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The Committee on the Elimination of Discrimination against Women

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1 Introduction

When the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was drafted during the 1970s, there was considerable discussion about whether an international monitoring procedure was needed and, if so, what form it should take. Eventually, the decision was taken to establish a body of independent experts, modelled on the existing committees established under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (the Committee on the Elimination of Racial Discrimination – CERD) and the International Covenant on Civil and Political Rights (ICCPR) (the Human Rights Committee – HRC).[1]

The Committee on the Elimination of Discrimination against Women was thus established, '[f]or the purpose of considering the progress made in the implementation of the … Convention'.[2] The primary method envisaged in the Convention for the Committee to carry out this task was its consideration of reports to be submitted regularly by States Parties on the steps that they had taken to implement the Convention. As with the other

[1] See Ineke Boerefijn, 'Article 17' in Marsha Freeman, Christine Chinkin and Beate Rudolf (eds.), *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary* (Oxford University Press, 2012) [hereinafter *CEDAW Commentary*] 475–8; Lars Rehof, *Guide to the Travaux Préparatoires of the United Nations Convention on the Elimination of All Forms of Discrimination against Women* (Dordrecht: Martinus Nijhoff, 1993) 187–98; Kiku Fukuda, 'Article 17: The Committee on the Elimination of All Forms of Discrimination against Women' in Japanese Association of International Women's Rights, *Commentary on the Convention on the Elimination of All Forms of Discrimination against Women* (1995) 307–22; Noreen Burrows, 'The 1979 Convention on the Elimination of All Forms of Discrimination against Women', *Netherlands International Law Review* 32 (1985) 419–60.

[2] Article 17(1).

UN human rights treaty bodies, the way in which the Committee has carried out this work has taken the form of what is described in United Nations jargon as engaging in a 'constructive dialogue' with States Parties. While the CERD and the HRC were given the additional functions of considering individual complaints of violations of their respective treaties by States Parties that had accepted the procedures and of considering complaints by one State against another alleging violation of the treaty, the CEDAW Committee was not given any such additional roles; these were to come twenty years later, when the Optional Protocol to the CEDAW conferred on the Committee the competence to receive individual complaints against States Parties and also to undertake inquiries into grave or systematic violations of the Convention alleged to exist in a State Party.

This chapter provides a general overview of the composition and functioning of the Committee. It does not explore these issues in great depth, as there are recent scholarly studies on this topic,[3] but provides this material by way of a springboard to reflect on the broader significance of the Committee and its contribution. The chapter examines the role of the Committee as a forum for holding governments accountable for their international undertakings, for the engagement of civil society as part of national and transnational struggles to achieve women's equality, and as a site for the generation and interpretation of legal norms.

2 Composition of the Committee

The Committee comprises twenty-three members, who are nominated and elected by the States Parties to the Convention. Article 17(1) provides that the members should be 'of high moral standing and competence in the field covered by the Convention', and also requires that 'consideration [be] given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems'. Members are elected to serve four-year terms on the Committee (and may be re-elected); approximately half the members of the Committee are elected every two years. There is no limit on the number of terms a member may serve, and some members have been re-elected multiple times (with a small number having served for almost twenty years).

[3] See in particular the chapters on Articles 17 to 22 of the Convention by Ineke Boerefijn in *CEDAW Commentary* 475–530; and Suzanne Egan, *The United Nations Human Rights Treaty System: Law and Procedure* (Haywards Heath: Bloomsbury Professional, 2011) 159–64.

The membership of the Committee has been overwhelmingly female, though four men have served on the Committee (and a number of other men have been nominated but not elected). The range of disciplinary backgrounds of members has been diverse, including law, politics, international diplomacy, medicine, public health, education, dentistry – although between a third and a half of members have regularly had a legal background, frequently in combination with another field of expertise. The stipulation in the Convention that the membership reflect the diversity of different legal systems and different civilisations, and the standard UN practice of seeking regional diversity and representation has meant that members have come from all regions, though some regions have been overrepresented at different times (Eastern Europe was overrepresented in the early days of the Committee; currently, the Western Europe and Others Group is slightly overrepresented).[4]

Members are elected to serve in their personal capacity as independent experts; they are not government representatives and are not to be subject to the instructions of the government that nominates them. What nearly all the members of the Committee have shared is a demonstrated expertise in advancing the rights and interests of women in different ways, generally over a sustained period of many years. Nevertheless, as with a number of the other treaty bodies, there has been concern among civil society and commentators about the number of persons elected to the Committee who simultaneously hold positions in the executive government. This is seen by many as potentially incompatible with the independence required of committee members (though many such members have been highly experienced in the subject matter of the Convention and activists for women's rights themselves). The issue is most sharply in focus when the members in question are serving diplomats or senior foreign affairs officials. Despite criticism of this practice in the context of the CEDAW and other treaty bodies, States Parties continue to nominate and elect such candidates.[5] A cynical reading of this would be that it is one way in which States Parties seek to restrain the exercise by committees of critical and expansive approaches to the conduct of their mandate.

[4] *Background Information on Enhancing and Strengthening the Expertise and Independence of Treaty Body Members, Note by the Secretariat* [hereinafter *Strengthening Expertise Paper*], HRI/MC/2012/2, p. 4, Table 5 (showing that 15% of States Parties but 31% of members of the Committee came from this group, with Africa and Eastern Europe underrepresented on the basis of this calculation).

[5] The UN High Commissioner for Human Rights reported in mid 2012 that 31 of 172 members of the UN human rights treaty bodies (18%) were 'Diplomat/Government officials' and another 11 (6%) were 'Retired diplomat/Government officials'. Navanethem Pillay,

The CEDAW Committee spent most of its first two decades as a body that was part of, but also apart from, the 'mainstream' UN human rights system.[6] This was reflected in the institutional location of the responsibility for servicing the Committee in the Branch (and subsequently Division) for the Advancement of Women (DAW) that was located in Vienna and then in the Department of Economic and Social Affairs in New York. This was the part of the UN Secretariat responsible for dealing with issues relating to the advancement of women and that also serviced the Commission on the Status of Women (CSW), which was the body from whence the Convention had originated. This arrangement reflected the separation of women's (rights) issues from the human rights system and their pursuit largely as matters of development and social affairs rather than as human rights issues (notwithstanding the contribution of the CSW to the body of human rights instruments). The other human rights treaty bodies were serviced by the Centre for Human Rights (which was consolidated with the Office of the High Commissioner for Human Rights in 1997), based in Geneva. The evolution of the CEDAW saw an increasing engagement of the CEDAW with the other human rights bodies, especially from the early 1990s, an engagement not always reciprocated by other treaty bodies.

The increasing self-awareness of the CEDAW Committee that the Convention and its own supervisory role were critical components of the UN human rights system was reflected in the increasing convergence of many of the procedures adopted by the CEDAW and the other treaty bodies (sometimes as a result of innovations pioneered by the CEDAW,

Strengthening the United Nations Human Rights Treaty Body System, A Report by the United Nations High Commissioner for Human Rights, June 2012 [hereinafter *Pillay Report* 2012]. In the case of the CEDAW Committee, the OHCHR indicated that there were 5 (22%) and 3 (13%) of members who fell into these categories: *Strengthening Expertise Paper*, p. 4, Table 5. Following the 2010 elections there were 4 diplomats on the Committee (one of them on leave), and 5 members who were government officials or recently retired government officials, generally in the area of equal opportunities or women's equality. Thus, about a third of the Committee membership fell consistently into this category (leaving judges out of account), and that proportion has been roughly the same at least since 2002.

[6] See Andrew Byrnes, *The Convention and the Committee: Reflections on their Role in the Development of International Human Rights Law and as a Catalyst for National Legislative and Policy Reform* [hereinafter *Byrnes CSW Paper*], paper presented at UN Commission on the Status of Women, 54th session, New York, 1–12 March 2010, Interactive Panel III, 'Commemorating 30 years of CEDAW', available at: http://law.bepress.com/unswwps/flrps10/art17/ (last accessed 23 January 2013) and Andrew Byrnes, 'The Committee on the Elimination of Discrimination against Women' in Frédéric Mégret and Philip Alston (eds.), *The United Nations and Human Rights: A Critical Appraisal* (Oxford: Clarendon Press, 2nd edn, forthcoming).

at other times with the CEDAW adapting its practice in the interests of harmonisation). CEDAW members also participated in the regular meetings of the chairpersons of treaty bodies and the subsequently instituted inter-committee meetings, which have been an important venue for sharing information and working toward improvement and harmonisation of the different procedures of the various treaty bodies. The growing importance of the CEDAW as a source of human rights knowledge is also to be seen in the increasing volume of its jurisprudential output, in particular in its General Recommendations and, more recently, in its case law under the Optional Protocol. Thus, the CEDAW Committee has gradually become an integrated member of the UN human rights treaty body family, a development underlined by the institutional shift of responsibility for servicing the Committee from the DAW in New York to the Office of the High Commissioner for Human Rights (OHCHR) in Geneva from the beginning of 2008. At the same time, the CEDAW has sought to maintain its distinctiveness and the distinctiveness of the premise on which the Convention is based, namely the gendered and patriarchal nature of many societies and of the international order.

