

Concept Note

General Discussion on the protection of women's human rights in conflict and post-conflict contexts

Contents

Introduction.....	3
PART I:.....	5
Background & Scope of the General Recommendation	5
PART II:	11
Application of the Convention.....	11
PART III	15
Role of the Convention in advancing women’s human rights in post-conflict contexts.....	15
1. <i>Access to Justice</i>	18
2. <i>Women’s Participation in Peacebuilding Processes</i>	21
3. <i>Violence against women</i>	24
4. <i>Women’s Economic Opportunities in the post-conflict context</i>	28
Monitoring Implementation of the Convention	31
Expected outcomes of the General Discussion	34

Introduction

The Committee on the Elimination of Discrimination against Women (the Committee) decided at its forty-seventh session held in October 2010, pursuant to Article 21 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention), to adopt a general recommendation on the protection of women's human rights in conflict and post-conflict contexts.¹ Since its fifth session in 1986, the Committee has, through the adoption of general recommendations, contributed to the clarification and understanding of the substantive content of the Convention's articles and the specific nature of discrimination against women.²

The international community has attached particular significance to the protection of women during armed conflict, and called on Member States to adopt measures aimed at achieving women's meaningful participation in all conflict prevention, resolution and peacebuilding processes. Numerous reports on the impact of armed conflict and political strife on civilians have left little doubt of the endemic nature of violations of women's human rights, expressly articulating that while all civilians are affected by armed conflict and situations of political instability, women suffer disproportionately because of their sex and pervasive gender inequality. Other studies indicate that at the official cessation of hostilities and in transitional justice mechanisms instituted in the immediate aftermath of conflict, there has often been little or no accountability and redress for the full range of human rights violations suffered by women. Furthermore, there is ample evidence confirming that despite the numerous global commitments to end impunity for human rights violations and to address the gender-specific challenges related to post-conflict participation, women continue to be marginalized from conflict resolution processes and their priority concerns systematically excluded in post-conflict reconstruction agenda.

In assessing the nature of obligations imposed by the Convention, it is important to emphasize that women are not a homogenous group, and that their experiences of armed conflict and post-conflict contexts are further shaped by their multiple identities. In this respect, discrimination against women is compounded by other intersecting forms of discrimination, including but not limited to, discrimination on the basis of race, socio-economic status, colour, ethnic or social

¹ Convention on the Elimination of All Forms of Discrimination Against Women, adopted 18 Dec. 1979, entered into force 3 Sept. 1981, G.A. Res. 34/180, 34 UN GAOR, Supp. (n0. 46, UN Doc. a/34/46, at 193 (1979), reprinted in 19 ILM 33 (1980) Article 21(1) The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties

² Committee 1st – 12th sessions (October 1982 – February 1993) available at <<http://www2.ohchr.org/english/bodies/cedaw/cedaws1-12.htm>> To date, the Committee has adopted twenty-eight general recommendations available at: <<http://www2.ohchr.org/english/bodies/cedaw/comments.htm>>

origin, disability, religion, sexual orientation, age, refugee or other immigration status. It is furthermore essential to recognize that women are not always passive by-standers or victims, that in the diverse conflict and post-conflict contexts, women have historically and continue to express their agency as combatants, as part of organized civil society as human rights defenders, as members of resistance movements and as active agents in both formal and informal peacebuilding processes. Protecting women's human rights at all times, advancing substantive gender equality in the post-conflict context and ensuring that women's diverse experiences are fully integrated into all processes related to conflict resolution and peace building are important objectives of the Convention. It is clearly not possible to achieve these objectives without addressing gender discrimination and the root causes of inequality which impede women's access to and enjoyment of their fundamental human rights and freedoms protected under the Convention.

Against this backdrop, the proposed general recommendation will, building on principles articulated in previously adopted general recommendations, clarify the application of the Convention to situations of armed conflict and political crises; to prevention and resolution of conflicts and to the various complex peace-building and post-conflict reconstruction processes. By giving normative content to the relevant provisions of CEDAW, and considering how they relate to each other, the proposed general recommendation will outline the content of the obligations assumed by States parties and also make suggestions to non-State actors. The primary purpose of the proposed general recommendation is to provide authoritative guidance to States parties on the legislative, policy and other appropriate measures to ensure full compliance with their Convention obligations to protect, respect and fulfil women's human rights in conflict and post-conflict contexts.

This concept note has been prepared in anticipation of the Committee's global consultation on the proposed general recommendation scheduled for 18 July 2011 during its 49th session to be held in New York. The purpose of the note is to commence the discussion by providing preliminary information to interested parties in preparation of their written and oral submissions pursuant to the official notice issued by the Committee.³ The note provides an overview of both the legal context and the thematic areas which will inform the Committee's elaboration of the proposed general recommendation. It is not designed to be conclusive, but rather to serve as a foundation for discussion as the Committee embarks on its drafting process.

Part 1 of the note outlines the background and scope of the proposed general recommendation, and provides an overview of the gendered dimension of armed conflict and the rights violations which women are subjected during such times. Part II establishes the authoritative mandate of the Convention and provides information specific Articles of the Convention on specific relevant

³ General Discussion on women in conflict and post-conflict situations available at: <<http://www2.ohchr.org/english/bodies/cedaw/discussion2011.htm>>

to the proposed general recommendation. In Part III the note reflects on the role of the Convention in advancing women's human rights in post-conflict contexts. This section sets out thematic areas critical for the protection and advancement of women's human rights in post-conflict settings. At this initial stage of its process and in order to assist interested parties in preparation of their submissions and interventions on the day of general discussion, the Committee has addressed multiple concerns under four broad thematic areas and linked these concerns to the applicable substantive provisions of the Convention. The thematic areas include access to justice, women's participation in peacebuilding processes, violence against women and women's economic opportunities in the post-conflict setting. The note does not present an exhaustive list of thematic areas nor does it cover all the post-conflict areas of concern which must be addressed by the proposed general recommendation. Part IV concludes with an overview of the Committee's monitoring functions and its expectations of the Day of General Discussion scheduled for 18 July 2011.

PART I:

Background & Scope of the General Recommendation

The Convention is the authoritative legal instrument on women's human rights and a binding source of international law for those States that have ratified it, setting out the meaning of internationally recognized norms and standards of non-discrimination on the basis of sex and gender as well as containing provisions with far-reaching human rights guarantees in the civil, political, economic, social and cultural fields. To date, one hundred and eighty six (186) States have ratified the Convention and are therefore legally bound to implement its provisions.⁴ Subject to reservations, States parties have undertaken obligations to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the Convention.⁵ Recognizing that the Convention is applicable at all times, with the goal of eliminating of all forms of discrimination against women and achieving substantive equality, the proposed general recommendation will address the full range of women's human rights violations which occur during armed conflict and its role in protecting and advancing rights in the post-conflict context. The implementation of the Convention is monitored by the Committee on the Elimination of All forms of Discrimination against Women (the Committee).⁶

⁴ Status of ratification of the Convention <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en>

⁵ Article 24: States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention

⁶ Article 17 establishes the Committee, a body 23 independent experts that monitor the implementation of the Convention <<http://www2.ohchr.org/english/bodies/cedaw/index.htm>>

The proposed general recommendation will address violations occurring in international and non-international armed conflicts as well as in situations of extreme violence and internal disturbances which may not necessarily be classified as armed conflict in terms of international humanitarian law. It is important to note that such internal disturbances, for instance, the pre and post-election violence that has erupted in various contexts in the recent past and protracted and the low-intensity civil strife result in gross violations of women's human rights and are therefore of particular concern to the Committee. The fact that situations of occupation and domination lead to gross violations of the human rights of oppressed peoples and to humanitarian crises which disproportionately affect women has been recognized by the international community. Such situations are furthermore closely linked to crises of internal displacement, statelessness and the struggle of refugee populations with repatriation processes, which are of particular concern to the Committee.

While noting the diversity of conflicts and the complexity of bringing hostilities to an end, the Committee emphasizes that the transitional period and the multiple peace-building activities in the post-conflict context provide strategic opportunities for transformation in all areas of women's lives. In essence, a window of opportunity exists for societies emerging from conflict to develop and institutionalize legislative, policy and other measures that fully protect and advance women's human rights and to give meaning to concepts of *inter alia* accountability, human security, peace and justice and reparations. Bearing in mind women's multiple and diverse priorities in the post-conflict setting, the Committee emphasizes that all the substantive provisions of the Convention are not only applicable to societies emerging from violent conflict, but that their full and effective implementation by States parties will deliver the peace and justice dividends leading to the advancement of women. The proposed general recommendation therefore aims to give normative content to provisions of the Convention and articulate States party's obligations to address women's priority concerns in the post-conflict context. Recognizing the limited role of women in conflict prevention and resolution and their exclusion from formal peacebuilding processes, the general recommendation will address States parties' obligations under the Convention which directly relate to women's rights to representation and participation in the public and political life of the country.

