

Convention on the Elimination of All Forms of Discrimination against Women



The Convention on the Elimination of All Forms of Discrimination against Women

The Convention in general

CEDAW defines discrimination against women in article 1 as ‘any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field’. States parties to CEDAW agree to undertake multiple measures to eliminate all forms of discrimination against women at all levels to achieve factual and legal equality in all spheres of life. The Convention in article 6 requires States parties to take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women. In order to ensure equal participation of women and men in public and political life, articles 7 and 8 outline specific States parties’ obligations. Articles 9 and 10 elaborate on equality in obtaining and retaining nationality and education. Women’s rights in employment, health and other areas of economic and social life are elaborated upon in articles 11–13. Article 14 takes into account the particular problems women in rural areas face (e.g. access to health services, education, economic opportunities and housing). Articles 15 and 16 elaborate upon rights to equality before the law and in the area of marriage and family relations (e.g. the legal capacity of women and the right to exercise such capacity, freedom of movement, the right to freely enter into marriage, the rights and responsibilities of parenthood, the spacing of children, and the ownership and disposal of property).



Introduction

The Commission on the Status of Women (CSW) was established in 1946 with a mandate to address women’s rights. The United Nations General Assembly in 1963 adopted a resolution requesting the Economic and Social Council to invite the CSW to prepare a draft declaration that would combine in a single instrument, international standards articulating the equal rights of men and women. In 1967, the General Assembly adopted the Declaration on the Elimination of Discrimination against Women. In 1972, the CSW requested the United Nations Secretary-General to call upon its Member States to transmit their views on a binding treaty which would give normative force to the provisions of the Declaration. The text of the Convention on the Elimination of All Forms of Discrimination against Women was prepared by working groups within the Commission during 1976 and through extensive deliberations by a working group of the Third Committee of the General Assembly from 1977 to 1979. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹ was adopted by the General Assembly on 18 December 1979 and entered into force on 3 September 1981.²

¹ The Convention on the Elimination of All Forms of Discrimination against Women will herein be referred to as the Convention or as CEDAW.

² If otherwise not referenced the information included in this fact sheet can be found in the Convention on the Elimination of All Forms of Discrimination against Women or on the website of the Office of the United Nations High Commissioner for Human Rights (www.ohchr.org).



The following two sections consider those obligations in the Convention which are directly and indirectly linked to the right to health. While reading this section, keep in mind the introduction to this folder discussing the linkages between the implementation of various human rights and the specific right to health.

Direct linkages to health

The Convention in article 12 establishes that States parties ‘shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning’. In addition, article 12 specifies that States parties are to ensure to women the appropriate services in connection with pregnancy, confinement and the post-natal period, including granting services for free where necessary and adequate nutrition during pregnancy and lactation. In accordance with article 14(2)(b), which specifically refers to women in rural areas, States parties are obliged to ensure the right of women in rural areas to ‘access to adequate health care facilities, including information, counselling and services in family planning’.

Other rights and obligations which may be directly linked to the enjoyment of the right to health include: the obligation to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children (article 5[b]); the obligation to suppress all forms of trafficking in women and exploitation of prostitution of women (article 6); the obligation to ensure equal access to education (which comprises access to educational information to ensure the health and well-being of families including information and advice on family planning) (articles 10 and 14[2][d]); the right to protection of health and safety in working conditions (article

11[1][f]); the obligation to provide special protection to women during pregnancy if they are performing work proved harmful to them (article 11[2][d]); and the obligation to ensure the same right as men to decide on the number and spacing of their children and have access to information, education and means to enable them to exercise these rights (article 16[1][e]).

Indirect linkages to health

The fulfilment of women’s right to health also depends on the fulfilment of rights and obligations indirectly linked to health including: the right to non-discrimination against women and the obligation to pursue through all appropriate means the elimination of discrimination against women (articles 1 and 2); the obligation to recognize the common responsibility of men and women in the upbringing and development of their children (article 5[b]); the obligation to ensure equal access to education (articles 10 and 14[2][d]); the right to social security (articles 11[2][e] and 14[2][c]); the obligation to ensure access for women in rural areas to adequate living conditions including housing, sanitation, electricity and water supply, transport and communication (article 14.2[h]); and the obligation to proscribe the betrothal and marriage of children (article 16[2]).

The Committee on the Elimination of Discrimination against Women

The Committee in general

In accordance with article 17, the Committee on the Elimination of Discrimination against Women was established. The Committee examines reports, submitted by States parties under article 18, describing legislative, judicial, administrative or others measures taken to give effect to the Convention and any factors or difficulties affecting the degree of fulfilment of States parties’ obligations under CEDAW. In responding to these reports the Committee issues concluding comments where the Committee outlines factors and difficulties affecting the implementation of the Convention for that State party, positive aspects, concerns, and suggestions and recommendations to enhance the implementation of the Convention.³ The Committee may also issue general recommendations which elaborate upon the Committee’s interpretation of the provisions of the Convention including reporting guidelines to States parties, comprehensive interpretations of substantive provisions and the relationship between the Convention’s articles and what the Committee has described as “cross-cutting” themes such as violence against women. CEDAW does not foresee a mechanism for individual or group communications. However, in 1999 the Optional Protocol to CEDAW was adopted and entering into force in 2000 it

³ The concluding comments or observations are publicly available on the United Nations human rights treaty bodies’ database of the Office of the United Nations High Commissioner for Human Rights (www.unhcr.ch/tbs/doc.nsf).

established such a mechanism for the citizens of those States parties which ratified the Optional Protocol. After the Committee has considered a claim under this procedure, the Committee adopts and issues views/decisions and recommendations to the parties concerned. The Optional Protocol also enables the Committee to initiate inquiries if it has received reliable information indicating grave or systematic violations of the rights in the Convention by a State party which has ratified the Optional Protocol. If the Committee decides to initiate an inquiry it designates one or more members to make a confidential inquiry. These member(s) may also visit the territory in question. The findings are examined by the Committee and transmitted to the State party together with appropriate comments and recommendations. The State party is thereafter requested to respond to the Committee.

