

Rural Women's Access to Land and Property in Selected Countries

Progress Towards Achieving the Aims of the Convention on the Elimination of All Forms of Discrimination against Women |



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Rural Women's Access to Land and Property in Selected Countries



**Progress Towards Achieving
the Aims of Articles 14, 15 and 16
of the Convention on the Elimination
of All Forms of Discrimination against
Women (CEDAW)**





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ABBREVIATIONS AND ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DAW	United Nations Division for the Advancement of Women
FAO	Food and Agriculture Organization of the United Nations
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILC	International Land Coalition
ILO	International Labour Organization
NGO	Non-Governmental Organization
UNIFEM	United Nations Development Fund for Women



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Foreword

Across the developing world, rural women are among the poorest and most disadvantaged groups. They face gender-based discrimination, which is reflected in inequalities in their rights and in their access to resources – especially land, technology and social services, including education and health. Their voices in public life are seldom heard, as women are under-represented in decision-making at all levels. The international community has recognized that accelerated rural development and gender equality are essential to achieving the Millennium Development Goals. The Food and Agriculture Organization of the United Nations, the International Fund for Agricultural Development, and the International Land Coalition are working for gender equality and women’s empowerment as essential instruments for rural poverty reduction, and as issues of fundamental human rights.

The situation of rural women has been on the agenda of international conferences for decades and is highlighted in the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women (1995), and in the World Food Summit Plan of Action (1996). The Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979 by the United Nations General Assembly, is considered as the international bill of rights for women. It comprehensively covers civil and political rights, as well as economic, social and cultural rights. It is the only human rights treaty that deals specifically with rural women. In its Article 14, the Convention affirms the rights of rural women to equal access to resources and basic social services. It also stresses that women should participate in the elaboration and implementation of development planning, and in all community activities. This includes their active participation in policy development and decision-making affecting their lives.

This study provides information on the historical background to the Convention and its Optional Protocol, and on the working methods of the Committee on the Elimination of Discrimination against Women in monitoring compliance with the Convention. It also summarizes information provided in reports of selected countries to the Committee from 1997 to 2003, with specific reference to women’s access to land and property, and their inheritance rights and legal capacity. We hope that this study will be a valuable tool for all those wishing to engage in advocacy and policy dialogue in favour of rural women and to support joint efforts to achieve compliance with the Convention.



Summary

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by 175 countries, is the only human rights treaty that deals specifically with rural women. This study, undertaken jointly by the Food and Agriculture Organization of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the International Land Coalition (ILC), analyses information on the status of rural women as provided in selected reports to the Committee on the Elimination of Discrimination against Women. All countries selected for this study submitted a report to the Committee between 1997 and 2003. Most are low-income, food-deficit countries. Those that are not have been selected because they have completed or are undertaking land or agricultural reforms that are of particular interest.

This report examines the extent to which women's rights have been respected in those reforms and looks at measures that have been adopted to ensure women's access to land and property, their inheritance rights and their legal capacity. It also presents sex-disaggregated statistics on rural populations and the rural labour force, and information on gender units or focal points in technical ministries.

The report sketches the historical background to the Convention and its Optional Protocol, and describes efforts to implement the Convention through enforcement and litigation. It also outlines the working methods of the Committee, in particular its reporting procedure and concluding comments, and the contribution of United Nations organizations and non-governmental organizations.

The report also makes a number of conclusions and recommendations. It encourages stakeholders and institutions working to advance the cause of rural women to make more effective use both of the Committee's reports and its concluding observations, particularly those relating to CEDAW Articles 14, 15 and 16.

By preparing this report, FAO, IFAD and ILC have taken a further step in advancing their respective activities for rural women, and in engaging other partners – United Nations, governments and civil-society organizations – to work together at country level to achieve progress in implementing CEDAW.



Introduction

This study¹ examines the information provided in reports presented by countries that have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), thus fulfilling their obligation to report on national compliance with the various articles of the Convention. Such information could be used efficiently by the Food and Agriculture Organization of the United Nations (FAO), the International Fund for Agricultural Development (IFAD), and the International Land Coalition (ILC) in their respective activities for rural women. Vice versa, these organizations could use the various processes connected with CEDAW for mutual benefit, and for advancing the status of rural women and ensuring that their human rights are respected.

The selection of countries for this study was initially based on two criteria: classification as a low-income food-deficit country (LIFDC)², and presentation of an initial or periodic report to the Committee on the Elimination of Discrimination against Women between 1997 and 2003. A number of countries **not** classified as LIFDCs but that have presented reports to the Committee during that time frame were subsequently included because they had recently launched or undertaken land or agricultural reforms.³ These two criteria were applied because States parties to the Convention classified as LIFDCs and countries undertaking land or agricultural reforms must report on the status of rural women (Article 14) and their rights to property, inheritance and access to land (Articles 15 and 16), and thus on poverty and food deficiency among women. Reports submitted before 1997 could not be included in the study because of a concern for the timeliness of information, even though initial reports presented before this deadline might include basic information that has not since changed.

Although the Convention is one of the most widely ratified treaties in history, many countries have either not fulfilled their reporting requirements or not yet presented their initial report to the Committee.⁴ For this reason, many countries classified as LIFDCs are not considered in this report.⁵ Several countries presented their initial report to the Committee before 1996 but have failed to submit the required periodic updates.⁶ One country submitted a combined second and third report in 1994, which has not yet been presented to the Committee.⁷ One country presented an oral report on an exceptional basis in 1994.⁸ The remaining countries have not signed or ratified the Convention⁹ (see Annex II, Table 1).

For the purpose of this comparative analysis, the following issues have been evaluated:

- (i) legislation relating to equal access to land and other property, equal legal capacity and inheritance rights, and equal property rights (Articles 14, 15 and 16);
- (ii) statistics disaggregated by sex on the rural population, the indigenous population, the agricultural and rural labour force, land distribution and ownership, and women farmers (Articles 10, 12 and 14); and
- (iii) information on gender units or focal points in technical ministries, gender mainstreaming, and focus on rural women in national action plans for the advancement of women or in national development plans (Articles 2, 3 and 4).