While recognizing that civilians account for the vast majority of casualties in contemporary armed conflict, the international community has emphasized the unique and disproportionate impact on women and girls as well as the widespread impunity enjoyed by perpetrators in this context.⁷ Women and girls are particularly at risk because of their disadvantaged position in society, arising from pervasive gender inequality and discrimination: they are routinely targeted for rape and sexual violence which is used as a tactic of war; they bear the burden of poverty in

⁷ See for instance the Security Council Resolution 1674 S/RES/1674 (2006) on Protection of Civilians in Armed Conflict and Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women in 1995 with "women and armed conflict" as one of the critical areas of concern <<http://www.un.org/womenwatch/daw/beijing/platform/>>

all societies; they have limited or no access to education and employment and are less mobile because of the stereotypical traditional and reproductive roles. There is overwhelming evidence confirming that, in addition to the widely reported instances of sexual violence and mass rape in times of war, women experience widespread violations of non-derogable rights to life, torture, summary or arbitrary executions, displacement and gross violations of socio-economic rights.⁸

Armed conflicts exacerbate existing gender inequalities, placing women at a heightened risk of various forms of sexual and gender-based violence perpetrated by various actors in the armed conflict. Conflict related sexual and gender-based violence does not occur in a vacuum, it is always accompanied by the loss of livelihoods and destruction of family and community structures. Sexual and gender-based violence perpetrated in situations of armed conflict and foreign occupation and domination are violations of international human rights law, and international humanitarian law as embodied in the four Geneva Conventions of 1949 and the Additional Protocols of 1977.⁹ International humanitarian law establishes the rules applicable in times of armed conflict and is binding all parties to the conflict, including States, armed opposition groups as well as troops participating peacekeeping operations if they take part in active hostilities.¹⁰ There is a vast body of jurisprudence recognizing the application of international human rights law during armed conflict, which includes the full range of civil and political rights as well as economic, social and cultural rights, subject to legally permissible derogations.¹¹ Similar to the Committee's confirmation of the application of all Convention provisions to situations of armed conflict, other treaty bodies have also confirmed that certain socio-economic rights such as the right to water and to the enjoyment of the highest attainable standard of physical and mental health are non-derogable and States cannot justify non-compliance with core obligations.¹²

Most contemporary armed conflicts are not of an international character, but are rather internal in nature, protracted and involve insurgents, rebels and/or armed groups. Irrespective of the character (international, internal and cross-border), duration or actors involved, women are increasingly deliberately targeted for and subjected to various forms of violence and abuse ranging from arbitrary killings, torture and mutilation, sexual and gender-based violence, forced

⁸ See for instance *Women War Peace: The Independent Expert's Assessment on the Impact of Armed Conflict on Women and Women's Role in Peacebuilding* [2002] United Nations Development Fund for Women & *Women, Peace and Security* [2002] Study submitted by the Secretary-General pursuant to Security Council resolution 1325

⁹⁹ Geneva Conventions of 1949, Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Convention II for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Convention III Relative to the Treatment of Prisoners of War and Convention IV Relative to the Protection of Civilians in times of War, Additional Protocol I on the Protection of Victims of International Armed Conflicts & Additional Protocol II on the Protection of Victims of Non-International Armed Conflicts of 1977 available at <http://www.icrc.org/eng/war-and-law/treaties-customary-law/Geneva-conventions/index.jsp>

¹⁰ In respect of peacekeeping operations See Secretary-General's Bulletin, Observance by United Nations Forces of International Humanitarian Law, 6 August 1999 available at <http://www1.umn.edu/humanrts/instate/unobservance1999.pdf>

¹¹ See for instance International Court of Justice Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons Advisory Opinion 8 July 1996 [1996] ICJ Reports 226

¹² CESCR General Comment No 14 (2000) on the Highest Attainable Standard of Health E/C.12/2000/4 at para 47 and CESCR General Comment No. 15 on the Right to Water E/C.12/2002/11

prostitution, forced impregnation, forced termination of pregnancy and sterilization and internal and cross-border displacement.¹³ It is indisputable that while all civilians are adversely affected by armed conflict, it is primarily women and girls who are targeted by the use of sexual violence, 'including as a tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group' and that this form of sexual violence persists even after the cessation of hostilities.¹⁴ Conflict-related sexual violence happens everywhere and there are multiple perpetrators. It can happen in the home, detention facilities, and camps for displaced persons and refugees and can be perpetrated by members of government armed forces, paramilitary groups, peacekeeping personnel and civilians. In the recent past, international tribunals have been established to prosecute those responsible for serious international crimes to ensure access to justice for survivors of mass atrocities and to hold perpetrators accountable. The jurisprudence of the international ad-hoc tribunals of Rwanda (ICTR) and of the Former Yugoslavia (ICTY) offer good examples of judicial measures to end impunity for sexual violence.¹⁵ Most recently, the adoption of the Rome Statute establishing the International Criminal as a permanent tribunal for the prosecution of international crimes is recognized as a significant development in international criminal law since depending on the circumstances of the case, sexual violence can constitute a war crime, a crime against humanity, an act of torture or a constituent act of genocide.¹⁶ While recognizing the value of international prosecutions, it is critical that national judicial systems deliver justice and remedies for women survivors of sexual and gender-based violence. The lack of accountability for sexual violence perpetrated against women in times of armed conflict is a serious impediment for women's access to and enjoyment of the full range of civil, political, social and economic rights guaranteed by the Convention.

Trafficking in women, especially for the purposes of sexual exploitation is exacerbated during armed conflict due to the breakdown of political, economic and social structures and increased militarism during armed conflict.¹⁷ Women living in refugee or displaced persons camps are at risk to trafficking and slavery-like practices, often with little or no access to basic and essential services such as clean water, food or access to health care. Trafficking in women is gender-based discrimination which is exacerbated during and after the conflict perpetrated as part of deliberate military policies. Conflict and post-conflict situations may develop particular war related demand structures for women's sexual, economic and military exploitation. Thus, trafficking in women

¹³ Security Council Resolutions 1265(1999); 1296 (2000) and 1674 (2006) on the protection of civilians in armed conflict

¹⁴ Security Council 1674 S/RES/1820 focusing primarily on conflict-related sexual violence

¹⁵ International Criminal Tribunal for the Former Yugoslavia (ICTY) <<http://www.icty.org/sections/AbouttheICTY>> see for instance decision of the Trial Chamber of the ICTY, Prosecutor v Dusko Tadic Case No: IT-94-1-T & International Criminal Tribunal for Rwanda (ICTR) <<http://www.unictr.org>> see Prosecutor v Akayesu available at <<http://69.94.11.53/ENGLISH/cases/Akayesu/judgment/akay001.htm>>

¹⁶ Rome Statute establishing the International Criminal Court A/CONF.183/9 Done at Rome on 17 July 1998, entered into force on 1 July 2003 UN Treaty Series, Vol. 2187

¹⁷ See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 3 for definitions of trafficking and exploitation

<http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

may become an important element for war economies and for the economic profit of war actor.¹⁸ In general recommendation No 19 on Violence against Women, the Committee emphasized that wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which requires specific protective and punitive measures. The concrete forms of trafficking in women during conflict may vary depending on the region, the specific economic and political context and the military and civil actors involved. What is common is the extreme vulnerability of women and children living in war territories to being trafficked, in particular when the general level of violence against women is high.¹⁹

Armed conflict invariably leads to displacement of persons, either forcing people to flee across borders, making them refugees and asylum seekers, or forcing them to flee their homes and communities but remaining within their own countries rendering them internally displaced.²⁰ The 2010 report on internal displacement, notes that there were 27.5 million people internally displaced in approximately 40 countries as result of conflict and armed violence, noted as an exceedingly high number and reflecting the nature of contemporary armed conflicts.²¹ In respect of the support and protection needs of internally displaced persons, the report concluded, *inter alia*, that internally displaced persons experienced violations of their rights to physical security as they were routinely subjected to sexual violence, abduction and forced relocation; that discrimination prevented them from enjoying their rights to adequate housing, employment, education and health care and that these experiences of violence were compounded for women and female-headed households.²² Similar to other forms of violence during armed conflict, internal and cross-border displacement has specific gender dimensions. Independent experts have noted that in the context of armed conflict, the majority of internally displaced persons are women and children and that they are particularly vulnerable to violence and abuse while fleeing from the fighting as well as in displacement camps which in essence should offer them protection.²³ In view of their precarious living conditions on camps, internally displaced and refugee women are particularly at risk to sexual and other forms of violence, and lack of access to health care, education and economic opportunities. Women and children who have been forced to flee conflict zones are vulnerable to gender-based violence in general and to trafficking

¹⁸ Women, War and Peace (n5) International Alert (2002): *Gender Mainstreaming in Peace Support Operations: Moving Beyond Rhetoric to Practice*, London, pp. 19-22.

