street, in government institutions, or in times of conflict or crisis. Violence is also present throughout the lifetime of a woman, affecting girls and older women too. Specific groups of women suffering from various forms of discrimination, such as women with disabilities or migrant women, lesbian, bisexual and transgender women, are particularly vulnerable to violence. Understanding that violence against women is a manifestation of historically unequal power relations between men and women, a human rights analysis posits that the specific causes of such violence and the factors that increase the risk of its occurrence are grounded in the broader context of systemic gender-based discrimination against women and other forms of subordination. Vulnerability to violence is understood as a condition created by the absence or denial of rights.²³

Violence against women in the family can take the form of domestic violence or harmful or degrading practices that are violent to and/or subordinate women. Country visits by the Special Rapporteur on violence against women have shown that domestic violence remains widespread and affects women of all social strata (A/66/215). Harmful and degrading practices, such as dowry-related violence or so-called honour crimes, also continue, without systematic monitoring, punishment or redress, despite advances in legislation prohibiting them. Other examples of violence in the family are domestic assault (physical, psychological, emotional, financial or sexual violence), marital rape, femicide or gender-motivated killings (domestic murder, ritual killings or killings of women accused of witchcraft, lynching, as well as gender identity- and sexual orientation- related or ethnic or indigenous identity-related killings), child marriage, female genital mutilation and sex-selective abortion.²⁵

Other forms of violence against women occur in the community. Examples of such violence can be rape/sexual assault, sexual harassment, violence within institutions, violence against women migrant workers, witchcraft- or sorcery-related violence or killings (A/66/215 and A/HRC/11/2). Although in the majority of cases younger women are at higher risk of witchcraft-related violence, in some parts of Africa older women are more vulnerable to sorcery-related femicide owing to their economic dependence on others or the property rights that they hold (A/HRC/20/16).

Violence against women is also perpetrated or condoned by the State. This type of violence can include gender-based violence during conflict, disappearance or extrajudicial killings, custodial violence, violence against refugees and internally displaced women, or women from indigenous or minority groups (A/66/215). As will be explained below, State responsibility can

also be invoked for private acts, i.e., when State officials are not the direct perpetrators of the violence.

Committee on the Elimination of Discrimination against Women: jurisprudence

In *Şahide Goekce (deceased) v. Austria*, communication No. 5/2005, the complainants claimed that the State had failed to guarantee the right to life and personal security of Ms. Goekce, who was killed by her husband after continued domestic violence that had been reported to the police. The police had been aware that her husband had a handgun and had threatened to kill her on several occasions.

In *Fatma Yildirim (deceased) v. Austria*, communication No. 6/2005, the victim had also been killed by her husband after several death threats, which had been reported to the police. The complainants claimed that the State had failed to take appropriate positive measures to protect the victim's right to life and personal security.

In both cases the Committee recommended that the State party strengthen its implementation and monitoring of national laws on domestic violence, by "acting with due diligence to prevent and respond to such violence against women and adequately providing for sanctions for the failure to do so." The Committee found that there had been a violation of the rights of the deceased to life and physical and mental integrity under article 2 (a) and (c)–(f), and article 3 of the Convention read in conjunction with article 1 and its general recommendation No. 19 (1992). It considered that, given the combination of factors, the police knew or should have known that the victims were in serious danger, and therefore considered that the police were accountable for failing to exercise due diligence to protect the victims.

The Committee clarifies in its general recommendation No. 19 (1992) that State parties may be held responsible for private acts of violence, if they "fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation." This due diligence obligation of States is also repeated in the United Nations Declaration on the Elimination of Violence against Women. The Special Rapporteur on violence against women has referred to the due diligence standard in terms of the State's obligation to prevent, prosecute, punish and compensate for acts of violence against women (E/CN.4/2006/61).²⁵ In her 2011 report to the General Assembly (A/66/215), the Special Rapporteur outlined evolving practices on the due diligence standard, jurisprudence and remaining challenges. According to the Special Rapporteur, the State's due diligence obligation under international human rights law consists of *preventing*, *investigating*, *punishing* acts of violence against women, *protecting* women from violence, and *providing an effective remedy and reparation* to victims of violence.

Inter-American Court of Human Rights: jurisprudence

González et al. ("Cotton Field") v. Mexico (Judgement of 16 November 2009), concerning the abduction, sexual violence and killing of two children and a woman by non-State actors, was one of hundreds of similar cases of disappearance, rape and murder of predominantly migrant women and girls that had occurred in Ciudad Juárez, Mexico.

The Court considered for the first time States' affirmative obligations to respond to violence against women by private actors; it looked at the cases in the context of mass violence against women and structural discrimination, and found that the violence against women constituted a form of discrimination. The Inter-American Court of Human Rights interpreted broadly the due diligence obligations of the State to prevent, investigate and impose penalties for violence against women. Using the concept of gender-sensitive reparations with a transformative approach, striving not only for restitution but for rectification, the Court declared that the reparations should be "designed to identify and eliminate the factors that cause discrimination" and in doing so should aim at transforming the underlying gender inequalities that gave rise to the violence. In addition, the Court ordered Mexico to comply with a broad set of remedial measures, including building a

national memorial, conducting renewed investigations and providing reparations of over \$200,000 each to the families in the suit.