3 The reporting procedure

Under Article 18 of the Convention, States Parties are obliged to submit an initial report within one year of the entry into force of the Convention for the individual State Party and every four years thereafter.[7] For its first decade the CEDAW's major tasks were the development of procedures for the review of State Party reports and the commencement of that process as States Parties began to submit their initial reports. That role has

[7] For descriptions of the working methods of the Committee, see *Overview of the Working Methods of the Committee on the Elimination of Discrimination against Women in Relation to the Reporting Process* [hereinafter *CEDAW Working Methods Overview* 2009], CEDAW/C/2009/II/4, Annex III. An analysis of the CEDAW Committee's working methods in comparison with those of other treaty bodies can be found in *Report on the Working Methods of the Human Rights Treaty Bodies Relating to the State Party Reporting Process, Note by the Secretariat* [hereinafter *Treaty Body Working Methods Report* 2011], Inter-Committee Meeting of the Human Rights Treaty Bodies Twelfth Meeting, Geneva, 27–29 June 2011, HRI/ICM/2011/4. The CEDAW also has the power to request reports from States on an exceptional basis, a power it has exercised in relation to the Federal Republic of Yugoslavia (Serbia and Montenegro) (CEDAW/C/YUG/SP.1 (1994)), India (following the systemic violations in Gujarat) (CEDAW/C/IND/SP.1 (2009)), Guinea (due 2009) and the Democratic Republic of the Congo (due 2010).

continued to form the bulk of the Committee's work, although carrying out its other functions has increasingly consumed more time.

Ideally, the submission and review of a report provides an opportunity for a State Party to assess progress made in implementing the Convention, to benefit from an external expert and objective assessment of the situation in the country, and to be held accountable by its citizenry for its failures to ensure effective enjoyment of the rights guaranteed in the Convention. Many States tend in their reports – especially their initial reports – to overemphasise their achievements (especially legislative changes), while giving far less attention to their failures to act, the de facto situation or the difficulties they have faced in seeking to achieve equality for women.

The CEDAW Committee's goal in considering a report is to identify the actual situation in the country, including not only the progress made, but also the obstacles and reverses that need to be addressed. The Committee draws on its own expertise, the State Party's report, the material provided by the Secretariat and other agencies. However, a critical source of further information that enables it to evaluate the government account is material provided by civil society organisations, especially those working on women's human rights issues at the national level. The Committee also receives information from other UN human rights treaty bodies, human rights procedures and various specialised agencies and programmes of the UN, but it is the NGO material that is of particular importance.

Equally, the point of the submission and review of a report by the CEDAW Committee is not simply an event in a far-off northern city, but it is only when the process of preparation, consideration and evaluation of a report by the Committee is linked into domestic process – of policy-making in government and of advocacy in the case of civil society organisations – that the procedure is likely to have any significant impact at the domestic level.

As with the other treaty bodies, the overall record of submission of reports has been patchy, both in terms of timeliness of submission and in quality of reports.[8] Most States Parties have submitted initial reports, though frequently not on time, and many States Parties have submitted

[8] According to the OHCHR, only 16% of the reports due to be submitted to the treaty bodies in 2010 and 2011 were submitted on time; even allowing a year's grace period after the deadline, only one-third of the reports due were submitted within that time: *Pillay Report* 2012 at 21.

one or more subsequent periodic reports.[9] There are still a few countries that have not submitted initial reports, some of them delinquent for extended periods.[10] The Committee has on a number of occasions permitted States Parties to submit combined reports in order to bring themselves up to date in the discharge of their reporting obligations. The Committee has decided that it has the power to undertake a review of the situation in a country without a report, preferably with a delegation present. Dominica was the first State Party to be reviewed in this manner, in 2009.[11] As at the end of 2011 there were four States Parties that had not submitted reports but which were scheduled to be considered in the absence of a report.[12]

Almost from the time when it began to review State Party reports, the Committee has faced difficulties in dealing with its workload in the time allocated to it. The Convention provides for the Committee to meet normally for a period of two weeks each year, and this is what the Committee did in the first few years of its existence. Even though some States Parties did not submit initial reports or did so late, the rapid ratification of the Convention in its early years meant that the Committee was unable to review the reports it had received in a timely fashion and a backlog developed. For much of its life the Committee has regularly requested additional meeting time to permit it to discharge its functions, which have expanded beyond the core function of consideration of reports. That additional meeting time has been granted on many occasions by the UN General Assembly, normally on an exceptional basis, until a backlog of reports awaiting consideration has been cleared. However, the exception has become the norm, first so that the Committee met for two two-week sessions a year (which expanded to three-week sessions, with additional meeting time for a pre-sessional working group), and in recent years, to three three-week sessions per year (with additional time allowed for pre-sessional working groups).[13]

As of 2012 the Committee was meeting for three three-week sessions per year, along with pre-sessional working groups. At each session the Committee normally reviews seven or eight reports (it considered

[9] According to the OHCHR, as of April 2012, there were 10 overdue initial reports under the Convention and 30 overdue periodic reports. *Ibid*. at 23.

[10] See *Status of Submission of Overdue Reports by States Parties under Article 18 of the Convention, Report of the Secretariat of the Committee* [hereinafter *Status of Submission* 2012], A/67/38, part III, Annex I (2012).

[11] See *List of Issues and Questions in the Absence of Initial and Periodic Reports: Dominica*, CEDAW/C/DMA/Q/7 (2008) and CEDAW/C/SR.870 and SR.871 (2009).

[12] *Status of Submission* 2012, para. 3.

[13] An amendment to article 20, though adopted by States Parties in 1995, has yet to enter into force.

twenty-two reports in 2010 and twenty-three reports in 2011). As of late June 2012, the Committee had forty-five States Parties scheduled for its next six sessions (52nd to 57th sessions), which meant an already full programme until mid 2014; there were a further seven reports submitted but yet to be scheduled. Thus, States Parties may be waiting up to two years for their reports to be considered in the normal course of events. In 2011 thirty reports were received and twenty-three were considered.[14] Thus, if the present practice were to continue, at the average rate of considering reports, and accepting that there was already in mid 2012 a delay of two years, it seems that a small backlog is likely to continue to accumulate, at a rate of roughly five reports per year, despite the failure of some States Parties to report at all or on time.

The CEDAW Committee has drawn up or endorsed a number of sets of guidelines for States Parties on the form and content of their reports. Currently, the Committee requires States Parties to comply with the *Harmonized Guidelines on Reporting to the International Human Rights Treaty Monitoring Bodies* adopted in 2006,[15] and the revised CEDAW-specific reporting guidelines adopted by the Committee at its 40th session (2008).[16] Together these require States Parties to submit a common core document that is of relevance to all treaties, as well as a treaty-specific report; this is the result of efforts to harmonise the reporting process and to make it less burdensome for States Parties.

Once a State Party has submitted its report, a pre-sessional working group of the Committee draws up a list of up to thirty questions, based on preliminary work by the country rapporteurs and the Secretariat. This list is sent to the State Party, generally two sessions ahead of the session at which the report is scheduled to be considered, with a request that the State Party respond within six weeks.[17] The list of issues for initial reports proceeds article by article, while for second and subsequent periodic reports the lists of issues are arranged in clusters[18] and focus in particular on the implementation of previous recommendations made by the Committee.[19]

[14] *Status of Submission* 2012, para. 5.
[15] See HRI/MC/2006/3; HRI/GEN/2/Rev.4, at paras. 1–59 (2007).
[16] Decision 40/I, *Convention-specific Reporting Guidelines of the Committee on the Elimination of Discrimination against Women*, A/63/38, part I, Annex I (2008).
[17] A/59/38, paras. 418–40.
[18] *Treaty Body Working Methods Report* 2011, para. 43.
[19] *Ibid*. para. 44.

Actors other than States Parties also have the opportunity to have input into the preparation by the Committee of lists of issues and in its substantive consideration of State Party reports. Article 22 of the Convention provides explicitly for participation by the specialised agencies of the United Nations in the work of the Committee and empowers the Committee to invite them to contribute reports on 'the implementation of the Convention in areas falling within the scope of their activities'. A number of the specialised agencies have regularly contributed written reports to the Committee, initially focusing more generally on the work of the agency relevant to the implementation of the Convention, but for some time now these have also provided country-specific information in response to the Committee's current guidelines on the issue.[20] In addition, these agencies are invited to participate in closed meetings of the pre-sessional working group of the Committee, to provide briefings to the Committee on the situation in particular States Parties.

Equally, civil society organisations have the opportunity to contribute formally and informally to the work of the Committee.[21] Since the Committee's early days, civil society organisations, especially those concerned with women's human rights at the national and international level, have provided written and informal oral briefings to Committee members. The Committee invites NGOs to make written or oral submissions to its pre-sessional working group to inform the drafting of the list of issues,[22] as well as to provide material at the session at which the State Party report is considered. The CEDAW sets aside time at the beginning of the first and second weeks of each session for NGOs to address the Committee in public session. Informal briefings of the Committee and of individual members are also held.[23]

Specific provision has also been made for National Human Rights Institutions (NHRIs) to contribute formally to the work of the Committee. The first formal oral intervention by an NHRI was permitted in July 2005,[24] and there have been a number since that time. The

[20] *Report of the Committee on the Elimination of Discrimination against Women on its Thirty-fourth, Thirty-fifth and Thirty-sixth Sessions*, A/61/38, part I, annex II, 79–80 (2006).

[21] See generally Shanthi Dairiam, 'From global to local: the involvement of NGOs' in Hanna Beate Schöpp-Schilling and Cees Flinterman (eds.), *The Circle of Empowerment: Twenty-Five Years of the UN Committee on the Elimination of Discrimination against Women* [hereinafter *The Circle of Empowerment*] (New York: Feminist Press, 2007) 313.

[22] *CEDAW Rules of Procedure*, rule 47.

[23] See *Treaty Body Working Methods Report* 2011, para. 125.