¹⁹ United Nations (2002), pp. 25-29, also United Nations Division for the Advancement of Women (UNDAW), *Trafficking in Women and Girls, Report of the Expert Group Meeting, Glen Clove, New York, USA, 18-22 November 2002*, p 6; at: www.un.org/womenwatch/daw

²⁰ See 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, 11 Feb 1998

²¹ Norwegian Refugee Council Internal Displacement Monitoring Centre *Global Overview of Trends and Developments in 2010* March 2011 available at: <<http://www.internal-displacement.org/publications/global-overview-2010>>

²² *Ibid* p 9

²³ See for instance report of the Special Rapporteur on Violence Against Women *Violence against Women perpetrated and/or condoned by the State during times of armed conflict* E/CN.4/2001/73

in particular.²⁴ Important contributing factors are the economic vulnerability of women, the existence of war and post-war economies built on criminal activities, and the absence of the rule of law leading to the enjoyment of flagrant impunity by perpetrators. Refugee camps have been recognized as a source for trafficking of women and in this respect, the trafficking is related to the existence of gender-based violence in the camps and male-dominated leadership structures that exposes women to exploitative situations, for instances by forcing them to “exchange” sexual favours for aid supplies²⁵. In addition to the heightened risks faced by internally displaced persons, refugees and asylum seekers, armed conflict can also be both a cause and consequence of statelessness, rendering women particularly vulnerable to various forms of abuse, both in the private and public domain.²⁶ Statelessness results in the widespread denial of fundamental human rights and freedoms, ranging from access to health care, employment and other socio-economic and cultural rights. In addition to being subjected to flagrant human rights abuses, women deprived of a nationality are excluded from political processes and from participating in government and governance of their country.

The total breakdown of State public and service provision infrastructure is one of the major and direct consequences of armed conflict leading to the lack of delivery of essential services to the population. In such situations, women are at the frontline of suffering – bearing the brunt of the socio-economic dimensions of the conflict. For instance, it is often women who suffer disproportionately from high unemployment rates and lack of access to education opportunities during civil strife, forcing many to work in illegal sectors and in primarily precarious situations – such as engaging in exploitative sexual transactions to access food for themselves and their families. The disruption of basic services during conflict also means inadequate access to essential services such as health care, including reproductive health services which happen at a time when women and girls are at a greater risk of getting pregnant and contracting sexually transmitted diseases, including HIV and AIDS as a result of conflict-related sexual violence. Women’s sexual and reproductive rights generally are completely compromised when they are subjected to sexual violence and other forms of sexual exploitation, suffering long term health consequences with little hope for physical and psychological health care if the health systems in the country have totally broken down. In its review of States parties’ reports under Article 18 of the Convention, the Committee has consistently expressed concern about the gendered impact of armed conflict on women, noting for instance, that women face heightened risk of violence, rape, humiliation and torture in areas where there are armed insurrections and that specific groups of women such as those living in rural areas, indigenous women, older women, those who have been internally displaced and refugee women face particular risks and suffering as a result of the discrimination they are already subjected to. In respect of violations of socio-economic rights,

²⁴ Human Rights Watch (2002): *Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*, Vol. 14. No. 9 (D) – November

²⁵ United Nations (2002): *Peace, Women and Security*, New York: United Nations, p. 22.

²⁶ Convention on the Reduction of Statelessness, done at New York on 30 August 1961 and entered into force on 13 December 1975 *United Nations Treaty Series vol. 989 p 175*

the Committee has repeatedly drawn attention to the highly negative impact of protracted armed conflicts on economic, health and educational infrastructure, which constitute particular obstacles for the empowerment of women as well as their right of access to health care services which are critical for survivors of sexual violence.

PART II:

Application of the Convention

The Convention is the primary anti-discrimination treaty protecting women's human rights at the international level. The unique and distinctive feature of the discrimination prohibited by the Convention and the nature of equality it aims to achieve is significant for the elaboration of the proposed general recommendation. Article 1 contains a broad definition of discrimination against women, which recognizes that women suffer both direct and indirect discrimination simply because they are women. Discrimination against women is defined as any intentional or unintentional distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of their human rights in the political, economic, social, cultural, civil or any other field.²⁷ This means that not only is direct discrimination prohibited, but laws, policies and programmes which are gender neutral can have a discriminatory impact on women therefore violate Convention rights. This principle is directly applicable to the consistent calls for the incorporation or inclusion of a gender perspective in all processes related to conflict prevention, resolution and peacebuilding. The Convention obliges States parties to ensure the achievement of both formal legal and substantive equality between men and women. In essence, this means that States parties are required to go beyond the adoption of laws, policies and programmes that facilitate equality before the law for men and women. The Convention is clear in stipulating *de facto* equality which States parties can achieve through the adoption of temporary special measures in terms of Article 4(1).

The Committee in its general recommendation No. 28 on the core obligations of States parties under article 2 of the Convention has recognized the impact and broad consequence of armed conflict on the enjoyment and exercise of by women of their fundamental human rights and emphasized that the obligations of States parties do not cease in periods of armed conflict or in states of emergency resulting from political events or natural disasters.²⁸ In respect of categories

²⁷ Article 1: For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field

²⁸ Committee General Recommendation No. 28 on Core Obligations of States Parties CEDAW/C/GC/28

of persons guaranteed protection under the Convention, the Committee reiterates that the obligations of States parties during armed conflict apply without discrimination both to citizens and non-citizens, including refugees, asylum seekers, migrant workers and stateless persons, within their territory or effective control, even if not situated within the territory of the State party.²⁹ The Convention imposes obligations on States parties to condemn discrimination against women in all its forms and to take all appropriate measures in all fields to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of all human rights and fundamental freedoms. It is important to recall that negative and positive obligations are imposed on States parties, which include:³⁰

The *obligation to respect*, requiring that “States parties refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights.

The *obligation to protect*, requiring that “States parties protect women from discrimination by private actors and take steps aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority of either sexes, and of the stereotyped roles of men and women.

The *obligation to fulfil*, requiring that States parties take a wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto, including where appropriate, the adoption of temporary special measures.

The implementation of the substantive provisions of the Convention is critical for the protection of women in situations of armed conflict; for ending impunity and providing redress for rights violations in the transitional period and for the advancement of women’s rights in all spheres in the post-conflict context. In addition to the text, annexes and other agreements and instruments between contracting parties, the context of the treaty is also comprised of the preamble.³¹ The preamble to the Convention articulates the context to which the proposed general recommendation is responding, emphasizing the specific factors relating to armed conflict which hinder the enjoyment of substantive equality for women. In setting forth the guiding principles for the interpretation of the entire treaty, the preamble states that despite an extensive array of international human rights treaties and declarations promoting equality between the sexes, ‘extensive discrimination against women continues to exist’, and that the full and complete development of a country requires maximum participation of women in all fields.

²⁹*Ibid* para 12

³⁰ Committee General Recommendation No. 28 (n28) para9

³¹Vienna Convention on the Law of Treaties Done in Vienna on 23 May 1969, entered into force on 27 Jan 1980 U.N. Treaty Series, Vol. 1155 p331 Article 31 *General rule of interpretation*

Article 31 *General rule of interpretation* – A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context (text, preamble and annexes) and in the light of its object and purpose

In addition to the framework provisions under Article 1, the Convention contains unique substantive provisions which are especially significant for the protection and advancement of women's human rights in situations of armed conflict and in post-conflict contexts. For instance, obligations which are imposed on States parties' in terms of Article 2(e) to eliminate discrimination against women perpetrated not only by State agents, but also those acts perpetrated by non-state actors, including private individuals, organizations and enterprises. Articles 5 (a) and 2(f) oblige States parties to modify and abolish social attitudes and cultural practices and patterns that are based on the inferiority or superiority of either sex which hinder the enjoyment of equality for women.

The Convention imposes obligations on State parties to 'suppress all forms of trafficking in and exploitation of prostitution of women', practices which are exacerbated by armed conflict. The immediate aftermath of conflict provides a strategic opportunity for States parties to adopt legislative and policy measures to eliminate discrimination against women in the political and public life of the country and to ensure that women have equal opportunities to participate in the formal structures of the new government by ensuring women's political participation.³² In terms of Article 3 of the Convention, obligations are imposed on States parties to give the same priority to ensuring women's access and enjoyment of all social and economic rights as well as civil and political rights.³³ In this regard States parties are obligated to adopt laws, policies and any other measures which will ensure the equal enjoyment by women's of human rights in all fields, including political, economic, social and cultural fields and their advancement in these particular areas. Women's social and economic priorities in the post-conflict setting may include for instance access to health care and services (article 12); training, education (article 10) and employment opportunities (article 11). Specific protection is guaranteed to persons who have been displaced, rendered stateless or have become refugees or asylum seekers by entrenching women's rights to a nationality, movement and choice of domicile (Article 9 & 15(4)).³⁴ For the purposes of the proposed general recommendation, the Committee has noted that nationality plays a critical role in facilitating women's full and participation in society and that lack thereof deprives women not only of the right to vote or stand for public office, it also denies women access to public benefits and a choice of residence.³⁵ Furthermore, Article 14 calls on States parties to address the particular problems faced by rural women and to take all appropriate measures to eliminate discrimination suffered by this group. In numerous concluding observations to States parties' reports, the Committee has noted the precarious situation faced by rural women generally, such as the high incidence of poverty; low levels of literacy; lack of access to health care services to income generation opportunities and generally insufficient legal protection. In the context of armed conflict, women living in rural areas are at a high risk of

³² Article 7 and 8

³³ Article 3

³⁴ Articles 9 and 15(4)

³⁵ Committee General Recommendation No. 21 (13th session, 1994) para 6

violence and abuse by different parties to the conflict. Article 14 provides an important framework for protecting and advancing women's rights in the post-conflict environment.

In the final analysis, the Convention's pre-ambular paragraphs and substantive provisions establish the requisite normative framework for the full protection of women in armed conflict and advancement of their fundamental human rights in post-conflict contexts.

