

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

34th Session (New York, 16 January to 3 February 2006)

At its 34th session, the Committee on the Elimination of Discrimination against Women (the “Committee”), which monitors the implementation by States of the *International Convention on the Elimination of All Forms of Discrimination against Women* (the “Convention”) considered country reports from Australia, Cambodia, Eritrea, Mali, Thailand, Togo, Venezuela, and the former Yugoslav Republic of Macedonia.

1. Overview of Committee Session

The 34th session of the Committee took place at the United Nations (UN) Headquarters in New York from 16 January to 3 February 2006. The Committee considered the reports from eight State parties: **Australia, Cambodia, Eritrea, Mali, Thailand, Togo, Venezuela**, and the **former Yugoslav Republic of Macedonia**. Half of the countries, Cambodia, Eritrea, Macedonia, and Togo were presenting their initial reports as well as periodic reports.

The composition of the Committee remained the same as that of the 33rd session in July 2005. Ms. **Tiziana Maiolo**, the expert from Italy, however was absent throughout the session. The other Committee experts were Ms. **Magalys Arocha Dominguez** (Cuba), Ms. **Meriem Belmihoub-Zerdani** (Algeria), Ms. **Dorcas Coker-Appiah** (Ghana), Ms. **Mary Shanthi-Dairiam** (Malaysia), Mr. **Cornelis Flinterman** (Netherlands), Ms. **Naela Mohamed Gabr** (Egypt), Ms. **Françoise Gaspard** (France), Ms. **Huguette Bokpe Gnacadja** (Benin), Ms. **Salma Khan** (Bangladesh), Ms. **Rosario G. Manalo** (Philippines), Ms. **Krisztina Morvai** (Hungary), Ms. **Pramila Patten** (Mauritius), Ms. **Silvia Pimentel** (Brazil), Ms. **Victoria Popescu** (Romania), Ms. **Fumiko Saiga** (Japan), Ms. **Hanna Beate Schöpp-Schilling** (Germany), Ms. **Heisoo Shin** (Republic of Korea), Ms. **Glenda P. Simms** (Jamaica), Ms. **Dubravka Šimonovic** (Croatia), Ms. **Anamah Tan** (Singapore), Ms. **Maria Regina Tavares da Silva** (Portugal), and Ms. **Zou Xiaoqiao** (China). As in the 33rd session, Ms. **Manalo** presided as Chairperson, Ms. **Pimentel**, Ms. **Belminoub-Zerdani**, and Ms. **Schöpp-Schilling** as Vice-Chairs and Ms. **Šimonovic** as Special Rapporteur.

The recurring themes dominating the session were the status of the Convention in the national legal systems of State parties and the discrepancies between policy making and implementation by governments; the absence of disaggregated statistics in country reports; the use of temporary special measures such as quotas for the advancement of women; the importance of combating negative stereotypes, which often result in domestic violence, sexual attacks, and harmful practices against women; the empowerment of women through participation in politics, public life and decision making processes; and the need to address the scourge of HIV/AIDS; the prevalence of trafficking in women, forced prostitution and rape. The need to integrate the special issues affecting rural women in all programmes for the advancement of women also dominated the discussions.

The Committee devoted two meeting sessions on 16 and 23 January 2006 to non-governmental organisations (NGOs) from the countries whose reports were being considered. At both sessions, representatives of NGOs first addressed the Committee on specific aspects of discrimination faced by women in their countries. After each address, the Committee posed questions, which sought to determine the level of cooperation between Governments and NGOs in producing country reports, the accuracy of the reports, and the views of civil society on the adequacy of efforts by their Governments to eliminate discrimination against women.

The presence of NGOs at the session was commendable, and there were shadow reports and oral presentations on each country except for Eritrea, whose main NGO on women’s rights was part of the Eritrean Government’s delegation. The NGO from Cambodia expressed concern at the lack of statistics on the number of rape victims each year due to factors such as: distrust of the justice system; negative social attitude to loss of virginity; and the lack of criminalisation of rape within marriage. The representative recommended that the definition of “consent” be clarified and that citizens be educated on the meaning of rape. One of the NGOs from Thailand focused on domestic violence and discrimination against indigenous women. The representatives of NGOs from Venezuela did not paint the same picture of the situation of Venezuelan women, and it soon became evident that their views differed in accordance with whether or not they were loyal to the current Government in their country. UNANIMA International, which presented a shadow report on Australia, also sponsored a side event in which Ms. **Jennifer Burn** and Ms. **Georgina Costello**, two Australian lawyers, emphasised the inadequacy of their country’s legal system in the following areas: trafficking and forced prostitution; the absence of judges sensitive to gender issues; and the reluctance of Government officials charged with combating trafficking to collaborate with NGOs experienced in this area. A human rights training for NGOs from the United

States of America (USA) and community organisers, sponsored by Women's Institute for Leadership Development for Human Rights, the New York City Human Rights Initiative and the US Human Rights Network also took place during the session. Participants at the training gained first-hand experience observing the Committee's consideration of Australia's report on January 30.

The UN Secretariat, acting on behalf of the Committee, had invited some UN specialised agencies, to submit reports on the implementation of the Convention in areas falling within the scope of their activities to supplement the information contained in the reports of the State parties to the Convention being considered at the current session. The International Labour Organization (ILO)¹, United Nations Educational, Scientific and Cultural Organization (UNESCO)², and the Food and Agriculture Organization (FAO)³ submitted reports. The League of Arab States and the International Organization for Migration were also present at the session and made oral statements.

The experts, as in previous sessions, tended to focus on themes in which they had expertise and advanced experience. Thus, Mr. **Flinterman** posed questions on the status and domestic incorporation of the Convention. Ms. **Morvai** underlined the importance of addressing the demand side of trafficking and prostitution. Ms. **Simms** emphasised the importance of fighting negative stereotypes and actively empowering women to achieve gender equality within a specific period. In addition, she eloquently made a case for the protection of rural and indigenous women. Ms. **Gaspard** highlighted the fact that the low participation of women in politics is not because of lack of interest or competence but due to lack of access and opportunities, and encouraged Governments to allocate quotas to women in this area and to train them. Ms. **Schöpp-Schilling** focused on the benefits of implementing temporary special measures in accordance with Article 4 of the Convention. Ms. **Shin** concern for women who were victims of domestic violence was also apparent. Some of the experts seemed to ask a variety of questions. While some experts seemed to raise more questions and highlight more issues than others, the overall rapport and working method seemed efficient. They brought relevant issues to light, and with their comments and questions, successfully challenged the Governments to move from orating mere words to articulating undeniable actions for the elimination of discrimination against women.

In comparing, the strength of language used in the Concluding Comments across countries there was no sense of extreme differences. However, the Committee spoke strongly to some countries on certain issues of importance like female genital mutilation and prostitution.

Of particular note is a resolution⁴ on the *Convention on the Elimination of All Forms of Discrimination against Women*, adopted during the 60th session of the General Assembly. In the Resolution, the General Assembly notes *Decision 33/I* by which the Committee requested an extension of its meeting time⁵ and approves the request. It **“authorizes the Committee to hold three annual sessions of three weeks each, with a one-week pre-sessional working group for each session, effective from January 2006, as a temporary measure”** (op.14). It also continued to authorise two annual sessions of the Working Group on Communications under the Optional Protocol to the Convention. The Resolution further **“authorizes the Committee to meet on a temporary basis in 2006 and 2007 for up to seven days in parallel working groups during its third (July/August) annual session in 2006, and its first (January) and third (July/August) annual sessions in 2007, taking due account of equitable geographical distribution, for the purpose of considering reports submitted under article 18 of the Convention”** (op. 15). This extension of the Committee's meeting time is expected to enable it eliminate the backlog of country reports.

2. Consideration of country reports

Australia (combined 4th and 5th periodic reports)⁶

Overview of the country session

¹ CEDAW/C/2006/1/3/Add.4

² CEDAW/C/2006/1/3/Add.3

³ CEDAW/C/2006/1/3/Add.1

⁴ A/RES/60/230.

⁵ See A/60/38, Part II, chap.I.

⁶ CEDAW/C/AUL/4-5

The Committee considered Australia's combined fourth and fifth periodic reports on 30 January 2006. Australia ratified the Convention on 28 July 1983 with reservations regarding introduction of paid maternity leave throughout Australia (Article 11, Employment) and women in combat roles. Australia has not signed the Optional Protocol and the Government does not plan to sign it.

Kerry Flanagan, Head of the Office for Women, Department of Family and Community Services, led the delegation which included an Assistant Secretary, Human Rights Branch, Attorney-General's Department; the Section Manager, Office for Women, Department of Family and Community Services; and an official from Australia's Embassy to the USA. The Committee examined the report using the task force format⁷.

While the Committee examined the breadth of issues of the Convention, Australia's treatment of trafficking victims emerged as a point of contention during the course of the constructive dialogue. While the delegation seemed receptive to some Committee recommendations (for instance, learning from prosecutions of traffickers in other countries), the delegation persisted in arguing that Australia was pursuing a "balanced approach" to victims of trafficking.

Themes and issues discussed

Ms. Flanagan began by introducing the structure of Australia's system of Government and the institutions in Australia that deal with women's issues. She then presented the developments since 2003. Areas she highlighted included indigenous women's health, delivery of healthcare services to rural areas, and women's representation in private sector senior management. She cited education and curbing violence against women as positive areas of Australian performance. Australian women are continuing their strong performance in the field of education with more equal rates of participation across educational levels. They are still however underrepresented in engineering, information technology, and architecture. With respect to violence against women, a 2004-2005 national media campaign had raised awareness, with help lines and programs to undergird this consciousness. Ms. Flanagan also acknowledged that domestic violence in indigenous communities remained an area of concern. She further outlined Government programs to respond to racism, highlighting the expectation of a new policy document due out later in 2006; and cited continued programs for consultation and coordination to respond to indigenous issues. She also presented Australia's position on its reservations and the Optional Protocol, specifying that Australia would retain its reservations regarding paid maternity leave and women in direct combat roles. Australia also does not intend to sign the Optional Protocol. She closed by highlighting the 2005 United Nations Development Program (UNDP) Human Development Report ranking of Australia highly in measures of gender development and empowerment.

The Committee began by addressing Convention Articles 1-4. Ms. **Schöpp-Schilling** commended the ongoing efforts of Australia, but also noted that old challenges remain and new challenges are emerging. She noted with concern that the report was rather descriptive and stipulated that while detailing governmental efforts are an important component of reporting, the results of these efforts are also an essential component. In her view, the Australian report's statistics were inadequate, some information was repetitive, and the structure of the report could be improved through a thematic presentation of information instead of a structure based on a state-by-state format. Ms. **Popescu** underscored Ms. Schöpp-Schilling's comments on the statistics by noting that more sex-disaggregated data was needed as it contributes to the Committee's ability to compare, analyse, assess, and identify remaining gaps. The delegation responded they would take onboard those comments regarding the next report's organisation and the need for inclusion of additional data.