1 This study was originally presented as a draft for discussion at the High-Level Segment of the United Nations Economic and Social Council, Geneva, 30 June-2 July 2003.

2 LIFDC is determined by a per capita income below the ceiling used by the World Bank to determine eligibility for International Development Agency assistance and for 20-year International Bank for Reconstruction and Development terms, and by the net food trade position for a broad basket of basic foodstuffs (cereals, roots and tubers, pulses, oilseeds and oils other than tree crop oils, meat and dairy products), which are converted and aggregated by the calorie content of individual commodities. In addition, a self-exclusion criterion is applied when countries that meet the above two criteria specifically request to be excluded from the LIFDC category.

3 Algeria, Brazil, Chile, Iraq, Jordan, Kazakhstan, Namibia, Peru, South Africa, Suriname, Tunisia, Uganda, Viet Nam and Zimbabwe.

4 See Annex I for a detailed description of working methods of the Committee.

5 Bhutan, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic People's Republic of Korea, Djibouti, Eritrea, The Gambia, Ghana, Guinea-Bissau, Haiti, Laos, Lesotho, Liberia, Mauritania, Mozambique, Niger, Pakistan, Papua New Guinea, Samoa, Sierra Leone, Solomon Islands, Tajikistan, The Former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Tuvalu, Vanuatu.

6 Bolivia, Honduras, Madagascar, Malawi, Mali, Senegal.

7 Equatorial Guinea.

8 Bosnia and Herzegovina.

9 Kiribati, Somalia, Sudan, Swaziland.



The convention on the elimination of all forms of discrimination against women and the optional protocol

HISTORICAL BACKGROUND

The international bill of rights for women, CEDAW was adopted in 1979 by the United Nations General Assembly. It brings together the provisions of several other conventions that protect and promote the rights of women in particularly vulnerable areas.¹⁰ In 1967, the Declaration on the Elimination of Discrimination against Women combined in a single instrument the international standards articulating the equal rights of men and women, but it was felt that only a binding treaty would give normative force to its provisions. Coinciding with preparations for the first conference on women, held in Mexico in 1975, a single, comprehensive and internationally binding instrument to eliminate discrimination against women was elaborated. CEDAW entered into force on 3 September 1981 once 20 member States had ratified it, faster than any previous human rights convention.¹¹

The Convention defines discrimination against women as follows:

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.
(Article 1)

Thus the Convention addresses discrimination against women, not discrimination on the basis of sex. It deals not with equality per se, but with the removal of any direct or indirect discrimination women are confronted with. The distinction between direct and indirect discrimination is essential as it helps reveal the hidden or supposedly neutral practices and policies that in reality discriminate against women and prevent them from fully enjoying their rights. The Convention addresses not only de jure enjoyment of equality, which today is guaranteed by many countries in their constitutions, but also de facto situations that reflect the extent to which women enjoy these rights in their daily lives.¹²

The Convention comprehensively covers civil and political rights, and economic, social and cultural rights. Similar provisions are also contained in the International Covenant on Civil and Political Rights (ICCPR) and in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Another feature of CEDAW is that it imposes explicit obligations on States parties in respect of discrimination by private parties, and not just by state or public officials.¹³ This is particularly important since much discrimination against women occurs in their private lives.

As at December 2003, 175 countries – over 90% of the members of the United Nations – are party to the Convention. The Fourth World Conference on Women created a momentum favouring ratification, and led to a 34% increase in ratifications between January 1993 and 1996 when 39 countries became States parties. Another 10% increase occurred following the Beijing Platform for Action's call for universal ratification of the Convention by 2000. Between 2001 and end 2003, an additional eight states became parties to the Convention. CEDAW and the Convention on the Rights of the Child are the two treaties that counted for most of the notable 26% increase in ratifications for all treaty bodies between 1993 and 1997.¹⁴ This underscores the importance given to the human rights machinery worldwide.

By ratifying the Convention, States make a commitment to end discrimination against women in all forms by incorporating the principle of equality of women and men in their legal systems, abolishing all discriminatory laws and adopting laws that prohibit discrimination against women, establishing tribunals and other public institutions to protect women against discrimination, and ensuring elimination of all acts of discrimination against women by persons, organizations or enterprises. Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice.

RESERVATIONS

Many countries have ratified the Convention with a reservation, which is possible provided that the reservation is not "incompatible with the object and purpose" of the Convention (Article 28). Reservations to individual provisions have often been removed once the inconsistent law or practice has been changed. A number of States have entered reservations to particular articles on the grounds that national law, tradition, religion or culture is not congruent with the Convention's principles, and purport to justify the reservations on that basis. These reservations appear to limit a State's obligations, in particular where they address family relations including matters such as women's legal capacity, and property and inheritance rights. It is notable that States have not entered reservations to the equality guarantees of other treaties such as the ICCPR, the ICESCR and the Convention on the Rights of the Child. The countries under review have made substantive reservations to paragraphs in Articles 2, 9, 15 and 16 of the Convention on the grounds that they conflict with certain provisions of the Islamic sharia (Bangladesh, Egypt, Iraq, Maldives, Mauritania, Morocco), the Act on Personal Status (Jordan), the Family Code (Algeria) or the Personal Status Code (Tunisia). Reservations to Article 16 on marriage and family relations have also been introduced on the grounds that the provisions of this article are contrary to existing customs and practices (Niger) or would only be applied in conformity with a policy of "non-interference in

the personal affairs of any community without its initiative and consent” (India). No reservation has been made to Article 14 on rural women.

The permissibility of reservations undermining commitment to the core human rights obligations towards women has been repeatedly addressed, but no procedure exists to determine incompatibility with the Convention. Only a few States parties have tackled this issue and expressed their objections to the reservations entered. In 2001, for instance, seven countries – Austria, Denmark, Finland, France, Germany, Norway and Spain¹⁵ – made objections to reservations, some repeatedly.