The Special Rapporteur on extrajudicial, summary or arbitrary executions has also addressed killings committed by private actors, such as murders by gangs, vigilante justice, “honour killings” or domestic violence killings. According to the mandate, an isolated private killing is a domestic crime and does not give rise to State responsibility. However, where there is a pattern of killings and the State’s response (with respect to either prevention or accountability) is inadequate, the responsibility of the State is engaged. Under human rights law, the State is not only prohibited from directly violating the right to life, but is also required to ensure the right to life, and must meet its due diligence obligations to take appropriate measures to deter, prevent, investigate, prosecute and punish perpetrators(A/HRC/14/24).

With regard to gender-related killings of women, the Special Rapporteur on violence against women reported in 2012 that their prevalence is increasing and a lack of accountability for such crimes is the norm (A/HRC/20/16). The Special Rapporteur explained that these incidents are not isolated but represent the ultimate act experienced in a continuum of violence by women living under conditions of gender-based discrimination. The Special Rapporteur added that a holistic approach to preventing gender-related killings must be emphasized in all the measures taken by States to investigate and sanction violence, in particular in designing, implementing and evaluating legislation and policies.

The Human Rights Committee, in its general comment No. 28 (2000), underlined that all the Covenant’s civil and political rights should be ensured on a basis of equality between men and women and, in its general comment No. 20 (1992) on the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, that it is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against torture or cruel, inhuman or degrading treatment or punishment, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity. In addition, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment argues for the torture protection framework to be applied in a gender-inclusive manner with a view to strengthening the protection of women from torture. According to the Special Rapporteur, State obligations under the Convention against Torture clearly extend to the private sphere as well, in addition to violations committed by public officials (A/HRC/7/3).

The Committee against Torture, in its general comment No. 2 (2008) on the implementation of article 2 by States parties, also further clarified that the requirement under the Convention against Torture’s article 1 of “consent or acquiescence” by the State is equivalent to a due diligence obligation for the State to prevent, investigate, prosecute and punish torture by non-State officials or private actors consistently with the Convention. The Committee has applied this principle to State parties’ failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation and trafficking.

The Special Rapporteur on torture mentions rape and other forms of sexual violence such as threats of rape, touching, “virginity testing”, being stripped naked, invasive body searches, insults and humiliations of a sexual nature, as well as forced abortion and denial of access to safe abortion to women who have become pregnant as a result of rape, as forms of violence that could constitute gender-based torture. According to the Special Rapporteur, the powerlessness of the victim and the purpose of the act are the most decisive elements to determine whether an act amounts to torture, or other cruel, inhuman or degrading treatment. The Special Rapporteur has further pointed out that, given the particular vulnerability of women with disabilities, forced abortions and sterilizations of these women if they are the result of a lawful process by which decisions are made by their “legal guardians” against their will, may also constitute torture or ill-treatment. Violence in the name of honour, sexual violence and harassment, as well as slavery-like practices often of a sexual nature, domestic violence (in the form of intimate partner violence), female genital mutilation and human trafficking can also constitute gender-based

torture, or other cruel, inhuman or degrading treatment, according to the Special Rapporteur (A/HRC/7/3).

The Working Group on Enforced or Involuntary Disappearances has also recognized the gender-specific aspects of disappearances, whether women are themselves victims of disappearances or family members of disappeared persons. In this regard, it has emphasized the State obligations to prevent and respond to all instances of gender-based violence, including enforced disappearances, securing women's participation in truth-seeking processes, and protecting women's right to a remedy. In general, both a broader understanding of violence against women and a more gender-sensitive interpretation of human rights law are developing and, globally, there is more awareness of the severity of the problem of violence against women. Many countries have made significant progress by adopting new legislation on violence against women, but application of the law, proper training of law enforcement officials, as well as adequate and accessible protection, prevention and reintegration measures remain a challenge.²⁷

Vulnerability to trafficking related to discrimination and violence against women

Discrimination can be linked to trafficking in a number of ways. It is no coincidence that those most likely to be trafficked (irregular migrants, stateless persons, non-citizens and asylum seekers, members of minority groups) are especially susceptible to discrimination and intolerance, based on their gender, race, ethnicity, religion and other distinguishing factors. In addition to increasing the risk of trafficking, discriminatory attitudes, perceptions and practices contribute to shaping and fuelling the demand for trafficking.

According to the Palermo Protocol to Prevent, Suppress and Punish the Trafficking in Persons, Especially Women and Children, trafficking in persons means "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (art. 3 (a)).

Racial and gender-based discrimination in the denial of economic and social rights is a critical factor in rendering certain persons more susceptible to trafficking than others. In both cases, the impact of discrimination results in fewer and poorer life choices. This lack of genuine choice can, in turn, make women and girls more vulnerable to trafficking than men, particularly in certain circumstances and for women and girls of certain nationalities and ethnicities. For example, minority women and girls, women and girls living in poverty, or women and girls living in conflict or post-conflict settings may face increased risks of being trafficked.

