

MONTREAL PRINCIPLES
ON
WOMEN'S ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The Montréal Principles were adopted at a meeting of experts held December 7 – 10, 2002 in Montréal, Canada. These principles are offered to guide the interpretation and implementation of the guarantees of non-discrimination and equal exercise and enjoyment of economic, social and cultural rights, found, *inter alia*, in Articles 3 and 2(2) of the *International Covenant on Economic, Social and Cultural Rights*, so that women can enjoy these rights fully and equally.

The participants at the Montreal meeting were: Sneh Aurora, Fareda Banda, Reem Bahdi, Stephanie Bernstein, Gwen Brodsky, Ariane Brunet, Christine Chinkin, Mary Shanthi Dairiam, Shelagh Day, Leilani Farha, Ruth Goba, Soledad Garcia Muñoz, Sara Hossain, Lucie Lamarche, Marianne Møllmann, Dianne Otto, Karrisha Pillay, Inés Romero, and Alison Symington. They unanimously agreed on the following principles.

A. INTRODUCTION

Sex or gender inequality is a problem experienced primarily by women. The systems and assumptions which cause women's inequality in the enjoyment of economic social and cultural rights are often invisible because they are deeply embedded in social relations, both public and private, within all States. Acknowledging this systemic and entrenched discrimination is an essential step in implementing guarantees of non-discrimination and equality.

The terms "gender" and "sex" should both be understood as referring to the range of economic, social, cultural, historical, political and biological constructions of norms of behaviour that are considered appropriate for women and men. Implicit in such an understanding of "gender" or "sex" relations is that male and female norms have been constructed so as to privilege men and disadvantage women. "Gender" and "sex" discrimination can be used interchangeably, and both "gender inequality" and "sex inequality" are used to refer to the disadvantaged position of women. In order to reflect this understanding of women's disadvantage, the Montréal Principles use the terms "discrimination against women" and "women's equality" wherever possible.

Economic, social and cultural rights have a particular significance for women because as a group, women are disproportionately affected by poverty, and by social and cultural marginalization. Women's poverty is a central manifestation, and a direct result of women's lesser social, economic and political power. In turn, women's poverty reinforces their subordination, and constrains their enjoyment of every other right.

The UN Charter mandates universal respect for, and observance of all human rights, including the right of women to equal exercise and enjoyment of their economic social and cultural rights.¹ All regional and global instruments which set out economic social and cultural rights contain guarantees of non-discrimination and of equal enjoyment for women of these rights.² An expression of this global consensus is found in Articles 3 and 2(2) of the *International Covenant on Economic, Social and Cultural Rights*.

In the political context of the early 21st century, it is particularly important to underline this long-standing international consensus regarding human rights primacy. The lack of priority accorded to securing universal enjoyment of economic, social and cultural rights hurts women disproportionately.

Women's particular vulnerability to social and economic deprivation is deepened further in conflict and post-conflict situations and when economic sanctions are imposed. The Committee on Economic, Social and Cultural Rights has stated that economic, social and cultural rights must be taken into account when imposing sanctions, and State Parties to the Covenant should take account of the suffering that such sanctions are likely to inflict on certain sectors, such as women. As the UN Security Council has recognized, peace and women's equality are inextricably linked.³

The inequality in the lives of women that is deeply embedded in history, tradition and culture⁴ affects women's access to and enjoyment of economic, social and cultural rights. To ensure women's enjoyment of these rights, they must be implemented in a way that takes into account the context in which women live. For example, the traditional assignment to women and girls of the role of primary care-giver for children, older persons and the sick restricts women's freedom of movement and consequently their access to paid employment and education. The economic and social devaluation of the work, paid and unpaid, that women traditionally do from a very young age, contributes further to fixing women in a position of economic and social inequality. These factors diminish women's earning capacity and their economic

autonomy, and contribute to the high rates of poverty among women worldwide. Traditional, historical, religious or cultural attitudes are also used to justify and perpetuate discrimination against women in the delivery of economic, social and cultural rights, including health services and education, by public and private agencies.

Inequality in women's enjoyment of economic, social and cultural rights contributes to their economic dependence, denial of personal autonomy and lack of empowerment. These in turn limit still further women's ability to participate in public life, including fora for economic, social, political and legal policy and decision-making. As the Committee on the Elimination of Discrimination against Women has noted: "Policies developed and decisions made by men alone reflect only part of human experience and potential."⁵ Such policies and decisions are less likely to take account of gendered consequences, and the economic and social factors that affect women's lives.