[24] *Ibid*. para. 113.

Committee adopted a statement on NHRIs in 2008, in which it underlined the importance of NHRIs to the domestic implementation of the Convention and welcomed the submission of written information for the pre-sessional working groups and the session, and undertook to make time available for oral interventions by NHRIs at the public sessions of the Committee.[25]

The Committee considers the reports of States Parties in public sessions, in the presence of State Party representatives,[26] normally devoting two meetings to the consideration of each report. Following a formal introduction by the delegation (ideally no more than thirty minutes in length), the Committee poses questions to the delegation,[27] led by the country rapporteurs,[28] with other members permitted to put additional questions and with time limits imposed on all members.[29] The Committee has adopted the practice, as have other treaty bodies, that a member of the Committee from a State Party whose report is being considered does not participate in any aspect of the consideration of the report.

Following the conclusion of the 'dialogue', the Committee considers and adopts Concluding Observations on the report (previously called Concluding Comments), which have been drafted by the country rapporteurs, generally with the assistance of the Secretariat.[30] The Concluding Observations provide an evaluation of the State Party's achievements and challenges, identifying both progress and shortfalls; they provide recommendations specifically tailored to the country in question, as well as a number of more general recommendations that the Committee includes in its Concluding Observations on most countries.

The form of the Concluding Observations has evolved. The Committee has adopted a structure with a list of relevant headings[31] to be used in the document ('flexibly and as appropriate for the State party concerned'[32]), and there are a number of standard paragraphs that appear in virtually

[25] *Statement by the Committee on the Elimination of Discrimination against Women on its Relationship with National Human Rights Institutions*, Decision 40/II, A/63/38, part I, Annex II, para. 7 (2008).

[26] *Treaty Body Working Methods Report* 2011, para. 73.

[27] A/59/38, part II, paras. 418–440 and *Treaty Body Working Methods Report* 2011, para. 61.

[28] *Treaty Body Working Methods Report* 2011, paras. 65 and 66.

[29] *Ibid*. para. 61.

[30] *Ibid*. para. 76.

[31] Decision 41/II, *Report of the Committee on the Elimination of Discrimination against Women on its Fortieth and Forty-first Sessions*, A/63/38, part II, Annex X, 261 (2008).

[32] Decision 41/II, A/63/38, part II, 88.

all Concluding Observations,[33] as well as comments that are focused specifically on the situation in individual States Parties.[34] The Concluding Observations include an introduction, a section that sets out positive developments, and a final section setting out concerns and specific recommendations as to the actions the State Party should take. This last section is normally the longest and sets out, area by area, the issues to be addressed that the Committee considers are the most important. The Committee now also regularly specifies the date for submission of the next report in the Concluding Observations.[35]

Under its new follow-up procedure the Committee identifies a number of priority recommendations in the Concluding Observations and requests the State Party to report back to it within one to two years on the steps it has taken to respond to those recommendations. So far as other recommendations are considered, the Committee will only follow up on their implementation when it next reviews the situation in a country, which will normally be when the next report is considered.

Following the transmission of the Concluding Observations to the States Parties concerned, it is open to States Parties to submit their comments on them. While there is no formal procedure for receiving and dealing with these comments,[36] they are circulated to Committee members and acknowledged in the annual report,[37] with the more recent comments being posted on the website of the OHCHR.[38] Prior to the adoption

[33] These include a standard reminder of 'the obligation of the State party to systematically and continuously implement all the provisions of the Convention' and 'urges the State party to give priority attention to the implementation of the present Concluding Observations between now and the submission of the next periodic report'; references to the role of Parliaments in implementing the Convention, the need to disseminate information about the Convention, the Optional Protocol and Concluding Observations; the need to ratify the Optional Protocol and the Amendment to Article 20 of the Convention (where this has not been done); and the implementation of the Beijing Platform for Action.

[34] See *CEDAW Working Methods Overview* 2009, para. 21.

[35] *Treaty Body Working Methods Report* 2011, para. 75.

[36] It is not clear that Article 21 of the Convention – which provides that 'suggestions and general recommendations based on the examination of reports and information received from the States Parties … shall be included in the report of the Committee together with comments, if any, from States Parties' – applies to Concluding Observations (rather than general suggestions and general recommendations).

[37] Decision 21/II, A/54/38/Rev.1, p. 45. See *Treaty Body Working Methods Report* 2011, at para. 79.

[38] See, e.g., *Comments from the Republic of Belarus Concerning the Concluding Observations Issued by the Committee on the Elimination of Discrimination against Women* (CEDAW/C/BLR/CO/7), Diplomatic Note, 22 February 2011, available at: www2.ohchr.org/english/bodies/cedaw/docs/Noteverbale22–02–11_Belarus_CEDAW48.pdf (last accessed 23

in 2008 of the new follow-up procedure,[39] relatively few States Parties had taken the opportunity to provide comments directly in response to the Concluding Observations.[40] The new follow-up procedure provides the opportunity for a State Party to respond to the specific Concluding Observations on which a response is requested (the response being circulated as an official document), but also presumably on other matters, though to date the responses do not appear to have gone beyond the recommendations specified. The government responses and any further exchanges between the Committee and the State Party are made public on the Committee's website.[41] The Committee's follow-up procedure has provided an opportunity for the dialogue between the Committee and the State Party to continue beyond the one-off engagement that otherwise culminates in the public hearings; and the Committee's Rapporteur on Follow-up has been detailed and insistent in her assessment of the extent to which recommendations have or have not been implemented.[42]

January 2013). Belarus had asked these to be circulated as an official document as well as to have them placed on the website; only the latter request appears to have been acceded to. See Decision 49/V, *Exchange of Notes Verbales between the Permanent Mission of Belarus to the United Nations Office at Geneva and the Secretariat Regarding Comments To Concluding Observations of the Committee on the Elimination of Discrimination against Women, Note Verbale Dated 23 May 2011 from the Permanent Mission of Belarus Addressed to the Secretariat* and *Note Verbale Dated 22 July 2011 from the Secretariat Addressed to the Permanent Mission of Belarus*, A/67/38, part I, Annex III.

[39] *Treaty Body Working Methods Report* 2011, para. 85.

[40] See, e.g., three States in 1999 (Greece, Mexico and China: see A/54/38/rev.1, Annex VII (1999)) and three States in 2007 (Chile, China and Mauritania: see A/62/38, Annex XI), two from the thirty-ninth to forty-first sessions (Republic of Korea and Lebanon: A/63/38, part II, Annex VII (2008)); Bahrain and Rwanda (A/64/38, part II, Annex IX (2009)); six at the end of the forty-fourth session: Azerbaijan, Denmark, Japan, Switzerland, Timor-Leste and Tuvalu) and three at the end of the forty-fifth session: Netherlands, Ukraine and the United Arab Emirates (A/65/38, part I, Annex X). Belarus also submitted comments in 2011 (A/67/38, part I, Annex III (2012)): see *supra* note 39.

[41] Committee on the Elimination of Discrimination against Women, Follow-up Reports, available at: www2.ohchr.org/english/bodies/cedaw/followup.htm (last accessed 23 January 2013).

[42] See, e.g., the letters sent by the Rapporteur for Follow-up of 19 February 2010 and 4 November 2011 to Kyrgyzstan and the additional information provided by Kyrgyzstan (CEDAW/C/KGZ/CO/3/Add.1 (2011)), available in the Follow-up section for the CEDAW Committee on the OHCHR website: www2.ohchr.org/english/bodies/cedaw/followup.htm (last accessed 23 January 2013). In 2012, in an assessment of its follow-up procedure to date, the Committee concluded that it was 'achieving its stated goal of acting as a tool of implementation of the Convention and more specifically the recommendations set out in selected Concluding Observations. This procedure is therefore proving to be an effective reporting procedure under Article 18 of the Convention that enables the Committee to monitor progress achieved between reporting cycles (A/67/38, part II, para. 18 (2012)).

4 General Recommendations and other contributions of policy/interpretive nature

Article 21(1) of the Convention confers on the Committee the power to 'make suggestions and general recommendations based on the examination of reports and information received from the States Parties'. These suggestions are to be included in the Committee's annual report, 'together with comments, if any, from States Parties'. The Committee has drawn on this power to develop a substantial body of interpretive material on specific articles of the Convention as well as cross-cutting themes (such as violence against women, the rights of older women and the rights of female migrant workers).

In 1997 the Committee outlined a procedure[43] for the development of General Recommendations that has provided the framework for the elaboration of General Recommendations since that time. That process involved the following stages:

(a) 'an open dialogue between the Committee, non-governmental organizations and others on the topic of the general recommendation' (sometimes involving a day of discussion on the topic), in which all interested parties are invited to participate and make submissions;
(b) preparation of a draft General Recommendation by the designated Committee member, considered by the Committee; and
(c) final adoption of the General Recommendation by the Committee.[44]

The process has also involved the informal solicitation of expert advice or circulation of drafts among interested parties, and on occasion academic institutions and non-governmental organisations have organised seminars at which CEDAW members and other experts have explored the issues and possible content of a General Recommendation.