Although trafficking can also affect men, it is a form of violence particularly experienced by women. Violence directed against or primarily affecting women can be a factor making them more vulnerable to trafficking. For example, women may accept dangerous migration arrangements in order to escape the consequences of entrenched discrimination including family violence and lack of protection against such violence. Women may also be more vulnerable than men to coercion and force at the recruitment stage, increasing their susceptibility to being trafficked in the first place. States, particularly countries of origin, can address increases in vulnerability to trafficking-related discrimination and violence against women through a range of practical measures, such as providing safe shelter with medical, psychological and legal facilities for women experiencing violence. Longer-term measures that seek to address the social, cultural and structural causes of violence are also important. These may include: reforming legislation that either discriminates against women or fails to address violence against women; ensuring the prompt investigation and prosecution of complaints related to violence against women; providing access to

effective remedies for gender-based violence; and implementing initiatives aimed at educating the public and relevant officials about violence against women.

The Special Rapporteur on trafficking in persons, especially women and children, has reported on a number of issues related to the protection of victims of trafficking, and her work represents useful guidance for States on adopting a human rights-based approach to trafficking.²⁸ In addition, OHCHR has issued Recommended Principles and Guidelines on Human Rights and Human Trafficking, providing further guidance on the matter. The human rights of trafficked persons should be at the centre of all efforts by States to prevent and combat trafficking, and States have a due diligence obligation to investigate, prosecute and punish traffickers and provide assistance to trafficking victims.²⁹

IMPACT OF MIGRATION AND DISPLACEMENT ON THE ENJOYMENT OF WOMEN'S RIGHTS

The principle of universality in international human rights law implies that States of origin, transit and destination are responsible for protecting the rights of migrants within their territories. Although countries have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfil the human rights of all individuals under their jurisdiction, regardless of their nationality, origin, gender or age and regardless of their immigration status.³⁰

Every country is affected by the phenomenon of migration, as country of origin, transit or destination, or a combination of these. More than 200 million people now live outside their home countries, for reasons ranging from seeking better economic opportunities to escaping persecution. Female migrants form half the world's migrant population and outnumber male migrants in developed countries.³¹ Migrants contribute greatly to the economies of their countries of origin through remittances, and to their host countries through their work while also bringing cultural and demographic diversity to that society.

Traditionally, immigration has been looked at mainly from an economic perspective, as a by-product of globalization or a solution to unemployment and poverty. This has to some extent led to immigrants being treated as commodities instead of individuals with rights. A purely economic analysis of immigration fails to take into account the human value of the individual immigrant and the inherent human right to a life in dignity.³² Female migration has both positive and negative repercussions. It has great potential and can advance gender equality by empowering migrant women, since many migrate independently nowadays and become the main breadwinners for their families. However, migration can also increase vulnerabilities and put migrant women at risk of discrimination and violence. Women and children who migrate also become more vulnerable to other forms of exploitation. Those in an irregular situation are particularly vulnerable. Women migrants are often found in segregated and unregulated sectors of the economy, such as domestic work, typically unprotected by local labour laws and organizations.³³

Irregular migrants often end up in administrative detention. The Special Rapporteur on the human rights of migrants noted in his 2012 report to the Human Rights Council (A/HRC/20/24) that migrant women who are detained may be vulnerable to sexual violence committed by male detainees or guards. The Special Rapporteur encouraged States to give particular attention to the situation of migrant women in detention. While women migrants who are travelling with their families and are detained should be kept together in accordance with the principle of family unity, other women migrant detainees should be separated from men, and attended and supervised only by women officers, in order to protect them against sexual violence. The Special Rapporteur also recommended that pregnant women and breastfeeding mothers should not be detained.

An important milestone was the adoption by the General Assembly in 1990 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This Convention reiterates the rights already contained in the major human rights treaties accorded to all persons, regardless of their migration status.

The Convention protects the rights of all migrant workers and their family members, in both regular and irregular situations, during the entire migration process. It covers all aspects of the life of migrants and their families, and entails obligations for States to promote sound, equitable, humane and legal conditions of migration. Under the Convention, States must take measures to ensure that the situation of migrants in an irregular situation does not persist (art. 69). The duty of States to provide information to migrants and their family members on their rights under the Convention (art. 33) is especially important for women migrants, who often have limited access to reliable information regarding legal migration channels.³⁴

The rights of migrants have been addressed at international conferences such as the International Conference on Population and Development in Cairo in 1994, which pointed out the need to address the root causes of migration, especially those related to poverty, and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, in 2001, which stressed that policies on migration should not be based on racism, racial discrimination, xenophobia or related intolerance. Additionally, the Programme of Action of the International Conference on Population and Development, the Beijing Declaration and Platform for Action and General Assembly resolution 58/143 on violence against women migrant workers urged States to better protect the rights of migrant women. The Beijing Platform for Action calls on States to:

Ensure the full realization of the human rights of all women migrants, including women migrant workers, and their protection against violence and exploitation; introduce measures for the empowerment of documented women migrants, including women migrant workers; facilitate the productive employment of documented migrant women through greater recognition of their skills, foreign education and credentials, and facilitate their full integration into the labour force.