Economic, social and cultural rights and civil and political rights are particularly indivisible and interconnected in the lives of women: inequality in economic, social and cultural rights undermines women's ability to enjoy their civil and political rights, which then limits their capacity to influence decision and policy-making in public life. Since "[a]ll human rights are universal, indivisible and interdependent and interrelated"⁶ equality in civil and political rights⁷ is undermined unless equality in the exercise and enjoyment of economic, social and cultural rights is secured.

It is especially important that women's entitlement to equal enjoyment of economic, social and cultural rights is acknowledged and re-emphasized in the current climate of neo-liberalism and economic globalization. Policies of privatization, economic austerity and structural adjustment have negative impacts for women.⁸ For example, women are often the hardest hit by economic transition, financial crises and rising unemployment. In part, this is because women are relied upon to provide services that are cut such as caring for children, older persons and the sick, because women are often in insecure, part-time employment, they are commonly the first to lose their jobs. Furthermore, poverty can lead to a decrease in food intake among women and girls; girls are the first to drop out of schools; greater numbers of women are forced to migrate; and women are vulnerable to trafficking, violence and ill health. Economic and political insecurity provoke private and public backlash against women's rights that may be expressed through violence and articulated in the form of defending cultures and traditions.

To fully implement the rights set out in Articles 3 and 2(2) of the International Covenant on Economic Social and Cultural Rights, and similar guarantees in other human rights instruments, requires an understanding that focuses upon the subordination, stereotyping and structural disadvantage that women experience. It requires more than just formal legal recognition of equality between the sexes. It requires commitment by all responsible parties to take all necessary steps to address the actual material and social disadvantage of women.

B. DEFINITION OF WOMEN'S ECONOMIC SOCIAL AND CULTURAL RIGHTS

1. Women's economic, social and cultural rights include, but are not limited to, the right to:

- ✦ An adequate standard of living including:
 - food and freedom from hunger;
 - water;
 - clothing;
 - housing and freedom from forced eviction;
 - continuous improvement of living conditions;

See for example: International Covenant on Economic, Social and Cultural Rights (ICESCR) article 11(1) and (2); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) article 14(2)(h); Universal Declaration of Human Rights (UDHR) article 25; Universal Declaration on Eradication of Hunger and Malnutrition (UDEHM) article 1; Declaration on the Right to Development (DRD) article 8(1); Committee on Economic, Social and Cultural Rights, General Comment 15 ("The right to water"); Additional Protocol to the American Convention on Economic, Social and Cultural Rights (San Salvador Protocol) article 12; Rome Declaration on Food Security; Istanbul Declaration and Program of Action on Human Settlements.⁹

- ❖ The highest attainable standard of mental and physical health throughout a woman's life cycle, including reproductive and sexual health and freedom;

See for example: ICESCR article 10(2) and 12; International Covenant on Civil and Political Rights (ICCPR) article 6(4) and 18(4); Declaration on the Elimination of Discrimination Against Women (DEDAW) article 9(e); CEDAW articles 10(h), 11(2)(a) and 12; UDHR article 25; Declaration on Population and Development para. 7; Beijing Declaration and Program of Action paras. 89, 94 and 96; Convention on the Rights of the Child (CRC) articles 24, 3(2); American Convention on Human Rights (ACHR) article 4(5); San Salvador

Protocol article 10; Inter-American Convention on the Protection, Punishment and Eradication of Violence Against Women (ICPPEVAW) article 4(b); American Declaration on the Rights and Duties of Man (ADRDM) article xi; Declaration on Social Progress and Development (DSPD) article 11(b); DRD article 8(1); Maternity Protection Convention (MPC) article 3; African Charter on Human and Peoples' Rights (African Charter) article 16; Committee on the Elimination of Discrimination Against Women, General Comment 24.¹⁰

- ❖ Equal inheritance and ownership of land and property;

See for example: ICESCR article 11(1); CEDAW articles 13(b), 14(2)(e) and (g), 15(2) and 16(h); DEDAW article 6(1)(a); DRD article 8(1); International Convention on the Elimination of All Forms of Racial Discrimination (CERD) articles 5(d)(v) and 5(d)(vi); UDHR article 17; ACHR article 21; African Charter, article 14; Beijing Declaration and Program of Action, para. 61(b), 62, and 63.¹¹

- ❖ Social security, social protection, social insurance and social services, including special assistance before, during and after childbirth;