Ms. **Schöpp-Schilling**, Ms. **Šimonović**, and Ms. **Popescu** all raised questions regarding federalism. Their questions addressed issues of consistency, harmonisation of national machinery, and incorporation of the Convention into domestic law. With respect to consistency, Ms. Schöpp-Schilling asked whether the federal Government attaches conditions to grants given to other governmental units to accelerate achievement of women's equality. Building on this, Ms. Popescu was concerned with ensuring that State and federal level

⁷ In the task force format a part of the Convention is first addressed by a working group of Committee experts; experts in the working group are allotted five minutes each to comment and pose questions. After the delegation responds to the working group's questions, the other Committee members are allowed two minutes to comment and pose follow-up questions. The delegation then responds to the follow-up questions and the Committee moves on to the next part of the Convention.

government bodies cooperate (coordination of strategic action plans across government bodies) and exchange best practices. Under the rubric of harmonisation, Ms. Popescu was also concerned with the federal level's programs reaching women at the local level. With respect to incorporation of the Convention into domestic law, Ms. Šimonović asked about the Sex Discrimination Act's (SDA) operationalisation of the provisions of the Convention, and inquired about the definition of discrimination in the SDA and the inclusion of indirect discrimination. Mr. Flinterman and Ms. Pimentel asked follow-up questions on the SDA. Mr. Flinterman was concerned with SDA's implementation by the judiciary and religious exemptions under the SDA. Ms. Pimentel highlighted the lack of a prohibition in the SDA of discrimination based on sexuality; she was concerned that the Government take steps to ensure that discrimination is not occurring against women in same-sex relationships. Responding, the delegation explained the operation of the national machinery, offices, and coordination among government entities. It specified that the SDA was the primary means of implementing the Convention in Australia. The definition of discrimination was broad, and the SDA was directed at both formal and substantive equality.

Ms. Schöpp-Schilling and Ms. Popescu both asked questions regarding **NGOs**. Ms. Schöpp-Schilling asked whether NGO comments had been integrated into the Government report. Ms. Popescu sought information on NGOs' relationships with national secretariats. The delegation responded that NGOs were given the report to assist them in their preparations of shadow reports. While the Government listened to concerns of NGOs, the Government report presented the Government's views.

Ms. Schöpp-Schilling highlighted the importance of **distinguishing between gender mainstreaming and temporary special measures**. With respect to gender mainstreaming, she asked who is responsible for overseeing its implementation. With respect to temporary special measures, she asked whether the Committee's General Recommendation 25 had been discussed in Government and civil society. She was particularly concerned with whether the SDA allowed for targets and quotas with an eye towards the acceleration of de facto equality. Responding to concerns about gender mainstreaming, the delegation stated the Office for Women asks government entities to consider women in designing and implementing policies.

Ms. Dairiam focused her questions on the **asylum system**. Issues of interest to her included restrictions on certain types of visas that could impede family reunification, the ability of women victims of domestic violence to lodge separate applications, and aid for asylum seeker victims of domestic violence.

In discussion of Articles 5-6, the Committee focused on **equal rights for vulnerable women, violence against women, and trafficking**. Ms. Simms addressed an array of questions regarding government allocations to programs, health access, xenophobia, and imprisonment of vulnerable women. Ms. Simms attention focused on indigenous women, aboriginal women, non-English speaking minorities, and racial minorities. Ms. Shin focused on violence against women. She was concerned with the low rates of reporting of sexual assault and domestic violence. She highlighted two areas. With respect to sexual assault cases, she was concerned with the justice system's treatment of victims, paying particular attention to training of officials on this issue. With respect to domestic violence, she encouraged a change in the mode of thinking, moving away from a system where the woman is in a situation of homelessness towards a system where the aggressor is evicted from the home.

Ms. Morvai devoted her questioning to the **issue of trafficking and prostitution**, further building on a question of Ms Shin. Ms. Shin was concerned with status of victims of trafficking; specifically the permission to remain in Australia being contingent on a victim's successfully cooperating with a prosecution. Ms. Morvai echoed Ms. Shin's concern on this point. Furthermore, Ms. Morvai emphasised the need for a holistic approach to fighting trafficking; she encouraged Australia to initiate information exchanges with countries that have successfully prosecuted traffickers (e.g. Italy and the USA). Noting the links between trafficking and legalised prostitution, Ms. Morvai highlighted a demand-side perspective on trafficking absent from Australia's report. She spoke with a particularly critical eye towards legalised prostitution. She was concerned with the idea that through legalised prostitution the Government sends the message that men have an entitlement without responsibility wherein women are not considered human beings with human dignity. Responding to the issue of victims of trafficking who are not granted permission to remain in Australia, the delegation said the Government was keen to ensure once they were in their home country they were assisted. The low success rate of prosecuting traffickers was a further issue of concern. The delegation said it would take onboard the suggestions of looking at successful prosecutions in foreign countries. Responding to Ms. Morvai's concerns on prostitution, the delegation said there

were a variety of practices in Australia from legal and regulated to illegal. Overall, those areas that regulated prostitution saw this approach as helping enable heavy scrutiny of the practices and protecting workers' rights.

In discussion of Articles 7-9, the Committee focused **on temporary special measures** as related to representation of women in public life as well as private life (e.g. elected officials and women on boards) and as related to indigenous women's representation. Ms. Popescu addressed Articles 7 and 8, raising concern about the representation of women at various levels, highlighting the fact that indigenous women were far from parity in managerial positions. She inquired about the obstacles in implementing quotas. In regards to Article 9, Ms Shin urged Australia to reconsider its present practice regarding visas and trafficking. First Australia needs an improved approach to granting visas so that victims of gender-based crimes and violence can rely on social services and the prospect of family reunion. Specifically, she urged a system whereby applicants for asylum could apply on the basis of gender persecution. Secondly, victims of trafficking require protection whether or not they can help the police. She posited an approach to trafficking victims grounded in a humanitarian perspective; this approach would delink attaining visas with the requirement that victims make useful contributions to aid prosecution of crimes.

Responding to Ms. Shin's questions, the delegation said that Temporary Protection Visas (TPV) are a small component of the protection visas; TPVs are specifically for those whose arrival is unauthorised. The Government sought to discourage movement from second countries into Australia when someone could have received protection in the second country. Visas grounded in gender based crime and domestic violence claims are considered on a case-by-case basis, though these issues are not recognised as general grounds per se. The delegation said Australia pursued a balanced approach keeping in mind the aims of protecting victims and eradicating the root cause of trafficking. They said further that many women decided to go home for a range of reasons; the Government could not prevent them from doing so if that was their choice. The issue would be kept under review.

In discussion of Articles 10-14, the Committee covered a wide ambit. In the field of education, the prospect of backlash against women and girls achievement was raised. The Committee also posed questions on a range of employment issues including maternity leave and discrimination. With respect to health, access was a key concern.

Ms. Simms also raised the issue of women not seeing the outcomes of their education in the marketplace. Ms. Schöpp-Schilling and Ms. Khan addressed employment. Ms. Schöpp-Schilling sought clarification on how maternity leave operates particularly in both the public and private sectors. She also asked if the Government considered withdrawing the reservation given the changes in paid maternity leave of 2004. The Government was monitoring employment issues; the overall idea was giving women opportunity and choice. Regarding employment and maternity leave, the delegation said the Government's approach was to work with the private sector as imposing this issue on the private sector could result in resistance.

Ms. Khan's employment questions broadly expressed concern over discrimination. The groups she was concerned about included non-English speaking ethnic groups, indigenous, and migrant women. She asked whether the Government had evaluated the move from centralised collective bargaining to individual bargaining wherein responsibility for protection of labour rights shifts from the Government to the individual. She was concerned that this reform could negatively affect non-English speaking ethnic groups. Ms. Khan also highlighted superannuation (payments by workers to fund future pensions) as inaccessible, impractical, and discriminatory when considering the requirement for a long, unbroken period of work and the life expectancy of indigenous women and migrant women. She also asked if the principle of equal pay for work of equal value was accepted. Regarding concerns about superannuation and women's life expectancy, the delegation cited Organisation for Economic Co-operation and Development (OECD) studies that reported the system was fairly progressive. The delegation said that equal pay for work of equal value is enshrined in legislation.

Ms. Khan, Ms. Dairiam, and Ms. Šimonović all questioned **access to healthcare** with regard to geography (rural areas), custody (detention centers), therapies (mental health services), and procedures (surgical and non-surgical abortion). With respect to health, the delegation said there was a universal system of health insurance available to all Australians. In terms of family planning, the Government funds a range of services giving people choice and advice. With respect to women in detention centres, the delegation said that the standards were consistent with treaty obligations covering the well-being, privacy, and security of those held in detention. In

addition, the delegation noted that complaint mechanisms were in place at each facility. With regard to reproductive health services at detention centres, the delegation stated that there was the same level of care as the wider Australian community enjoyed.

In discussing Articles 15-16, the Committee focused on **abortion, clarifications of the Marriage Act, and Government-community dialogue in overseeing children's welfare**. Ms. Morvai inquired about pre and post abortion support (e.g. access to information, counselling opportunities, and continued education opportunities). Ms. Khan and Ms. Zerdani sought clarification regarding the legal definitions of family flowing from the 1961 Marriage Act. Ms. Tan expressed concerns about the child welfare department's relationship with indigenous women, particularly in protecting children at risk. She inquired whether the Government is engaging the views of indigenous women to improve the situation. On the issue of abortion, the delegation stated the position of Australia was for everyone to be free to make voluntary free informed choices regarding families. The delegation noted Ms. Tan's concerns.

Comparison with previous reports and recent appearances before other treaty-monitoring bodies

The Committee's 1997 Concluding Comments⁸ uses strong language in expressing alarm at the slowing or reversal of progress in Australia as evidenced by budget changes. Cuts in departments dealing with human rights and women's rights were of particular interest to the Committee. In its 2006 Concluding Comments the Committee more extensively covers issue of temporary special measures, urging Australia to consider implementing targets or quotas. A point of continuity between the 1997 and 2006 Concluding Comments is concern about the status of minorities.

Australia appeared before the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of the Child (CRC) in 2005. Parallels across the 2005 reviews and the 2006 review include discussions of the treatment of asylum seekers and refugees and concerns about discrimination against minorities, specifically indigenous people and religious minorities.

NGO concerns

During the Committee's NGO session on specific country situations the Committee heard that the Government response to trafficking victims was an area in need of improvement. NGOs criticised the current Australian standard of making visa and social support decisions contingent on the provision of useful contributions to the prosecution of crimes. NGOs recommended a lower threshold suggesting that visa and social support decisions be made on the basis of victims having reasonably cooperated with law enforcement. NGO representatives recommended that certain areas receive attention such as victim support, community awareness, and training of justice system officials. Committee members brought up these concerns during the constructive dialogue.

Cambodia (Combined initial, second and third periodic report)⁹

Overview of country session

The Committee considered Cambodia's combined initial, second and third periodic reports on 19 January 2006. Cambodia signed the Convention on 17 October 1980 and acceded to it on 15 October 1992 without reservations. It signed the Optional Protocol on 11 November 2001 but has not ratified it.