OPTIONAL PROTOCOL TO THE CONVENTION

For many years, women’s non-governmental organizations (NGOs), activists and human rights lawyers have urged that a complaints procedure be established to assist women in fighting discrimination at the international level. In the follow-up to the Fourth World Conference on Women in 1995, the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women was elaborated and adopted by the General Assembly on 6 October 1999. It entered into force on 22 December 2000, following the ratification of the tenth State party to the Convention. By ratifying the Optional Protocol, a state recognizes the competence of the Committee on the Elimination of Discrimination against Women to receive and consider complaints from individuals or groups within the State party’s jurisdiction. As at 9 January 2004, there were 75 signatories and 59 parties to the Optional Protocol.

The Optional Protocol contains a communications procedure allowing individual women, or groups of women, to submit claims of violations of rights protected under the Convention to the Committee once all domestic remedies have been exhausted. It also creates an inquiry procedure that will enable the Committee to initiate inquiries into situations of grave or systematic violations of women’s rights in any State party to the Convention and the Protocol.¹⁶

BRINGING THE CONVENTION HOME

Legal action to ‘bring home’ the Convention is one way to change national legislation and remove discrimination. In a number of cases, the Convention has been successfully invoked to persuade domestic courts to refer to international standards, in particular the Convention, when applying existing law:¹⁷

United Republic of Tanzania: In *Ephrohim v Pastory*, a woman brought a court challenge to the Haya customary law that prevented her from selling clan land. Holaria Pastory had inherited land from her father, through his will. When she tried to sell it, however, her nephew applied to have the sale voided. The Tanzania Declaration of Customary Law prohibited her from selling the land in Section 20 of its rules of inheritance, which states that “women can inherit, except for clan land, which they may receive in usufruct but may not sell.” Pastory argued that this constraint on women’s property rights violated the constitution’s Bill of Rights. The court, noting that the Government had ratified CEDAW, the ICCPR and the African Charter on Human and People’s Rights, found that women were constitutionally protected from discrimination and thus overruled the rules of customary law. It stated that “the principles enunciated in the above-named documents are a standard below which any civilized nation will be ashamed to fall.”

Nepal: In *Dhungana v Nepal*, the Forum for Women, Law and Development asked the Supreme Court to overturn a law that gave sons a share of ancestral property at birth but denied daughters a share of their parents’ property until they reached the age of

35 without having married, and required that it be returned to the family if a daughter subsequently married. Because CEDAW has the status of national law in Nepal, the case was argued both as a violation of the Convention and as a violation of the constitution's equality guarantee. The Supreme Court found that the law did discriminate against women and directed the Nepalese Government to "introduce an appropriate Bill to parliament within one year."

India: In *Madhu Kishwar and Others v State of Bihar and Others*, the customary law excluding tribal women from inheritance of land or property was challenged. The court recommended that the central government withdraw the exemptions given under the Hindu Succession Act and the Indian Succession Act.

Although judges may be unwilling to base their decisions on an international treaty such as CEDAW, they have the authority to do so if their country has ratified it. Some of the most interesting and significant decisions have been produced when a court decided to combine a vague or inadequate constitutional guarantee of women's equality with the principles of gender equality articulated in the Convention. Litigation has made history when courts have successfully relied on the Convention to interpret constitutional guarantees of equality, including access to land and inheritance rights.¹⁸

Advancing a case before a domestic court is a complex undertaking. Success depends on popular support, which has to be part of any litigation strategy, and on the approach adopted by the judiciary, including their knowledge of and intention to draw on international jurisprudence. If insufficient work has been done to inform and educate a government and the general public, a court's decision might not be enforced or might be overturned by new legislation.¹⁹

10 Convention on the Political Rights of Women (1952), Convention on the Nationality of Married Women (1957), Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962), and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1965).

11 United Nations, 1995.

12 Byrnes, 2002.

13 Ibid.

14 United Nations, 1997.

15 United Nations, 2002.

16 United Nations, 2000b.

17 United Nations Development Fund for Women (UNIFEM), 1998.

18 *Ephrohim v Pastory*, 87 I.L.R. 106; [1990] L.R.C. (Const.) 757; *Dhungana v Nepal*, Supreme Court of Nepal, Writ No. 3392 of 1993, 2 August 1995, unreported; *Madhu Kishwar and Others v State of Bihar and Others*. Decision of the Supreme Court of India, 1996.

19 UNIFEM, 1998; Byrnes, 1998.



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Land issues as reflected in reports to the committee on the elimination of discrimination against women

LEGISLATION ON ACCESS TO LAND, OWNERSHIP AND INHERITANCE RIGHTS

The Convention contains various provisions relating to equal access to land, equal inheritance/succession rights and equal legal capacity (see Articles 14, 15 and 16). An examination of States parties' legislation in these areas shows that inequalities persist, and the gap between de jure and de facto equality, especially in family life, remains an obstacle (see Annex II, Table 3). In a General Recommendation adopted on the occasion of the International Year of the Family in 1994, the Committee provided a detailed interpretation of Convention articles that are particularly relevant to the status of women in the family (Articles 9, 15 and 16).²⁰

While women have civil and political rights and can enjoy them, equal rights in marriage and family matters are a different question. Algeria, for instance, in its report to the Committee, highlights the existing dichotomy between women's legal and personal status. On the one hand, the constitutional principle of the equality of the sexes is scrupulously respected: women enjoy the same civil and political rights that men do and have the status of full citizens. In their personal status, on the other hand, women have rights that are governed by a family code based in part on the sharia.

Most countries have included the principle of equality and non-discrimination in their constitutions or basic laws. Many have also harmonized their civil and family codes with the Convention. Nonetheless, women often suffer from discrimination, even in countries where equality is enshrined in the law. The Committee's insistence on de facto equality is therefore

all the more important and helps reveal ongoing discrimination. Facts and data are valuable tools to demonstrate how discrimination persists.