See for example: ICESCR articles 9 and 10(2); CERD article 5(e)(iv); DEDAW article 10(1)(c); CEDAW articles 11(1)(e), 11(2)(a), and 14(2)(c); MPC articles 4 and 6; UDHR article 22, 23(1) and 25(1); San Salvador Protocol articles 9(2) and 15 (3)(a); ADRDM article xvi; ICCPEVAW, article 8; CRC article 28.¹²

- ❖ Training and education;

See for example: ICESCR articles 6 and 13; CEDAW articles 10 and 14(2)(d); DEDAW article 9; UDEHM article 4; CERD article 5(e)(v); UDHR article 26; ACHR article 17(1); ICPPEVAW article 6(b); San Salvador Protocol article 13(1)(2) and (3); CRC article 28; Convention Against Discrimination in Education article 1; ADRDM article xii; Beijing Declaration and Program of Action para. 69.¹³

- ❖ Freely chosen work as well as just and favourable conditions of work including fair wages, equal remuneration and protection from sexual harassment and sex discrimination at work;

See for example: ICESCR articles 6 (1), 6(2) and 7; CEDAW articles 11(1)(c), (f); CERD article 5(e); ICCPR article 8(3)(a); DEDAW article 10(1)(a); Abolition of Forced Labour Convention (AFLC) article 1; DSPD article 6; UDHR articles 4 and 23; Declaration on the Elimination of Violence against Women (DEVAW) article 3; ACHR article 6(2); African Charter articles 5 and 15; ADRDM, article xiv; San Salvador Protocol articles 6 and 7; Convention for the Protection of

Human Rights and Fundamental Freedoms (CPRFF) article 4(2); MPC article 8; Equal Remuneration Convention (ERC) article 1; Convention on Employment Policy articles 1 (1) and (2); ILO Declaration on Fundamental Principles and Rights at Work; ICPPEVAW, article 2(b).¹⁴

❖ Form and join trade unions;

See for example: ICESCR article 8; ICCPR article 22; CERD article 5(e)(ii); DSPD article 10; San Salvador Protocol article 8; ILO Convention on Freedom of Association and Protection of the Right to Organize.¹⁵

❖ Protection from economic exploitation;

See for example: ICESCR articles 8 and 10 (3); ICCPR article 8; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery article 1(b); CRC article 32; ILO Convention on Worst Forms of Child Labour; UDHR article 4; ACHR article 6.¹⁶

❖ Protection from coerced and uninformed marriage;

See for example: ICESCR article 10(1); CEDAW article 16(1)(b); DEDAW article 6(2)(a); ICCPR article 23(3); Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage (Marriage Convention) article 1; CERD article 5(d)(iv); UDHR article 16(2); ACHR article 17(3).¹⁷

❖ A clean and healthy environment;

See for example: ICESCR article 12(2)(b); African Charter article 24.¹⁸

❖ Participate in cultural life;

See for example: ICESCR article 15(1)(a); CRC article 29(1)(c); CEDAW article 13(c); ICCPR article 27; DEVAW article 3; CERD article 5(e)(vi); UDHR article 27; ACHR article 26; African Charter articles 17(2) and 22(1); ICPPEVAW article 5; San Salvador Protocol articles 14(1)(a) and (b).¹⁹

❖ Claim and enjoy the benefits of patents and intellectual property;

See for example: ICESCR article 15(1)(c); San Salvador Protocol article 14(c).²⁰

❖ Nationality; and to bestow nationality on children;

See for example: CEDAW article 9; DEDAW Article 5; Convention on the Nationality of Married Women (CNMW) article 1; Convention Relating to the Status of Refugees (CSR) article 2; UDHR article 15; ACHR article 20; CERD article 5(d)(iii).²¹

- ❖ Freedom from trafficking and exploitation; recognition of the human rights of trafficked persons;

See for example: CEDAW article 6; DEDAW article 8; DEVAW article 2(b); CRC articles 34 and 35; ICPPEVAW article 2(b); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.²²

2. Indivisibility and Interdependence of Rights

Economic, social and cultural rights and civil and political rights are indivisible, interdependent and interconnected. In the real lives of women, it is difficult to separate these rights. For example, a woman's right to life is threatened as much by the deprivation of economic, social and cultural rights as by the deprivation of civil and political rights.

3. No Justification for Restriction

Nothing in the wording or substance of any international or regional human rights document, policy, practice or custom can be used to justify restricting women's equal enjoyment and exercise of economic, social and cultural rights.