As of early 2013 the Committee had adopted twenty-nine General Recommendations.[45] The early General Recommendations were a mix of brief, resolution-style documents, some addressing substantive matters and some dealing with organisational or other matters. The first major breakthrough in this regard came in 1992 with the Committee's General Recommendation 19 on violence against women, which analysed violence against women as a form of discrimination covered by the Convention

[43] A/52/38/Rev.1, para. 480.
[44] *CEDAW Working Methods Overview* 2009, para. 35.
[45] For the text of the General Recommendations, see www2.ohchr.org/english/bodies/cedaw/comments.htm (last accessed 23 January 2013).

and articulated the obligations of the State in relation to violence both by the State and also by non-State actors (including violence in the home).[46] Since that time, nearly all of the General Recommendations adopted have been even more expansive and detailed. The Committee has been concerned to set out in these documents not just an analysis of the legal and policy measures that the Convention requires, but also to explain the context in which the Convention's provisions are to be interpreted and to develop the conceptual underpinnings of equality theory and the content of State obligation in that context.

The most detailed General Recommendations adopted as of mid 2012 have addressed a number of issues of general obligation under the Convention – most importantly the concepts of equality and discrimination and temporary special measures (General Recommendation 25 (2004)), and the nature of States Parties' obligations under Article 2 (General Recommendation 28 (2010)). They have also engaged with a range of specific thematic issues including both specific articles of the Convention – General Recommendation 21 (1994) dealing with equality in marriage and the family; General Recommendation 23 (1997) dealing with women in political and public life; General Recommendation 24 (1999) dealing with women and health – and cross-cutting themes (General Recommendation 19 (1992) dealing with violence against women; General Recommendation 26 (2008) dealing with women migrant workers; and General Recommendation 27 (2010) dealing with older women and protection of their human rights).

The General Recommendations are a rich resource of legal and policy guidance, and it is hard to select highlights. However, among the most important jurisprudential contributions made by the General Recommendations are:

- the conceptualisation of violence against women as a form of 'discrimination against women' within the meaning of the Convention – most importantly in General Recommendation 19;
- the development under the Convention of the States Parties' obligation of 'due diligence', namely to take all reasonable measures to ensure that women are not subject to discrimination by non-State actors – initially articulated by the Committee in the context of violence against women, but of more general application;

[46] See Elizabeth Evatt, 'Finding a voice for women's rights: the early days of CEDAW', *George Washington International Law Review* 34 (2002) 515–53.

- the elaboration of the notion of non-discrimination and substantive equality that underpins the Convention – in a number of General Recommendations but perhaps most importantly in General Recommendation 25 on temporary special measures under the Convention;
- the development of the implications of the concept of discrimination in the form of stereotyping;[47]
- an exploration of the impact of multiple forms of discrimination (intersectionality); and
- the articulation of the relevance of discrimination based on sexuality to the definition of discrimination against women.[48]

In addition to these General Recommendations, in 2011 the Committee adopted a 'General Statement' on rural women[49] – a rather curious designation likely to confuse, because the statement is discursive and could equally well have been issued as a General Recommendation (especially as the Committee stated its intention to continue drafting a General Recommendation on the subject).[50] The same would appear to apply to the Committee's Statement in relation to gender equality in situations of displacement, asylum and statelessness, adopted in 2011,[51] on which topic the Committee is also currently drafting a General Recommendation.[52] In the same way the Committee could well have issued a General Recommendation on reservations instead of its 1994 Statement that was subsequently incorporated into reporting guidelines.

As of mid 2012 the Committee had on its agenda the preparation of General Recommendations on four topics: the economic consequences of marriage and its dissolution (in fact adopted in early 2013); on harmful

[47] See generally Rebecca J. Cook and Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (Philadelphia: University of Pennsylvania Press, 2010).

[48] Though there has been some dissent within the Committee on this issue: see the disagreement over terminology in the voting on General Recommendation 27 (older women) and General Recommendation 28 (Article 2), both of which referred to discrimination on the basis of 'sexual orientation and gender identity': A/66/38, part II, pp. 102–3 (2010), paras. 23–29 (2011).

[49] Decision 50/VI, *General Statement of the Committee on the Elimination of Discrimination against Women on Rural Women*, adopted on 19 October 2011, 50th session, A/67/38, part II, Annex II, 55 (2012).

[50] A/67/38, part II, para. 43 (2012); A/67/38, part III, para. 40 (2012).

[51] Decision 50/V, *Statement of the Committee on the Elimination of Discrimination against Women on the Anniversaries of the Adoption of the 1951 Convention Relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness*, A/67/38, part II, Annex I (2012).

[52] A/67/38, part II, para. 42 (2012); A/67/38, part III, para. 39 (2012).

practices (the CEDAW/Convention on the Rights of the Child (CRC) joint General Recommendation); on the human rights of women in conflict and post-conflict situations; and on access to justice.

The stimulus for the development of individual General Recommendations has varied. In some cases external events have triggered a sense that the Committee needs to articulate how the Convention applies to a particular issue or practice;[53] in other cases individual members of the Committee have had a special interest in a particular Article or issue and have urged the adoption of a General Recommendation on the theme.[54] In yet other cases civil society groups have engaged in advocacy to persuade the Committee that it should address a particular topic in a General Recommendation. In any case the proponents of the development of a General Recommendation on a specific topic must persuade the Committee as a whole that this is something that should be taken up as part of the Committee's already significant workload.

Overall, the process of drafting General Recommendations has become increasingly transparent and open to contributions from a wide range of interested parties. The Committee issues public calls for input from interested parties on the subjects it has chosen for General Recommendations. For example, as part of its preparation for the elaboration of a General Recommendation on women in conflict and post-conflict situations, the Committee issued a call for submissions[55] and subsequently a concept

[53] For example, the attention given to the issue of violence against women in the early 1990s and the proposed elaboration of a new international instrument on violence against women (which resulted in the adoption of the United Nations Declaration on the Elimination of Violence against Women) moved the Committee to develop General Recommendation 19. Among other motivations, the Committee was concerned to underline that States Parties were already obliged to eliminate public and private violence against women under the Convention, and that a new normative instrument would merely reiterate or give detailed content to these obligations rather than fill a normative gap. Evatt, 'Finding a voice for women's rights'.

[54] For example, Hanna Beate Schöpp-Schilling, member of the Committee from Germany for many years, had a particular interest in the question of temporary special measures dealt with by Article 4, and devoted considerable energy to the development of General Recommendation 25, which is an extended discussion of the concepts of discrimination and equality under the Convention and the obligations of States Parties to adopt temporary special measures. Ruth Halperin-Kaddari, member from Israel, played a similar role in relation to the development of the General Recommendation 29 on the economic consequences of marriage, family relations and their dissolution, and there are other examples.

[55] General Discussion on 'women in conflict and post-conflict situations', available at: www2.ohchr.org/english/bodies/cedaw/discussion2011.htm (last accessed 23 January 2013).

note[56] to provide a basis for a public general discussion on the theme held at its 49th session in July 2011;[57] the note looked very much like the first draft of a General Recommendation. In a move reflecting this greater transparency the Committee published submissions from civil society and some intergovernmental organisations on the OHCHR website.[58] This approach is also seen in the Committee's innovative exercise of seeking to elaborate with the Committee on the Rights of the Child a Joint General Recommendation/General Comment on Harmful Practices. A general call for submissions on the theme was issued in 2011,[59] with submissions from civil society made available on the website.[60]

On a number of occasions expert meetings held by academic institutions or non-governmental organisations have been organised to contribute analysis and material for consideration by the Committee in its deliberations, and these have been influential in the approach that the Committee has adopted.[61]

[56] *Concept Note: General Discussion on the Protection of Women's Human Rights in Conflict and Post-conflict Contexts*, 2011, available at: www2.ohchr.org/english/bodies/cedaw/docs/GRConceptNote.pdf (last accessed 23 January 2013).

[57] Committee on Elimination of Discrimination against Women, Day of General Discussion – 'Women in conflict and post-conflict situations', 18 July 2011, New York, available at: www2.ohchr.org/english/bodies/cedaw/docs/Discussion2011/SummaryReportCEDAWWomenInConflict.pdf (last accessed 23 January 2013).

[58] If governments have made any submissions, however, these do not appear on the website. Other committees do not always post government submissions, either – see, e.g., CAT's website, which posted submissions by civil society organisations in relation to its draft General Comment on Article 14, but did not post those made by governments.

[59] Joint CEDAW–CRC General Recommendation/Comment on Harmful Practices, Call for submissions, available at: www2.ohchr.org/english/bodies/cedaw/JointCEDAW-CRC-GeneralRecommendation.htm (last accessed 23 January 2013).

[60] *Ibid*.

[61] For example, the New York-based International League for Human Rights, in collaboration with the International Women's Rights Action Watch, organised a seminar on violence against women a few days prior to the Committee's 1992 session in New York, at which the question of violence against women and the adoption of a General Recommendation on the subject were on the agenda. See International League for Human Rights, *Combatting Violence Against Women* (New York: ILHR, 1993).

In October 2002 the Universities of Maastricht, Utrecht and Leiden organised an expert seminar in Maastricht focused on the issue of temporary special measures under the Convention with the purpose of contributing to the Committee's deliberations in preparing a General Recommendation on that topic. The report of this meeting, including papers presented and commentaries, was published as Ineke Boerefijn *et al.* (eds.), *Temporary Special Measures: Accelerating de facto Equality of Women under Article 4(1) UN Convention on the Elimination of All Forms of Discrimination against Women* (Antwerp: Intersentia, 2003). The CEDAW Committee adopted General Recommendation 25 on temporary special measures at its January 2004 session.