The Convention on the Elimination of All Forms of Discrimination against Women protects all women, including migrant women, against all forms of discrimination and requires State parties to ensure that all women can enjoy their human rights, de jure and de facto, on an equal basis with men in all fields. In some countries of origin, women face a range of discriminatory restrictions or bans on their migration, which leads many to migrate through irregular or informal channels, leaving them outside the protection of the law and vulnerable to abuse by agents, smugglers and traffickers. Women often have limited access to reliable information and education, which can further exacerbate their vulnerability. In transit countries, women risk different types of abuse, such as sexual and physical abuse by the escort or agent. Migrant women frequently end up in gender-insensitive work environments in the country of employment, where notions of what type of work is appropriate for women limit their options to domestic work and certain forms of entertainment. In many countries, these fields of work are not regulated and thus the women are excluded from any protection of the law.

Women migrants may also face multiple and intersecting forms of discrimination, such as xenophobia or racism, in addition to discrimination based on sex. Older migrant women may face additional challenges. Generally, they find it harder to learn the local language, find employment and access the health services they need. Older women staying in the country of origin are also particularly affected by migration, as very often they have to take care of the children left behind by migrant parents. Owing to discrimination, women migrant workers often receive lower wages and suffer deplorable working conditions, and lack access to appropriate health services, including reproductive health services. Domestic workers in particular are vulnerable to physical, sexual and other types of abuse by their employers. Access to justice in countries of destination is also limited for many migrant women. Migrant women in an irregular

situation are particularly vulnerable to abuse, isolation and limited access to health services or to the justice system.

The Committee on the Elimination of Discrimination against Women, in its general recommendation No. 26 (2008) on women migrant workers, addresses the discrimination and violence that some categories of women migrants face. In particular, it addresses the situation of women migrants who “are in low-paid jobs, may be at high risk of abuse and discrimination and who may never acquire eligibility for permanent stay or citizenship, unlike professional migrant workers in the country of employment” and addresses violations of women’s human rights that occur before departure in the country of origin, in the country of transit, and in the country of destination. According to the Committee, female migration and the impact of migration on women has to be understood through a gendered analysis, taking into account gender inequality, traditional roles of women, a gendered labour market, the global prevalence of gender-based violence, feminization of poverty and labour migration. The Committee recommends that States should take a number of measures aimed at improving the legal protection of female migrants and ensuring access to remedies and to services.

The Special Rapporteur on the human rights of migrants highlighted, in her 2004 report to the Commission on Human Rights (E/CN.4/2004/76), that a number of factors make migrant domestic workers a particularly vulnerable group. For instance, she had received several reports of abuse of domestic migrant workers, who are mainly female, suffering discrimination, physical or sexual abuse by the host family and often related depression. In some cases the women work in slavery-like conditions and their employers frequently take away their passports. They lack access to services or protection mechanisms and do not report abuse for fear of being deported.

In its general comment No. 1 (2011) on the right of migrant domestic workers, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families also identified several gaps in the protection of these workers, including their legal protection, as many national laws exclude domestic work and workers, thereby contributing to exploitative labour practices and limiting legal avenues of redress. In many countries, domestic workers are not recognized as “workers” entitled to protection by labour laws. Strict immigration laws lead to many migrant domestic workers being in an irregular situation, outside the protection of the law, or dependent on the employer, since their immigrant status depends on the employer’s continued sponsorship. Contract law and social security laws also often do not apply to domestic workers. Even if some countries have legislation protecting domestic workers, in practice protection gaps remain. Factors such as the nature of the work, language barriers, isolation and dependence contribute to this. The Special Rapporteur on contemporary forms of slavery, including its causes and consequences has noted that combating domestic servitude and protecting domestic workers’ rights are two sides of the same coin (A/HRC/15/20). The Special Rapporteur called on States to adopt specific provisions to criminalize servitude in all its forms and manifestations, and punish perpetrators with due diligence, as well as extend the equal protection of their labour laws to domestic workers, including migrant domestic workers, and end any discriminatory denial of entitlements regarding working hours, rest days, vacation, health care, maternity leave and protection from unfair dismissal.³⁵

Women refugees and internally displaced women have specific protection needs, including because of their increased vulnerability to sexual and gender-based violence. Factors such as displacement amplify the discrimination women and girls already endure in “normal conditions” or during peacetime. Women and girl refugees or internally displaced women and girls are exposed to specific protection problems related to their gender, cultural and socioeconomic position as well as their legal status. They have limited access to basic rights such as the rights to food, health care, housing, documentation and a nationality compared to men and boys.³⁶

WOMEN'S HUMAN RIGHTS IN CONFLICTS AND CRISES

Sexual and gender-based violence in conflict and post-conflict settings

In armed conflict or political strife, violence against women takes severe forms. During the past decade, much international attention has been paid to the link between gender-based violence and conflicts. Conflict has far-reaching effects on women's enjoyment³⁷ of their human rights, whether civil and political or economic and social.