Central to the advancement and protection of women's human rights in the immediate aftermath of conflict and in the long-term post-conflict setting is their ability to effectively and meaningfully participate in the public and political life of their country. The Committee has underscored the importance of gender-disaggregated data, in numbers and percentages, in order to understand and develop appropriate responses to the situation of women in specific countries.³⁶ Disaggregated data is critical for collecting and analyzing information on women's experiences during armed conflict and for developing appropriate legislative and policy responses in the post-conflict context to ensure women's full and meaningful participation. In general recommendation No. 6 adopted in 1998, the Committee noted the importance of adequately funded and effective national gender machinery.³⁷ Taking this principle further, the Committee in reviewing States parties reports, has emphasized the important role of functional and adequately funded independent national gender machineries in post-conflict contexts; especially when they legislative mandates and powers to monitor the human rights situation of women, to contribute to the development of laws and policies to end all forms of discrimination against women and to advance gender equality and the empowerment of women.³⁸

The Convention contains important provisions for advancing gender equality and facilitating women's participation in all governance processes in the post-conflict context. These include but are not limited to the adoption of temporary special measures (Article 4(1)), women's political participation the political and public life of the country (article 7) and women's right to represent their countries at international level (Article 8). Recognizing that the generalized exclusion of women from political participation has the effect of silencing and marginalizing women's experiences and contributions to the development of their countries, the Committee adopted general recommendation No. 23 on women's political participation³⁹ In 2004 the Committee adopted general recommendation No. 25 on temporary special measures under article 4(1), confirming therein that 'States parties are required to go beyond a strictly formal legal approach in pursuit of the goal of substantive equality and adopt targeted and effective strategies aimed at overcoming the underrepresentation of women and a redistribution of resources and power between men and women.'⁴⁰ In post-conflict contexts, temporary special measures are an

³⁶ Committee General Recommendation No. 9 on Statistical data adopted at eighth session (1989)

³⁷ Committee General Recommendation No. 6 on Effective National Machinery and Publicity adopted at seventh session (1988)

³⁸ Committee General Recommendation No. 6 on Effective National Machinery and Publicity adopted at seventh session (1988)

³⁹ Committee General Recommendation No. 23 adopted at sixteenth session in (1997)

⁴⁰ Committee General Recommendation No. 25 on article 4 paragraph 1 on temporary special measures

important tool available to States parties to assist them in fully complying with their obligations under the Convention generally, in particular to obligations under articles 7 & 8 relating to women's political participation. With regard to women and health, the Committee has affirmed that access to health care, including reproductive health is a basic right under the Convention, and that States parties should ensure that adequate protection and health services, including trauma treatment and counseling, are provided for women in especially difficult circumstances, such as those trapped in situations of armed conflict, women refugees.⁴¹

PART III

Role of the Convention in advancing women's human rights in post-conflict contexts

The post-conflict context offers strategic opportunities to entrench principles and values of equality, human dignity and respect for fundamental human rights by establishing the necessary State infrastructure for the delivery of basic physical, legal and economic security to the population, and building confidence in the new political processes of the country.⁴² These objectives are achieved primarily through formal peace processes, which include activities related to conflict resolution, the drafting of peace agreements and defining the priorities for the post-conflict State. While there is global recognition of women's diverse involvement in armed conflict and the many leading roles that women have played to varying degrees in both formal and informal peace processes at local and national levels, in many post-conflict contexts women continue to be marginalized and their priority concerns excluded in peacebuilding initiatives.

The meaningful and equal participation of women and the incorporation of a gender perspective in all conflict resolution and peacebuilding processes have been recognized as a critical component for the maintenance of peace and security. For instance, the UN Security Council has since the beginning of the decade adopted a series of thematic resolutions relevant to the protection of women, the prevention of armed conflict and women's participation in peacebuilding processes, including resolution 1325 which was unanimously adopted on 31 October 2000.⁴³ The Secretary-General's report on the implementation of resolution 1325 concluded that there continued to be significant gaps and challenges in almost all aspects related to women, peace and security in conflict-affected and post-conflict countries.⁴⁴ It has been especially noted that while there has been some progress in implementation, it is fairly limited and there are significant gaps and challenges relating to the inclusion of women's rights and needs in peace

⁴¹ Committee General Recommendation No. 24 on women and health adopted at twentieth session (1999)

⁴² Report of the Secretary-General on Peacebuilding in the Immediate Aftermath of Armed Conflict A/63/881-S/2009/304

⁴³ Resolution 1325 adopted by the Security Council at its 4213th meeting S/RES/1324

⁴⁴ Report of the Secretary-General on Women and peace and security of 28 September 2010 (S/2010/498)

agreements and in the budgets of post-conflict states and that sexual and gender-based violence continue unabated even after the signing of peace agreements.⁴⁵ Furthermore, a study on the impact of Security Council resolution 1325, specifically on progress made in the adoption of a gender perspective in negotiating and implementing peace agreements, concluded that only 16 per cent of peace agreements contain references to women.⁴⁶ The 2010 *report of the Secretary-General on Women's participation in Peacebuilding* expressly states that in the immediate aftermath of conflict, **'Peacebuilders must address all forms of injustice, including gender inequality and discrimination on the basis of sex and must ensure that international human rights standards are upheld, including the Convention on the Elimination of Discrimination against Women, which reaffirms women's full entitlement to all civil, political, economic, social and cultural rights'**.⁴⁷

The Committee recognizes that the various thematic resolutions of the Security Council are important political frameworks for advancing advocacy on women, peace and security, particularly as reference is repeatedly made to the legal obligations on all parties to armed conflict under the Convention, in addition to other international instruments.⁴⁸ Furthermore, all the areas of concern addressed in the numerous thematic resolutions of the Security Council find expression in the substantive provisions of the Convention as the binding source of international law.⁴⁹ The proposed general recommendation aims to situate the numerous global commitments relating to the protection of women in times of conflict and advancement of their human rights post-conflict situations in a wider context of equality and non-discrimination in international human rights law. Once the conflict has ended, different countries and regions will have their own context specific priorities, ranging from the need to ensure physical and legal security; disarmament, demobilization, reintegration of former combatants; return and reintegration of internally displaced persons and refugees; strengthening the rule of law and establishing functional political and electoral processes.⁵⁰ In addition to these priorities, which are central to the advancement of women's human rights, the concluding observations of the Committee to post-conflict States parties further illuminate the critical issues confronted by women in this context. In this regard, the Committee has consistently called for the equal and meaningful participation of women in all processes related to post-conflict reconstruction and expressed concern in relation to the following recurring themes:

⁴⁵ Women Count for Peace *The 2010 Open Days on Women, Peace and Security* United Nations September 2010 report available at <http://www.un.org/en/peacekeeping/documents/1325_open_day_report.pdf>

⁴⁶ C Bell & C O'Rourke *Peace Agreements or Pieces of Paper? The Impact of the UNSC Resolution 1325 on Peace Processes and their agreements ICLQ* vol. 59, October 2010 pp 941 -980 See also Final Report of the United Nations Department of Peacekeeping Operations, Department of Field Support *Ten-year impact study on implementation of UN Security Council Resolution 1325 (2000) on Women, Peace and Security in Peacekeeping* available at: <http://www.un.org/en/peacekeeping/documents/10year_impact_study_1325.pdf>

⁴⁷ Report of the Secretary-General on Women's participation in peacebuilding A/65354-S/2010/466

⁴⁸ Security Council resolution 1325 para 9

⁴⁹ See UNIFEM Quick Guide on CEDAW and Security Council Resolution 1325 Women Peace and Security available at: <http://www.unifem.org/attachments/products/CEDAWandUNSCR1325_eng.pdf>

⁵⁰ Secretary-General Report (n50) para 8

- The limited involvement of women in the formal decision-making processes in most post-conflict countries;
- The low representation of women, including women from ethnic minorities in appointed bodies and government structures at high levels and in decision-making positions, including diplomatic service;
- In the post-war transition period, the promotion of women's human rights and gender equality is not seen as a priority, in particular, in efforts to address the consequences of the armed conflict and in peacebuilding and reconstruction processes;
- Routine failure or unwillingness of States parties' to adopt measures to include women in all political, economic and social transformation processes;
- Failure to conduct gender analyses of the consequences of the armed conflict and of assessing the gender-specific implications of peace, reconstruction and transformation processes; and
- the fact that participation and involvement of women in the post-conflict reconstruction and social-economic development may not be fully realized owing to deeply entrenched stereotypes and gender-based violence, as well as other forms of discrimination.

The Committee's general recommendation No. 28 provides important guidance for understanding the nature and scope of States parties' obligations in post-conflict contexts generally and for specifically addressing the challenges set out above. In the immediate aftermath of conflict, it is imperative that information on the impact of the armed conflict on women is collected and analysed to ensure that appropriate and protective legislative and policy responses are implemented. In this regard, States parties are obligated to assess the de jure and de facto situation of women and thereafter take concrete steps to fully eliminate discrimination.⁵¹

The obligations imposed on States parties to condemn and pursue a policy to eliminate discrimination are both immediate and continuous in nature and there can be no delay or incremental approach to their fulfillment and neither can political, social, cultural, religious or economic constraints be used by States parties to justify any delay. Significantly, the obligation to fulfil requires States parties to facilitate access to and provide for the full realization of rights by adopting all measures, including where appropriate, the adoption of temporary special measures.