The CEDAW has also made a number of other statements both on general issues as well as in relation to the situation of women in specific countries. The former have sometimes been occasioned by significant anniversaries or international conferences, or in response to invitations from other bodies for the CEDAW's contributions on specific issues. The Committee has stated that the purpose of these pronouncements is 'to clarify and confirm its position with respect to major international developments and issues that bear upon the implementation of the Convention'.[62] For example, the Committee has issued statements on such topics as reservations (1998); gender and racial discrimination (2001); gender and sustainable development (2002); discrimination against older women (2002); the occasion of the ten-year review and appraisal of the Beijing Declaration and Platform for Action (2005); gender aspects of the tsunami disaster that took place in South-East Asia in December 2004 (2005); the international financial crisis (2009); gender and climate change (2009); and on the anniversaries of the adoption of the 1951 Convention relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness (2011).[63] The Committee has also issued statements in relation to specific countries, expressing solidarity with Afghan women (2002), and expressing concern about the situation of women in Iraq (2004) and Gaza (2009).[64] The latter, which have involved both statements to the international community at large and communications direct to the governments of particular countries (for example,

In February 2007 the International Women's Rights Action Watch (Asia Pacific), in collaboration with the Australian Human Rights Centre of the Faculty of Law, University of New South Wales, organised an expert seminar in Kuala Lumpur for the purpose of contributing to discussion of the proposed General Recommendation on Article 2 of the Convention. Participants included women's human rights activists and advocates, international law experts, academics, and past and present members of the CEDAW Committee. The outcome document of the meeting put forward many ideas that were ultimately reflected in CEDAW's General Recommendation 28 adopted in 2010. See International Women's Rights Action Watch Asia Pacific, *Possible Elements for Inclusion in a General Recommendation on to Article 2 of CEDAW, Outcome Document of the Expert Group Meeting on CEDAW Article 2: National and International Dimensions of State Obligation* (Kuala Lumpur: IWRAW Asia Pacific, 2007), available at: www.iwraw-ap.org/aboutus/pdf/Elements_paper_final_version_Jan9.pdf (last accessed 23 January 2013).

[62] *Ways and Means of Expediting the Work of the Committee on the Elimination of Discrimination against Women, Note by the Secretariat* [hereinafter *Ways and Means* 2009], Committee on the Elimination of Discrimination against Women, Forty-fourth session, 20 July to 7 August 2009, Item 6 of the provisional agenda, CEDAW/C/2009/II/4, para. 40.

[63] *Treaty Body Working Methods Report* 2011, para. 137.

[64] *Ways and Means* 2009, para. 40.

Libya and Egypt)[65] have manifested the CEDAW Committee's desire to respond to situations of conflict or transition in which the human rights of women might be at risk or which offer opportunities to improve or embed the rights of women in new constitutions or laws.

The output of the Committee – in particular its General Recommendations (most prominently its General Recommendation 19 on violence against women, but others as well) – has also begun to have an influence on the work of national courts and tribunals, having been cited in a number of important cases.[66]

5 The Committee's work under the Optional Protocol to the Convention

An emerging area of importance, likely to increase in significance, is the jurisprudence of the Committee under the Optional Protocol,[67] in particular under the individual communications procedure. The inquiry procedure is still in its early days, with the report of only one inquiry completed by the Committee published so far,[68] although the Committee had at least two other inquiries underway as of mid 2012 – the Philippines and Canada.[69] The number of individual cases lodged and decided under the Optional Protocol

[65] Decision 49/III. Letters from the Chair of the Committee to the Governments of Egypt and Tunisia, Identical letters dated 31 March 2011 from the Chair of the Committee to the Prime Minister and the Minister for Foreign Affairs of Egypt [and Tunisia], 49th session, A/67/38, part I, Annex II, 18 (2012).

[66] See the cases referred to in *Byrnes CSW Paper*, and the International Law Association Committee on International Human Rights Law and Practice, *Interim Report on the Impact of the United Nations Treaty Bodies on the Work of National Courts and Tribunals*, in International Law Association, *Report of the Seventieth Conference*, New Delhi (London: ILA, 2002) 507–55; *Final Report on the Impact of the United Nations Treaty Bodies on the Work of National Courts and Tribunals* [*ILA Final Report* 2004], in International Law Association, *Report of the Seventy-First Conference, Berlin* (London: ILA, 2004) 621–87. See also Robyn Emerton *et al*., *International Women's Rights Cases* (London: Cavendish, 2005).

[67] As of 27 June 2012 there were 104 States Parties to the Optional Protocol. See generally Jane Connors, 'Optional Protocol' in *CEDAW Commentary*, 607–79; UN Division for the Advancement of Women, Department of Economic and Social Affairs, *The Optional Protocol: Text and Materials* (New York: United Nations, 2000); Egan, *The United Nations Human Rights Treaty System* at 371–89. For a comprehensive listing of resource materials, and information and commentary on recent developments, see *Optional Protocol to CEDAW* blog, available at: http://opcedaw.wordpress.com (last accessed 23 January 2013).

[68] CEDAW/C/2005/OP.8/Mexico.

[69] Domini M. Torrevillas, 'CEDAW to look at Manila women's violations', *The Philippine Star*, 20 October 2009, available at: http://www.philstar.com/opinion/515498/cedaw-look-manila-womens-violations (last accessed 23 January 2013).

is relatively modest, given that the Optional Protocol entered into force over a decade ago. Roughly forty cases had been registered by mid 2012 and nearly all of those had been cases against members of the Council of Europe or Canada (with one case each against Peru, Brazil and the Philippines).

The Committee has made important contributions to international human rights law and the jurisprudence of the Convention in a number of cases involving violence against women that have involved the death of women at the hands of partners or former partners. These cases have built on the analysis set out by the Committee in its General Recommendation 19 on violence against women, and have given content to the so-called obligation of 'due diligence', that is the obligation of the State Party to take all reasonable measures to prevent the violation of the rights of a woman by a non-State actor. These cases have set a high bar in terms of the level of legislative protection and the practical implementation of the legal standards required, though the facts in these cases showed a consistent and sustained pattern of actual and threatened violence against the women concerned to which the State Party should clearly have responded before rather than after the women's deaths.[70]

The Committee has also found violations of the Convention in cases in which the domestic courts relied on gender stereotypes in conducting a rape trial in which the defendant was ultimately acquitted;[71] where a young woman ended up dead because of a failure to diagnose her condition and provide available and adequate obstetric care;[72] by denying a minor who had been sexually abused access to therapeutic abortion and delaying surgery that contributed to her subsequent paralysis;[73] and where a woman was held in a prison with an all-male staff and was subjected to sexual humiliation and harassment over a period of five days.[74]

[70] See generally Bonita Meyersfeld, *Domestic Violence and International Law* (London and Portland, OR: Hart Publishing, 2010) at 42–52, 232–5.

[71] *Karen Tayag Vertido* v. *The Philippines*, Communication No. 18/2008, CEDAW/C/46/D/18/2008 (2010). See Simone Cusack and Alexandra S. H. Timmer, 'Gender stereotyping in rape cases: the CEDAW Committee's decision in *Vertido* v. *The Philippines*', *Human Rights Law Review* 11:2 (2011) 329–42.

[72] *Alyne da Silva Pimentel Teixeira (deceased)* v. *Brazil*, Communication No. 17/2008, CEDAW/C/49/D/17/2008 (2011). See Judith Bueno de Mesquita and Eszter Kismödi, 'Maternal mortality and human rights: landmark decision by United Nations human rights body', *Bulletin of the World Health Organization* 90 (2012) 79–79A; and Rebecca J. Cook and Bernard Dickens, 'Upholding pregnant women's right to life', *International Journal of Gynaecology and Obstetrics* 117 (2012) 90–4.

[73] *L.C.*v. *Peru*, Communication No. 22/2009, CEDAW/C/50/D/22/2009 (2011).

[74] *Inga Abramova* v. *Belarus*, Communication No. 23/2009, CEDAW/C/49/D/20/2008 (2011).

The violence cases have also led to important progress at the domestic level in terms of law, policy and administrative change, and in the development of the follow-up procedures of the Committee. Follow-up to decided cases finding violations is a critical element of the process and has given rise to some difficulties under other treaties. The Committee has had some success with its follow-up procedures, due in part at least to the willingness of States Parties to cooperate. For example, in relation to Austria the process has involved a continuing discussion with the State Party (and the author/representative), which it seems will not be formally closed until the Committee is satisfied that the appropriate measures have been taken.[75]

As the Committee's body of case law grows,[76] and more decisions are adopted in which the Committee finds violations, the question of domestic implementation will assume greater importance. While much responsibility in this respect lies with the executive government and legislature, often the courts may need to be involved, if, for example, a court decision needs to be reviewed or reversed. Similar issues have arisen in relation to the implementation of the views of other human rights treaty bodies, as in many countries the decision of the treaty bodies have no formal legal status, and the successful complainant may therefore not be able to rely directly on the decision of the CEDAW Committee to make or reopen a case under domestic law.[77] An instance of this can be seen in one of the cases against Austria, in which the Austrian Supreme Court stated in the context of a civil claim for compensation brought as a result of the case of *Şahide Goekce (deceased)* v. *Austria*[78] that the decision and recommendations of the CEDAW Committee were not relevant to the domestic court's decision, as the establishment of the facts and their legal assessment was solely a matter for the Austrian courts.[79]

[75] See, e.g., *Report of the Committee on the Elimination of Discrimination against Women on its Forty-second and Forty-third sessions*, A/64/38, at 150 (*Yildirim* v. *Austria*). See also the discussion in Rosa Lugar, 'Die UNO-Frauenrechtskonvention CEDAW als Instrument zur Bekämpfung der Gewalt an Frauen: zwei Beispiele aus Österreich", *Frauen Fragen* 1 (2009) 22–38, at 34–6.