In countries governed by the sharia, the principle of equality does not apply to personal law, which includes family and inheritance law or the family code. Other countries, such as The Congo, maintain a dual legal system where a form of modern law is superimposed on customary law. The constitution of Zambia recognizes a dual system whereby local courts administer customary or traditional law. In practice, the courts often discriminate against women and uphold discriminatory customs on matters of inheritance, marriage or compensation for property. Customary law prevails because it is unwritten, and administered by a local court system dominated by men and composed of untrained justices from a patriarchal background. In Kenya, the amended Constitution of 1997 includes discrimination based on sex, but reserves the right to discriminate in certain matters such as marriage, divorce, devolution of property at death, and personal and customary law.

In their reporting on CEDAW Articles 15 and 16, States parties provide information on women's legal capacity and right to property and inheritance. They may also raise issues on access to land under Article 14, in particular if a country has implemented land reforms or land distribution in rural areas. However, the status of women in the family is the entry point to any discussion of women's right to land and property.

Legal reform is difficult to achieve. Sri Lanka reports that reform would be facilitated if the affected communities called for change. India has also taken the same position. It notes that, although Hindu and Christian personal laws have been reformed to give women greater rights in matters relating to inheritance, adoption and divorce, the personal laws of some minorities and other communities have remained unchanged because of a non-interference policy. The communities themselves would have to demand change before the State could intervene.

Heads of household. The question of who heads a household and what powers he or she has is central to marriage and family relations, and to legal interaction with actors outside the family (legal capacity) in general. In countries where a man is considered the household head, be it implicitly or through designation, he can derive his authority over decisions on property and land from this status. Wives, daughters and other women household members are subordinates and may have no say in decisions relating to particular family property. The household head's absence, whether temporary for migration or permanent, leaves a woman struggling to deal with family affairs without direct authority over the assets and property under her care.

Some countries do not acknowledge the right of legally or de facto married women to own an equal share of property and to split that property should the marriage or relationship end. The need to designate a household head is critical in some countries. In Albania, for instance, the household is represented in property relationships by the head, elected by household members. The head is, by tacit agreement, always a man and the land is registered under his name. If the head decides to alienate the family land, he can easily coerce his wife and other household members. In Ecuador, the household head in a marriage (or 'conjugal partnership') can be either spouse. The couple may agree in writing on who the head is. If they do not, the husband is deemed responsible for the conjugal partnership's administration. According to statistics, the husband is most frequently the household head.

In some countries, adult women have to relinquish their legal capacity once they are married. In the Democratic Republic of the Congo, the Family Code (Articles 215 and 448) establishes the principle that a married woman is incapable of signing certain acts and contracts, and executing certain legal acts without her husband's consent. She therefore lacks capacity to engage in business, whereas her 18-year-old daughter has full legal capacity. Guinea admits that the law discriminates in terms of marital status since the husband is deemed to be the head of household and all legal effects arise from that status.

In Chile, the husband is the head of the conjugal partnership and administers the joint estate and his wife's property. Although by law a woman has legal capacity to enter into contracts and dispose of her own property, she cannot do so if she is married under the joint ownership regime, unless such property has been expressly excluded from her husband's administration. She cannot even receive the proceeds from her property, which becomes part of the assets of the conjugal partnership and, as a result, is administered by the husband. In Peru, the informal property situation remains unfair, especially to women. When a family decides to sell its property, there is no requirement that the deed of sale be signed by both spouses. The husband's unilateral control of the property is thus maintained. Similarly, in Namibia, the man is considered the head of household. Under common law, a husband has marital power over the property and person of his wife. Women married under civil law still need their husband's consent to enter into credit agreements. A wife cannot bring a civil action or enter into a contract without the 'assistance' of her husband. In South Africa, the Black Administration Act (1927) still regards women as minors who cannot own property or conclude contracts in their own right. A male relative has to do so on their behalf.

One way to remove the dependence on the head of household and circumvent the authority linked to household headship is to introduce the principle of partnership between spouses. Tunisia has done so by establishing a joint estate regime. Amendments to the Personal Status Code in 1993 make it obligatory for spouses to cooperate with one another for the proper management of their household affairs and, particularly in the case of the wife, to contribute their own resources to cover household expenses. The aim of this regime is to ensure that the spouses have joint ownership of property specifically intended for the household's own use.

Access to property and inheritance. Equal access to property remains one of the most disputed issues with regard to gender equality. India, for instance, identified child marriage, enforced widowhood and property rights as the three major problems faced by women. Whereas the Government has taken action on the first two issues, property rights are still far down on its agenda. The matter is further complicated by the fact that land distribution and equal access to land are often not just gender issues, but also social class and ethnicity issues.

Not having access to land or full legal capacity is a particular disadvantage for women household heads, who form a substantial share of total rural households in certain areas. Many of these women are single parents, widows, divorcees, wives of migrant workers, older women or women with disabilities.²¹ In Ecuador, 21.3% of families are sustained by a woman alone in rural areas. In Zambia, customary law does not allow women to own land, and very few do. Women, therefore, represent the majority of persons without title deeds, and 10% of woman-headed households seek title on inheritance.

In many countries, inheritance and property laws and practices are sources of serious discrimination against women. They may cause widows and daughters to inherit a smaller share of their spouse's or father's property at his death than would widowers and sons. Often women are granted limited and controlled rights, and only receive income from the deceased's property. Moreover, inheritance rights for widows frequently do not reflect the principles of equal property ownership acquired during marriage. Customary practices such as levirate (the obligation of a man to marry his brother's widow) infringe a woman's right to inherit in countries such as Cameroon. In Guinea, a childless widow's inheritance, if there are child heirs or other widows with children of the deceased, is calculated on the basis of every five years of a marriage "based on dignity and devotion." Sharia law defines the portion to which each heir is entitled. A woman's share of inheritance in Morocco, for instance, is half that of a man.

In many countries, property accumulated during a de facto relationship is not treated by law on the same basis as property acquired during marriage. If the relationship ends, the woman

receives a significantly lower share than her partner. Guatemala is one of the few developing countries that recognize the de facto union of a man and a woman who have lived together openly and continuously as if they were married. Such a union can be registered in the civil registry office, thereafter taking the effects of marriage. In The Congo, 'betrothal' is recognized as the period that precedes marriage and arises from the promise of two persons to become man and wife. However, it is without effect in terms of inheritance, which can lead to frustrations or injustice when couples have cohabited for a long time.