Despite increased global efforts to combat gender-based violence in conflict and post-conflict settings, women continue to be subjected to gender-based violence such as rape, sexual slavery, kidnapping or trafficking, forced impregnation or miscarriages, and sexual abuse such as forced nudity, strip searches and other publicly humiliating and violating acts in conflict and post-conflict.³⁸ Studies have shown that while men and boys are also victims of gender-based violence, women account for the vast majority of those affected.³⁹ The Committee on the Elimination of Discrimination against Women recognized, in its general recommendation No. 19 (1992), that "wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures." Both State and non-State actors commit this violence. With the intent of intimidating and humiliating the adversary, rape and sexual violence are also routinely used by all parties to conflicts as a tactic of war.⁴⁰ Moreover, during conflict, domestic violence and sexual abuse also increase dramatically.⁴¹

Violence against women both during conflict and post-conflict can be seen as a continuum of the discrimination women experience in peacetime. Conflict exacerbates pre-existing patterns of discrimination based on sex and put women and girls at heightened risk of sexual, physical and psychological violence. The underlying causes of violence both in peace and in conflict are the same: historically unequal power relations between men and women, systemic or structural causes such as gender-based discrimination and a patriarchal value system. In addition, conflict causes an acceptance of higher levels of violence, and in the post-conflict phase deeply rooted inequalities that existed before the conflict are aggravated.⁴² Thus, the end of conflict does not translate into an end to the violence that women and girls endure. Women continue to suffer from the medical, physical, psychological and socioeconomic consequences of the violence suffered during conflict long after it has ended. The stigma associated with sexual violence is ever-present, in conflicts and in their aftermath. Violence against women and girls also spikes in post-conflict societies, owing to the general breakdown of the rule of law, the availability of small arms, the breakdown of social and family structures and the "normalization" of sexual violence as an additional element of pre-existing discrimination. as long as all the relevant elements of the crime are present. Until the 1990s, wartime sexual violence was not prosecuted as an international crime, despite being prohibited under international humanitarian law.⁴³

Sexual violence was viewed more as an attack against the honour of a woman or against morality than as a separate serious crime, e.g., the Fourth Geneva Convention expresses the need for the special protection of women "against any attack on their honour, in particular against rape, enforced prostitution or any form of indecent assault" (art. 27).⁴⁴ Since the 1990s, international criminal jurisprudence has contributed enormously to clarifying the legal norms applicable to gender-based crimes during conflict. Both the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda have stated in different landmark decisions that wartime rape and sexual violence can be considered as war crimes, crimes against humanity, within the Court, the provision of counselling and other necessary services to victims of gender-based violence, and the appointment of legal advisers with gender expertise and of female judges and personnel.

The adoption by the Security Council of resolution 1325 (2000) on women, peace and security also represents a landmark in recognizing and addressing conflict-related gender-based violence. The resolution recognizes the devastating impact of conflict on women and girls, and reaffirms the need to implement fully existing international humanitarian and human rights law obligations protecting the rights of women and girls during conflict. It focuses on four main areas: prevention, participation, protection, and relief and recovery. It also urges States to take special measures to protect women and girls from gender-based violence during conflict, and end impunity by prosecuting those responsible for crimes during conflict, including gender-based crimes. Furthermore, the resolution calls for increased representation of women at all levels of decision-making, and in all mechanisms for the prevention, management and resolution of conflicts, and for gender mainstreaming in peacekeeping operations.

In follow-up resolution 1820 (2008), the Security Council recognizes that sexual violence may impede the restoration of international peace and security and is often used as a tactic of war. It stresses that sexual violence should be excluded from any amnesty provisions in a peace process and that equal access to justice should be ensured for victims of sexual violence. The subsequent follow-up resolutions have focused on preventing and responding to conflict-related sexual violence, and called for, inter alia, the appointment of a special representative on sexual violence in conflict, a team of experts and women protection advisers to advise Governments and peacekeeping missions in dealing with sexual violence. Global indicators to track the implementation of resolution 1325 (2000) have been developed, as well as new monitoring and reporting mechanisms for conflict-related sexual violence.⁴⁵

Women's participation in peace processes and their role as agents of change

Despite the challenges that the post-conflict vacuum poses for the enjoyment of women's human rights, it can also be viewed as an opportunity for transformation—to change the societal structures and norms in place before the conflict which contributed to the violence against women in the first place. To ensure this transformation, it is imperative to take into account women's various roles and diverse experiences of conflict, not only as victims but as combatants, as part of organized civil society and as human rights defenders, as members of resistance movements, and as active agents in both formal and informal peace processes.⁴⁶

The Security Council, in its resolution 1325 (2000) and subsequent resolutions, and the Secretary-General, in his reports on women, peace and security, and sexual violence in conflict, recognize women's role in peacebuilding efforts. Resolution 1325 (2000) referred to the disproportionate impact of armed conflict on women and children, while at the same time acknowledging that women are not mere victims of conflict, but also active agents with an important role to play in conflict prevention, peacekeeping initiatives, conflict resolution and peacebuilding efforts.⁴⁷ This was an important departure from references to women as victims or vulnerable groups. United Nations Security Council resolution 1889 (2009) reiterates the key role of women in preventing conflict and in peacebuilding, and urges the participation of women in all phases of the peace process, including in conflict resolution and post-conflict planning. It emphasizes the development of strategies that address the needs of women and girls in post-conflict situations, including access to education, health services and justice, and gender equality. The resolution also urges Member States to ensure gender mainstreaming in all aspects of post-conflict peacebuilding and recovery.