Ms. Ing Kantha Phavi, Minister of Women's Affairs led the country's delegation, which included Secretary of State, Ministry of Women's Affairs; Secretary of State, Ministry of Health; Secretary-General of the Royal Government of Cambodia; Secretary-General of the National Council for Women; Under-Secretary of State, Ministry of Justice; Deputy-Director General, Ministry of Women's Affairs; Deputy Inspector-General, Ministry of Education, Youth and Sports; Deputy Director, Ministry of Women's Affairs; Assistant to the Chair of the National Council for women; Director, Ministry of Women's Affairs; Vice-President of the Health Centre for Mothers and Infants; and an interpreter.

⁸ A/52/38/Rev.1

⁹ CEDAW/C/KHM/1-3)

The Committee commended the Royal Government of Cambodia for sending a high-level delegation and seized the opportunity to ask targeted questions. They discussed the status of the Convention and the prohibition of gender discrimination in Cambodia, (Articles 1 and 2); human trafficking and prostitution (Article 6); participation of women in politics and public life (Articles 7 and 8); education (Article 10); employment (Article 11); health care (Article 12) and rural women (Article 14). However, **the constructive dialogue focused on the Code of Conduct “shbab srey”** with provisions that result in the stereotyping of women and superiority of men. The Committee tackled it head on while the delegation did their best to evade the questions. However, the experts did not hesitate to identify the flaws in the delegation's arguments and to call for change.

Themes and issues discussed

Introducing Cambodia's report, Ms. Ing attributed the delay in its submission to the country's political instability during the last 10 years. She referred to Cambodia's emergence as a multiparty liberal democracy after over 25 years of armed conflicts, isolations and displacement and acknowledged the resulting economic growth due to external aid and the growing private sector investment. However, she conceded that unemployment remained high and globalisation had created growing disparities and hardships, leaving women particularly vulnerable. Furthermore, the prevalence of high levels of violence, trafficking in women, and rape was evident in the post-conflict violence culture, worsened by poverty and gender inequality. The establishment of the principle of gender equality in the 1993 Constitution is not well supported, and discrimination continues due to low levels of education, ignorance of rights and insufficient access to legal assistance. Ms. Ing highlighted the progress made in Cambodia regarding women's rights, stating that in line with the Convention, the Constitution contained the principle of equality before the law, and the freedom of women to stand as candidates for election. In addition, the Ministry of Justice was preparing a draft criminal code that would punish gender discrimination. Furthermore, the Ministry of Women's Affairs was currently promoting an action plan to promote gender equality and empowerment of women, called “Women Are Precious Gems”, emphasising five areas: economic empowerment, health, education, legal protection, and women and governance. Ms. Ing also emphasised the country's increasing success with gender mainstreaming in policies and programmes, with monitoring and evaluation systems in place, recalling a July 2004 policy called the “Rectangular Strategy for Growth, Employment, Efficiency and Equity”, which sought to change discriminatory social attitudes, and to ensure the rights of women to participate equally in nation building.

Ms. Ing noted some concrete achievements, including increased enrolment of girls in rural and remote areas in primary and secondary schools; cross-border programs for preventing and combating human trafficking; the enactment of a five-year National Action against Trafficking and Sexual Exploitation of Children 2000-2004 providing for prevention, prosecution, and rehabilitation or reintegration of victims; and the entering into force of a law on the *Prevention of Domestic Violence and the Protection of Victims* in October 2005. The achievements also include a partnership between the United Nations Development Fund for Women (UNIFEM), the Ministry of Women's Affairs, and the Ministry of Labour and Vocational Training to integrate a gender perspective into migration policies; and a program to encourage the hiring of rural women in the agricultural sector assisted by a loan from the Asian Development Bank. The participation of women in the tourism sector has increased and a national employment and training strategy to aid migrant women is being developed with the ILO.

The Committee welcomed the candid nature of Ms. Ing's presentation and commended Cambodia for enacting the law on ***the Prevention of Domestic Violence and the Protection of Victims***. However, their concern about its implementation and enforcement was evident in a series of questions posed. Ms. Pimentel noted that most countries consider domestic violence a private issue and asked whether a public-awareness campaign had been undertaken by the Government to familiarise the population with the new legal provisions, and whether the campaign was targeted at men. Similarly, Ms. Gaspard stressed that violence against women is a multidimensional phenomenon, which according to General Comment 19 of the Committee constitutes a key aspect of discrimination. She said that since men were often deaf to women's complaints and women may be reluctant to report violence, it was important to inform all actors of the new legislation and train the individuals involved in law enforcement. Ms. Ing said there were ongoing campaigns nationwide to raise awareness that domestic violence was not just seen as a private issue but also a crime. The police, judges, and civil servants are being educated on the issue, the *Domestic Violence Law* had been included in the curriculum of the school for judges, and courts had been instructed to deliver a “Protection Order” for victims within a week of a domestic violence case coming before them. However, she acknowledged that implementing the Domestic Violence Law would be difficult and that reducing the culture of violence would be an evolutionary process since gender

stereotypes are deeply entrenched in the Cambodian mindset. She added that 90 percent of the country's decision makers were men and that supporters of the *Domestic Violence Law* had been branded "revolutionaries" at one point.

Several experts inquired about the **status of the Convention** in Cambodia, including whether the Convention could be invoked by individuals in court, if the Convention had been publicised in the country, the independence of the judiciary, and if a definition of discrimination against women was included in the Constitution. The delegation responded that there were several points of entry for aggrieved women seeking redress. The Ministry of Women's Affairs itself received complaints, so could the Women's Commission (a body within the Cambodian Senate), and NGOs. These entities would then initiate a complaint in court on a woman's behalf. Further, a new decision by the Prime Minister would allow officers of the Ministry to act as a "judiciary police" to allow for faster initiation of complaints in court. However individuals cannot directly invoke the Convention in court. The delegation also said the Convention had been disseminated continuously since 2003, however this year it would be published in the country's official gazette, aired on the radio and television stations, and training on its provisions given to judges, the police and civil servants from the Ministry of Justice, the Ministry of Land Management, Urban Planning and Construction, and the Ministry of Social Affairs Veterans and Youth Rehabilitation. While admitting that the judiciary is not independent and is widely referred to as the "hand of the executive" the delegation added that this was precisely the reason for the current judicial reform.

The Committee also focused on the **Code of Conduct "shbab srey"**. This Code of Conduct is taught to all Cambodian schoolchildren and contains provisions such as "never turn your back to your husband when he sleeps" and "never respond to his excessive anger". Ms. Manalo asked whether steps are being taken to eradicate this Code. Ms. Morvai could not understand how it was possible to fight domestic violence without challenging the Code, given the provisions mentioned above. Responding, Ms. Ing said that "shbab srey" is taught in schools merely as a matter of national identity and not as a factual subject to be analysed in class. Thus, if it was found to run counter to the needs of present-day society, it could be amended through a process involving a broad set of stakeholders, including civil society. As head of her Ministry, she was already discussing how to modify the Code with the Ministry of Education. In the same light, Ms. Simms noted the "over-abundance" of male judges in the judicial system, and asked what was being done to address the situation. Mr. Flinterman, in line with NGO concerns, asked if marital rape was punishable but did not receive a specific answer. He also commended the Government on the establishment of a Rape Unit

The Committee also addressed **human trafficking and prostitution**. Ms. Saiga noted the increase in the number of victims and the judicial system appeared to be ineffective applying the law, and hoped the culture of impunity would end. Ms. Coker-Appiah recommended that resources be given to civil-society organisations to enable them to conduct educational campaigns alongside the Government. Ms. **Da Silva** lamented the lack of accurate data on trafficking and pointed out that while the Government had outlined a long list of initiatives being taken to combat trafficking, it had neglected to inform the Committee of their effectiveness. Responding, Ms. **Ing** reminded Committee members of Cambodia's commitment to fighting trafficking and highlighted the creation of a special unit at the Ministry of Interior. She further emphasised that the number of successful prosecutions is increasing. The Government is also fighting prostitution through providing decent work for women, establishing literacy programmes, business-oriented centres and vocational training.

The discussion on **education** invariably referred back to the Code of Conduct and Ms. **Popescu** questioned the effectiveness of an educational reform process where girls were taught simultaneously about gender equality and "how to make their husbands happy". Ms. **Dairiam** and Ms. **Da Silva** also inquired whether the Government was incorporating **gender mainstreaming** in its macro-development plans. The delegation said the process of gender mainstreaming started in 2000 but had not been effective until 2004 when an assessment was carried out and the need for appropriate financing recognised. Discussions also focused on **employment** and the Committee asked about data on migrants, special protection for pregnant employees and the existence of child labour. They also commented on the high mortality rate and the situation of rural women.

Comparison with previous reports and recent appearance before other treaty-monitoring bodies

Committee on the Elimination of Discrimination against Women
34th Session (New York, 16 January to 3 February 2006)

In its concluding comments¹⁰, the Committee notes the positive aspects of Cambodia's report and makes recommendations on the principal areas of concern. It expresses concern that the provisions of the Convention are not self-executing and are not directly applicable in court proceedings, and urges the State party to take immediate measures to ensure the Convention becomes fully applicable in the domestic legal system, and that its provisions are fully incorporated into national legislation. The Committee also recommends that the definition of discrimination against women, which encompasses both direct and indirect discrimination, be included in domestic law. It urges the Government to place high priority on implementing a comprehensive approach to address all forms of violence against women. Since the present report by Cambodia includes its initial report, no comparison can be made between it and previous ones.

A delegation from Cambodia was scheduled to present its initial report¹¹ before the Committee against Torture (CAT) during its 30th session from 28 April to 16 May 2003 but did not show up due to financial limitations. The CAT in an unprecedented move considered Cambodia's report in the absence of a Government delegation and like the present Committee, noted the lack of independence of the judiciary and called for judicial reform¹². Cambodia has not appeared before any other treaty-monitoring body in the last two years.

NGO concerns

The NGO Committee on CEDAW and the Cambodian Committee of Women (CAMBOW) submitted a fifty-paged Joint Coalition Shadow Report in which they expressed concern over the lack of statistics on rape, the lack of punishment for marital rape, and the systematic discrimination against women in trade, access to land and education. They also stressed the discriminatory impact of the Code of Conduct for women, a topic which the experts of the Committee tackled extensively.

Eritea (Combined initial, second and third periodic reports)¹³

Overview of country session

The Committee considered Eritrea's combined initial, second and third periodic reports on 24 January 2006. Eritrea acceded to the Convention on 5 September 1995 without reservations but has not become a State party to the Optional Protocol.

Ms. Luul Gebreab, the President of the National Union for Eritrean Women (NUEW), led the delegation. She explained that the NUEW, an NGO, was the primary institution for the advancement of gender equality, and collaborated with the Government and international organisations. She was accompanied by three officials from the Eritrean Mission to the United Nations, an official from the Eritrean Embassy to the United States of America (USA), a legal expert, and two members of the NUEW.

The issues discussed in the ensuing dialogue were the effects of war on women, the status of the Convention in Eritrea and the co-existence of State laws with customary law, the status and role of NUEW, negative stereotypes and the subservient role of women, the prevalence of poverty, participation of women in public life and politics, the plight of rural women and the problem of early marriage. There was also a heated discussion on female genital mutilation (FGM). The absence of representatives from Eritrean ministries was noticeable.