4. Non-Retrogression

International law entitles women to claim the highest level of available protection for their rights that is afforded by international human rights instruments or national law, policy or custom.²³

C. PRINCIPLES OF EQUALITY AND NON-DISCRIMINATION

5. Women's Sex and Gender Inequality

Unequal power relations between women and men must be acknowledged and changed, and the entrenched disadvantage caused by this power imbalance must be

addressed, if women are to achieve the equal exercise and equal enjoyment of their economic, social and cultural rights.

6. Non-Discrimination and Equality

Legal guarantees of non-discrimination based on sex and legal guarantees of equality for women, though expressed differently, are articulations of the same obligation. This obligation is not confined to negative restraints on States and third parties because negative restraints, alone, do not successfully eliminate discrimination against women. Both the right to non-discrimination and the right to equality mandate measures that prevent harmful conduct and positive steps to address the long-standing disadvantage of women.

7. Definition of Sex Discrimination

Sex or gender discrimination occurs when intentionally or unintentionally, a law, program or policy, or an act or a failure to act, has the effect or purpose of impairing or nullifying the recognition, exercise or enjoyment by women of their economic, social and cultural rights.²⁴

8. Forms of Sex Discrimination

Sex or gender discrimination is experienced as discrimination because of being a woman. It can also be experienced as discrimination on the basis of marital status, for example, as discrimination against wives, co-habitees, unmarried women, divorced women or widows, or on the basis of family status, family responsibility, pregnancy, reproductive capacity, or sexuality. Sexual harassment of women and violence against women must also be understood as forms of sex discrimination.

9. Substantive Equality

Economic, social and cultural rights must be interpreted and implemented in a manner that ensures to women substantively equal exercise and enjoyment of their rights. Substantively equal enjoyment of rights cannot be achieved through the mere passage of laws or promulgation of policies that are gender-neutral on their face. Gender neutral laws and policies can perpetuate sex inequality because they do not take into

account the economic and social disadvantage of women; they may therefore simply maintain the *status quo*. *De jure* equality does not, by itself, provide *de facto* equality. *De facto*, or substantive equality, requires that rights be interpreted, and that policies and programs - through which rights are implemented - be designed in ways that take women's socially constructed disadvantage into account, that secure for women the equal benefit, in real terms, of laws and measures, and that provide equality for women in their material conditions. The adequacy of conduct undertaken to implement rights must always be assessed against the background of women's actual conditions and evaluated in the light of the effects of policies, laws and practices on those conditions.

10. Intersectionality

Many women encounter distinct forms of discrimination due to the intersection of sex with such factors as: race, language, ethnicity, culture, religion, disability, or socio-economic class. Indigenous women, migrant women, displaced women, and non-national or refugee women experience distinct forms of discrimination because of the intersection of their sex and race, or their sex and citizenship status. Women may also confront particular forms of discrimination due to their age or occupation; family status, as single mothers or widows; health status, such as living with HIV/AIDS; sexuality, such as being lesbian; or because they are engaged in prostitution. Intersecting discrimination can determine the form or nature that discrimination takes, the circumstances in which it occurs, the consequences of the discrimination, and the availability of appropriate remedies. To ensure that all women enjoy the benefits of their economic, social and cultural rights, specific measures are needed to address the ways in which women are differently affected in their enjoyment of a right as a result of the intersection of discrimination based on sex with discrimination based on other characteristics.

11. Autonomy

Women are entitled to exercise and enjoy their economic social and cultural rights as autonomous persons. They cannot enjoy their economic, social and cultural rights equally if they are treated as inferior to men or as adjuncts of, or dependents of men, whether those men are family members or others. In turn, economic, social and cultural

rights must be interpreted and applied in ways that recognize women's right to full legal personhood and autonomy.

D. IMPEDIMENTS TO WOMEN'S EQUAL ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

12. Impediments

Structural impediments to women's equal exercise and enjoyment of economic social and cultural rights include, but are not limited to: (i) social norms, customs and traditions that legitimize women's inequality; (ii) failure to take account of women's disadvantage or their distinct experiences when designing laws or measures to implement economic, social and cultural rights; (iii) restrictions on access to legal or administrative bodies where remedies for rights violations may be sought; (iv) women's under-representation in decision-making processes; (v) women's unequal status in their families; (vi) the failure to recognize women's unremunerated work, and to encourage the fairer distribution between women and men of family and community-supporting labour; (vii) the neglect of women's economic, social and cultural rights in conflict and post-conflict situations; and (viii) the gender-differentiated effects of economic globalization. These impediments must be addressed and eliminated to ensure that measures adopted to implement economic, social and cultural rights will benefit women equally.