⁵¹ General Recommendation No. 28 (n35)

1. Access to Justice

Reports on the impact of conflict have left little doubt about the endemic nature of violations of women's human rights: - that the most egregious and pervasive violations occur during armed conflict, that they are almost always unpunished in transitional justice contexts and are ultimately normalized in the post-conflict environment. Women's experiences of the transitional period and post-conflict setting are influenced by the global phenomenon of discrimination on the basis of sex and acquiescence of gender-based violence as the norm – even during peace time. In the last decades, women's human rights advocates have presented overwhelming evidence of the gendered nature of armed conflict, provided critical analyses of the gender bias and/or deficit inherent in transitional justice processes and demonstrated how this bias ultimately contributes to the creation of highly gendered post-conflict societies.

When political conflict comes to an end, or when a totalitarian regime collapses, society is confronted with the complex task of 'dealing with the past'. This involves the need to hold human rights violators accountable for their actions; putting an end to impunity, restoring the rule of law, addressing the needs of survivors (including socio-economic needs) through the provision of justice accompanied by reparations and dealing with the root causes of the conflict so as to reconstruct a society with due regard for human rights principles and respect for human dignity. To achieve these multiple objectives, temporary judicial and/or non-judicial mechanisms are instituted in the immediate aftermath of conflict. Transitional justice mechanisms may include trials, truth commissions, hybrid international courts, vetting and lustrations whereby those involved in past violations are prohibited from holding key leadership positions in the State.⁵² The goal of transitional justice is to address the legacy of human rights abuses and facilitate the transition from conflict or authoritarian rule to democratic governance and institutionalization of State machinery designed to protect and advance fundamental human rights and freedoms. The mechanisms should ideally offer means of ensuring accountability for widespread abuses and gross violations of human rights and humanitarian law perpetrated during armed conflict; deliver justice, closure and reparations to survivors and deal with the root causes of the conflict so as to ensure non-repetition and build lasting peace. Truth commissions, as one of the commonly utilized official non-judicial fact-finding bodies that investigate gross human rights violations after conflict, play a significant role in facilitating the production of an official record of the human rights violations of the past, healing divisions and building reconciliation.

While there is global recognition of the endemic nature of gender-based violence during armed conflict, in many contexts transitional justice mechanisms have and continue to fail women by not adequately delivering justice or reparations for harms suffered and entrenching the flagrant

⁵²Ruti Teitel *Transitional Justice* Oxford University Press 2000 In the 20th, See also <<http://ictj.org/about/transitional-justice>>

impunity enjoyed by perpetrators of women's human rights violations.⁵³ Given that transitional justice mechanisms, through their creation of an official historical record of the past, play an important role in laying the foundation for the new society, it is important to emphasize that women in transitional contexts have a legitimate expectation that their experience of the conflict will be included, the violations they experienced addressed, including the structural gender inequalities that result in discrimination. For the majority of women, transformation is not to be limited to access to structures of political power or only ending violations of civil and political rights – transformation also means access to and enjoyment of socio-economic rights, violations of which may in fact have been the root cause of the conflict. Failure to address socio-economic rights violations amounts to a failure to deal with the past, to acknowledge the harmful impact of conflict and to hold perpetrators accountable.⁵⁴ Therefore, to be effective, transitional justice mechanisms must fully embrace the interdependence and interrelatedness of human rights by addressing all civil, political and social and economic rights violations occurring during conflict, including pervasive gender inequality and all forms of discrimination against women.

It is important to emphasize that transitional justice mechanisms, which are often introduced into generally unequal, patriarchal and heteronormative societies, always have serious implications for the extent to which women's human rights can be fulfilled, promoted and protected in the post-conflict setting. Whatever the form of justice pursued and mechanism adopted to facilitate the move from violent conflict to peace, women will always be implicated. It is therefore important to consider the various ways in which the transitional period provides an opportunity for full legal and political transformation of a society. It is during this period that the application of the Convention in the post-conflict setting can be entrenched to provide maximum legal benefits and protection for women. Concepts such as justice, rule of law, accountability, post-conflict, rehabilitation, amongst others, must be clarified based on women's experiences and needs and in accordance with the Convention. There can be no assumption that these concepts, as applied in the liberal and dominant transitional justice discourse, reflect women's experiences, concerns and expectations of the post-conflict environment. Furthermore, violations of socio-economic rights, which are grossly under-explored / unexamined and unaccounted for in transitional contexts, must be considered to enable the Convention's potential contribution to the development and application of a broader conception of transitional justice: one that goes beyond the limited and privileged violations of civil and political rights and deals with the pervasive denial of socio-economic rights and structural inequality which are a significant contributor to modern conflicts. The Committee has, in its concluding observations, reiterated the obligations of States parties' to address poverty, poor socio-economic conditions, the destruction of

⁵³ Fionnuala Ni Aolain and Eilish Rooney 'Under-enforcement and Intersectionality: Gendered Aspects of Transition for Women' *International Journal of Transitional Justice* Vol. 1 No. 3 2007 S N Anderlini, CP Conaway & L Kays 'Transitional Justice and Reconciliation' <http://www.womenwagingpeace.net/content/toolkit/chapters/Transitional_Justice>

⁵⁴ Mahmood Mamdani 'The Truth According to the TRC' p 176 in *The Politics of Memory: Truth Healing and Social Justice* (ed) I Amadiume & A An-Naim Zed Books 2000.

educational and health infrastructure caused by armed conflict and the importance of including all forms of gender-based violence in transitional accountability mechanisms.

It is a general principle of international law that States have an obligation to prevent violations, and where they have already occurred, to effectively and promptly investigate and take action against those allegedly responsible.⁵⁵ In the context of armed conflict, victims have a right to remedies for violations of international human rights and international humanitarian law which include equal and effective access to justice; adequate, effective and prompt reparation for harm suffered and access to relevant information concerning violations and reparations mechanisms.⁵⁶ The Basic Principles and Guidelines of 2005 establish the framework on the obligation of States to provide adequate, effective and prompt reparations to victims for acts which can be attributed to the State and which constitute gross violations of international human rights law or serious violations of international humanitarian law.⁵⁷ The Committee notes that the Special Rapporteur on Violence against Women has addressed the topic of reparations for women emerging from widespread conflict, making a series of important recommendations in this regard, in particular that reparation measures should be transformative and go beyond the fairly limited and traditionally conceived catalogue of violations of civil and political rights, but also address gender-specific violations.⁵⁸

It is equally important to carefully consider the role of traditional or indigenous justice mechanisms in facilitating access to justice for women in the immediate aftermath of conflict. In many countries emerging from violent conflict, the formal national legal system and institutions may have been completely destroyed or lost all legitimacy because of the role of the legal institutions and security sector during the conflict. Even in countries where there is financial and other support from the international community, the formal legal system may still lack the capacity to adjudicate cases related to the gross violations of international human rights law and serious violations of international humanitarian law that occurred during the armed conflict. Where the traditional or indigenous justice systems are available to facilitate access to justice for women survivors of armed conflict who may not be otherwise able to gain access to formal national courts, it is critical that systems also comply with international human rights standards, by integrating gender equality and non-discrimination principles of the Convention, in all its practices.

Article 2 of the Convention, which contains the core obligations undertaken by States parties', establishes an important framework for delivering justice and reparations to victims and survivors of the armed conflict. Article 2 (c) and (d) of the Convention mandates

⁵⁵ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted and proclaimed by GA Res 60/147 of 16 December 2005 <<http://www2.ohchr.org/english/law/remedy.htm>>

⁵⁶ Ibid VII Victims right to remedies

⁵⁷ Forms of reparations include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition

⁵⁸ Report of the Special Rapporteur on Violence Against Women, Reparations for Women subjected to violence A/HRC/14/22

States parties to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and any other public institutions the effective protection of women against any act of discrimination and to ensure that public authorities do not engage in any act of discrimination. In its general recommendation No. 28 the Committee stated that the obligations imposed on States parties by Article 2 (b) of the Convention requires that States parties provide reparation to women whose rights have been violated. Gender-based violence, which is discrimination within the meaning of Article 1 of the Convention, impairs and nullifies the enjoyment by women of the human rights and fundamental freedoms, including the right to equal protection under the law provided for under Article 15(1) of the Convention. **The Convention under Article 15(1) mandates States parties to accord women equality with men before the law**, which necessarily implies that women are entitled to equal benefit and protection of the law, a legal entitlement which is critical in the transitional justice context.

2. Women's Participation in Peacebuilding Processes

To halt political violence, parties to the armed conflict, sign peace agreements to commence the process of creating security and primarily political stability. In general terms, the purpose of a peace agreement is to agree on the terms on which to end violent political conflict, replacing authoritarian rule with democracy and constitutionalism and most significantly, designing the frameworks aimed at power-sharing between the various parties to conflict. Peace agreements have been defined as instruments which provide for detailed power maps as to the internal configuration of States, revolving around state redefinition, disaggregation of power and dislocation of power.⁵⁹ As this stage the State redefines both its nature and purpose, using constitutional language, articulating inclusiveness and democratic accountability and creating the foundation for a new relationship with the people'. To give effect to this new purpose, institutional bodies are created such as an independent judiciary and other law enforcement mechanisms to uphold the rule of law, including robust human rights machinery.