Themes and issues discussed

The small but mostly female delegation explained that war had caused the country's delay in submitting an initial report. Ms. Gebreab introduced Eritrea's report, and said the country was **a new nation**, and so the Convention could not be implemented all at once but would be a gradual process. The Government's efforts were evident in its current activities. It had adopted a National Gender Policy that mainstreamed gender issues. The Constitution also codified the right of women to participate in any position of leadership, vote and stand for election for any political seat and pursue, on equal basis, economic, commercial and trade advantages. Other progressive

¹⁰ CEDAW/C/KHM/CO/3

¹¹ CAT/C/21/Add.5

¹² CAT/C/CR/30/2

¹³ CEDAW/C/ERI/1-3, CEDAW/C/ERI/1-3/Corr.1

measures in 2005 included the reconfirmation of the NUEW as an autonomous national coordinator for the cause of Eritrean women. Resolutions were adopted on increasing the participation of women in political and public life, economic empowerment, equal access and ownership of land and greater access to health care and education. The country's Education Gender Policy was aligned with the Millennium Development Goal and the country planned to attain universal primary education by 2015.

Commenting on main constraints on the Government, Ms. Gebreab said poverty constituted the root cause of malnutrition and ill health among the population and the ongoing five-year draught had worsened the situation. However, to address the problem, the Government had introduced the free distribution of vitamins, iodine and mosquito nets to women of reproductive age. It had also established a five-year program to train more health professionals, included midwifery training as a requirement in nursing programs, and was offering sex education in schools. It was also taking steps to combat HIV/AIDS, create employment, and promote income generation for women. Other constraints were religious and customary practices, which have negative effects and the lack of complete and reliable data needed to plan and implement programs. She said the Government had recently drafted a National Statistics Act requiring all households and institutions to provide statistical information on a regular basis. Finally, she said another constraint was the lack of regional peace and stability, which were prerequisites to sustainable socio-economic and political development. The displacement of the people, the hardship resulting from Ethiopia's refusal to abide by the final and binding decisions of the Independent Border Commission, and the Security Council's inability to enforce the implementation of the border demarcation decision, constituted stumbling blocks to the country's efforts to promote women's rights.

Focusing on the provisions of Articles 1 and 2, some of the experts asked about the **status of the Convention in Eritrea**, and the **status of customary and Sharia laws**, including if the Convention would become a part of the national legal system in 2007, as stated in the country report, and whether the Optional Protocol would be ratified soon. Members also asked about the coordination between national legislation and international agreements. Along these lines, Ms. Shin noted that the Eritrean Constitution defined discrimination and gender equality in a manner that differed from the Convention's definition, and asked if the Constitution would be changed to comply with the Convention. Ms. Khan inquired about the status of customary laws in civil courts and of Sharia law. Responding, Ms. Gebreab said that the Government intended to implement the Convention through the promulgation of new laws. She said that a huge number of the citizens followed Sharia family law, despite the contradiction between it and national law. The result was the prevalence of marriages between people below the official age of 18 years, which were aided by the fact that many children were not registered at birth, and parents who were willing to bring false witnesses to testify that an under-age bride was at least 18.

Based on Article 3, several experts asked the delegation to clarify the **status of the NUEW** and its working methods, and to explain if it was merely a NGO or had also become a governmental mechanism, since Governments had the primary responsibility to ensure the national implementation of the Convention. The delegation explained that the NUEW functioned as both an NGO and a national mechanism promoting gender equality. They acknowledged that though the arrangement was not a common setup in the international arena, it was a result of lack of funds and previous experience. The NUEW examined gender policies from the Government's perspective, identified gaps and shortcomings, and lobbied for the empowerment of women. The Government also consulted it on poverty reduction strategies and international instruments. The delegation said there were other NGOs and women groups in the country.

The experts did not pose any question on Article 4. Regarding Articles 5 and 6, they asked about **stereotypes, trafficking in women, and prostitution**. Ms. Gebreab admitted that traditional stereotypes and practices like female genital mutilation still continued. These practices are deep rooted and could not be stopped merely by making laws alone. Other factors like the changing of mindsets and attitudes would have to prevail, and this would take time. Reacting to the response, Ms. Coker-Appiah also expressed dismay at discriminatory practices, which still persisted and noted that experience elsewhere had shown that the presence of laws could act as a catalyst in the changing of attitudes and urged the Government indeed to promulgate laws banning harmful traditional practices like female genital mutilation. Ms. Da Silva also expressed concern at the argument that stopping harmful traditional practices would take time and patience. She said there was no room for patience when the fundamental rights of women were being violated. Ms. Morvai noted that Eritrea had developed programs to assist women who wanted to leave prostitution and inquired about their achievements. She also asked if trafficking in women constituted a problem. The delegation said Eritrean women were pushed into prostitution if they could not support their families, thus the NUEW was encouraging local officials to assist those

women in finding other commercial activities. The delegation said trafficking was not a problem, however the condition faced by women who migrated overseas to seek work, constituted a significant problem.

Addressing the provisions of Articles 7 and 8, Ms. Zou and Ms. Zerdani expressed concern at the **low participation of women in politics and international affairs**. They asked if the Government intended to introduce quotas and capacity building to broaden the participation of women in these areas. In response, the delegation acknowledged that representation of Eritrean women in Foreign Service was low and that deliberate action was needed to improve their representation. Measures like correspondence and evening courses for women and positive discrimination in favour of women were already being taken, however, these were insufficient, and quotas were indeed needed.

Next, the experts tackled Eritrea's compliance with Articles 9, 10, and 11 by asking questions on **nationality, education, and employment**. Ms. Khan asked if Eritrean women had the same right as the men in transmitting their nationality to their children and to foreign spouses. The delegation said a new law, giving women equal rights, had been promulgated. Ms. Dominguez emphasised the importance of the ongoing literacy programmes since 80 percent of those participating were women, and asked what measures were in place to ensure its continuity. The delegation said the Ministry of Education was already discussing how to integrate continuous programmes. Ms. Schöpp-Schilling expressed alarm at the high number of female-headed households and said that this situation made it even more imperative to have equal employment opportunities in the country. She inquired about the number of employment discrimination complaints before the Ministry of Labour, and the existence of regulations in the informal labour market. The delegation said war had slowed down employment and in order to survive, women had taken over various sectors traditionally dominated by men, including construction. The Government intended to build on this take over by developing a sustainable scheme for women's employment. It had also given subsidies to families in war-torn areas.

Focusing on Articles 12, 14, 15 and 16, the experts asked about **health care, rural women, equality before the law and, marriage**. They asked if the country was collaborating with the African Union in the area of health, particularly towards eliminating female genital mutilation, noting that Eritrea had one of the world's highest mortality rates, and remarked on the prevalence of unsafe abortion. They asked if any progress had been made towards enabling rural women to access medical facilities, and about measures to stop forced and under-age marriages. The Committee also asked about access to land, and with one voice spoke up against rape and female genital mutilation. Ms. Gebreab said rape was used as a method of warfare and support was being given to victims, and emphasised that her Government was working towards ending female genital mutilation.

Comparison with previous reports and recent appearances before other treaty-monitoring bodies

The present report includes Eritrea's initial report thus no comparison can be made with previous reports. However, in its Concluding Comments¹⁴ (footnote number of UN report/comments) the Committee commended the Government for its political will to realise the de facto and de jure equality for women. It urged it to enact speedily legislation prohibiting female genital mutilation and punishing offenders. The Committee said it appreciated the Government's reasons for designating the NUEW, which had a long-term significant experience in advocating for Eritrean women, as the national machinery for women. However, it was concerned that this may limit the authority and the accountability of the Government with respect to the implementation of the Convention.

Eritrea presented its initial report to the 33rd session of the CRC in 2003 and that Committee, just like the present one, urged the Government to carry out sensitisation programs to combat early marriages, and to expand its health services particularly to rural areas¹⁵.

NGO concerns

There was no NGO shadow report or oral presentation on Eritrea. As discussed above the NUEW, the country's main 'NGO', collaborated with the Government and represented it in its presentation before the Committee.

¹⁴ CEDAW/C/ERI/CO/3

¹⁵ CRC/C/15/Add.204.

Former Yugoslav Republic of Macedonia (Initial, 2nd, and 3rd periodic reports)¹⁶

Overview of the country session

The Committee considered the Former Yugoslav Republic of Macedonia's (FYRM) combined initial, second, and third reports on 25 January 2006. The FYRM ratified the Convention on 18 January 1994 without reservations. The FYRM ratified the Optional Protocol on 17 October 2003 without reservations.

Stevco Jakimovski, Minister of Labour and Social Policy, led the delegation which included the Permanent Representative to the United Nations; Director of the State Statistical Office; Coordinator of the Women's Parliament Club; an official from the Ministry of Foreign Affairs; officials from the Ministry of Labour and Social Policy; officials from the country's Permanent Mission; an official from the Ministry for Education; the President of the Union of Women's Organizations of Macedonia; and the Executive Director of the Macedonian Women's Lobby. Since the FYRM was presenting its report for the first time, the format of the constructive dialogue consisted of posing questions on every substantive Article of the Convention.

Although all the Convention's articles were reviewed, the Committee focused particularly on multiple discrimination or discrimination against minorities, particularly the Roma. Committee members were concerned about minorities across a range of areas, including political participation, health, education, and employment. Another recurring theme during the constructive dialogue was rural women's access to government services like healthcare and education.

Themes and issues discussed

In his opening statement, Mr. Jakimovski began with an overview of the treaty and its principles in the country's legal system, noting that treaties are directly applicable as a source of law in FYRM. The constitutional place of gender equality was outlined; the Constitution enshrines the principles of equality of citizens, protection of citizens, and non-discrimination on any grounds including gender. Mr. Jakimovski further highlighted the fact that FYRM is harmonising laws to meet the requirements of the European Union (EU); labour laws, criminal laws, and family laws are all areas impacted by this harmonisation process. He recognised that there is still much work to be done in a range of areas including employment, rural women, violence against women, and trafficking of women. He recognised that women still face discrimination, particularly those forms of discrimination typical for traditional societies. He highlighted the National Plan on Gender Equality, Committees on Gender Equality, and the strong progress made in changing laws.

The Committee began by addressing Articles 1 and 2. Committee members sought **clarification of the status of the Convention in the legal system**, and expressed particular concern as to whether courts could set aside national law in favour of the Convention. Ms. Gabr and Ms. Khan pointed out that constitutional guarantees for gender equality do not replace the need for legislation where sanctions are outlined. The status and scope of the new law on equal opportunities for women and men was also the subject of questioning. The delegation responded that treaties are directly applicable in the legal system.