While inequalities in inheritance persist and limit women's access to land and property, some inequalities are de facto and not de jure. In Uganda, both widow and widower are entitled to 15% of the property of the deceased spouse, but in reality a widower usually takes the whole estate. Under customary law, it is assumed that the relatives of the deceased will take care of a widow and her children. This usually does not happen in practice: typically the relatives dispossess the widow and her children of their assets, forcing them to move back to the widow's parent's home.

The women themselves, sometimes succumbing to social pressure, often renounce their fair share of inheritance. In Viet Nam, due to traditions and customs, women rarely inherit or have any say over their deceased parent's land-use rights. In countries under sharia law, the percentage or amount of inheritance is established for men and women. In Jordan, the Act on Personal Status prohibits social practices that deprive a woman – wife or daughter – of her rightful inheritance and establishes that a woman can inherit from both her father and her husband. However, many Jordanian women renounce that right in favour of a close male relative. In Yemen, rural women also submit to traditions and renounce their right to land in favour of their nearest male relative. It is contrary to tradition in rural areas for women to register land in their own names. If a woman were to assert her right to own land by bringing a court action, she would face social disapproval. Moreover, land registration fees are very high, and thus serve as a further deterrent, especially for poor women.

Few countries have introduced changes in inheritance laws to favour women. The Personal Status Code (1956) in Tunisia instituted a mandatory bequest in favour of the daughter's children if she should predecease her father; it also enables an only daughter to inherit her parents' estate in its entirety.

As the above examples suggest, women's illiteracy in legal matters and their lack of empowerment prevent them from enjoying the rights they have. Efforts to inform women of their rights and to support them in realizing these rights are therefore essential, especially in rural areas. In Uganda, for instance, legal aid services for women, such as the Federation of Uganda Women Lawyers, the Law Development Centre (Makerere University) and the Legal Aid Project of the Uganda Law Society, assist women in matters of inheritance, property rights, marriage, assault, divorce, separation and child support.

Land reform. The right to own, manage, enjoy and dispose of property is central to a woman's right to financial independence, and critical to her ability to earn a living and to provide adequate housing and nutrition for herself and her family. In countries undergoing agrarian reform or redistributing land among different ethnic groups, the equal right of women, regardless of marital status, to share such redistributed land on equal terms with men is not always observed. As Kyrgyzstan reports, women are likely to lose out in the land reform process if they lack a clear understanding of their own needs and requirements.

Countries that have undergone or that are introducing land or agricultural reforms often make an effort to take gender equality into consideration. However, many obstacles arise, the first being the dearth of women in decision-making. South Africa acknowledged that the domination of men in decision-making structures and positions is a contributing factor in women's lack of involvement in the land reform programme. Only one member out of 12 was a woman on Zimbabwe's Commission of Inquiry into Land Tenure, established to resolve the problem of unequal access to land, especially for the disadvantaged, mostly women.

Gender-neutral legislation in itself is not sufficient to eliminate gender discrimination. In South Africa, the Department of Land Affairs recognizes that women are largely ignorant of the Land Reform Programme, and do not know what it has to offer. Information does not reach them because they are not regarded as potential heirs to land.

If women have no knowledge of their rights and the administrative procedures to apply for land, they cannot benefit from land reform. In Suriname, only 1% of the people who applied for and were granted land by the Ministry of Natural Resources over the years were women; and the parcels that were granted, particularly to single women and women heads of household, were generally small (0.5 to 1 ha).

Viet Nam reports that 10.4 million farmer households, or 90% of households using agriculture land, received land-use certificates. As a positive measure to protect women's interest in case of divorce, local administrations advised families to register family property in both the husband's and the wife's name. Customarily, however, most land-use certificates are issued in the name of the husband who is considered to be the household head. The 1993 Land Law, which provides for equal land-use rights between women and men, had no impact on this custom. Only 10-12% of all land-use certificates are registered in a woman's name and most have been issued to single women or widows. The number of certificates in both the husband's and the wife's name is very low. Moreover, many women after marriage have no land to cultivate because their parents and parents-in-law do not allow them to use the land allocated to their respective families. Another setback for women in Viet Nam is the difference in working age between men and women as this defines the size of land allocation. Since the working age for men (15 to 60 years) is higher than that for women (15 to 55 years), women are allocated smaller average land areas.

Because land-use certificates are seldom issued in their names, women cannot use them to apply for a mortgage or credit. Legally a woman cannot use jointly owned property certificates issued in her husband's name in a civil transaction or as collateral for a bank loan. Interestingly, a survey in Viet Nam showed that over 76% of urban women and 51.2% of rural women said that they had full independence and had entered into civil contracts (particularly contracts to borrow capital from a bank, mortgage property, etc.), but 23% of urban women and 46% of rural women said they had voluntarily renounced this right in favour of their husbands or children.

In Brazil, the agrarian reform guarantees that land titles and concessions are granted to men or women, or both, irrespective of their marital status, preferably to the heads of large households. In practice, however, 85% of the total agrarian reform beneficiaries are men. Women hold only 12.6% of all land titles and concessions.

Women's access to land, property and credit is still extremely low in Uganda. Some 97% of women have access to land, but only 8% have leaseholds and 7% actual ownership. The 1998 Land Act strengthened rural women's rights to land: they now not only have access to land but also control and ownership. However, the Land Act makes no provisions for joint ownership of land.²²

A distinction needs to be made between the right to hold land and the right to use it. Many rural African women in South Africa cannot legally hold title to land, although they may be given the right to till the land and build a home on it. In most rural areas, households generally use communal land that belongs to the people of that area. Under common African law and customary law, women are not entitled to own property. The homestead head, husband or male relative has to act on their behalf. Territorial legislation and numerous regulations also continue to prevent women from owning land.²³ Not holding a title becomes an obstacle when women apply for credit. To address this problem, the South African Department of Land Affairs is concentrating on legislation that would grant all married women the right to use property registered in their spouses' names as loan collateral.