[76] For a compilation of summaries of all of the Committee's decisions up to June 2012, see Open Society Justice Initiative, *Case Digests: UN Committee on Elimination of Discrimination against Women (CEDAW) 2004–12* (2012), available at: www.soros.org/briefing-papers/case-digests-un-committee-elimination-discrimination-against-women-cedaw-2004–12 (last accessed 23 January 2013).

[77] *ILA Final Report* 2004, paras. 29–43.

[78] Communication No. 5/2005.

[79] Decision of 29 November 2007, para. 2 (referred to in Lugar, 'Die UNO-Frauenrechtskonvention CEDAW' at 35 n. 64).

The Committee has so far published the results of only one inquiry conducted under Article 8 of the Optional Protocol, in relation to Mexico,[80] and has announced that it is engaged in two others (the Philippines and Canada (2011)),[81] though a number of requests have been made (five in 2011,[82] including one in relation to the United Kingdom).[83]

6 The Committee's role – advancing equality in a world of diversity and sovereign States

The Committee's role requires that it assess the extent of implementation of the Convention in nearly all the countries of the world. It thus has had to seek to apply a universal standard of equality and non-discrimination to societies that are enormously diverse – from tiny island nations to the world's largest countries located in all regions, representing different levels of development and legal systems; manifesting a variety of religious, traditional and cultural systems; and with political systems ranging from advanced liberal democracies through socialist States to countries in turmoil or seeking to find a transition from internal conflict and social disruption (including genocidal killings and civil wars) to a stable, just and ordered society. This diversity, and the fact that the Committee is carrying out an international supervisory function that involves making judgements (albeit not legal ones) on the extent to which sovereign States have given effect to their international obligations, poses significant challenges of competence, legitimacy, diplomacy and effectiveness.

Under the Convention, States Parties assume obligations of different levels of generality, stringency and immediacy.[84] These range from quite general obligations to take 'appropriate' or 'necessary' measures

[80] CEDAW/C/2005/OP.8/Mexico. See Andrew Byrnes and Maria Herminia Graterol, 'Violence against women: private actors and the obligation of due diligence', *Interights Bulletin* 15 (2006) 156–7; Maria Regina Tavares da Silva and Yolanda Ferrer Gómez, 'The Juárez Murders and the inquiry procedure' in *The Circle of Empowerment* at 298.

[81] Press Release by the Committee on the Elimination of Discrimination against Women concerning the inquiry regarding disappearances and murders of Aboriginal women and girls in Canada, 16 December 2011, available at: http://web.archive.org/web/20120412020217/http://www2.ohchr.org/english/bodies/cedaw/docs/CanadaInquiry_Press_Release.pdf (last accessed 8 February 2013).

[82] CEDAW/C/52/2, para. 61 (2012).

[83] For information and documentation relating to the Mexico, Philippines and Canadian inquiries, and the request in relation to the United Kingdom, see http://opcedaw.wordpress.com/inquiries/all-inquiries/ (last accessed 23 January 2013).

[84] See generally Andrew Byrnes, 'Article 2' in *CEDAW Commentary*, 71–99, and CEDAW Committee, General Comment 28 (2010) on Article 2 of the Convention.

to eliminate discrimination generally, to making specific obligations in specific areas, such as obligations to replace discriminatory penal laws or to ensure that women enjoy equality before the law or the right to vote in elections. In some cases the obligations can be given effect to immediately, and there are objective indicators that can be used to determine whether the State Party has done so (for example, whether a marital rape exception exists under domestic law, or whether there is legislation in force that protects against discrimination in employment). In other cases, while there may be a clear obligation to act immediately, there may be a range of options available to the State Party to achieve the goal of eliminating discrimination, and much may depend on local political and social conditions as to which is the most effective or the most feasible.

The Committee thus faces the challenging task of assessing whether the steps a State Party has taken (or its failure to act) are consistent with its Convention obligations. This can be a challenging task for an external body – especially where the assessment of what is appropriate depends on a detailed knowledge and understanding of local conditions. It depends in part on the specificity of the standards it is applying, the information available to the Committee, the nature of the process of interaction with the State Party in consideration of the report and follow-up, and the quality of analysis and judgement of the Committee. The challenges the Committee faces in carrying out its supervisory role are not unique: the other treaty bodies face similar challenges, and many international bodies with external review, evaluation or adjudicative functions are frequently confronted with similar issues when assessing whether complex situations in a State are in conformity with that State's international obligations.

The effectiveness of the Committee's assessments and recommendations – and advocacy based on them – will depend in significant part on the legitimacy and persuasiveness of the Committee's output, though the political will of government is also critical to actual progress.

It is an easy response to a critical assessment or evaluation by an external body for States to argue that the body simply does not have all the relevant facts, especially if the body, as inevitably happens on occasion, gets some facts wrong, does not understand the full national context or has been overly influenced by NGOs with a particular agenda that skews the overall picture of progress in the country. Such responses can also be bolstered by the invocation of the democratic mandate of a government, where there is a democratic political system and a government policy is justified by reference to their status as such a government or by reference

to majoritarian opinion (or even by a reference to an asserted constitutional duty to respect the views of minority communities).

Of course, one rather formal response to these sorts of criticism is that the legitimacy of the assessment and recommendations made by the Committee derives in part from the very fact of its creation and the acceptance of its monitoring functions by States Parties. The CEDAW Committee, like the other treaty bodies, was created by the drafters of the treaty to carry out specific functions (later supplemented by the functions conferred on it by the Optional Protocol). States that become parties to the treaty thus accept the role of the Committee as set forth in the Convention (and the Optional Protocol, if they also become parties to that instrument). That, of course, is a statement of the formal position (and one that carries little weight in the eyes of many States Parties that find themselves the subject of criticism). States Parties that may in theory have accepted the role of the Committee to monitor and review their performance will not feel constrained to accept without question or criticism its assessment of the acts of a State Party. In practice, the legitimacy and stature of Committee's pronouncements are dynamic, and depend on the substance and manner of its work over sustained periods. The influence of the Committee and its pronouncements is thus necessarily a work in progress, built up over time by continued interactions with individual States Parties and the States Parties collectively, as well as with the other communities that have expectations of and monitor the work of the Committee (such as civil society groups and scholars).

In some cases the Committee can be quite direct and specific in identifying legislation, policies or practices that are inconsistent with the Convention and recommending steps to remedy the situation both under the reporting procedure and especially under the Optional Protocol procedures. At the same time, many of the Committee's pronouncements and recommendations are more general, offering a series of possible steps that the State Party may wish to consider, rather than prescribing every step in detail. This is, of course, the case with General Recommendations, which tend to list a range of possible issues and actions that States Parties should consider taking. Concluding Observations tend to be more focused and specific, though not always – the contribution of the Committee is frequently to challenge the State Party to identify the measures that it thinks will be most effective in the national context in addressing identified failures to guarantee equality, and ensuring that the State Party addresses those problems through the adoption of concrete steps that will bring

measurable progress. While not all 'constructive dialogues' between the Committee and States Parties have been free of tension (much of which is lost in the accounts contained in the Committee's summary records), on the whole the approach of the Committee and most governments is a positive one, intent on taking those steps that reasonably can be taken to advance the goals of the Convention.

The Committee recognises that States Parties may be in a better position to make an assessment of the situation and needs at the domestic level; an important aspect of the Convention's obligations of implementation (and reporting) is to ensure that the State Party undertakes the required data collection and monitoring as a necessary basis for the identification and addressing of problems (as part of the obligation to adopt a policy, and general aspect of the obligation to implement the Convention de facto). For example, in General Recommendation 24 (1999) on the right to health, the Committee comments:

> 9. States parties are in the best position to report on the most critical health issues affecting women in that country. Therefore, in order to enable the Committee to evaluate whether measures to eliminate discrimination against women in the field of health care are appropriate, States parties must report on their health legislation, plans and policies for women with reliable data disaggregated by sex on the incidence and severity of diseases and conditions hazardous to women's health and nutrition and on the availability and cost-effectiveness of preventive and curative measures. Reports to the Committee must demonstrate that health legislation, plans and policies are based on scientific and ethical research and assessment of the health status and needs of women in that country and take into account any ethnic, regional or community variations or practices based on religion, tradition or culture.[85]

This is not to say that the Committee will allow a State Party unlimited and unreviewable discretion – its role is after all to undertake an assessment of consistency with the Convention and to provide analysis and recommendations to the State Party.

Of course, in any case neither recommendations by the Committee in the form of Concluding Observations nor views and reports under the Optional Protocol procedures are legally binding as a matter of international law, though plainly they are to be given weight. The minimum obligation of the State Party should be to consider seriously the

[85] General Recommendation 24 (1999), para. 9.

recommendations and whether and how they should be implemented, and to articulate their position in response to a recommendation.[86] A response is arguably even more important when a State Party decides not to follow or to explicitly reject a recommendation of the Committee. Sometimes States Parties do this on an ad hoc basis, submitting comments in response to Concluding Observations,[87] and sometimes they take the matter up in a subsequent report. Often, however, if a State Party does not agree with a Committee recommendation, it might not articulate its disagreement, but no action will be taken and the matter will be taken up by the Committee or NGOs in the next reporting cycle or at the domestic level.