In discussing Article 3, the Committee raised concerns about the resources available to the national machinery for gender equality; reportedly, the agency responsible had three staff members. The Committee also asked if an evaluation of a national action plan for gender equity adopted in 1999 had been conducted. Ms. Schöpp-Schilling focused on gender equality offices' budgets, staff, and responsibilities. Ms. Dairiam asked about refugees and asylum seeking, specifically the laws in place, criteria for refugee status, gender sensitive procedures, and support services for women. Ms. Saiga urged FYRM to make the public aware of the opportunities available to redress complaints, particularly the Office of the Ombudsmen. Responding, the delegation said the 1999 national action plan on gender equality is being revised during 2006 with the aim of defining new priorities and strategic objectives. An evaluation of the 1999 plan was not performed, but the prevailing view was that the 1999 plan had been overly ambitious. In 2004, asylum legislation was adopted making the area fully regulated. With respect to informing the public of the ombudsmen, the delegation stated that an awareness-raising campaign is being organised.

¹⁶ CEDAW/C/MKD/1-3

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In discussing Article 4, Ms. Patten highlighted the importance of temporary special measures, as no policy regarding de facto advancement was included in the report. She pointed the delegation's attention to General Recommendation 25 in this regard. Ms. Schöpp-Schilling sought to underscore the distinction between equal opportunity as a general policy and temporary special measures whose aim is to accelerate de facto equality's achievement. The Committee also expressed concerns about the Roma experiencing discrimination. Responding, the delegation highlighted reforms made to electoral law to accelerate the participation of women in politics. With respect to the Roma, the delegation responded that the Government had prepared an action plan and that FYRM was a signatory of the Decade of the Roma Inclusion (2005-2015).

In discussing Article 5, Ms. Pimentel and Ms. Dominguez focused on the media, not only to stop stereotyping, but also to provide positive models to provide guidance and promote values of equality. Ms. Morvai's questioning focused on Article 6. She asked about the legal status of prostitution, prosecutions, convictions, and prostitution exit programs. Responding, the delegation admitted that FYRM faced inadequate representation of women in the media. Their chief response was that beginning in 2000 the Government implemented seminars for editors and journalists to sensitise those in the media to adequate representations of women. With respect to prostitution, the delegation responded that prostitution and trafficking are serious phenomena in FYRM. Demand is not criminalised, though analysis of how other countries treated the issue will be conducted. Otherwise, prostitution is treated as a misdemeanour. They pointed to Government involvement in education campaigns and prostitution exit programs. The delegation also stated that work was underway on a national action plan for 2006-2008 regarding trafficking and illegal migration.

In addressing Part 2 of the Convention the Committee focused on Articles 7 and 8, with no questions being asked regarding Article 9. Ms. Xiaoqiao asked if the Government would take temporary special measures to improve the representation of women in political and public life. Ms. Coker-Appiah encouraged the Government to introduce further measures to ensure that more minority women are represented in politics. Ms. Gaspard was concerned that 30 percent quotas for women in parliament and local government could act as ceilings. The Committee focused on the achievement of the quotas for the representation of women in politics, as the Government's goal of 30 percent had not yet been attained, though Ms. Šimonović observed the improving trend of women represented since 1990 across FYRM's elections. Responding, the delegation noted at least parity representation in the executive government and the judiciary. The delegation also stated the quota for women in parliament would be increased to 40 percent.

In addressing Article 10, the Committee requested clarification on the issue of minority women and education, citing the report's coverage of the issue as inadequate. The Committee highlighted the disadvantaged position of minorities (e.g. the Roma and Albanians); areas of concern included low rates of participation as students, high illiteracy, high dropout rate, and difficulty with the Macedonian language. The Committee recognised the report's presentation of existing programs to assist the marginalised, but highlighted the need for policy evaluation. Responding, the delegation noted the troubling statistics and highlighted the measures being taken to resolve the problem; these methods include the extension of compulsory education, children's transportation issues resolution, and the Decade of Roma programs.

In the dialogue on Article 11, Ms. Dominguez observed that FYRM's references to harmonizing with European Union (EU) standards would not suffice, noting that EU countries still had work to themselves individually in applying the precepts of the Convention.

The Committee next turned to Article 12. Ms. Dairiam highlighted General Recommendation 24, which urges States to develop competences and consider a gender perspective with respect to States' health policies, programs and disease differences between men and women. The Committee focused on access to health for rural women, minorities, and the disabled. Ms. Morvai noted with concern that FYRM had five times more abortions than the EU average; she inquired as to whether there was research into the reasons for the phenomenon. Responding, the delegation said most clinics are located in urban areas but community health nurses served the needs of more remote communities. With regard to abortion, there are family planning and counselling services, but no survey has been run regarding usage of these clinics.

Comparison with previous reports and recent appearances before other treaty-monitoring bodies

Since this was FYRM's first appearance before the Committee, there have not been any previous reports by the Committee thus no comparison can be made between them and this present report. It has not appeared before any other treaty-monitoring bodies within the last two years.

NGO concerns

Three organisations jointly submitted a shadow report and presented the concerns of civil society; they were the Roma Centre of Skopje, the European Roma Rights Centre, and the Network Women's Program. The key NGO concerns included the implementation of gender equality law and concerns about the status of rural and Romani women.

The NGO representative stated that the Convention and are were consistent, but there are critical implementation problems. Specifically, the gender equality law has been ineffectively implemented. The representative also raised concerns about obstacles to rural women's equality. For instance, these women face stereotyping where they are excluded from decision-making. The status of Romani women was also highlighted; areas of concern include employment, literacy, violence, and access to social services. The Committee raised concerns addressed by NGOs during the constructive dialogue.

Mali (Combined 2nd, 3rd, 4th, and 5th periodic reports)¹⁷

Overview of the country session

The Committee considered Mali's combined second, third, fourth, and fifth periodic reports on 31 January 2006. Mali ratified the Convention on 10 September 1985 without reservations. Mali ratified the Optional Protocol on 5 December 2000 without reservations.

Diallo M'Bodji Sene, Minister for the Advancement of Women, Children and Family, led the delegation which included Mali's Permanent Representative to the United Nations; an official from the Ministry for the Advancement of Women, Children and Family; the National Director for the Advancement of Women; an official from the Ministry of Health; officials from the Ministry of Justice; representatives of civil society; an official from the Ministry of Education; the Director for the Program to Promote Equality; and an additional official from the Permanent Mission of Mali to the United Nations. The Committee examined the report using the task force format.

The theme of customs that are detrimental to women's well-being reappeared frequently in the Committee's constructive dialogue with the delegation. The Committee urged additional Government action against practices including female genital mutilation and widows' deprivation of social standing. The delegation's response to the Committee was sometimes receptive; but towards the end of the session, the delegation became more evasive in answering the questions and underlined that building consensus on these delicate issues is slow.

Themes and issues discussed

In her opening statement, Ms. Sene outlined the constitutional and legal provisions to eliminate discrimination. She then gave an overview of Mali's actions with respect to Part 3 of the Convention. Regarding education, she highlighted the improvement since 1992 in school enrolment. Regarding employment, she cited the labour code's provision on equal pay for equal work. With respect to participation in public life, she said the figures show under representation; though she pointed out Mali had five women ministers and three women ambassadors. In looking towards the future, she said she expected reforms to be adopted covering issues such as rights of the family, property, and agriculture.

The Committee began by addressing Part 1 of the Convention, Articles 1-6. In their questioning on Articles 1-4, Committee members collectively focused on similar themes. Mr. Flinterman noted that constitutionally, treaties have precedence over national legislation. He expressed the concern that thus far no court cases have cited the Convention despite the efforts of women's organisations to take up cases. Mr. Flinterman highlighted General Recommendation 25 on temporary special measures and underscored the difference of "special measures" from

¹⁷ CEDAW/C/MLI/2-5

general social policies; in the report, special measures and social policies were conflated. Ms. Gnacadja and Ms. Patten noted progress in terms of laws and institutions, but focused attention on results, impacts, and sanctions; they said formal legal protections are important, but the obligation of Government extended to improving the de facto position of women.

In questioning on Articles 5-6, Committee members raised the **issues of customs and trafficking**. Ms. Gaspard raised the concern of three customs persisting with deleterious consequences for women: female genital mutilation (FGM), the status of widows in regards to husband's family, and domestic violence. She said FGM required legislation. She added that banning FGM was not enough, she urged Mali to intensify the campaign against the practice. Ms. Gaspard added that FGM is insufficiently addressed when it is approached solely from a medical standpoint, noting that it is a violation of fundamental rights. With respect to widows, Ms. Gaspard raised concern about the practice of some widows being considered the property of the husband's family. Regarding domestic violence, she asked if laws were going to be adopted in this area. She highlighted the problems of young women in rural areas, particularly women servants who may be sexually assaulted. Ms. **Coker-Appiah** underscored Ms. Gaspard's comments on violence against women, pointing out the need for a multidisciplinary approach to address it, including legislation and the raising of awareness.

Responding to Mr. Flinterman's questions on the Constitution, the delegation stated justice was awakening from its lethargy and dysfunction. Training programs for judiciary officials were underway. With regard to FGM, the delegation agreed that raising awareness was insufficient. Mali hopes a sub-regional conference will contribute towards a Malian law on FGM; although the delegation did not specify what the law would address. The delegation also stated FGM should be understood through a socio-cultural prism where myths, cultures, and beliefs are addressed. The delegation contended that failing to structure a comprehensive approach would result in clandestine excisions. Pointing to a 2006-2011 National Action Plan on Domestic Violence, the delegation responded that measures are now being taken to achieve at minimum a reduction in domestic violence. Additionally the Code on People and the Family is being revised. Regarding trafficking, prostitution as such is not banned; but procuring and exploitation is sanctioned. The delegation cited Mali's participation in an eleven-country coalition against trafficking of women and girls as an important step in breaking up the trafficking networks.

On Part 2 of the Convention (Articles 7-9), Ms Gaspard addressed Articles 7-8. Citing Rwanda, she pointed out that women's participation in public life (e.g. politics, administration, justice, diplomacy) does not depend on the degree of development of a country. She voiced concerns about Malian women's under representation in high administration and elected assemblies. Ms. Coker-Appiah addressed Article 9 (Nationality). She asked about the status of laws allowing women to pass citizenship on to their children. She also asked about the level of equality in the standing of women in family court. Responding, the delegation stated Mali was in the process of implementing a 30 percent quota for women in parliament. The family code review would include the issue of nationality; the delegation said discriminatory practices in this field would be changed.

The Committee next turned to Part 3 of the Convention (Articles 10-14). Mr. Flinterman addressed Article 10, and asked about the timeframes for universal primary education and possible steps taken to reduce dropout rates in all levels of education. Ms. Tavares da Silva addressed Article 12, raising concerns about access to family planning, the high rate of mother and child mortality and morbidity, and customs like early marriage. Ms. Dairiam asked detailed questions about programs for specific illnesses, maternal health, and FGM prevention. Ms. Patten addressed Article 11. She urged a policy of mainstreaming the gender perspective in employment policies and programs. She asked about women's access opportunities in a wide array of economic activities including access to the formal sector, credit, and land.

Responding to Mr. Flinterman's education related questions, the delegation said that major efforts were underway to enrol girls in school and improve participation rates in higher levels of education. The delegation cited a threefold increase in enrolment rates (although the delegation did not clarify at what level of education) in the past ten years from 19 percent to 59 percent. The delegation also explained the timetable the objectives operated under (e.g. the Millennium Development Goals). With regard to questions on land, the delegation said State land had been formally distributed on a non-discriminatory basis. The ongoing problem of women's access to land centred on the fact that women do not have access to good (fertile) land.