STATISTICS ON RURAL WOMEN

In its reporting guidelines, the Committee requests States parties to include in their reports sufficient data relevant to each article and disaggregated by sex to enable it to assess progress in the implementation of the Convention. However, it does not ask for specific data or indicators. The provision of sex-disaggregated data in initial and periodic reports, a major prerequisite for consideration of de facto equality, has improved in the last years. The most extensive data with regard to rural areas and rural-urban disparities can be found in reporting on Articles 10 (education) and 12 (health), which have not been considered in this paper. Under Article 14 (rural women), many reports provide statistics on rural populations and the rural labour force.

Reports to the Committee underscore that, in many developing countries, most of the population live in rural areas (e.g. in the United Republic of Tanzania, 80%; in Sri Lanka, 78%), as does the vast majority of women. In India, rural women constitute nearly 80% of the female population; in Burkina Faso they represent 86%. Monitoring the impact of demographic changes on the status of women is therefore essential. In Ecuador, for instance, the 1990 figure of 45% of the population living in rural areas was predicted to fall to 36% by 2000.

The quality of information in a country depends on the quality of data available, the functioning of the national statistical office, the timeliness and accuracy of agricultural censuses and surveys, and the level of international support provided. A variety of sources are used in reports to the Committee to illustrate women's status. In Nigeria, for instance, the National Consumer Survey found that seven out of eight landholders were men. Agricultural loan schemes or the Department of Agriculture provided information on loans granted to women. The National Department of Agricultural Statistics in Guinea included detailed statistical information on women in agriculture, the agricultural workforce, women farm managers (by age group and region), agricultural equipment operated by women, and the surface area cultivated under the supervision of a woman. Kyrgyzstan also provides a wealth of statistical information on the agricultural sector, in particular on the percentage of women engaged in agricultural enterprises and institutions, on peasant holdings, on women's access to loans and commercial credit, and on the distribution of tractors to women farmers.

The data provided in reports to the Committee vary greatly from one country to another. Many reports provide specific information on the de facto equality of women in rural areas: land and farm ownership by women (Cameroon); access to land and usufruct rights (Cuba); access to property in general and to productive agricultural resources such as fertilizers, pesticides and improved planting material (Nigeria); participation and decision-making in cooperative farming and in agricultural enterprises (Cuba, Kyrgyzstan, Morocco); food production (The Congo, Zambia); agricultural labour force (Burkina Faso, China, Guinea, Kyrgyzstan); or indigenous populations (Guatemala). Unfortunately, this information is sparse and diverse, and does not allow for comparisons among countries. The same applies for information on land and agricultural reform (Armenia, Cuba, Guatemala, Kyrgyzstan, The Philippines, South Africa, Uzbekistan, Viet Nam, etc.), where not enough data disaggregated by sex are provided.

Several reports include specific data on the number of woman-headed households. Yemen reports that women head 13.6% of rural families, which consist of ten or more members on average. Nigeria provides data comparing the average annual income of rural woman- and man-headed households. Sri Lanka includes data on the number of households headed by a widow.

Rural women's economic and social activities and contributions are not adequately defined, described or qualified since the main focus of national statistics has generally been on the non-rural sector. The very concept of women in the rural labour force seems to have no common definition, as some countries do not take into account women's informal work in the rural areas, whereas others do. Algeria, for instance, acknowledges that the downward trend in women workers in nearly all economic activities, particularly in agriculture (2.2%), and the

low proportion of rural women in paid employment do not reflect women's real participation in development. Rural women are overlooked since their work in agriculture is regarded as an extension of their domestic chores and not as an economic activity.

Tunisia, by contrast, reports an increase in the number of economically active women in the agriculture sector. From 1989 to 1994, the number of economically active rural women increased by almost 27%. Nearly 65% of women work in family agriculture. However, agricultural-sector and rural employment patterns are changing in the country. One of the most significant transformations in the last two decades has been the development of a female wage-earning class in the manufacturing industries.

Statistics on credit and loans are sometimes also provided in reports to the Committee. In some countries, a quota system in favour of women has been established to ensure that credit is accessible to women. In Brazil, the Ministry of Agrarian Development determined that 30% of funds in the National Programme for Strengthening Family Agriculture should be earmarked for activities targeted at rural women. In its Agrarian Reform Programme, it also earmarked 30% of all funds for women in family agriculture units. In Chile, the National Institute for Agricultural Development has adopted a policy to support the productive activities of peasant women, and has changed the rules on access to credit to extend coverage to women and young people.

INSTITUTIONAL MECHANISMS FOR GENDER EQUALITY IN RURAL AREAS

Under the Convention's Articles 2 or 3, States parties report on the establishment, composition and functioning of national mechanisms to implement equal opportunity policies and gender mainstreaming. Since the majority of women live in rural areas, information on mechanisms dealing with their situation is of great interest. However, information on specific institutions established for rural women is scarce in most reports. Under Article 14 (rural women), only a small number of States parties provide detailed information on policies, programmes and institutions for women. Some countries have established focal points on gender mainstreaming in ministries of agriculture or regional directorates to deal with the specific concerns of rural women (The Congo, Guinea). In Brazil, women's councils operate throughout the country – 19 at state level and 78 at municipal level. The Ministry of Agriculture established a programme in support of rural women in December 1985, and the Ministry of Agrarian Development set up a committee to support rural women workers.

In several reports, the national programme of action for gender equality contains specific reference to rural women or has made rural women a priority (the Democratic Republic of the Congo, Kyrgyzstan, Morocco).