E. LEGAL OBLIGATIONS

13. Justiciability and Allocation of Resources

Women's rights to non-discrimination and equality are enforceable by judicial bodies and administrative tribunals in all circumstances, including when they raise issues of government allocation of resources for the realization of economic, social and cultural rights.

14. Immediate Obligation

The right to non-discrimination and to the equal exercise and enjoyment of economic, social and cultural rights imposes an immediate obligation on States. This obligation is not subject to progressive realization. The obligation is also an immediate one for inter-governmental bodies and quasi-State actors or other groups exercising control over territory or resources.²⁵

15. Respect, Protect, Fulfill and Promote

Women's right to non-discrimination and equality imposes four specific obligations on States: the obligations to respect, protect, fulfill and promote women's exercise and enjoyment of economic, social and cultural rights. These four obligations are indivisible and interdependent and must be implemented by States simultaneously and immediately.

16. Range of Conduct

The obligations to respect, protect, fulfill and promote women's economic, social and cultural rights require a range of conduct from States. States are obliged to both refrain from acting harmfully and to take positive steps to advance women's equality. States are required to repeal laws and policies that discriminate either directly or indirectly. They are also required to guarantee women's rights to non-discrimination and to the equal exercise and enjoyment of economic, social and cultural rights in appropriate domestic laws, such as national constitutions and human rights legislation, and in the interpretation of customary and personal laws. States are obliged to regulate the conduct of third parties, such as employers, landlords, and service providers. States are also obliged to design and implement policies and programmes to give long-term and full effect to women's economic, social and cultural rights. These may include the adoption of temporary special measures to accelerate women's equal enjoyment of their rights, gender audits, and gender-specific allocation of resources.²⁶

17. Rights-claiming mechanisms

States must ensure that women's rights to non-discrimination and to the equal exercise and enjoyment of economic, social and cultural rights can be effectively interpreted

and applied by judicial and quasi-judicial bodies that are independent from government. Further, States must ensure that the right to be free from discrimination and the right to equality are interpreted substantively, rather than formally, by judicial and quasi-judicial bodies, so as to foster the equal enjoyment by women of economic, social and cultural rights. States, when appearing as parties or intervenors before judicial or quasi-judicial bodies must advocate for the interpretation and application of rights that will ensure women's substantive enjoyment of them.

18. Maximum Available Resources

States must use the maximum available resources to respect, protect, fulfill and promote economic, social and cultural rights. The maximum available resources must be distributed in a manner that provides substantively equal exercise and enjoyment of economic, social and cultural rights by women.

19. Trade, Trade Agreements and International Financial Institutions

States have a non-derogable obligation to guarantee women's equal enjoyment of their economic, social and cultural rights in their actions and decision-making in the context of trade, trade agreements, and agreements with, or participation in, international and regional financial institutions.

20. Due Diligence

All States when participating in international financial institutions, trade agreements, or aid and development programs shall apply a due diligence test to assess, foresee and prevent any adverse consequences of trade agreements, structural adjustment programs, development and humanitarian assistance, and other economic and social policies on women's economic, social and cultural rights. Where harm is caused by such agreements or programs, the responsible States and institutions shall implement compensatory measures. This applies at national, regional and international levels, in public and private spheres of life.

21. Provision for Basic Needs

In the context of scarcity, States shall make sure that the basic needs of women are satisfied, especially in regard to health care, access to potable water, sanitation services, housing, education, energy and social protection. This obligation prevails as well in times of conflict and post-conflict. States and other inter-governmental bodies must ensure that services are provided in a manner that does not discriminate against women, and that ensures women's equality.

22. Privatization and Regulation of Third Parties

Where services are partially or wholly privatized, at a minimum States are required to adopt an effective regulatory system to monitor the distribution of such services and service providers must work in cooperation with the State to ensure the substantively equal enjoyment of services by women in fulfilment of the State's international legal obligations.

23. Regulation of Transnational Corporations and Third Parties

States have an obligation to require transnational corporations and other commercial entities, when they are providing services or programs related to the enjoyment of economic, social and cultural rights, to ensure that women benefit equally. States also have an obligation to prevent transnational corporations and other commercial entities from violating women's economic, social and cultural rights on their territory. When such rights are violated, States have a duty to provide women with effective remedies.

24. Recognition of Unremunerated Work

States must adopt specific measures to recognize the economic and social contribution of the women who carry out unremunerated activities. States must also ensure that women or particular groups of women do not carry out a disproportionately large part of the unremunerated and devalued workload of families and communities, including domestic labour and the care of children, sick, and older persons.