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Regarding Part 4 of the Convention (Articles 15-16), Ms. Gnacadja hoped that the revision of the family code would address a number of concerns about discrimination. She raised the issue of discriminatory provisions in the marriage law. Ms. Tan asked whether polygamy was allowed and how inheritance laws operated. She noted that the types of laws governing family relationships include civil law, Sharia law, and customary law. Given that environment, she inquired as to the procedures to ensure enforcement of the non-discriminatory laws regarding marriage.

Responding, the delegation stressed the sensitivity of issues covered in this area; these were areas that affected peoples' intimacy, and the delegation requested the Committees' understanding for the slow progress. In the delegation's assessment, altogether the new code's coverage of marriage was a step in the right direction. The delegation said Mali was in the process of building consensus regarding polygamy, as polygamy is a delicate question. Laws, training, and encouraging economic independence are all areas to be engaged in resolving the polygamy issue. The delegation highlighted steps taken in the marriage law in general, including improving the situation of women in polygamy, and promoting equitable divorce agreements.

Comparison with previous reports and recent appearances before other treaty-monitoring bodies

Mali has not appeared before any other treaty-monitoring bodies within the last two years.

NGO concerns

During the Committee's NGO session on specific country situations, the Committee heard that obstacles to implementation of the Convention persist in Mali. NGO representatives stated that the laws protecting women were weak. In practice, most marriages were arranged without consent and grounded in customs that circumscribed women's rights. For instance, marriage laws allowed husbands to decide the place of residence. At divorce, women were frequently discriminated against. With respect to the legal system, the courts and tribunals were inaccessible. The problem of discrimination in parallel legal regimes was particularly acute in rural areas; these parallel legal regimes discriminated in areas including marriage, inheritance, and land. The NGO representatives expressed concerns about the widespread occurrence of FGM and the illegality of abortion. In the education sphere, the NGO representative recommended a program of sex education and further training for school staff. The NGO representative also raised concerns about the different age of marriage for men and women, women's citizenship transfer rights, polygamy, and the need for employment equality legislation. Committee members brought up these concerns during the constructive dialogue.

Thailand (Combined fourth and fifth periodic reports)¹⁸

Overview of the country session

The Committee considered Thailand's combined fourth and fifth periodic reports on 20 January 2006. Thailand acceded to the Convention on 9 August 1985, which entered into force on 8 September 1985, and ratified the Optional Protocol in 2000. It submitted its first periodic report in 1987 and a supplementary report in January 1990. It also submitted a combined second and third periodic report in 1997 and another supplementary report in 1999. The issues addressed in the current report include initiatives by the Government to improve the status of women, and specific areas of concern to the Committee, which include trafficking, sex tourism, domestic violence, gender stereotypes, the plight of minorities, hill-tribe and Moslem women, after-effects of the Tsunami, and the Government's reservation to Article 16 of the Convention.

Mr. Watana Muangsook, the Minister of Social Development and Human Security led a high-level delegation composed of representatives of different departments with expertise in a broad range of areas covered by the Convention. They included the Permanent Representative of Thailand to the United Nations; the Permanent Secretary of the Ministry of Social Development and Human Security; Secretary-General for the President of the Supreme Court of Thailand; Director-General, Office of Women's Affairs and Family Development, Ministry of Social Development and Human Security; Chairperson of the Centre for Philanthropy and Civil Society, National Institute of Development Administration; Director of the Labour Protection Bureau, Ministry of Labour and Social Welfare; and the Deputy Permanent Secretary of the Ministry of Education. The other delegates included the

¹⁸ CEDAW/C/THA/4-5

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Senior Advisor in Medicine, Ministry of Public Health; Director of the Bureau of Policy and Strategy, and Director of the Bureau of Gender Equality Promotion at the Ministry of Social Development and Human Security; Counsellor, Department of International Organisations, Ministry of Foreign Affairs; Social Development Technical Officer, Ministry of Social Development and Human Security; and officials from the Ministry of Foreign Affairs and the Permanent Mission to the United Nations.

Themes and issues discussed

Mr. **Muangsook** introduced Thailand's report, commenting that the 1997 Constitution had led to the amendment of many laws and the establishment of several constitutional organisations to ensure the fair treatment of both women and men, as well as the protection of women's rights. He also noted that the transfer of the Office of the National Commission on Women's Affairs (ONCWA) into the Office of Women's Affairs and Family Development Bureau (OWAFD) under the newly formed Ministry of Social Development and Human Security had given the body in charge of promoting women's advancement -- a higher administrative status than before. When considering national laws to counter discrimination against women, the ONCWA National Committee on Law uses the definition of discrimination contained in the Convention, because Thai law does not yet have a specific definition of its own. He said a special National Committee on the Promotion of the Rights of Women, Children and Youth, and the Disabled had been established in conjunction with the Ministry's mandates, and that members of NGOs and experts sitting on those committees provided transparency and a broad outcome.

Commenting on Thailand's reservation to Article 16(g) of the Convention, which relates to family and marriage, Mr. Muangsook said the reservation was removed in 2003, thus allowing married women to retain their maiden name if they chose. Furthermore, the few remaining discriminatory provisions of Thailand's family law were constantly discussed among lawyers and legislators, and the Office of the Council of State is currently considering amendments to the laws governing engagement and divorce. He said the Government is doing its utmost to bring the country's Family Law in line with Article 16 of the Convention, while ensuring that the adopted measures did not undermine the richness of Thailand's culture and traditions. He highlighted six areas on which the Government is focusing: violence against women; the trafficking and exploitation of women; women's participation in political life and public office; minority, hill-tribes and ethnic groups; women workers; and social and economic benefits such as education, health and economic facilitation. He outlined the initiatives of the Government towards addressing problems in these six areas, and said progress was evident in the fact that Thailand had achieved the Millennium Development Goal of eliminating gender disparity in primary and secondary education. The Government had also established a fund for victims of trafficking and a one-stop crisis centre in public hospitals.

Ms. Dairiam commended the Government for its numerous initiatives to improve the status of Thai women, and for proposing an anti-discrimination law that would ensure the domestic application of the standards of the treaty. However, regarding the **status of the Convention in Thailand**, she wanted to know the relevance and applicability of the Convention and asked for explanations regarding the definition of discrimination in the country. Mr. Flinterman asked if the Convention was directly applicable in court, and if the procedures of the Optional Protocol are widely known. Responding, the delegation said the Government had plans to adopt a definition of discrimination that would address both indirect and direct discrimination and the Ministry of Justice would help enforce it. However, the Convention could not apply directly in court until the Government had translated its international obligations into domestic law.

The Committee then took up the issues of **negative stereotypes, domestic violence, human trafficking and sex tourism**. Ms. Appiah noted that the persistent stereotypes in Thai society are still having a negative effect on women's lives as reflected in the definition of rape in the Penal Code. The definition only applies to a man who has "sexual intercourse with a woman who is not his wife", effectively excusing marital rape. She asked if there were measures to change negative attitudes towards women and if factors like poverty and patriarchy were being considered. She noted Thailand's worldwide reputation as a sex-tourism destination and asked if problems like corruption and the situation in neighbouring countries, which had fuelled trafficking and sex trade, are being addressed. Ms. Pimentel highlighted the issue of domestic violence and identified the traditionally subservient role of women as a contributing factor. She also asked for explanations on why the Violence Draft punished domestic physical abuse with a maximum of six-month jail term, while the Criminal Code provided a two-year jail term for other forms of violence. Ms. Morvai asked about the attitude of the Government and Thai society towards the country's reputation as the "sex capital of the world". The delegation expressed dismay at being

seen as the “sex capital” saying neither the Government nor the citizens liked the reputation, and are discussing measures to develop a tourism industry around the country’s culture, natural beauty and other positive features. The lack of punishment for marital rape remained controversial in the society, and in the past four years, a proposal to delete the words “who is not his wife” had faced strong objections from the Council of State. However, a compromise would soon be reached providing an exception in situations when a **reasonable man** would not commit such wrongful act against his wife, for instance if she was ill. The Domestic Violence Draft provided a lower prison sentence because it was supposed to rehabilitate, and not to merely punish the perpetrators. The rationale being that they were usually breadwinners and it was important to avoid harming or breaking up the family. Besides, it also reflected the separate nature of that offence and the abuser could face double charges under the Draft and then the Code.

The Committee then faced the delegation with the **low participation of women in political and public life, and discriminatory practices based on nationality and citizenship**. Ms. Shin observed that the report submitted contained inaccurate and conflicting statistics and urged the Government to develop a more systematic collection of data in future. She also noted the low number of female senators and women in diplomatic service and called for the use of temporary special measures in correcting the situation. In similar manner, Ms. Schöpp-Schilling also commented on the need to include temporary special measures in the new draft gender law. Commenting on Article 9 of the Convention, Ms. Gaspard said that although the Government had not entered a reservation to this Article on nationality, foreign men who married Thai women only obtained citizenship after five years unlike foreign women who obtained it immediately upon marrying Thai men. Responding, the delegation said a resolution to amend the nationality law had been passed but the amendment was rejected on grounds of security and has since become deadlocked. Ms. Zou asked for clarifications on the very complex procedure for determining citizenship of hill tribes, the complexity of which often led to corrupt practices by the public officials responsible for determining the citizenship of applicants. In response, the delegation said it was a complex matter to determine the eligibility of members of hill-tribe minorities for citizenship. In particular, the procedure took a long time because it was necessary to determine those who are immigrants but registered as hill-tribe people, and who are eligible to receive the status of legal migrants¹⁹. It was also necessary to consider the possibility of drug or weapons smuggling by applicants. However, the Government was taking measures to expedite the process of determining citizenship, and whenever corrupt practises in the determination of citizenship were recognised, the public officials involved were punished.

The Committee congratulated Thailand for withdrawing its reservation to Article 16(g)) but was disappointed that reservations to other subparagraphs of the Article prescribing equal rights to divorce remained²⁰. The Committee asked about a law, which permits child marriage if a man mistakenly has sexual relations with a child. The experts also addressed other issues of concern such as illegal abortions, HIV/AIDS prevention policies and the post-tsunami effect on women’s health, including access to safe drinking water. The delegation explained that among Thai Moslems, a child could marry and it was inconceivable to punish a man for having sexual relations with his wife. The delegation then outlined efforts to prevent a multi-sectoral approach to prevent illegal abortions and prevent HIV/AIDS, which include different contraceptive methods, family planning services, and the unsuccessful promotion of male sterilisation by providing free vasectomies. Assistance had been provided to all tsunami victims regardless of nationality and sex. The Committee also emphasised the lack of adequate information regarding 80 percent of Thailand’s population who lived in rural areas and about Muslim women in the south, and asked specific questions regarding their access to health services, education, employment, citizenship rights and temporary special measures.