Some positive effect of implementing resolution 1325 (2000) can already be seen on the ground. By June 2012, 37 States had adopted national action plans on women, peace and security, and a number of others were developing such plans.⁴⁸ Importantly, the Committee on the Elimination of Discrimination against Women has requested States to include compliance with Security Council resolutions on women, peace and security in their reports to it, adding to the monitoring of their implementation, since all areas of concern expressed in the resolutions reflect binding provisions

of the Convention.⁴⁹

Despite these advances and reform already in place, considerable challenges with implementing these standards remain. The Secretary-General's 2012 report on conflict-related sexual violence (A/66/657-S/2012/33) illustrates these very well. Gender-based violence in those settings remains rampant, and women's access to justice, decision-making and services remains limited. The Secretary-General's previous reports also underlined the remaining challenges and obstacles to women's meaningful participation in peace processes, and came up with comprehensive recommendations and action plans for United Nations agencies in cooperation with other stakeholders to be able to address these challenges more effectively (A/65/354-S/2010/466). Recent civil society reports have also pointed out that women's experiences of conflict and post-conflict continue to reveal exclusion, marginalization and limited decision-making power.⁵⁰ However, the global indicators set up by Security Council resolution 1899 (2009) as well as the Security Council's request to the Secretary-General to ensure that relevant United Nations bodies, in cooperation with Member States and civil society, collect gender-disaggregated data were designed to promote a more effective implementation of resolution 1325 (2000). In addition, resolution 1960 (2010) establishes a mechanism that allows the Secretary-General to list parties "that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict" on the Security Council's agenda. It also requests parties to armed conflict to make specific, time-bound commitments to combat sexual violence, and the Secretary-General to track and monitor the implementation of these commitments. Finally, it requests the Secretary-General to establish monitoring, analysis and reporting arrangements on conflict-related sexual violence.

These remaining challenges highlight the need for a comprehensive approach. The interrelatedness and interdependence of human rights require attention to be paid to all human rights of women and girls in conflict and post-conflict, both civil and political rights, as well as social, economic and cultural rights. The same applies to transitional justice reforms: securing all human rights of women and girls is important for full post-conflict transformation. For example, the fulfilment of rights such as economic and social rights is imperative for the eradication of gender-based violence and for women to be able to take on more active roles in peacebuilding. Extreme poverty and unequal access to land, property, education and services have been mentioned as some of the reasons for women's low participation in peace processes and in politics, and structural inequalities including socioeconomic ones are often raised as root causes for gender-based violence. Thus, treaties such as the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights have an important role to play in ensuring women's rights both during conflict and during post-conflict transitions.

Conclusion

After the Second World War, the dominance of the powerful states on the world decreased and the states of the Third World emerged. In which the democratic system was established and there was a hope of equality among equal classes, communities and women. Women got the right to vote like men, the right to work, the right to drive a vehicle, the right to wear clothes of their choice, the right to contest elections, etc. With time, they increased. But even today we get to see the effect of rape, family effect, social stereotypes on women in the society. Men now have to understand that this half of the world's population is not the object of enjoyment, but only for them. Like everyone deserves convenience and equality.

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² Ibid., p. 148.

³ *Report of the Fourth World Conference on Women*, chap. I, resolution 1, annex II, paras. 181–186 and 190.

⁴ See United Nations Department of Public Information, “Goal 3: promote gender equality and empower women”, Fact Sheet (DPI/2650 C), September 2010.

⁵ Homa Hoodfar and Mona Tajali, *Electoral Politics: Making Quotas Work for Women* (London, Women Living under Muslim Laws, 2011), pp. 42–49.

⁶ Ibid., pp. 43–45 and 50–57.

⁷ Farzana Bari, “Women’s political participation: issues and challenges”, 3 November 2005, p. 6.

⁸ Inmaculada Barcia, “Urgent responses for women human rights defenders at risk, mapping and preliminary assessment” (Association for Women’s Rights in Development, June 2011), p. iii.

⁹ *Pichon and Sajous v. France*, application No. 49853/99, decision of 2 October 2001.

¹⁰ Committee on the Elimination of Discrimination against Women, communication No. 17/2008, Views of 25 July 2011.

¹¹ See, e.g., Human Rights Committee, general recommendation No. 28 (2000), on the equality of rights between men and women, para. 11, and its 2012 concluding observations on Guatemala (CCPR/C/GTM/CO/3, para. 20) and the Dominican Republic (CCPR/C/DOM/CO/5, para. 15).