A number of countries report that they have established specific units within the Department of Agriculture to deal with rural women or have given priority to rural women in rural development programmes (Kyrgyzstan, Nicaragua, Nigeria, The Philippines). In Namibia, the Ministry of Agriculture, Water and Rural Development has established a steering committee on gender sensitization to ensure that the needs of women farmers are adequately incorporated into agriculture policies and programmes at all levels. The draft national agriculture policy recognizes that women have little access to and control over household resources, and includes measures to ensure that women are not left behind. In Tunisia, the national plan of action for rural women, formulated in 1998, established regional commissions, regional counselling and rural activity centres for women. In Chile, a rural division has been created within the National Office for Women's Affairs to ensure that the Ministry of Agriculture and its affiliated offices, decentralized agencies and other public and private entities associated with rural women's issues incorporate into their regular activities measures guaranteeing equal opportunity for rural women. A women's equal opportunity commission was created within the Ministry of Agriculture in 1998 to improve coordination among services and assist the Ministry.

In Jordan, NGOs have set up programmes in rural areas to improve the situation of rural women. Typically they organize women in self-help groups and provide training in such income-generating activities as carpetmaking, dressmaking, and the production of dairy products or porcelain goods. Other countries (Ecuador, Egypt, The Philippines) also mentioned training and specific projects for rural women.

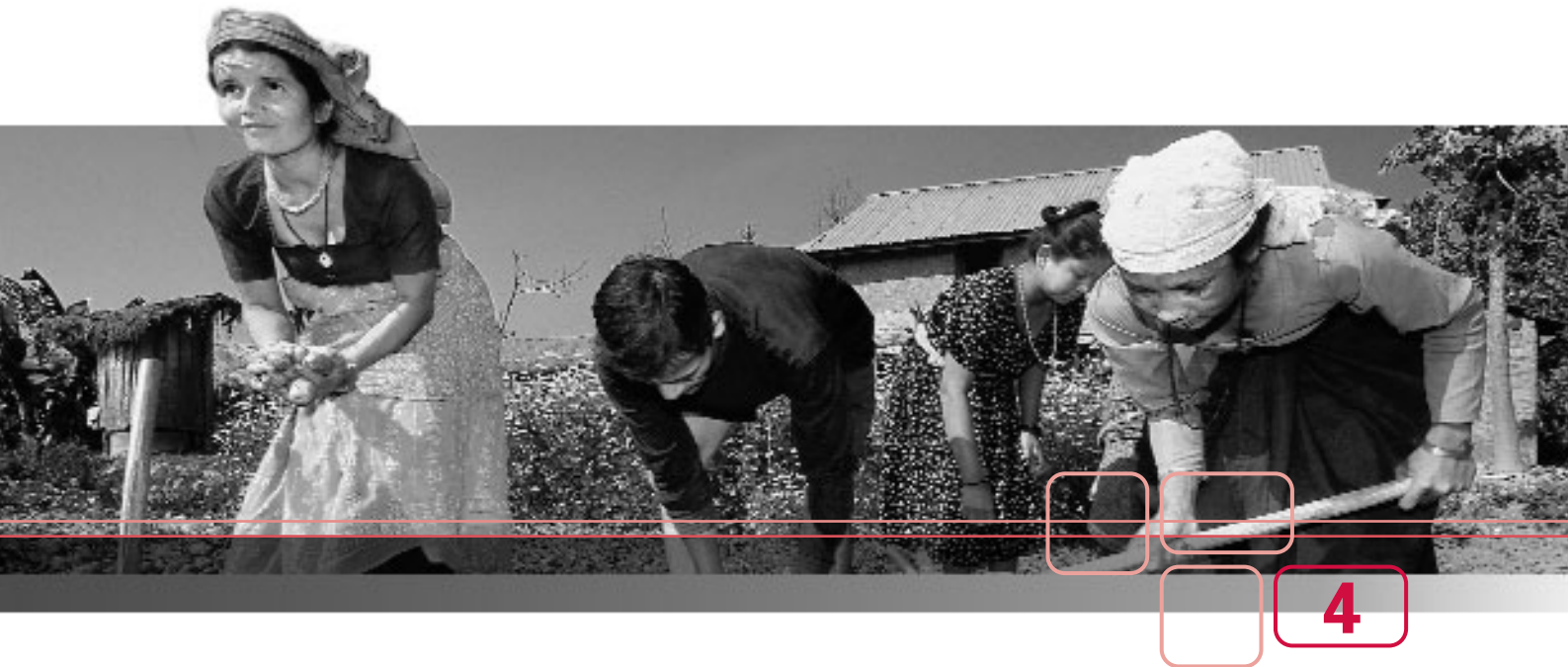
Besides reports to the Committee, a few other sources can provide information on national mechanisms for the advancement of women. In their annual statements to the United Nations Commission on the Status of Women or to the Third Committee of the United Nations General Assembly, countries may provide updated information on the establishment and composition of such mechanisms. The United Nations Division for the Advancement of Women (DAW) maintains a database on national mechanisms, which contains basic information but no details as to the structure of the office or the existence of focal points in the various line ministries. Information was gathered as part of the follow-up to the Fourth World Conference on Women and in preparation for the five-year review in 2000. Although much is still valid, updating is required.

20 CCEDAW General Recommendation No. 21 (13th session, 1994). A General Recommendation is based on the reports of States parties, the discussion between the Committee and the State party presenting the report, and the Committee's concluding comments.

21 Food and Agriculture Organization of the United Nations (FAO), 1999.

22 See United Nations Human Settlement Programme, 2002, p. 69 ff.

23 South Africa entered a new phase of land reform in 1999, when the redistribution of land was linked to enhanced agricultural productivity and promotion of a black commercial farming class, a policy that had a potentially negative impact on poor rural women. See Walker, 2002.



Conclusions and recommendations

The reporting procedure under CEDAW, in particular the preparation of an initial or periodic report and its presentation to the Committee on the Elimination of Discrimination against Women, provides a unique momentum in a country to take stock of de jure and de facto gender equality. It should therefore be used as an opportunity to investigate the discrimination that still persists in various areas. Reporting to the Committee is already used by many NGOs as an advocacy tool for the empowerment of women. It can also provide important inputs to country poverty reduction strategy papers and reports on the achievement of the Millennium Development Goals. However, the following recommendations can be made to support and strengthen reporting under the Convention and maximize its use:

- (i) CEDAW is a legally binding agreement, meaning that women can expect to benefit from the rights established in this convention once their governments have ratified it. The international community should support processes to ensure that countries have the capacity to achieve their obligations under the Convention and can continue to comply with these obligations over time.
- (ii) CEDAW is the **only** human rights treaty that deals specifically with rural women. In its Article 14, it highlights issues pertinent to their participation and their equal access to basic social services. Therefore, it offers a powerful tool to use in advocating for rural women and in rural development programmes that involve them.