At the cessation of hostilities, the negotiation, drafting and signing of a peace agreement provides an opportunity for the creation of a post-conflict society which entrenches, in its new legal system and State structures, the respect for, protection and fulfillment of women's human rights. Peace agreements are context-specific and prior to drafting, it is important to have a clear understanding of the status of women in that context and ensure that the adopted text makes

⁵⁹C Bell *On the Law of Peace – Peace Agreements and the Lex Pacificatoria* (Oxford University Press 2000)

explicit reference to women's experiences of the armed conflict and contains language that expressly creates an environment for the protection and advancement of women's human rights. Considering that the objective of a peace agreement is to create territorial, human and legal security, the silence in peace agreements on the position of women perpetuates and institutionalizes their marginalization in post-conflict and peace-building processes.⁶⁰ Furthermore, activities such as the reform of the security sector and demobilization, disarmament and reintegration programmes, which have serious implications for the protection of women's human rights in the post-conflict setting, are addressed in peace agreements.

The negotiation and drafting of peace agreements, provided that women have full and meaningful participation and depending on the nature and purpose thereof, provide States parties with an opportunity to comply with core obligations under Article 2 of the Convention to eliminate all forms of discrimination against women. This is an opportune time to establish a legal framework to protect and advance the human rights of women in the post-conflict State. To achieve these objectives, peace agreements must incorporate human rights norms and standards by making reference to international human rights law and its role in the new State, expressly provide for non-discrimination on the basis of sex and gender in the Constitution, include guarantees of economic, social and cultural rights and their justiciability in national courts and establishing independent human rights monitoring institutions. A peace agreement should also incorporate provisions designed to ensure that the legal infrastructure of the country ensure respect for the rule of law, build in participatory law reform processes, the independence of the judiciary (generally separation of powers) and expressly provide for women's participation in key leadership positions as well as in all aspects of governance in the country.

Article 5(a) is a unique provision of the Convention which requires States parties to modify cultural patterns of conduct which inhibit the advancement of women's substantive equality. While there are many context specific harmful cultural practices, the stereotyping of women exclusively as mothers and housewives in ways that limits their equal and meaningful participation in the political, economic and public of the country is a globally pervasive harmful practice. The provisions of Article 5 read together with Article 2(f) protect women's rights to equality by obligating States parties to take all appropriate measures, including the adoption of legislation to all practices, customs, regulations which constitute discrimination against women. The cumulative impact of the provisions of Articles 2(f) and 5(a) of the Convention is that an important legal framework is available to address harmful cultural and traditional barriers to gender equality.

⁶⁰ C Chinkin 'Peace Agreements as a Means for Promoting Gender Equality and Ensuring Participation of Women' EGM/PEACE/2003/BP.1 31 October 2003

Articles 7 and 8 of the Convention provide the normative framework for advancing women’s equal and meaningful participation in all processes related to conflict prevention, resolution and the maintenance and promotion of peace. Article 7 (a) – (c) obligates States parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and to ensure that women have the equal right to vote in elections and to participate in the formulation of government policy. Article 8 places an obligation on States parties to ensure to women the opportunity to represent their governments at the international level and to participate in the work of international organisations. Women’s equal, meaningful and effective participation in the various branches of government, their appointment in leadership positions in government sectors and their ability to participate as active members of civil society is one of the prerequisite for creating a society with lasting democracy, peace and gender equality. Outlining the many factors which impede women’s political participation generally, the Committee in its general recommendation no. 23 recognized that in times of political crises, the generalized exclusion of women from political participation has the effect of silencing and marginalizing women’s experiences and contributions.⁶¹ The provisions of Articles 7 & 8 of the Convention are central to ensuring that women participate in formal conflict resolution processes, that they are active participants in the drafting and adoption of peace agreements and the formation of the new government. Full and effective compliance by States parties with these provisions will put an end to the exclusion and marginalization of women in formal peace processes.

Article 4 of the Convention provides for the adoption of temporary special measures aimed at accelerating de facto equality between men and women, expressly providing that the adoption of such measures shall not be considered discrimination. To achieve the promise of full equality for women, States parties are required to go beyond a strictly formal legal approach in pursuit of the goal of substantive equality and adopt targeted and effective strategies aimed at overcoming the underrepresentation of women and a redistribution of resources and power between men and women.⁶² The Committee has explained that the purpose of article 4(1) ‘is to accelerate the improvement of the position of women to achieve their de facto or substantive equality with men, and to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, as well as to provide them with compensation. The signing of peace agreements to resolve armed conflict and commencing the reconstruction processes and establishment of democratic political structures and institutions that protect fundamental human rights, provides States parties with a strategic opportunity to advance gender equality in the new State. Implementing article 4(1) is instrumental if States parties intend to ensure the increased representation of women in institutions and mechanisms for the prevention, management and resolution of conflict. The use of temporary special

⁶¹ General Recommendation No. 23 (16th session, 1997) available at <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23>>

⁶² CEDAW General Recommendation No. 25 para 8

measures provided for in article 4(1) of CEDAW is a potent tool which can be used by States parties to fully comply with their obligations under CEDAW, in particular, the obligations under articles 7 & 8 on political participation discussed above.

3. Violence against women

For the majority of women in post-conflict environments, the violence does not stop with the official ceasefire or the signing of the peace agreement. The Committee acknowledges the many reports confirming that while the forms and sites of violence do change, so that although there may no longer be official political violence, domestic and sexual violence against women escalate in the post-conflict setting. In the *In-depth study on all forms of violence against women*, the Secretary-General states that ‘there are extensive reports of murder, torture and other cruel, inhuman or degrading treatment or punishment, abductions, rape, sexual slavery, involuntary disappearances and all manner of violations of sexual and reproductive rights in both conflict affected and post-conflict countries’.⁶³ It is therefore imperative to reflect on the application of the substantive provisions of the Convention to the continuity of violence during ‘peace time’ and contributing to end impunity for violations of women’s human rights.

As noted above, during armed conflict women and girls are routinely targeted by the use of sexual violence and this violence often persists after the cessation of hostilities. The Secretary-General’s report on the implementation of resolutions 1820 and 1889 on conflict-related sexual violence recognized that: the particular risk and vulnerability to sexual violence faced by internally displaced persons and refugees; the fact that sexual violence impedes women’s equal and meaningful participation in political processes of the country and that for various reasons such as ineffective disarmament and demobilization processes and a culture of impunity, sexual violence against women persists in the post-conflict context.⁶⁴ Compounding the impact of sexual violence are the aggravating health risks associated with this extreme form of abuse. The contraction of STIs, including HIV/AIDS, unwanted pregnancies, complications due to difficult labor and delivery (as a result of the sexual trauma), long-term effects on reproductive capacity for women and girls exposed to violent sexual abuse – all of these threats to women’s health are exacerbated in a post-conflict setting where infrastructure and technical expertise may be decimated or unavailable. Moreover, because of the stigma so often faced by women and girls as a consequence of rape and sexual violence, survivors may resist seeking care, even when suffering with severe, even life-threatening health problems. In environments where HIV prevalence is high, targeted sexual violence, mass rape, and trafficking of women and girls to

⁶³Secretary-General In-Depth Study on All Forms of Violence Against Women A/61/122/Add.1 available at <<http://www.un.org/womenwatch/daw/vaw/violenceagainstwomestudydoc.pdf>>para 143 – 146 *Violence against Women in Armed Conflict*

⁶⁴Report of the Secretary-General on the implementation of Security Council resolutions 1820 (2008) and 1888 (2009)

serve combatants may result in inordinately high transmission rates. Again, the lack of resources to appropriately care for HIV-positive women and girls in post-conflict settings translates into additional burdens suffered. Finally, the movement of people in the aftermath of conflict also poses challenges to the provision of care to those subjected to sexual violence and affected by continuing negative health effects. In the examination of post-conflict States parties' reports, the Committee has consistently expressed grave concern about sexual violence perpetrated against women during armed conflict and issued precise recommendations to States parties to ensure the maximum legal protection, access to health care services and other socio-economic benefits for women survivors of violence.

While the UN has initiated various strategies and institutionalized a series of mechanisms to respond to allegations of sexual violence in peacekeeping operations, these interventions have enjoyed limited success in eliminating the scourge of sexual abuse and exploitation perpetrated by members of UN peacekeepers and other personnel. As evidenced by the latest DPKO report titled "Ten-year Impact Study on Implementation of UN Security Council Resolution 1325 (2000) on Women, Peace and Security in Peacekeeping", there has been an increase in the number of allegations of sexual exploitation and abuse against staff in 2009 compared to 2008.⁶⁵ In assessing the extent to which the activities of peacekeeping missions contributed to preventing and protecting women and girls against sexual and gender-based violence, the study concluded that prevalence remains widespread and common in many of the countries which were reviewed. Sexual exploitation and abuse committed by peacekeepers in the course of the protection work carried out through peacekeeping operations in conflict-affected countries is in clear violation of the provisions of the Convention.