¹² *Women and the Right to Adequate Housing* (United Nations publication, Sales No. E.11.XIV.4). See also UN-Women and OHCHR, *Realizing Women’s Rights to Land and Other Productive Resources* (2013).

¹³ *Women and the Right to Adequate Housing*, chap. II, sects. C and F.

¹⁴ According to the Committee on the Elimination of Discrimination against Women, under the Convention women should be accorded a legal capacity identical to that of men, so that a woman can enter into contracts, own property and have access to financial credit without a husband’s or male family member’s guarantee or concurrence. The right to own, pp. 510–513

¹⁵ *Women and the Right to Food: International Law and State Practice*, Right to Food Studies (Rome, Food and Agriculture Organization of the United Nations, 2008), p. 8.

¹⁶ www.srfood.org/en/gender (accessed 8 November 2011).

¹⁷ Ibid. See also gender resources on the website of the Food and Agriculture Organization of the United Nations: www.fao.org/gender/gender-home/gender-resources/en/ (accessed 8 November 2013).

¹⁸ See www.ilo.org/public/english/support/lib/resource/subject/gender.htm (accessed 8 November 2013).

¹⁹ ILO, *Gender Equality and Decent Work: Selected ILO Conventions and Recommendations that Promote Gender Equality as of 2012*, 3rd rev. ed. (Geneva, 2012). Available from www.ilo.int/global/standards/information-resources-and-publications/publications/WCMS_088023/lang--en/index.htm.

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- ²¹ Charlotte Bunch and Niamh Reilly, *Demanding Accountability: The Global Campaign and Vienna Tribunal for Women's Human Rights* (Center for Women's Global Leadership, 1994), pp. 2–8.
- ²² See “15 years of the United Nations Special Rapporteur on violence against women”, pp. 10 and 24–28.
- ²³ Arvonne Fraser, “Becoming human: the origins and development of women's human rights”, in *Women's Rights: A Human Rights Quarterly Reader*, Bert B. Lockwood, ed. (Johns Hopkins University Press, 2006), p. 53. See also “Beijing and its follow-up”, available from www.un.org/womenwatch/daw/beijing/ (accessed 8 November 2013), and Sally Engle Merry, *Human Rights and Gender Violence, Translating International Law into Local Justice* (University of Chicago Press, 2006), p. 21. In the earlier global 1975 and 1980 world conferences on women, gender violence was not treated as a major issue.
- ²⁴ “In-depth study on all forms of violence against women” (A/61/122/Add.1), para. 65.
- ²⁵ Radhika Coomaraswamy and Lisa M. Kois, “Violence against women”, in *Women and International Human Rights Law*, vol. 1, pp. 184–186. See also the Special Rapporteur on violence against women's report on gender-related killings of women (A/HRC/20/16), para. 16.
- ²⁶ In various areas of law, the due diligence standard is used to assess whether a State is meeting its obligations. For human rights law, the standard serves as a tool for rights holders to hold duty bearers accountable by providing an assessment framework for ascertaining what constitutes *effective fulfilment* of the obligation, and for analysing the actions or omissions of the duty bearer. This is especially important if the potential infringement comes through a duty bearer's *failure to act*, as it can be difficult for rights holders to assess if an omission constituted a violation of their right without some normative basis for the appraisal.
- ²⁷ A/61/122/Add.1; *Progress of the World's Women 2011–2012*; “Advancement of women” (A/66/215), chap. III; and A/HRC/17/23, chap. III.
- ²⁸ See www.ohchr.org/EN/Issues/Trafficking/Pages/Annual.aspx (accessed 8 November 2013).
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- ³⁰ See, e.g., Human Rights Committee, general comment No. 31 (2004), para. 10; Committee on the Elimination of Racial Discrimination, general recommendation No. 30 (2004) on discrimination against non-citizens, para. 7; and Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009), para. 30.
- ³¹ See www.ohchr.org/EN/Issues/Migration/Pages/MigrationAndHumanRightsIndex.aspx (accessed 8 November 2013); and Global Migration Group, *International Migration and Human Rights: Challenges and Opportunities on the Threshold of the 60th Anniversary of the Universal Declaration of Human Rights* (2008), p. 1.
- ³² Global Migration Group, *International Migration and Human Rights*, p. 5.
- ³³ See *ibid.*, pp. 1–2, 19 and 45.
- ³⁴ *Ibid.*, p. 18.
- ³⁵ On 16 June 2011, the ILO Convention concerning decent work for domestic workers (No. 189) was adopted to address gaps in the protection of domestic workers. It stipulates that domestic workers around the world who care for families and households must have the same basic labour rights as other workers, including rights to reasonable hours of work, weekly rest of at least 24 consecutive hours, a limit on payment in kind, clear information on terms and conditions of employment, as well as respect for fundamental principles and rights at work, including freedom of association and the right to collective bargaining. At the same time the General Conference of ILO

issued its Recommendation concerning decent work for domestic workers (No. 201), as further guidance to States for implementing the Domestic Workers Convention, which came into force on 5 September 2013.