25. Participation

States and inter-governmental bodies must ensure that women can and do participate fully in the formulation, development, implementation and monitoring of economic, social and cultural programs and policies. They must also ensure the full participation of women in the formulation, development, implementation and monitoring of specific strategies, plans and policies that aim to eliminate their gender specific disadvantages. This may require States and intergovernmental bodies to ensure women's participation in decision-making where non-State actors provide programs or services that are related to the enjoyment of economic, social and cultural rights.

F. VIOLATIONS

26. Commission and Omission

Violations of women's economic, social and cultural rights can occur through acts of commission or omission by States and other actors who are insufficiently regulated by the State, or not regulated by the State.

27. Failure to Correct

Where the economic, social and cultural rights of women, or particular groups of women, have been violated, States are obliged to adopt concrete measures designed to ensure the immediate enjoyment of these rights by the affected women.

28. Undermining the Rights

Undermining women's enjoyment or exercise of their economic, social and cultural rights constitutes a violation. A State undermines these rights by: adopting overly restrictive interpretations of rights-conferring provisions; taking the position that economic, social and cultural rights are not justiciable; restricting access by women, and organizations which represent them, to judicial and quasi-judicial bodies; implementing women's equal enjoyment progressively rather than immediately; and, failing to maintain adequately funded and effective enforcement institutions.

29. Retrogressive Measures

The adoption of retrogressive measures that further reduce women's access to or enjoyment of their economic, social or cultural rights constitutes a violation.

30. Unwillingness to Use Resources

A State which is unwilling to use the maximum of its available resources for the realization of economic, social and cultural rights violates women's economic, social and cultural rights.

G. MECHANISMS AND REMEDIES

31. Judicial and Quasi-Judicial Mechanisms

States must establish and maintain effective mechanisms for fully claiming and enforcing women's economic, social and cultural rights, including independent courts and tribunals, administrative authorities and national human rights and women's commissions. Judges and other adjudicators must be provided with adequate training regarding women's rights to equality and to the equal enjoyment of their economic, social and cultural rights. States must also ratify relevant international and regional treaties that allow international remedies and communication procedures without reservations that have the effect of undermining women's equal exercise and enjoyment of their economic, social and cultural rights.

32. Policy Mechanisms

States are required to ensure that there is a national system of institutions and mechanisms, including national human rights institutions, commissions, and ombuds offices, which will support the development of strategies, plans and policies specifically designed to guarantee women's equal exercise and enjoyment of their economic, social and cultural rights. This system must guarantee the effective inclusion of women's perspectives in the design and application of public policies in economic, social and cultural areas.

33. Resources for Mechanisms

States must provide sufficient financial and physical resources to the institutions and mechanisms that have the responsibility to implement and enforce women's economic, social and cultural rights in order to ensure their effectiveness and accessibility.

34. Access

States must remove any obstacles that prevent women or certain groups of women from accessing institutions and mechanisms which enforce and implement women's economic social and cultural rights and provide women with information regarding how to access them. States must also adopt measures, such as legal aid, to facilitate women's access to institutions and mechanisms that can implement and enforce women's economic, social and cultural rights.

35. Standards, Data and Review

States must continuously review and revise the implementation and enforcement of women's economic, social and cultural rights by developing gender-sensitive standards, methodologies, criteria, targets and indicators, as well as tools for gender disaggregation of statistical data and for budgetary analysis to specifically assess women's substantively equal enjoyment of their economic, social and cultural rights.

36. Remedies

In the event of an infringement of the right to non-discrimination or the right to equal enjoyment of women's economic social and cultural rights, States are required to provide one or more of the following non-exhaustive list of remedies: compensation, reparation, restitution, rehabilitation, guarantees of non-repetition, declarations, public apologies, educational programmes, prevention programmes, revised policies, benchmarks and implementation programmes, and other effective and appropriate remedies. The State has a related obligation to ensure that the appropriate remedy is both ordered and effectively implemented.

ENDNOTES

¹ UN Charter Articles 55, 56, and 103.

² International Covenant on Economic Social and Cultural Rights, Articles 2(2) and 3; American Convention on Human Rights, Article 1(1); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, Article 3; European Convention for the Protection of Human Rights and Fundamental Freedoms (read in conjunction with its Protocols), Article 14; African Charter on Human and Peoples' Rights, Article 2; Cairo Declaration on Human Rights in Islam, Article 1.

³ Security Council Resolution 1325, 2000.