The follow-up procedure adopted in 2008 may change this, at least in relation to those priority recommendations in respect of which the Committee asks the State Party to report. For example, in 2009 the Committee recommended, inter alia, to the United Kingdom that, as part of its development of a single Equality Act, it should take the opportunity to incorporate other provisions of the Convention into domestic law. This recommendation was one of those identified by the Committee for priority follow-up, requiring a response from the UK within a specified period. The United Kingdom responded:

> The UK rejects this recommendation on the basis that such an approach would create a separate, parallel regime within the Equality Bill that incorporates all the elements of the Convention that are, to the extent that the UK is obliged to comply with them, already covered by or present in other areas of UK law.[88]

It also provided further information about what was involved in the development of the single Equality Act. The Committee responded to this, stating that it 'would appreciate receiving further information on the incorporation of the provisions of the Convention in the appropriate legislation',[89] though one would have thought that much of that material

[86] Article 7(4) of the Optional Protocol requires States Parties to 'give due consideration to the views of the Committee, together with its recommendations' in individual cases and to respond within twelve months.

[87] See the discussion above relating to the comments made by States Parties in response to Concluding Observations.

[88] *Information Provided by the Government of the United Kingdom of Great Britain and Northern Ireland under the Follow-up Procedure to the Concluding Observations of the Committee*, CEDAW/C/UK/CO/6/Add.1, para. 5 (2009).

[89] Letter of 19 February 2012 from the Rapporteur on Follow-Up to the Ambassador of the United Kingdom, available at: www2.ohchr.org/english/bodies/cedaw/docs/followup/UnitedKingdom.pdf (last accessed 23 January 2013).

was contained in the documents submitted earlier by the United Kingdom under the reporting procedure.

In general, though, there appear to be relatively few instances in which States Parties have rejected a Committee recommendation outright, either because the State Party does not share the Committee's legal analysis or because it disputes the factual basis or policy suitability of the proposal. Constitutional or political difficulties may be alluded to as a reason for not adopting the exact steps recommended by the Committee, for example where constitutional amendments are recommended or the use of temporary special measures where that may cause legal difficulties.

There also appears to have been little resort by States Parties to direct challenges to the Committee's recommendations and decisions by invoking the democratic legitimacy of the government (where it exists) or arguments of nationalism or principles of subsidiarity. The more direct challenges or excuses for inaction have tended to come in the areas of religion, traditions, custom and 'culture', and often involve States Parties invoking the unwillingness of others to act, especially particular religious communities or the community at large, issues that often arise in the discussions about the coverage, validity and acceptability of reservations referring to or based on such beliefs and practices.

So far as the political organisation of individual States Parties is concerned, it does not appear that the Convention itself is premised upon the desirability of a particular political system either as a matter of general principle or because such a system might be more conducive to achieving the goals of the treaty.[90] This could hardly have been otherwise, given the diversity of States involved in the drafting of the treaty, and the prominent role played both by Western liberal democratic States and socialist States (the latter priding themselves particularly on their achievements in the field of women's equality and the visibility of women in many traditionally male-dominated sectors and the social support given to women so far as maternity and childcare went).

Nevertheless, despite the absence of an explicit statement of preference in the Convention for particular forms of political organisation, the

[90] See Sarah Wittkopp, 'Article 7' in *CEDAW Commentary*, 197–231 at 202. One might compare in this context the statement of the Committee on Economic, Social and Cultural Rights that the ICESCR is not premised on a particular political system for the achievement of its goals – a reflection of the Cold War origins of the two Covenants and the view of many that ESC rights were goals that were a particular concern of socialist States and that they were not especially appropriate as 'rights' for inclusion in the agendas of liberal democratic Western States). CESCR, General Comment 3, para. 8 (1990).

Committee has drawn from the Convention the inference that the treaty requires the realisation of the equality of women and men in political and public life (Article 7 of the Convention) within the framework of a democratic society.[91] On this reading, the Convention requires more than just ensuring that women enjoy the same rights and opportunities, *de jure* and de facto, as men in the spheres of political and public life – though that is obviously a step that must be taken.

How does the Committee then deal with the range of different political regimes, in some of which men may be denied political opportunities (sometimes on the basis of equality with women – that is, no one has meaningful political rights)? The Committee has been pragmatic in this respect. It looks for the possibilities of advancing women's human rights within individual systems of government – even those run by hereditary monarchies or autocratic governments (in which ironically the concentration of power can sometimes make the repeal of discriminatory laws and practices a faster and easier process than in more democratic systems). It calls for the available steps toward equality to be taken, all the while arguing for women's full participation in all aspects of political and public decision-making (whether or not men are already engaged there as well).

The question of a democratic mandate to discriminate can also arise where a popularly elected government endorses an approach to political and social organisation that is not based on equality of women and men, whether that philosophy be drawn from religion, tradition, custom or some other source – a situation that often seems to follow on from popular uprisings against autocratic or oppressive governments. In these contexts, while accepting the desirability of democratic government, the Committee nonetheless sees itself as legally and morally justified in asserting that women's equality cannot be subordinated to national laws and practices, even if these are the result of a government elected by a majoritarian or other democratic process. For the CEDAW the norm of equality of women and men is the overriding international norm, one

[91] In General Recommendation 23 (1997), para. 6, the Committee states: '[T]he Convention envisages that, to be effective, this equality [of women and men in political and public life] must be achieved within the framework of a political system in which each citizen enjoys the right to vote and be elected at genuine periodic elections held on the basis of universal suffrage and by secret ballot, in such a way as to guarantee the free expression of the will of the electorate, as provided for under international human rights instruments', referring to Article 21 of the UDHR and Article 25 of the ICCPR (from which some of the language of Article 7 of the Convention is drawn).

that cannot be displaced by other norms, and the international legal obligation of the State is to promote that norm and provide protection against encroachments on it, even in pursuit of decisions that claim to have a democratic mandate.

Nor is the Committee is prepared to accept attempts by States Parties to wash their hands of obligations accepted under the Convention by claims that the responsibility for (in)action lies with other political entities under constitutional systems that allocate power to federal and state authorities or under other devolution arrangements.[92] This reflects both the standard international law position that a State cannot rely on its internal constitutional or political arrangements to justify a failure to carry out its treaty obligations and the provisions of the Convention.

The Committee has also been unwilling to accept that the fact that a State Party has limited power to control, influence or change the attitudes and beliefs of non-State actors exempts it from all responsibility in relation to discrimination practised by those actors, insisting on a high level of due diligence to take all reasonable measures to address that conduct and underlying discriminatory attitudes, as required by Article 2 and Article 5(a) in particular.[93]

In its practice the Committee has been consistent in urging fundamental changes to domestic constitutional and legislative arrangements, holding States Parties accountable for the discrimination that may result from devolved political arrangements (formally within a federal system or more informally),[94] and urging States Parties to ensure that they carry out their obligations in relation to discrimination by non-State actors (obligations made explicit by Articles 2 and 5(a), but also covered by many other provisions of the Convention).

7 The Committee, States Parties and resistance justified by reference to religious, customary or traditional practices

The Committee operates in a world of competing international and national norms that have their origins in international law instruments and customary international law, national legislation, and other systems of law and binding social norms. From the perspective of States Parties, relevant norms include not just international treaties – some of which

[92] See Andrew Byrnes, 'Article 2' at 93.
[93] See generally Rikki Holtmaat, 'Article 5' in *CEDAW Commentary*.
[94] Byrnes, 'Article 2' at 93 n. 178.

may appear to compete with or complement the Convention – but also national norms, including constitutional and legislative rules, and other systems of applicable law recognised or endorsed by the State, such as religious or customary laws.

In much of its work the Committee engages with national, religious cultural laws or other practices that appear inconsistent with the Convention, so as a result there will always be questions of the legitimacy and effectiveness of its views. The Committee appears to see its position and vantage point as normatively unproblematic – the norms of the Convention are its starting point; to the extent that they have been accepted by States Parties, then the Committee is able to further bolster its normative claims by reliance on the clear principles of international law (reflected in the treaty's provisions) that a State is obliged to bring law and practice in its territory into line with its Convention obligations, and that systems of law and practice that conflict with that obligation provide no justification for refusing or failing to do so.

The nature of the CEDAW, which seeks to transform patriarchal structures and society in order to ensure women enjoy full equality in all fields of life,[95] has posed particular challenges in relation to some religious practices and interpretations, as well as traditional and customary practices. These have been particularly acute in the context of law, practices and customs relating to marriage and family relations, but have extended beyond that field. The Committee has taken the view that the obligations contained in the Convention are far-reaching, and were intended to be so, and that States Parties that have accepted the obligations under the Convention cannot interpose custom, religion or tradition to justify a failure to do so. Thus, there is an assertion of a universal value of equality (albeit realisable in specific contexts in different ways).

The tension has frequently been seen in the context of reservations to the Convention, especially the significant number of general reservations or reservations to central Articles of the Convention such as Articles 2 and 16.[96] Many of these have been explained or justified by reference to the asserted incompatibility of certain provisions of the Convention with religious law (most prominently Islam, but others as well), traditions or customary practices or law, or the Constitution or general law of the State. The Committee's objections to some of these general reservations

[95] Holtmaat, 'Article 5', and Frances Raday, 'Culture, Religion and CEDAW's Article 5(a)' in *The Circle of Empowerment*, 68–85.

[96] See Jane Connors, 'Article 28' in *CEDAW Commentary*, 565–95.

have included the concern that they do not specify exactly what the purported inconsistencies are, so that it is difficult to assess the coverage of the Convention and the extent of the obligation assumed by the State in question.