Comparison with previous reports and recent appearance before other treaty-monitoring bodies

In its concluding comments²¹, the Committee welcomed the amendment of the Name Act in 2005 that grants married women the right to choose a family name. This amendment was in response to the Committee’s

¹⁹ See Thailand’s *Responses to the list of issues and questions for consideration of the combined fourth and fifth periodic report*, in CEDAW/C/THA/Q/4-5//Add.1, page 23, paragraph 27, for further explanation on eligibility for legal migrant status among the hill-tribe people.

²⁰ If a woman has sexual intercourse with another man just once, the husband may cite it as a ground for divorce. However, even if a man has sexual intercourse with another woman, his wife can only file for divorce if she proves he supports or honours another woman as his wife.

²¹ CEDAW/C/THA/CO/5

recommendation in 1999 when Thailand presented its combined second and third periodic reports. Comparing previous recommendations with the current one, there is no significant shift in language; rather recurring themes are immediately evident, such as discriminatory practices against hill-tribe women, domestic violence and marital rape, the prevalence of forced prostitution and commercial sex industry and the lack of a Thai definition of discrimination. Thailand had appeared before the Human Rights Committee in 2005 and in its concluding observations²², that Committee expressed concern at the prevalence of domestic violence, trafficking of women, and discrimination against women on the grounds of divorce.

NGO concerns

Two NGO groups presented reports before the Committee. The first was Foundation for Women (FFW). The FFW representative stressed that despite the Government's efforts to combat trafficking in women it is still a widespread problem and urged the Committee to ask the Government to protect women who report crimes from reprisals. The representative also said that the Tsunami of 24 December 2004 had left many women widows and without an income, and asked that the Government be told to develop long-term plans that include the participation of women. The other NGO was Thai Women Watch (TW2), an NGO network, which submitted a 44-paged shadow report. Its representative, speaking on behalf of 22 NGO groups in Thailand, highlighted the Government's failure to criminalise marital rape, and the absence of a transparent procedure for ethnic women to obtain citizenship.

Togo (Combined initial, second, third, fourth and fifth periodic reports)²³

Overview of country session

The Committee considered Togo's combined initial, second, third, fourth and fifth periodic reports on 18 January 2006. Togo acceded to the Convention on 26 September 1983 without reservations but has not yet ratified the Optional Protocol. Presenting its initial report more than 20 years after acceding to the Convention, Togo's delegation said the substantial delay was due to factors beyond the control of competent authorities who were well aware of their responsibilities in the matter. Since Togo was presenting its report for the first time, members of the Committee seized the opportunity to pose questions on every substantive Article (Articles 1-16) of the Convention and the country's delegation attempted to answer most of the questions while avoiding giving specific answers to some of them.

Ms. Kanny Sokpoh-Diallo, the Minister of Population, Social Affairs and the Promotion of Women led the high-level delegation, which included the Overall Director for Human Rights, Ministry of Human Rights, Democracy and Reconciliation; Legal Adviser of Gender Equity to the Prime Minister; Director of Cabinet for the Minister of Justice; Legal Adviser to the Minister of Population, Social Affairs and the Promotion of Women; Director General of the Promotion of Women, Ministry of Population, Social Affairs and the Promotion of Women; and Director of the Legal Status of Women, Ministry of Population, Social Affairs and the Promotion of Women.

The discussions revolved around the lack of awareness of human rights laws, the continued observance of harmful cultural practices; the absence of women in politics and public life; the plight of rural women; the prevalence of domestic violence; the proposed amendment to the Family Code; the level of cooperation with NGOs; and the use of temporary special measures.

Themes and issues discussed

In her opening statement, Ms. Sokpoh-Diallo highlighted the major changes that had occurred since 2002, including the formation of the Government of National Unity and election of the new President last year, which, unfortunately was marred by violence. She said the new Government had made the promotion of women rights and the combating of domestic violence and genital mutilation, top priorities and intended to promote gender equality as a fundamental right and as a political objective to build a new Togo. Ms. Sokpoh-Diallo then noted some of the efforts already being made to improve the human rights of women. Among those efforts was the introduction of sectoral recruitment for teaching and police positions without gender distinction, which had

²² CCPR/CO/84/THA

²³ CEDAW/C/TGO/1-5

resulted in the admission of women to the police force for the first time. Furthermore, the Government had undertaken to reform the justice system, and had promulgated new laws protecting the rights of people with disabilities, which included women. The Government was currently reviewing the Family Code to make it consistent with the Convention, drafting a law on trafficking in children, implementing strategies for access to credit for women and **discussing the possibility of ratifying the Optional Protocol to the Convention**. The Government was also promoting the access of girls to school through a strategic plan, improving health coverage, and making efforts to fight the HIV/AIDS pandemic, and to provide protection for sex workers and other people who are vulnerable to the disease. Finally, she acknowledged that Togo was far from perfect in the protection of women's rights and cited the long procedure of enactment of laws, resistance to change, and inadequate financing as difficulties the Government had to overcome. However, the Government did not intend to back down and was fully prepared to cooperate with NGOs in Togo on women's rights.

The Committee posed questions on the **level of NGO participation**, including whether the Committee's conclusions would be discussed in parliament and disseminated in the country, and if the Government was fully prepared to cooperate with NGOs. It asked if the Government envisaged the full involvement of civil society organisations in implementing the Government's compliance with the Convention. Ms. Pimentel noted that since Togo was largely controlled by religion and tradition it was necessary for civil society to help set priorities and asked if the Government would increase its level of partnership with NGOs. Responding, Ms. Sokpoh-Diallo assured the Committee that Togo's civil society and NGOs were broadly involved in the activities for the advancement of women, declaring that this was evident from the country's report.

Next, the Committee focused on the incidence of **violence against women** and the **availability of judicial protection**. Ms. Patten noted the lack of research on domestic violence and sexual harassment, which was needed for making clear policies to eradicate this violence, and asked if there were specific measures to improve access of women, especially rural women, to justice and legal aid. Ms. Manalo asked if victims of violence could choose to go directly to court to seek redress without first exhausting non-judicial mechanisms. Ms. Dairiam asked about the mechanisms necessary for women to file complaints and asked if data had been gathered on patterns of violations. Responding, Mr. D'almeida, Director of Cabinet for the Ministry of Justice, said the 2005-2010 national justice modernisation program included a subprogram, which would give rural women access to the justice system. Regarding direct access to court, he merely said there were non-judicial mechanisms, which played reconciliatory roles and helped victims to access judicial resources. There was no response to Ms. Dairiam's question.

On the **domestic implementation of the Convention**, Mr. Flinterman noted that no human rights treaties had been cited in the courts so far and welcomed the ongoing consideration to ratify the Optional Protocol to the Convention, concluding that it could act as a stimulus in this regard. Ms. Šimonovic wanted clarification on the status of the Convention in Togo since according to the report submitted by the Government, the Constitution gave legal precedence to the Convention, yet the report also stated that its provisions were not effective, and that some national laws were inconsistent with it²⁴. The delegation did not respond specifically however while responding to a different question, Mr. D'almeida stressed the need to draw a distinction between the Convention and the constitutional provisions. He said that while constitutional provisions were self-executing and could be invoked directly by victims of violations in court, the provisions of the Convention must first be incorporated through legislation. Addressing the issue further, Ms. Šimonovic wondered if Constitutional changes were envisaged to make the Convention self-executing since it had precedence over national laws.

The experts presented a united front while tackling the impact of **cultural practices and gender stereotypes**. Ms. Da Silva wondered how the Government planned to bridge the gap between principles and good intentions and the existing reality in Togo, where many traditions such as forced early marriage and female genital mutilation continued. Ms. Simms asked about the Government's strategies and the availability of resources in deconstructing the male patriarchy in Togo in the face of systemic barriers and the small number of women in the parliament. Ms. Coker-Appiah inquired about "ritual bondage", which involved the placement of girls in family shrines to atone for the crimes of male family members, often exposing them to sexual violence. She stressed that a similar practice had existed in her country Ghana but the Government had succeeded in eliminating it and

²⁴ According to Togo's presentation, over 20 provisions of its Family Code have been found to be inconsistent with the provisions of the Convention.

she wanted to know what steps the Government of Togo was taking to eliminate it too. Responding, Ms. Sokpoh-Diallo said that despite her Government's efforts, many women remained unaware of their rights and her Ministry planned to place emphasis on education to make women aware. Regarding stereotypes, she said that changing mindsets was a gradual process and would take time. Another member of the delegation added that women were being made aware of their rights through radio and television broadcasts, educational campaigns and workshops.

Ms. Morvai, Ms. Pimentel, and Ms. Khan tackled the issues of **unsafe abortions, prostitution and human trafficking**, and **access to reproductive health services** noting that Togo had one of the highest maternal mortality rates and asked whether the Government had an action plan to deal with the problems. The delegation said that a new Health Code would deal with many issues relating to women's access to health care and would increase health coverage in rural areas. The Health Code would also prohibit abortion except for therapeutic purposes. The delegation went on to say that nine countries of the area had joined an agreement last July to stop trafficking of girls for sexual exploitation, and the Government, as a mark of its political will to fight prostitution, had declared 31 July to be Women's Day. Ms. Zou, Ms. Popescu, Ms. Dominguez and Ms. Zerdani remarked on the **low participation of women in politics**. Responding the delegation cited lack of education and confidence, fear of involvement in public life and the tradition of men's authority over women as reasons for their low participation in politics, noting that steps were being taken to rectify this. The delegation said that lower school fees for girls, review of content of schoolbooks, and entitlement of women's groups to credit were measures being taken to improve the lot of women.

Comparison with previous reports and recent appearance before other treaty-monitoring bodies

In its concluding comments²⁵, the Committee urges Togo to accelerate and expand its law review process and to complete a comprehensive law reform that eliminates all discriminatory legislation and closes legislative gaps in the area of equality between women and men. It also urged the introduction without delay of measures to modify or eliminate customs that discriminate against women. Since this was Togo's first appearance before the Committee, no comparison can be made between previous reports and this present report. Furthermore, Togo was also scheduled to present its combined first to fifth reports²⁶ to the Committee against Torture (CAT) during that Committee's 34th session from 2 to 21 May 2005. However, the confusion and violence surrounding the political climate in the country at that time prevented a delegation from attending the CAT session and that Committee rescheduled Togo's appearance to May 2006²⁷. It has not appeared before any other treaty-monitoring bodies within the last two years.

NGO concerns

The representatives of two NGO groups presented the concerns of civil society regarding women's rights in Togo during the Committee's NGO session. The first spoke on behalf of Fédération Internationale des Ligues des Droits de l'Homme (FIDH), stating that Togo had been marked by violence in the preceding ten months because of the President's death in February 2005 and the forceful take over by his son. The violence had worsened the already precarious situation of women and though there were no statistics on the number of women who had fallen victim to the violence, they were indeed many. The speaker then requested the international community to provide financial and logistic support to assist Togolese refugee women whose camps were in deplorable conditions, and displaced women who were often the first victims of foul play.

The second speaker, who was representing Women in Law and Development in Africa-Togo (WILDAF-Togo), noted the unequal status of women in Togo, and referred to the legal vacuum in the rights of widows, the under-representation of women in politics and the prevalence of gender-based violence, which he said continued due to the lack of a consistent plan to fight violence. The Committee also raised these concerns during the constructive dialogue.