⁴ As identified by the Human Rights Committee at para. 5 in its *General Comment 28: Equality of rights between men and women (article 3)*. 29/03/2000. CCPR/C/21/Rev.1/Add.10.

⁵ CEDAW *General Recommendation 23: Political and Public Life*. 13/01/97. Contained in document A/52/38. See para. 13.

⁶ United Nations General Assembly, *Vienna Declaration and Programme of Action, I*. 12/07/93. A/CONF.157/23 at para 5.

⁷ As reiterated in HRC General Comment 28, *supra* note 4.

⁸ Report of Independent Expert, Fantu Cheru, 'Effects of Structural Adjustment Programmes on Full Enjoyment of Human Rights, UN Doc. E/CN.4/1999/50, 24 February 1999.

⁹ *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360 (entered into force 3 January 1976) [ICESCR]. *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31, 19 I.L.M. 33 (entered into force 3 September 1981) [CEDAW]. *Universal Declaration of Human Rights*, GA Res. 217 (III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71 [UDHR]. *Universal Declaration on the Eradication of Hunger and Malnutrition*, adopted by the World Food Conference, endorsed by GA Res. 3348 (XXIX) 1974, 29th Sess., UN Doc. E/CONF. 65/20 (1974) 1 [UDEHM]. *Declaration on the Right to Development*, GA Res. 41/128, annex, 41 UN GAOR, 41st Sess., Supp. No. 53, UN Doc. A/41/53 (1986) 186 [DRD]. United Nations Committee on Economic, Social and Cultural Rights, General Comment 15, E/C.12/2002/11, 26 November 2002. *Additional Protocol to the American Convention on Economic, Social and Cultural Rights*, O.A.S. T.S. No. 69, (1989) 28 I.L.M. 156 (entered into force 16 November 1999) (San Salvador Protocol). *Rome Declaration on World Food Security*, Food and Agriculture Organization of the United Nations, Report of the World Food Summit, Rome, 13-17 November 1996, Part One (WFS 96/REP) (Rome, 1997),

appendix. *Istanbul Declaration and Program of Action on Human Settlements*, adopted by United Nations Conference on Human Settlements, 4 June 1996.

¹⁰ *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360 (entered into force 3 January 1976) [ICESCR]. *International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 171, Can. T.S. 1976 No. 47, 6 I.L.M. 368 (entered into force 23 March 1976) [ICCPR]. *Declaration on the Elimination of Discrimination against Women*, GA Res. 2263(XXII), UN GAOR, 22d Sess. (1967) [DEDAW]. *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31, 19 I.L.M. 33 (entered into force 3 September 1981) [CEDAW]. *Universal Declaration of Human Rights*, GA Res. 217 (III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71 [UDHR]. *Cairo Declaration on Population and Development*, adopted at the International Conference of Parliamentarians on Population and Development, Cairo, 4 September 1994. *Report of the Fourth World Conference on Women: Platform for Action*, A/Conf.177/20, 17 October 1995 [hereinafter *Platform for Action*]. *Convention on the Rights of the Child*, 20 November 1989, 1577 U.N.T.S. 3, 28 I.L.M. 1456 (entered into force 2 September 1990) [CRC]. *American convention on Human Rights*, 22 November 1969, 1144 U.N.T.S. 143, O.A.S. T. S. No. 36 (entered into force 18 July 1978) [ACHR]. *Additional Protocol to the American Convention on Economic, Social and Cultural Rights*, O.A.S. T.S. No. 69, (1989) 28 I.L.M. 156 (entered into force 16 November 1999) (San Salvador Protocol). *Inter-American Convention on the Protection, Punishment and Eradication of Violence Against Women*, 9 June 1994, 33 I.L.M. 1534 (entered into force 5 March 1995) [ICPPEVAW]. *American Declaration on the Rights and Duties of Man*, adopted at the Ninth Annual International Conference of American States, Bogota, 1948. *Declaration on Social Progress and Development*, GA Res. 2542 (XXIV), 24 UN GAOR 24th Sess., Supp. No. 30, UN Doc. A/7630 (1969) 49 [DSPD]. *Declaration on the Right to Development*, GA Res. 41/128, annex, 41 UN GAOR, 41st Sess., Supp. No. 53, UN Doc. A/41/53 (1986) 186 [DRD]. *Maternity Protection Convention*, 2000, 15 June 2000, I.L.O. No. 183, 40 I.L.M. 2 (entered into force 7 February 2002) [MPC]. *African Charter on Human and Peoples' Rights*, 27 June 1981, 1520 U.N.T.S. 217, 21 I.L.M. 58 (1982) (entered into force 21 October 1986) [African Charter]. Committee on the Elimination of Discrimination Against Women, General Comment 24, 2 February 1999.