An additional issue of concern for the Committee is the fact women are subjected to various forms of violence, abuse and exploitation in the context of peacekeeping operations. United Nations military and civilian peacekeepers have an important role to play in the restoration of peace and security in conflict-affected States, particularly in the immediate aftermath of conflict.⁶⁶ Since peacekeeping missions are deployed in contexts where often government and public institutions designed for ensuring accountability have broken down and the rule of law is absent, impunity enjoyed by peacekeeping forces for alleged rights violations ranging from sexual exploitation of women and children, rape and trafficking to murder and fraud is an issue of major concern for the Committee. Rape, sexual violence and exploitation, occurring during conflict, in the immediate aftermath of conflict or during peacetime and whether perpetrated by State or non-State actors, violates universally recognized international legal norms and standards. The mandate of UN peacekeepers to protect civilians expressly extends to the obligation to

⁶⁵ Ten-Year Impact Study on Implementation of UN Security Council Resolution 1325 (2000) on Women, Peace and Security, *Final Report to the United Nations Department of Peacekeeping Operations, Department of Field Support* available at <http://www.un.org/en/peacekeeping/documents/10year_impact_study_1325.pdf>

⁶⁶ The mission of the United Nations Department of Peacekeeping Operations available at <<http://www.un.org/en/peacekeeping/info/mission.shtml>> (accessed on 17 Nov 2010)

prevent and effectively respond to conflict-related incidents of sexual violence. Regrettably, not only has this obligation not been fulfilled, but there are numerous reports suggesting that peacekeepers themselves, in clear violation of universally recognized international norms and standards, have been involved in committing acts of sexual violence in conflict affected regions. In October 2003, the UN Secretary-General issued a Bulletin on “Special measures for protection from sexual exploitation and sexual abuse (SEA)”.⁶⁷ The Bulletin applies to all staff members of the United Nations, including forces conducting UN operations, not only prohibiting them from committing acts of sexual exploitation and abuse; but furthermore reinforcing the particular duty of care that peacekeeping forces have towards women and children pursuant to article 7 of the 1999 Bulletin on international humanitarian law.⁶⁸

It is important to understand the particularities of trafficking for the purpose of sexual exploitation in both the armed conflict and post-conflict contexts and to identify the unique forms and dimensions of conflict-related trafficking and exploitation of prostitution. While the forms of trafficking and the purposes for which women are trafficked vary in different countries and regions, what they all have in common is the high risk faced by women, particularly displaced women and girls who have been displaced. Post-war regions and societies can be areas of origin, destination and transit of trafficking in women. After the formal end of fighting, post-war regions often display a high level of political instability, criminal activities and violence with law enforcement institutions still dysfunctional, offering criminal networks ideal trafficking conditions. Former militia, ex-combatants or war lords may turn to trafficking in human beings to replace revenue losses caused by the cessation of the war⁶⁹. Women who had already been victims of abduction, rape and violence during the war are at a particularly high risk to become victims to post-war trafficking, because they often are socially isolated and economically extremely vulnerable. In general recommendation 19 the Committee explicitly recognized that wars, armed conflicts and occupation of territories create or intensify situations of poverty, therefore rendering women in conflict situations particularly at risk to trafficking exploitation and that States are therefore required to adopt specific measures to protect women and punish traffickers. In concluding observations to many State party reports submitted in accordance with article 18, the CEDAW Committee has raised concerns about various issues related to the prevention of trafficking, the collection of data to assess its prevalence, the need for States parties to adopt measures to protect women survivors of trafficking and specific protection issues in destination countries. As evidenced by the Committee’s concluding observations, to just a few States party reports echoes the provisions of the Protocol, particularly in respect of prevention and punishment. In some instances however, the Committee has gone further than making

⁶⁷ Secretary-General’s Bulletin, Special measures for protection from sexual exploitation and sexual abuse ST/SGB/2003/13, 9 October 2003 formulated in compliance with General Assembly Resolution 57/306 calling on the SG to take measures to prevent sexual exploitation and abuse in humanitarian and peacekeeping operations.

⁶⁸ Section 2 Scope of application

⁶⁹ Amnesty International (2002): *Rape and Other Forms of Violence against Girls and Women*, AI Index AFR 51/35/00.

pronouncements on prevention and punishment of traffickers, it has in fact recommended precise measures which must be adopted by countries of destination to ensure the maximum protection of women survivors of trafficking – thereby placing a particular duty of care on destination States parties ranging from the enactment of legislation to provision of shelter, medical care and counseling.

While this section of the concept note has focused on sexual violence, trafficking and sexual exploitation in the context of peacekeeping operations, it must be noted that this is not an exhaustive list of all the forms of violence that women are subjected to in these contexts. There are a number of substantive provisions of the Convention relevant to the thematic area of violence against women.

Article 2 (e) of the Convention mandates States parties to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise. This means that States may also be responsible for private acts of violence if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”⁷⁰ It is an established principle of international law that a state will be legally accountable for breaches of international obligations where it fails to exercise due diligence to prevent, control, correct, or discipline such private acts through its executive, legislative or judicial organs. In this regard States are required to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.⁷¹ The exercise of due diligence requires that the state not only enact legislation which punishes acts of violence against women, but additionally that it adopts a policy to prevent violence. In other words, it is not sufficient that a States party reacts to violations when they have occurred; it is incumbent upon it to prevent violations by engaging in societal transformation aimed at addressing the various systemic forms of domination and oppression.⁷² Giving normative content to the Article 2, the Committee stated that the obligations imposed on States parties by Article 2 (e) are not limited to constitutional or legislative measures, but extend to practical measures that enable women to make complaints about violations and have access to effective remedies through competent tribunals.⁷³ The Convention requires that national systems can effectively respond to women’s experiences of sexual violence, which involves the institutionalization of independent courts, protective laws, policies and penal provisions for rape and sexual violence, a functional security sector and health care services.

⁷⁰Committee General Recommendation 19 (1992) UN Doc. A/47/38

⁷¹ Declaration on Elimination of Violence Against Women proclaimed by General Assembly Resolution 48/104 of 20 December 1993.

⁷² Report of Special Rapporteur on Violence Against Women: Its Causes and Consequences on The Due Diligence Standard as a Tool for the Elimination of Violence Against Women E/CN.4/2006/61

⁷³Committee General Recommendation 28 para 36

Under Article 6 of CEDAW, State parties are legally obliged to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. National and international post-conflict recovery, reconciliation and reconstruction programmes often ignore gender concerns and fails to pay adequate attention to the particular situation of trafficked women during war. Article 6 of the Convention could serve as framework, from which context related specific measures could be designed and implemented to prevent and combat trafficking in women in conflict and post-conflict situations. Such measures need to be linked to a gendered analysis of the war and to gender integration into national and international post-conflict reconstruction and peace support programmes. Preventive anti-trafficking measures should be based on a women’s human rights approach with the inclusion of local as well as international actors. They should build on evaluating existing experiences with anti-trafficking and victim assistance programmes in conflict and post-conflict regions. There is also a need to increase the awareness of humanitarian aid and refugee organizations operating in war zones on trafficking.

Under article 12 of the Convention States parties are required to eliminate discrimination against women in access to health care services. In general recommendation no. 24 with a particular focus on armed conflict and its consequences for women’s right to health, the Committee emphasized that all States parties have an obligation to provide adequate protection and health services, including trauma treatment and counseling to women trapped in situations of armed conflict and women refugees. These psychosocial services to which women survivors of armed conflict are entitled to are in addition to the broad range of medical and legal services necessary for the support and protection of women survivors of violence.

4. Women’s Economic Opportunities in the post-conflict context

Armed conflicts have a devastating impact on economic life, destroying infrastructure, markets, and livelihoods. Women’s lives are drastically altered at this time as they are compelled to take on new tasks and responsibilities and family survival comes to depend heavily on women who are forced in such period of hardship to look for alternative sources of livelihood. Although women also take on roles previously held by men in the formal sector, they tend to maintain their livelihood and that of their families by working in the informal sector where their labour is neither legally recognized nor protected. In contrast with the pre-war period, a high number of woman-headed households become the primary source of family income and to a large certain

extent, are at the forefront of the country's or region's economic recovery in the post-conflict setting.⁷⁴

At the cessation of hostilities, women tend to be most neglected in formal economic reconstruction activities.⁷⁵ This problem, which pervades transition economies as allowing employers to discriminate in favor of men, reinforces gender disparities, violates women's rights and constricts women's contributions to economic growth.⁷⁶ Discriminatory attitudes and practices further disadvantage women and undermine their economic life through discrimination in selection, promotion, training, their limited access to equal pay for comparable work, family benefits and financial credit. Working conditions of women frequently deteriorate and are characterized by low wages, little or no labour standards protection, poor working conditions, particularly with regard to women's occupational health and safety and a lack of job security and social security, in both the formal and informal sectors. While the post-conflict reconstruction process may include the drafting of new laws and policies which prohibit gender discrimination, the lack of implementation and absence of enforcement mechanisms will prohibit women's access and enjoyment of these rights. Widows, women with disabilities, single women without family support and female-headed households as well as other groups such as rural women, refugee and internally displaced women, are especially susceptible to increased economic hardship. Urban and rural areas also present different challenges and opportunities with regard to employment and reintegration of women based on factors such as inequitable access to land and natural resources. Despite their active role in war, women are often neglected in the post-conflict situation and there are problems for them in both the formal and informal sector employment as men return from conflict and pre-conflict gender attitudes resume.⁷⁷ Patterns of discrimination persist and to a large extent the post conflict environment exacerbates gender disparities. While generating employment is a top priority for constructing a sustainable post-conflict economy, post-conflict reconstruction formal sector employment or training programmes target male ex-combatants and frequently focus exclusively on the employment of demobilized men. It is not uncommon for women to lose formal sector jobs and return to the household or to the informal sector.