Furthermore, the Committee has expressed the view on a number of occasions that it considers reservations to core provisions of the Convention such as Articles 2 and 16 to be incompatible with the object and purpose of the Convention, and thus impermissible under Article 18 of the Convention (as well as under the general law of treaties). The legal implications of this – and the similar objections and comments made by some States Parties in response to the reservations entered by other States Parties – are unclear. While maintaining its position on incompatibility, the Committee has adopted a fairly pragmatic approach to dealing with States Parties – it would not want States Parties to remove themselves from the treaty regime, and sees the potential for progress in continuing dialogue and pressure in the context of consideration of successive reports.

The Committee has also sought to engage on substance, challenging States to identify the discrepancies, and in the case of Islam pointing to the experience of other Muslim countries that have been able to ratify the Convention with less extensive or no reservations.

It has been suggested that the approach taken to 'culture' in the Convention and in the Committee's practice unduly emphasises a limited, out-of-date and impoverished understanding of 'culture', and that this focus on culture as a primary barrier to the realisation of human rights also neglects other causes of oppression of and denial of rights to women such as economic and political arrangements. Anthropologist Sally Engle Merry has made this argument generally in relation to the international human rights system, as well as with specific reference to the CEDAW context.[97] She writes:

> Culture often appears as a relatively static and homogenous system, bounded, isolated, and stubbornly resistant. The convention and, to some extent, the committee members rely on a vision of culture that imagines it as integrated, consensual, and sustained by habitual compliance with its rules.[98]

[97] Sally Engle Merry, 'Constructing a global law – violence against women and the human rights system', *Law & Social Inquiry* 28:4 (2003) 941–77.

[98] Merry, 'Constructing a global law' at 946; and Sally Engle Merry, 'Gender justice and CEDAW: the Convention on the Elimination of All Forms of Discrimination against Women', *Hawwa* 9 (2011) 49–75 at 55 (largely drawing on arguments and evidence set out in Merry, 'Constructing a global law').

She contrasts this with more recent models of culture developed in anthropology:[99]

> Rather than operating as an isolated and smoothly humming machine, a cultural system is in constant and creative interaction with other societies and with transnational forces. When the drafters of the convention thought about culture, they used the former meaning. Further, they used culture to describe other worlds, not their own.[100]
>
> The convention and the questions of the experts suggest that certain features of cultural belief and institutional arrangements, such as patterns of marriage, divorce, and inheritance, can serve as barriers to women's progress. The committee and other human rights groups identify and seek to change 'harmful traditional practices' rooted in custom and tradition, of which female genital mutilation is the prototype. Many who write about women's rights to protection from violence see culture as a problem rather than as a resource.[101]

She further argues:

> In other words, there is an old vision of culture as fixed, static, bounded, and adhered to by rote juxtaposed to a more modern understanding of culture as a process of continually creating new meanings and practices that are products of power relationships and open to contestation among members of the group and by outsiders. In CEDAW discussions, when culture is raised as a problem, its old meaning is invoked. This is, of course, the way the term is used in the convention itself, which explicitly condemns cultural practices that discriminate against women in Articles 2 and 5 (see below). When culture is discussed as a resource, or when there is recognition that the goal of the CEDAW process is cultural reformulation, the second meaning is implied. Needless to say, the coexistence of these two quite different understandings of culture in the same forum is confusing. I think it obscures the creative cultural work that the CEDAW process accomplishes.[102]

While it is certainly the case that much of the discussion around matters of culture and tradition in the CEDAW context focuses on the negative impact on women's enjoyment of human rights, that is hardly surprising, given that the purpose of the Convention is to respond to violations of women's human rights, and a goal of the reporting procedure is to identify

[99] Merry, 'Gender justice and CEDAW' at 55.

[100] One might reasonably ask whether this adequately reflects the significant participation of women from non-Western countries in the drafting and the importance to them of addressing the issues of culture and its relationship to the equality of women.

[101] Merry, 'Gender justice and CEDAW' at 55 (citations omitted).

[102] *Ibid*. at 56. See also Merry, 'Constructing a global law' at 947 (making the same argument in similar terms).

shortfalls and difficulties with a view to addressing them. While this may mean that there is little discussion of the positive aspects of culture and tradition and their potential as a resource for achieving women's human rights, to conclude that the Convention and the Committee see culture and tradition as something integrated, static and backward, and solely as detrimental to women's equality, seems to go too far. The CEDAW Committee certainly sees the tensions that can exist between particular interpretations of culture and the Convention, and rejects those aspects of cultural practices that mean that women are discriminated against. The adherence to static and stubbornly resistant notions of culture appears to be more characteristic of those opposing the implementation of the CEDAW than of the CEDAW members, who see culture as a dynamic resource.

There is some merit in the claim that there may be a tendency to adopt an approach of 'exoticising' culture – that is, seeing culture as primarily located in non-Western societies and communities. As Rikki Holtmaat writes:

> Article 5 does not address only 'exotic', 'backward', 'traditionalist' or 'oppressive cultures', but all human relations and institutions or structures in which gender stereotypes and fixed parental gender roles are used in a way that is detrimental to the full realisation of women's human rights.[103]

While much of the CEDAW Committee's concern has been with cultural and religious practices in non-Western countries,[104] its increased focus on stereotypes that reflect subordinate and unequal roles for women has been an explicit and consistent focus of the Committee's attention for many years, in relation to countries from all regions and all cultural and religious traditions.

8 Conclusion

The Committee provides an important site for the implementation of the Convention's goals, and are a forum where the efforts of governments, civil society, intergovernmental organisations and an external expert evaluator intersect. It provides a point where national and transnational advocacy

[103] Holtmaat, 'Article 5' at 150.

[104] For example, the Committee's criticism of polygamy as inconsistent with equality: General Recommendation 21 (1994) (equality in marriage and family relations), para. 14; General Recommendation 27 (older women), para. 28.

networks come together with a body that has an institutional legitimacy conferred on it by the States on whose records it opines. This chapter has argued that the Committee has been a vigorous actor in the cause of universal standards of human rights, and has engaged in advocacy for a norm of equality that transcends and prevails over national laws, practices, religions, customs and traditions that are inconsistent with that norm. This is not to say that the Committee (or the Convention) is antagonistic to religion or traditional cultures and customary laws and practices as such – indeed, it sees the centrality of these to women's sense of themselves and their place in the world[105] – but that it is resolute in being critical of those harmful practices that deny women's agency, violate their dignity or their persons, and exclude them from full participation in the life of their communities and societies. In some cases the Committee sees the way to equality for women in a more equal role for them as participants in the generation and transmission of cultural meaning and value by women, recognising that religion, tradition and culture are not unchanging but dynamic, not self-explanatory but interpreted by authoritative gatekeepers.

Although there are significant methodological challenges in isolating the impact of any one factor in bringing about change,[106] overall the reporting procedure under the Convention appears to have contributed in many cases to changes in law and practice at the national level to bring these into conformity with the Convention. Of course, ratification of the Convention and even effective use of the reporting procedure do not always lead to change, and on occasion States Parties may take little or no action in response to Committee recommendations and may not be scheduled to appear again before the Committee for a number of years, and even then may simply engage in passive resistance rather than active resistance to renewed Committee recommendations.

But there are many encouraging accounts of the contribution of the Convention and the Committee's work. In a review of the impact of the Convention and the reporting procedure, Shanthi Dairiam, a human rights advocate and former CEDAW Committee member, cites cases in which the interaction of the Committee's review of a State Party report and the national NGOs' use of the Concluding Comments has contributed to reform – for example, the 1992 reform of more than twenty discriminatory provisions in the Country Code (*Muluki Ain*) of Nepal,

[105] Holtmaat, 'Article 5' at 150.

[106] See generally Beth A. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge University Press, 2009).

changes to provisions of the Hindu Succession Act in India relating to inheritance, amendments to the Personal Status Code of Morocco in 2004 and amendments to laws in Kyrgyzstan on land rights in 2004.[107] Savitri Goonesekere, emeritus professor of law and former CEDAW Committee member, refers to the impact of the Committee's Concluding Comments on promoting the removal of discriminatory provisions in nationality laws in Fiji, Jamaica, Liechtenstein, Thailand, Burundi, India and Sri Lanka, as well as influencing reforms to family law in Fiji and the Maldives.[108] She concludes that 'the Committee's Concluding Comments on the need for a holistic review of family law, and its critique of discrimination, have clearly provided an impetus for many countries to repeal received colonial laws, transform customary laws, and initiate a process of local law reform based on commitments to CEDAW'.[109] There are many other cases in which civil society and other domestic actors such as National Human Rights Institutions have engaged with the reporting procedure and taken up CEDAW Concluding Observations or General Recommendations to support their own domestic advocacy, frequently bringing about change.[110] The Committee's jurisprudence under the Optional Protocol has begun to provide an additional resource in individual cases, but also more generally for advocates who wish to draw on the Convention in their domestic advocacy.

[107] Dairiam, 'From global to local' at 320–3.

[108] Savitri Goonesekere, 'Universalizing women's human rights through CEDAW' in *The Circle of Empowerment* at 52, 58.

[109] *Ibid*. at 60.

[110] See Ilana Landsberg-Lewis (ed.), *Bringing Equality Home: Implementing the Convention on the Elimination of All Forms of Discrimination against Women* (New York: UNIFEM, 1998) and Marilou McPhedran *et al*. (eds.), *The First CEDAW Impact Study: Final Report* (2000). For further instances, see the examples from twelve different countries and a review of the literature assessing impact in Andrew Byrnes and Marsha Freeman, *The Impact of the CEDAW Convention: Paths to Equality*, background paper prepared for the World Development Report 2012 (2011), available at: http://law.bepress.com/unswwps/flrps12/art7/ and http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2011655 (last accessed 23 January 2013).