¹¹ *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360 (entered into force 3 January 1976) [ICESCR]. *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31, 19 I.L.M. 33 (entered into force 3 September 1981) [CEDAW]. *Declaration on the Elimination of Discrimination against Women*, GA Res. 2263(XXII), UN GAOR, 22d Sess. (1967) [DEDAW]. *Declaration on the Right to Development*, GA Res. 41/128, annex, 41 UN GAOR, 41st Sess., Supp. No. 53, UN Doc. A/41/53 (1986) 186 [DRD]. *International Convention on the Elimination of All Forms of Racial Discrimination*, 7 March 1966, 660 U.N.T.S. 195, 5 I.L.M. 352 (entered into force 4 January 1969) [CERD]. *Universal Declaration of Human Rights*, GA Res. 217 (III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71 [UDHR]. *American*

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¹³ International Covenant on Economic, Social and Cultural Rights, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360 (entered into force 3 January 1976) [ICESCR]. Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31, 19 I.L.M. 33 (entered into force 3 September 1981) [CEDAW]. Declaration on the Elimination of Discrimination against Women, GA Res. 2263(XXII), UN GAOR, 22d Sess. (1967) [DEDAW]. Universal Declaration on the Eradication of Hunger and Malnutrition, adopted by the World Food Conference, endorsed by GA Res. 3348 (XXIX) 1974, 29th Sess., UN Doc. E/CONF. 65/20 (1974) 1 [UDEHM]. International Convention on the Elimination of All Forms of Racial Discrimination, 7 March 1966, 660 U.N.T.S. 195, 5 I.L.M. 352 (entered into force 4 January 1969) [CERD]. Universal Declaration of Human Rights, GA Res. 217 (III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71 [UDHR]. American convention on Human Rights, 22 November 1969, 1144 U.N.T.S. 143, O.A.S. T. S. No. 36 (entered into force 18 July 1978) [ACHR]. Inter-American Convention on the Protection, Punishment and Eradication of Violence Against Women, 9 June 1994, 33 I.L.M. 1534 (entered into force 5 March 1995) [ICPPEVAW]. Additional Protocol to the American Convention on Economic, Social and Cultural Rights, O.A.S. T.S. No. 69, (1989) 28 I.L.M. 156 (entered into force 16 November 1999) (San Salvador Protocol). Convention on the Rights of the

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¹⁷ *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46, 6 I.L.M. 360 (entered into force 3 January 1976)
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²¹ *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31, 19 I.L.M. 33 (entered into force 3 September 1981) [CEDAW]. *Declaration on the Elimination of Discrimination against Women*, GA Res. 2263(XXII), UN GAOR, 22d Sess. (1967) [DEDAW]. *Convention on the Nationality of Married Women*, 20 February 1957, 309 U.N.T.S. 65, Can. T.S. 1960 No. 2 (entered into force 11 August 1958) [CNMW]. *Convention Relating to the Status of Refugees*, 28 July 1951, 189 U.N.T.S. 137, 158 B.S.P. 499 (entered into force April 22, 1954) [CSR]. *Universal Declaration of Human Rights*, GA Res. 217 (III), UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71 [UDHR]. *American convention on Human Rights*, 22 November 1969, 1144 U.N.T.S. 143, O.A.S. T. S. No. 36 (entered into force 18 July 1978) [ACHR]. *International Convention on the Elimination of All Forms of Racial Discrimination*, 7 March 1966, 660 U.N.T.S. 195, 5 I.L.M. 352 (entered into force 4 January 1969) [CERD].

²² *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31, 19 I.L.M. 33 (entered into force 3 September 1981) [CEDAW]. *Declaration on the Elimination of Discrimination against*

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²³ See for example UDHR article 30; ICCPR article 5(1) and (2); ICESCR article 5(2); CRC article 41; ACHR article 29; ECHR articles 17 and 53.

²⁴ CEDAW, Article 1; HRC *General Comment 18: Non-discrimination*. 10/11/89. 37th Sess., 1989; CERD *General Comment 25: Gender-related dimensions of racial discrimination*. 20/03/2000. Contained in document A/55/18, annex V.

²⁵ CESCR *General Comment 3: The nature of states-parties' obligations (art. 2, par. 1)*. 14/12/90. Contained in document E/1991/23. See para. 1.

²⁶ See, for example CEDAW, Article 4(1).