It is imperative that the post-conflict reconstruction programs must prevent such discrimination by providing equal opportunities to men and women⁷⁸ Post-conflict reconstruction programmes commonly fail to recognize, value and support women's contributions in the informal and reproductive areas of the economy, where most economic activity occurs. Specific interventions

⁷⁴ The Gender Dimensions of Post-Conflict Reconstruction: *An analytical Framework for Policymakers – Elaine Zuckerman and Marcia Greenberg* Gender and Development, Oxford Journal, Volume 12, No. 3 2004

⁷⁵ Vladisavljevic, Aleksandra and Elaine Zuckerman (2004) *Structural Adjustment's Gendered Impacts: The Case of Serbia and Montenegro*

⁷⁶ Women in conflict and post-conflict situations – The role of women in countries in special situations: Africa, LDCs, LLDC'S, SIDS, post-conflict and post-crisis countries, Frances Stewart 2010

⁷⁷ UNIFEM Study (2002) "Women, War and Peace"

⁷⁸ Strickland, Richard and Nata Duvvury (2003) *Gender Equity and Peacebuilding: From Rhetoric to Reality: Finding the Way* International Centre for Research on Women – Washington DC

are needed to leverage opportunities for women's further economic empowerment and political participation and the promotion of gender equality as necessary pre-conditions for a real peace economy to flourish.⁷⁹ Economic recovery and development is a key element in building sustainable peace and lack of economic possibilities and employment opportunities can undermine public support to post-conflict reconciliation and fuel political instability and insecurity. It is paramount that women's economic participation be an integral part of post-conflict recovery, thus providing an opportunity for women to engage more actively in a larger sustainable peace building context.⁸⁰

Taking into account emerging best practice on conflict-sensitivity and gender programming, and as part of a holistic effort to support the overall peace economy, State parties must address the constraints facing women who seek to expand their economic activity and together with development partners, they should make a concerted effort to harness women's potential as key actors in economic recovery through more effective support of their activities. Where women are targeted as beneficiaries, this must not be solely on the basis of vulnerability.⁸¹ In concluding observations to States parties, the Committee has expressed concern about the disadvantaged and vulnerable situation of refugee women and women returnees, including women with disabilities, displaced by violence and conflict, female heads of household and women in rural areas, who often lack access to inter alia, employment and means and opportunities for economic survival. The Committee has also noted the feminization of poverty particularly in countries emerging from armed conflict and that poverty is both a cause and consequence of the violation of women's human rights. In this regard the Committee has urged States parties to pay special attention to enabling access to women's socio-economic rights, specifically to ensure their equal access to employment, income-generation project and all other State and private-sector sponsored economic opportunities.

Article 11 of the Convention obligates State parties to take all appropriate measures to eliminate discrimination against women in the field of employment, and in particular to ensure the right to the same employment opportunities, promotion, job security, training, equal remuneration, social security and protection of health and safety in working conditions. State parties must ensure an enabling environment comprising of appropriate laws, regulations and institutions that promote gender equality in formal and informal employment and must also monitor implementation of their labour laws and provisions in place for the protection of women workers from discrimination. Gender-sensitive employment creation, income generation and reintegration programmes must be carefully set up through the post-conflict needs assessment analysis and then integrated into national development strategies, including, where

⁷⁹ Changing Fortunes Women's Economic Opportunities in Post-War Uganda – Investing in Peace – Issue No.3 September 2001

⁸⁰ K Bush (1998) 'A Measure of Peace: Peace and Conflict Impact Assessment of Development Projects in Zones of Conflict' Working Paper 1

⁸¹ International Alert, Safer world, Fewer et al (2004) Conflict sensitive approaches to development, humanitarian assistance and peace-building – London, UK: International Alert

necessary, through judicial reform and the adoption of temporary special measures. Changes in gender relations within the household during and following the conflict must be taken into account in the design of interventions aimed to improve women's employment and income earning prospects and to support women's empowerment.

Monitoring Implementation of the Convention

As stated above, the implementation of the Convention is monitored by the Committee on the Elimination of All forms of Discrimination against Women (the Committee).

As already referred to throughout this concept note, in terms of Article 18, the Committee receives and examines reports submitted by States parties on the legislative, judicial, administrative or other measures they have adopted to give effect to the provisions of CEDAW. At the conclusion of the review process, the Committee adopts concluding observations on the reports of States parties accompanied by recommendations aimed at assisting the State party to comply with its obligations to eliminate discrimination and ensure the full development and advancement of women. The concluding observations to States Parties reports clearly demonstrate the Committee's consistent engagement with the concept of State party's obligations to eliminate discrimination against women generally; to recognize the specific challenges that certain groups of women are confronted with in conflict situations and to advance women's human rights in the post-conflict context. The Committee has recognized the importance of conducting gender analyses of the consequences of armed conflict after the cessation of hostilities and developing comprehensive strategies which will appropriately respond to specific challenges confronting women survivors of sexual violence, especially those already at risk of other forms of discrimination such as internally displaced women. The concluding observations emphasize the negative impact of armed conflict on women's capacity to exercise their sexual and reproductive health and rights and make recommendations to States parties to ensure the delivery of basic services in the post-conflict context. Most significantly, beyond the impact of armed conflict on women's human rights, the Committee has repeatedly expressed concern about the lack of and made extensive recommendations for the effective and meaningful participation of women in peace, reconstruction and transformation processes.

At its forty-first session, the Committee, decided to introduce a follow-up procedure whereby it would include a request to individual States parties in the concluding observations on their reports for information on steps taken to implement specific recommendations contained in those concluding observations. The request based on article 18(1)(b) of the Convention, calls upon States parties to provide such information to the Committee within one or two years. A further procedure adopted by the Committee relates to its request to State parties to submit a report on

an exceptional basis on specific areas of concern. Guidelines have been for the request and submission of the exceptional reports, in particular relating to the information indicates grave or systematic violations of women's human rights and that these violations must be gender-based or directed at women because of their sex.⁸² In addition to the Committee's mandate in terms of Article 18 of the Convention, the two recently instituted procedures enable the Committee to monitor the implementation of the Convention by States parties and track progress on specific issues related to the protection of women in conflict and post-conflict contexts.

Finally, the adoption of the Optional Protocol to the Convention by the General Assembly on 6 October 1999 marked a significant shift in the quest to advance women's human rights in the international arena.⁸³ The Protocol's most immediate effect is the strengthening of the Conventions existing enforcement mechanisms in the form of a communications and inquiry procedure provided for in Articles 2 and 8 respectively. To date no communication or petition has been filed in respect of women's rights violations in the context of armed conflict nor has the Committee conducted an inquiry in a State Party engaged in armed conflict of an international or internal character.⁸⁴

In the process of reviewing States parties' reports in terms of Article 18 of the Convention, the Committee engages with various other actors, including UN Agencies, national human rights institutions and non-governmental organisations. Article 22 of the Convention contains express provisions relating to the role of specialized agencies in the Committee's reporting process.⁸⁵ In terms of the Committee's Working Methods, specialized agencies of the United Nations can engage with the Committee's monitoring mandate by providing country-specific information on States parties whose reports are before them.⁸⁶ Furthermore, the Committee recognizes the important contribution of non-governmental organisations (NGO's) and national human rights institutions (NHRI's) to its work, specifically in relation to the examination of States parties reports on the implementation of the Convention. In this regard the Committee receives country-specific information from NGO's and NHRI's in the form of shadow or alternative reports which enable the Committee to be fully informed on the country-specific information and levels of implementation of Convention provisions in countries reporting to it. UN Agencies, NGO's and NHRI's also play a critical role at the national level in the ensuring implementation of the Committee's concluding observations and recommendations by States parties. For these reasons,

⁸² Rules of Procedure of the Committee See Rule 48.5 available at:

<http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW_Rules_en.pdf>

⁸³ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted 6 Oct. 1999 entered into force on 22 Dec. 2000 G.A. Res. 54/49 U. N. Doc A/54/49 (Vol.1) (2001).

⁸⁴ See Committee jurisprudence available at <<http://www2.ohchr.org/english/law/jurisprudence.htm>>

⁸⁵ Article 22: The specialized agencies shall be entitled to be represented at the consideration of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

⁸⁶ Working Methods of the Committee para 28 available at:

<http://www2.ohchr.org/english/bodies/cedaw/docs/Working_methods_CEDAW_en.pdf>

the Committee encourages UN Agencies, NHRI's and NGO's to fully participate in the elaboration of the proposed general recommendation.

Expected outcomes of the General Discussion

Expected outcomes from the proposed meeting with the United Nations entities, non-governmental organizations and gender experts include:

- (a) Understanding the impact of armed conflict on women and women's priority concerns in the post-conflict context;
- (b) Identifying good national, regional and global practices on the protection and promotion of women's human rights in post-conflict settings, including measures to prevent violence and discrimination;
- (c) Making recommendations for the full protection, promotion and fulfilment of women's human rights in conflict and post-conflict settings; and
- (d) Evaluating how the general recommendation on women in conflict and post-conflict contexts will strengthen the reporting process and implementation of the Convention by States parties