Venezuela (Combined 4th, 5th, and 6th periodic reports)²⁸

²⁵ CEDAW/C/TGO/CO/5

²⁶ CAT/C/5/Add.33

²⁷ CAT/C/SR/641

²⁸ CEDAW/C/VEN/4-6

Committee on the Elimination of Discrimination against Women
34th Session (New York, 16 January to 3 February 2006)

Overview of the country session

The Committee considered Venezuela's combined fourth, fifth, and sixth periodic reports on 26 January 2006. Venezuela ratified the Convention on 10 September 1985 with a short reservation not accepting the jurisdiction of the International Court of Justice for settlement of disputes regarding the interpretation of the Convention. Venezuela ratified the Optional Protocol on 13 May 2002 without reservations.

Maria Leon President of the National Institute for Women (NIW) led the delegation which included a Magistrate of the Supreme Court of Justice; officials from the Permanent Mission of Venezuela to the United Nations; the President of the Women's Development Bank; officials from the NIW; an official from the Ministry for Education; an official from the Ministry of Health and Social Development; officials from the Foreign Ministry; and an official from the Ministry of External Relations.

The constructive dialogue with Venezuela covered the breadth of issues addressed in the Convention's provisions. Two issues dominated the discussion of Part 1 of the Convention. The Committee expressed concern about government-NGO relations (cooperation or friction), particularly with respect to registration requirements. The Committee also offered two conceptual clarifications highlighting the definition of temporary special measures and the distinction between equity and equality. This terminological discussion on equity versus equality parallels the Committee's concerns with *de jure* and *de facto* status of women. Equity/*de jure* concerns focus on fairness and legal status while equality/*de facto* concerns focus on outcomes. In discussing indigenous peoples and minorities in Venezuela the Committee would return to these points; thus the Committee urged the provision of gender disaggregated data and information on the outcomes of government programs.

Themes and issues discussed

In her opening statement, Ms. Leon highlighted the peaceful Bolivarian Revolution's (which started with the election of Hugo Chavez Frias as its president in 1998) objective of attaining the highest magnitude of happiness for the Venezuelan people and the people of the world. Beginning with the preamble, she emphasised the constitutional provisions recognising domestic work as economic activity (Article 88), establishing all people as equal before the law (Article 21), and establishing social and family rights (Articles 76-77). She pointed to important institutions demonstrating Venezuela's commitment to the Convention including the National Institute of Women (established 1999) and the Women's Development Bank (established 2001). In 2005, Venezuela established a National Institute of Statistics and the President approved incorporating gender equity in the budget. Venezuela was systematically advancing towards a 50/50 political participation program as established by a resolution of the electoral administration. In the education sphere, she highlighted the fact that in 2005 Venezuela was declared a territory free of illiteracy. With respect to violence against women, she discussed both legal steps and cultural steps the Government was taking to protect women. Regarding prostitution and trafficking, she said the Government is working to eliminate this social phenomenon. She closed by saying that overall no former Government of Venezuela took steps with the current Government's eye towards universality and broad scope.

The Committee began by addressing Part 1 of the Convention, Articles 1-6. Mr. Flinterman expressed concerns about the ability of civil society organisations to express views different from those of the Government; he cited as a concern the Government's reference to NGOs as "so-called civil society organisations" in the Government's response to the Committee's first question. Ms. Tavares da Silva asked whether there are formal mechanisms for cooperation and communication between the Government and civil society. Citing Article 2 (Policy Measures) requirement for remedies, Mr. Flinterman asked about the national remedies available; he was particularly interested in whether low threshold remedies (e.g. ombudsmen) are available. Responding to Mr. Flinterman's question on low threshold remedies, the delegation cited three offices, Ombudsmen, People's Defenders, and Women's Defenders. With respect to channels between NGOs and government authorities, the delegation said that all NGOs were listened to and heeded. They added that the registry of NGOs served an informational purpose of the Government and that NGOs are not prevented from registering

Mr. Flinterman, Ms. Tavares da Silva, and Ms. Schöpp-Schilling all addressed conceptual concerns. Mr. Flinterman expressed the Committee's concern that the term equity was used instead of equality; he asked for

clarification on the distinction between the two in the legal system. Ms. Tavares da Silva elaborated on Mr. Flinterman's concern; she noted that equity focuses on fairness, while the Convention's aim was equality. While there may be linguistic specificities across languages, she emphasised that this distinction was not a minor point. Ms. Schöpp-Schilling raised the concern about the presentation of the concept of human rights as presented in the report; the report made distinctions between efforts to guarantee equality and human rights. She stated no such distinction should be made, articulating the idea that norms of non-discrimination and equality for women are human rights that need be respected, protected, and fulfilled without delay (efforts must be carried out without delay), while ultimate results may take time. Responding, the delegation noted the ongoing debate in the gender studies community about equity and equality. In order to avoid polemics and move together in a common front Venezuela decided to talk about both equality and equity.

Ms. Schöpp-Schilling clarified to the delegation the issue of **temporary special measures**. The purpose of temporary special measures is to accelerate the achievement of de facto equality for women; the report refers to positive policies for women, policies that in a general way help achieve equality. She asked if Venezuela considered temporary special measures for indigenous women and women of African descent to increase their representation in government ministries. Also on the issue of minority women, Ms. Popescu asked for information on illiteracy, child labour, trafficking, and prostitution. Ms. Popescu joined Ms. Schöpp-Schilling in urging Venezuela to implement temporary special measures for these minority communities. Ms. Popescu also asked about efforts made for the elimination of stereotypes, including media sensitisation programs and the promotion of positive images of women in the media, curricula, and textbooks. Responding, the delegation noted steps the Ministry of Education had taken. The Ministry of Education agreed to mainstream the gender perspective throughout the education system, and had committed to review the curriculum to bring it in line with the constitution. The delegation highlighted the point that there is political will in Venezuela to work for equality.

Ms. Pimentel expressed concerns about **violence against women**, urging that more attention be paid to investigating complaints and establishing administrative registries. She also expressed the concern that the report failed to recognise that prostitution and trafficking in women did not appear to be major social problems in Venezuela, saying these issues were concerns to all of Latin America. Ms. Morvai highlighted the importance of fighting sex industry exploitation, and urged stronger political and social commitment to fighting exploitation, including prostitution. Responding, the delegation said the issues of prostitution and trafficking entailed the overcoming of poverty and cited efforts in this direction, for example, the establishment of the Development Bank for Women.

Ms. Tavares da Silva expressed the hope that the next report would have more information on the real situation of women, as opposed to a report especially weighted towards information on programs, plans, and measures. Ms. Dominguez asked for clarification as to the institutional placement, or stature, of the National Institute for Women (NIW).

The Committee next turned its attention to Part 2 of the Convention (Articles 7-9). Ms. Zerdani asked about the level of representation of women in government. Ms. Gaspard asked that the next report include statistics on women and men in government, administration, and the diplomatic world. Mr. Flinterman returned to the issue of NGOs' role in Venezuela. He asked for clarification as to the requirements for registration and the consequences of not registering. He underlined the point that NGOs play a crucial role in every society's realising the objectives of the Convention. Responding with respect to representation, the delegation stated that as of May 2005 the authorities resolved that electoral organisations draw up candidate lists in an alternating manner, on basis of parity (one-man one woman throughout). The delegation said efforts were being made to apply the rule. With respect to NGO registration, the delegation explained that the register registers all organisations; the law on violence against women establishes that NGOs be registered at the international institute as an organisation that defends women. The delegation added that registration is not a requirement for acting as an NGO.

The Committee next turned to Part 3 of the Convention (Articles 10-14). Ms. Popescu asked about female adolescents, focusing on education (dropout rates) and health (maternal mortality and sexually transmitted diseases). After commending Venezuela's approach of making education a high priority, Ms. Dominguez asked for a more detailed picture on women's education and health in general. Ms. Schöpp-Schilling focused on Article 11 (Employment) and Article 14 (Rural Women). She asked about the social security system's provision for domestic workers, housewives, and female-headed households. She asked if the norm of equal pay for work of equal value had been incorporated into the labour laws. With regard to rural women, she asked about land

ownership percentages as compared to men. Ms. Tavares da Silva expressed concern about the advance of poverty since 1990. Responding the delegation cited statistics showing improvement on education and health, but acknowledged that the years from 2001-2003 revealed worrisome indicators, which include the human development index, poverty rates, unemployment rates, and economic growth rates. The delegation said these were the years of labor strikes, and a coup d'état.

On Part 4 (Articles 15-16), the Committee asked about the civil code's provisions on marriage age and the implementation of violence against women laws. Ms. Zerdani observed that the marriage age for girls was 14, while the marriage age for boys was 16; she urged that the marriage age be changed to 18 for both men and women given the Convention and the provisions of the *Convention on the Rights of the Child* on the issue. Responding, the delegation said it would study the marriage age situation.

Comparison with previous reports and recent appearances before other treaty-monitoring bodies

The Committee's 1997 Concluding Comments²⁹ after consideration of Venezuela's third periodic report were highly critical of Venezuela. The Committee chastised Venezuela for failing to allocate sufficient political and financial resources to meeting the obligations of the Convention. In 1997, on the political side the Committee expressed concerns about securing passage of legislation to meet women's needs. While the 2006 Concluding Comments express concerns, they observations do not parallel the 1997 concerns about achieving even basic progress towards meeting Convention obligations. For instance, the 1997 Committee comments expressed extreme concern at the absence of policies and programs for promoting women's interests. The Committee's 2006 comments express concern about the monitoring, evaluation, and results of programs implemented to improve the status of women. This differential represents an important step in implementing policies to meet the Convention obligations. Venezuela appeared before the Committee on the Elimination of Racial Discrimination (CERD) in 2005. Parallels across the 2005 review and the 2006 review include discussions of efforts to combat discrimination against indigenous people and people of African descent, and the need for disaggregated statistics.

NGO concerns

During the Committee's session with NGOs, the Committee heard that while the Convention had formal precedence, judges and elected officials' application of Convention provisions was lacking. NGO representatives cited ongoing discrimination in the penal code as an example. NGO representatives recommended technical evaluations of government programs, the pursuit of additional consultation with the women's movement, and training programs for police and judges particularly regarding violence against women. Committee members brought up these concerns during the constructive dialogue.

One NGO noted that courts and parliament did not apply the Convention in full, and neither were they acquainted with its content. It declared that the quantitative data in the Government report about the programs aimed at eliminating discrimination against women, were neither verified nor objectively evaluated by experts and were tainted by politics and sectorism. However, a different NGO, Women's Network of Vargas, reported that great strides had been made in implementing the Convention's provisions on the human rights of women by: recognising them as household heads by law since 1989; giving them freedom to decide the number of children they wanted to have, and providing them with maternity benefits. It concluded by saying that significant progress had been made in the reproductive health of women in the past seven years. Ms. Pimentel stated that after reading the Government's report, and the shadow report, and after listening to the divergent statements by the NGOs, there was evidence of polarisation. In response, she was told that there was political polarisation in Venezuela, and unfortunately, it had affected women's organisations too.

²⁹ A/52/38/Rev.1