

**Convention on the Elimination
of All Forms of Discrimination
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COMMITTEE ON THE ELIMINATION OF
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CONTRIBUTION OF THE COMMITTEE TO INTERNATIONAL CONFERENCES

Outline of the Compendium on the implementation of the Convention
on the Elimination of All Forms of Discrimination against WomenReport by the Secretariat

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* CEDAW/C/1994/1.

INTRODUCTION

1. At its thirty-sixth session, in 1992, the Commission on the Status of Women decided to include in the basic documentation for the Fourth World Conference on Women: Action for Equality, Development and Peace (1995), an updated compendium on the achievements of the Convention on the Elimination of All Forms of Discrimination against Women. An original compendium had been prepared as the report of the Committee on the Elimination of Discrimination against Women on the achievements of and obstacles encountered by States parties in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women for presentation to the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (A/CONF.116/13).

2. At its twelfth session, in 1993, the Committee on the Elimination of Discrimination against Women requested the Secretariat to provide for its review at its thirteenth session an outline of the draft of an updated compendium. The compendium is expected to be the Committee's contribution to the work of the Fourth World Conference on Women.

PROPOSED STRUCTURE AND APPROACH TO THE COMPENDIUM

3. The Compendium should illustrate the importance of the Convention on the Elimination of All Forms of Discrimination against Women to the Fourth World Conference on Women. The World Conference should give an impetus to the promotion of internationally recognized human rights and freedoms and reactivate the enforcement of the provisions of the Convention. It should encourage universal ratification of the Convention and the removal of reservations to it.

4. The Compendium will stress that the Convention is the first international legal instrument which addresses the full range of issues related to the role and position of women in society and in the family, combining in a single international instrument the various international conventions concerning the status of women which are already in force. In addition, it will include many of the recommendations which the United Nations Commission on the Status of Women has adopted over the years to define the sphere of women's rights.

5. The Convention is not confined to the respect of equal rights per se, since these are guaranteed under the International Covenants on Civil and Political and on Economic, Social and Cultural Rights. 1/ Rather, its purpose is to ensure the equal enjoyment of these rights. The Convention thus is conceived as an affirmative action programme requiring measures by States parties to ensure that internationally recognized human rights are equally applied to women.

6. By ratifying or acceding to the Convention, States parties have undertaken to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the Convention (art. 24). In accordance with article 18 of the Convention, the States parties have undertaken to submit reports to the Secretary-General of the United Nations for consideration by the Committee on the Elimination of Discrimination against

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Women. The analysis in the Compendium should reflect the Committee's work as reflected in the examination of reports of States parties and in the general recommendations adopted by the Committee. It should provide a factual assessment of how the Committee has worked, as well as an assessment of changing trends in the implementation of the Convention by States parties.

7. It is proposed to structure the Compendium in two broad sections. The first would trace the origins of the Convention and analyse the work of the Committee. Its purpose would be to provide a succinct but analytical introduction to the Convention and its monitoring. To date, no such analysis has been made of the Committee and its work. To the extent possible, the section could summarize the travaux préparatoires for the Convention. The second section would analyse the Convention's implementation, article by article, with a view to identifying trends in implementation, obstacles encountered by States parties and innovative measures to accelerate implementation that have been found particularly effective by the Committee.

8. The Compendium should serve, after the Conference, as a basic reference document on the work of the Committee.

A. The work of the Committee on the Elimination of Discrimination against Women: origins and practices

9. The section would begin with a chapter on the origins of the Convention in the work of the Commission on the Status of Women from 1946-1976. This chapter would describe the developments of the concepts of women's rights as reflected in the Convention. A first draft of the chapter has been prepared by a consultant, who headed the United Nations women's programme for many of its early years.

10. The second chapter would concentrate on the institutional aspects of the work of the Committee on the Elimination of Discrimination against Women. It would show how the functions of the Committee have enlarged since its first session, in 1982. It would note how the Committee itself has redefined its terms of reference. By developing an extensive practice of making recommendations and other contributions, the Committee has assumed an important role in the international arena, not only in treaty interpretation but also in contributing to policy development in terms of advancement of women. The chapter would examine the Committee's working methods and decision-making processes. It would also describe the composition of the Committee in terms of its geographic and professional variety. It would also show the Committee's relationship to other international bodies, most importantly to other human rights bodies as well as to the Commission on the Status of Women and the United Nations Secretariat. A first draft of this chapter has been prepared by a consultant.

B. Substantive developments in the implementation
of the Convention

11. The section would consist of article by article analyses. Each would present the text of the article and would describe how States and the Committee have seen implementation of the article in substantive terms. For the purpose of the present outline, examples of the approach are given for two articles. Suggested outlines for the remaining articles will be available in a background paper.

1. Article 2

12. Article 2 requires States parties to pursue without delay a policy of non-discrimination. The commitment is indicated by a number of actions outlined below. Reservations to article 2 are directed against the Convention and must be seen as incompatible with the purpose and objective of the Convention.