How can the Committee help in ensuring the right to health?

Having considered a State party's report the Committee may, among other things, highlight in the concluding comments a State party's shortcomings in relation to implementing the right to health, but also for other directly or indirectly health-related rights. The Committee may also indicate how the State party should go about correcting these shortcomings. In relation to general recommendations, the Committee has issued a general recommendation which specifically elaborates on women and health.⁴ This general recommendation specifies what States parties should include in their reports regarding their implementation of article 12. It also includes recommendations on measures to be taken by States parties to fulfil their obligations under this article. Furthermore, the Committee in this general recommendation indicates that the full realization of women's right to health can only be achieved when States parties fulfil their obligation to respect, protect and promote women's fundamental right to nutritional well-being and must, accordingly, ensure safe and nutritious food supply.⁵ It also highlights that it is discriminatory for a State party



to refuse to legally provide certain reproductive health services for women⁶ and that States parties should ensure without prejudice and discrimination the right to sexual health information, education and services for all women and girls.⁷ The Committee has, in addition, issued several other recommendations which raise directly or indirectly issues related to women's right to health such as female circumcision, women and HIV/AIDS, disabled women, violence against women and equality in marriage and family relations.⁸ If a woman or group of women believe that they have been discriminated against, according to the Convention's definition, in exercising or enjoying their right to health they can submit a communication to the Committee. Similarly, anyone can

⁴ General Recommendation 24, *Women and health* (article 12), UN Doc. A/54/38 Rev. 1, 20th Session, 1999.

⁵ *Ibid.* para. 7.



⁶ *Ibid.* para. 11.

⁷ *Ibid.* para. 18.

⁸ General Recommendation 14, *Female Circumcision*, UN Doc. A/45/38, 2 February 1990; General Recommendation 15, *Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)*, UN Doc. A/45/38, 3 February 1990; General Recommendation 18, *Disabled Women*, UN Doc. A/46/38, 4 January 1991; General Recommendation 19 *Violence against women*, UN Doc. A/47/38, 29 January 1992; General Recommendation 21 *Equality in marriage and family relations*, UN Doc. A/47/38, 4 February 1994.

submit information to the Committee in order to initiate an inquiry where grave or systematic violations of the right to health or other related health rights have been detected. The Optional Protocol, moreover, establishes that a State party must inform the general public of the Convention and the views and recommendations issued by the Committee (article 13 of the Optional Protocol), which is a further means of raising issues related to women's right to health.

Additional instruments dealing with women's rights and health

The United Nations General Assembly adopted in 1993 the Declaration on the Elimination of Violence against Women.⁹ The African Union adopted in 2000 the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women

⁹ UN Doc. A/RES/48/104, 20 December 1993.



in Africa,¹⁰ which entered into force on 25 November 2005 and protects women's right to health, inter alia, in its article 14. In 1995, the Fourth World Conference on Women adopted the Beijing Declaration and Platform for Action¹¹ where women's right to health is extensively considered. For example, in Chapter 3 of the Platform for Action, which focuses on areas of concern, the inequalities and inadequacies in and unequal access to health care and related services is considered. Furthermore, under Chapter 4 where strategic objectives and actions are elaborated, in section C, which specifically deals with women and health, the objectives include: to increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services; to strengthen preventive programmes that promote women's health; to undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues; to promote research and disseminate information on women's health; and to increase resources and monitor follow-up for women's health. Moreover, there are two Special Rapporteurs of the United Nations Commission on Human Rights, now the Human Rights Council,¹² who deal specifically with women and health issues: the Special Rapporteur on trafficking in persons, especially in women and children, and the Special Rapporteur on violence against women, its causes and consequences. There is also the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Eastern Mediterranean Region ratifications

The countries of the Eastern Mediterranean Region that have ratified the Convention are Afghanistan, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Morocco, Oman, Pakistan, Saudi Arabia, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen. The total number of States parties to CEDAW is 182 (as of May 2006).¹³

¹⁰ AU Doc. CAB/LEG/66.6 13 September 2000.

¹¹ UN Doc. A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 15 September 1995.

¹² The United Nations Commission on Human Rights has been replaced by the United Nations Human Rights Council as per United Nations General Assembly resolution A/RES/60/251 adopted on 15 March 2006. The Commission on Human Rights ceased to exist on 16 June 2006; see press release at: www.un.org/News/Press/docs/2006/ecosoc6192.doc.htm

¹³ Ratifications, signatures and reservations to international human rights instruments can be found at: www.ohchr.org/english/countries/ratification/index.htm