³⁶ See Office of the United Nations High Commissioner for Refugees (UNHCR), *UNHCR Handbook for the Protection of Women and Girls* (January 2008); UNHCR, *Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response* (May 2003); and UNHCR, “Guidance note on refugee claims related to female genital mutilation”, May 2009.

³⁷ There is vast international jurisprudence and literature affirming the complementary application of international humanitarian law and international human rights law in times of armed conflict, international or internal, notwithstanding the possibility to derogate from certain civil and political rights, subject to strict requirements, in emergency situations. The application of both bodies of law in armed conflict has been addressed and confirmed, e.g., 2 and 19–24.

³⁸ Rashida Manjoo and Calleigh McRaith, “Gender-based violence and justice in conflict and post-conflict areas”, *Cornell International Law Journal*, vol. 44, No. 11 (2011), pp. 11–12; and “Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997–2000)” (E/CN.4/2001/73).

³⁹ E/CN.4/2001/73; and Elisabeth Rehn and Ellen Johnson Sirleaf, *Women, War, Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-Building*, Progress of the World’s Women 2002, vol. 1 (United Nations Development Fund for Women, 2002).

⁴⁰ Manjoo and McRaith, “Gender-based violence and justice in conflict and post-conflict areas”, p. 12. See also United Nations Security Council resolution 1820 (2008) (and subsequent resolutions 1888 (2009) and 1960 (2010)) recognizing sexual violence as a tactic of war.

⁴¹ Rehn and Sirleaf, *Women, War, Peace*, p. 11.

⁴² Niamh Reilly, *Women’s Human Rights* (Polity Press, 2009), p. 98.

⁴³ Patricia Viseur Sellers, “The prosecution of sexual violence in conflict: the importance of human rights as means of interpretation”, pp. 6–9. Available from http://www2.ohchr.org/english/issues/women/docs/Paper_Prosecution_of_Sexual_Violence.pdf (accessed 25 November 2013).

⁴⁴ Common article 3 of the Geneva Conventions, which applies in both international and non-international armed conflict as customary law, prohibits violence to life and person, torture, the taking of hostages, outrages against personal dignity, in particular humiliating and degrading treatment, but does not explicitly mention rape and sexual violence. The list of “serious breaches” of the Geneva Conventions also does not specifically mention rape or sexual violence. The Additional Protocols of 1977 do specifically prohibit rape. See Reilly, *Women’s Human Rights*, p. 101.

⁴⁵ Its article 7 (1) (g) lists rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity as a crime against humanity; its article 8 (2) (b) (xxii) lists rape, sexual slavery, enforced prostitution, forced pregnancy ... enforced sterilization or any other form of sexual violence as a grave breach of the Geneva Conventions; and its article 8 (e) (vi) lists rape, sexual slavery, enforced prostitution, forced pregnancy ... enforced sterilization or any other form of sexual violence as a serious violation of article 3 common to the four Geneva Conventions. See Viseur Sellers, “The prosecution of sexual violence in conflict”, for further analysis.

⁴⁶ Reilly, *Women’s Human Rights*, pp. 93–98; and Committee on the Elimination of Discrimination against Women, general recommendation No. 30 (2013), paras. 36 and 42. Gender-sensitive transitional justice mechanisms and reparations can play an important role in post-conflict transition, as can the inclusion of women at all stages of the peace process/negotiations and all levels of political decision-making post-conflict, taking into account their different roles and experiences.

⁴ Security Council resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009),

1960 (2010), 2106 (2013) and 2122 (2013); and the reports of the Secretary-General on women, peace and security (S/2002/1154, S/2004/814, S/2005/636, S/2006/770, S/2007/567, S/2008/622, S/2009/465, S/2010/498, S/2011/598, S/2012/732,

S/2013/525), on women’s participation in peacebuilding (A/65/354–S/2010/466, A/67/499–S/2012/746), on sexual violence in conflict and implementation of the relevant resolutions (S/2009/362, S/2010/173,

A/65/592–S/2010/604, A/66/657–S/2012/33, A/67/792–S/2013/149, S/2014/181). Note that Security Council resolutions are legally binding on United Nations Member States, which makes resolution 1325 (2000) and follow-up resolutions powerful advocacy tools.

⁴⁸ Report of the Secretary-General on women and peace and security (S/2012/732).

⁴⁹ Reilly, *Women's Human Rights*, p. 113; and Committee on the Elimination of Discrimination against Women, general recommendation No. 30 (2013), paras. 25–28. See also its general recommendation No. 23 (1997) on women in political and public life.

⁵⁰ Kavitha Suthanthiraraj and Cristina Ayo, *Promoting Women's Participation in Conflict and Post Conflict Societies: How Women Worldwide are Making and Building Peace* (Global Action to Prevent War, NGO Working Group on Women, Peace and Security, and Women's International League for Peace and Freedom), pp. 82–94; Global Network of Women Peacebuilders, “Women count: Security Council resolution 1325 – civil society monitoring report” (October 2010).

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