13. Issues to be dealt with in the chapter would include the following:

(a) The principle of equality in national constitutions:

National laws which interpret the constitutional principle of equality;

The direct application of the Convention as national law before the courts;

Ratifications/accessions to international conventions aiming at elimination of discrimination against women;

Restrictions in law to the principle of equality, including those referred to in reservations to articles of the Convention;

Exclusion of women from the protection by national laws (e.g., domestic workers);

(b) Legislative and other measures that prohibit discrimination against women:

Sanctions against the violation of the right to equality and against discriminatory acts;

Authorities responsible for enforcing sanctions, judicial remedies (court decisions), administrative procedures (public prosecutor, ...), arbitral commission of trade unions, ...;

Cases invoking the constitutional principle of equality;

(c) Legal protection of the rights of women through tribunals:

Appointment of family judges;

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Redress of women covered by personal laws;

Cases of sex discrimination filed;

Grievance machinery to assist women;

- (d) Procedure laid down for ensuring that public authorities and institutions refrain from discriminatory acts:

Remedies against discriminatory acts of public authorities;

- (e) Disciplinary, arbitrary and penal sanctions against discriminatory acts of persons, non-governmental organizations or private enterprises:

Data on sanctions;

- (f) Law reforms carried out to modify or abolish existing laws and adopt new laws:

Education and information campaigns on the rights of women.

2. Article 11

14. The economic status of women and the situation of working women is of special concern under the Convention. It shows the extent of women's independent status as individuals. Article 11 covers three basic questions: women in employment, implementation of the right to work without discrimination due to childbirth and protective legislation. The importance of article 11 is underlined by the great number of Conventions adopted by the International Labour Organization (ILO).

15. Issues to be dealt with in the chapter would include the following:

- (a) Legal guarantees to ensure equal rights for women and men in employment;

International commitment to equal employment relations (Ratification of the International Covenant on Economic, Social and Cultural Rights, ILO Convention No. 122, ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value);

Restrictions or limitations imposed by law on the enjoyment of equal rights referred to under article 11 of the Convention, including those expressed by reservations of States parties to article 11 and in protective legislation;

Revision or repeal of protective legislation envisaged in light of scientific and technological knowledge;

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Legal remedies against discriminatory employment practices including on grounds of marriage and maternity;

(b) The de facto enjoyment of women and men of equal employment rights - the right to work and to the same employment opportunities. Reference will be made to statistics and indicators reflected in United Nations studies, including the update of The World's Women: Trends and Statistics, e.g., economically active population, number and percentage, sex, age groups, types of enterprises run by women as employers; fields in which women are employed; part-time work of women and men; unemployment rate of women and men;

(c) Free choice of profession and employment, the right to the benefits and conditions of service, including women's participation in non-traditional jobs; restrictions for women to work in special areas and fields for protective and other reasons; women in managerial positions; vocational training during employment; measures to accelerate women's equal participation in the economy (development and employment policies, programmes, incentives given to employers to hire and train women in non-traditional occupations); incentives offered by Governments to enrol more women in training courses; vocational training in technical areas;

(d) Equal remuneration for work of equal value. The analysis would underscore what was stated by the Committee, by its general recommendation 13 (1989), that "more remains to be done to ensure the application of that principle in practice, in order to overcome the gender-segregation in the labour market". The Committee recommended that States parties consider the development and adoption of job evaluation systems based on gender-neutral criteria that would facilitate the comparison of the value of those jobs of a different nature, in which women presently predominate, with those jobs in which men presently predominate. It would look at such de facto indicators as income earned by women and men (%) and minimum wages fixed;

(e) Payment guaranteed for women working in family enterprises. It would build on the determination of the Committee by its general recommendation 16 (1991) "that unpaid work constitutes a form of women's exploitation that is contrary to the Convention". The Committee recommended that States parties "take the necessary steps to guarantee payment, social security and social benefits for women who work without such benefits in enterprises owned by a family member";

(f) Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product. It would take account of the fact that the Committee, by its general recommendation 17 (1991) affirmed "that the measurement and quantification of the unremunerated domestic activities of women, which contribute to development in each country, will help to reveal the de facto economic role of women". The Committee recommended that States parties take steps to measure and value the unremunerated domestic activities of women and include them in national accounts;

(g) Social security. The analysis would include:

Coverage of women by social security schemes (in the work-force, part-time work after retirement);

Unemployment assistance provided to men and to women;

Retirement age of men and of women;

Social security and social benefits provided to women who are not employed or work in enterprises owned by a male member of the family;

(h) Health protection at work. The analysis would include;

Safety and health regulations, rooms for rest and for nursing infants;

Measures against sexual harassment;

Availability of child care facilities;

Protection of pregnant women workers;

(i) Measures to prevent discrimination against women on the grounds of marriage or maternity;

(j) Protection by trade unions;

(k) Availability and duration of maternity leave or parental leave, including reintegration of women into the work force after maternity and other leave due to family responsibilities.

Notes

1/ Resolution 2200 A (XXI), annex.