- (iii) As this study has shown, secure access to land by women is a basic factor in food security. However, customs and common practices often prevent women from gaining or sharing household rights to land. It is therefore important to foster an understanding of the benefits that women's secure access to land can bring to the population as a whole. In particular, support should be provided to the Committee to increase its focus on the situation of rural women.
- (iv) The preparation of an initial or periodic report to the Committee provides an opportunity for different stakeholders and institutions to work together, concentrating their efforts on women's land rights and their de facto equality in rural areas.
- (v) Support could be provided, on request, to the relevant ministry in a given country through the gender focal points involved in preparing the report to the Committee.
- (vi) The Committee, together with relevant United Nations and international bodies, should be given the means to identify gaps between de jure and de facto opportunities for women, and to support ways of closing gaps that may exist at the country level. States should be encouraged to meet their obligations under the Convention.
- (vii) Efforts should be made to develop and strengthen statistical concepts and definitions, and to encourage their consistent application in measuring women's role in the rural sector and reporting at national and international levels, including in reports to the Committee.
- (viii) While reports to the Committee can give a fairly clear picture of national-level institutional mechanisms, they do not systematically include information on institutions in rural areas. No other reliable and timely source of detailed information on these mechanisms exists besides the periodic reports to the Committee. Efforts should be made to invite countries to present information on the structure and composition of both their national and rural mechanisms in their periodic reports to the Committee and to compile this information systematically.
- (ix) Statistical data should be presented more coherently and systematically in reports to the Committee to enable cross-country comparisons and evaluations of progress achieved. As the Committee's reporting guidelines do not ask for specific data or indicators, the disparities in the information provided do not allow indicators to be established or a comparative analysis to be made on progress towards targets. However, countries should make an effort when compiling the section on Article 14 to include specific reference to the areas of interest mentioned above.
- (x) In order that a larger audience can be reached and information can be better known and used, it is suggested that accessibility to treaty-based information be improved (through Internet links, mailing lists, etc.), in particular, country-based information, reports to human rights treaty bodies, and the concluding comments of treaty bodies.
- (xi) Over the years, the Committee has invited specialized agencies, including FAO, to provide precise, updated information in pre-sessional documents and thereby draw the attention of Committee members to areas of concern. This process represents an important opportunity for the agencies in question to address the Committee.

- (xii) As the presenters of this study, FAO, IFAD and ILC should aim to strengthen country-level activities that ensure the furthering of secure access by women to land and related resources.
- (xiii) Efforts should be made to disseminate the information contained in reports to the Committee and in its concluding comments, in particular those addressing Article 14 and other areas of immediate concern to rural women. Once this information is widely known, government officials, parliamentarians, NGOs, the media and the development community working in rural areas can become effective partners in helping their countries achieve the aims of CEDAW as governments have committed to do through the act of ratification.
- (xiv) Priority should be given to States parties that have not yet submitted their initial reports or that are behind in submitting their periodic reports. Immediate attention should be given to countries presenting reports at the forthcoming session of the Committee. Efforts could also be made to consult with the United Nations Division for the Advancement of Women (DAW), the United Nations Children's Fund, and the United Nations Development Fund for Women (UNIFEM) on assistance provided to countries or subregions where reports are under preparation.



Working methods of the committee on the elimination of discrimination against women

REPORTING PROCEDURES UNDER THE CONVENTION

To fulfil the reporting obligations outlined in Article 18 of the Convention, States parties have to submit to the United Nations Secretary-General an initial report on the legislative, judicial, administrative or other measures that they have adopted to implement the Convention within a year after its entry into force for the State concerned. Thereafter, they should submit a periodic update at least every four years, or whenever the Committee so requests. These reports are forwarded to the Committee, composed of 23 independent experts, for consideration. The reporting procedure provides for international scrutiny of compliance with the Convention and implementation of its articles at national level. It also offers a valuable opportunity to policy-makers, the judiciary, parliamentarians and the NGO community at the national level to hold a government accountable for its achievements and failures under the Convention.

Reports are to be prepared according to Committee guidelines.¹ The initial report should provide a detailed and comprehensive description of the position of women at the time of submission since it is meant to serve as a benchmark against which subsequent progress can be measured. Second and subsequent periodic reports are intended to update the previous report, detailing significant developments that have occurred over the preceding four years, noting key trends and identifying obstacles to the full achievement of the rights guaranteed by the Convention. If a State party report contains insufficient information, the Committee may request the State concerned to furnish any additional information required.² A central feature of the report is the description of *de jure* and *de facto* equality, in line with the premises of the Convention. The inclusion of statistics disaggregated by sex and information on difficulties and remaining obstacles is required to provide a true picture of *de facto* equality or indirect discrimination.

Many countries have fallen behind in their reporting. With the increase in the number of ratifications, the number of overdue reports has also increased. As at 31 August 2002, 263 reports to the Committee were overdue, of which 45 were initial reports, 61 second periodic reports, 59 third periodic reports, 48 fourth periodic reports and 50 fifth periodic reports. Reports submitted by 17 States parties had yet to be considered by the Committee.³ Lengthy delays in the

preparation of reports and in their submission to and consideration by the Committee may significantly reduce the impact of international scrutiny of the compliance of States parties with the Convention. Equatorial Guinea, for instance, submitted its combined second and third periodic report in 1994, but for internal reasons has not yet been able to present it to the Committee. Guinea ratified the Convention in 1982, but only submitted a detailed, comprehensive initial report 19 years later. It explained that the delay was due both to political change and to the impact on the technical departments of frequent changes to ministerial portfolios.

If, on the one hand, the number of overdue reports is increasing, on the other, the Committee's capacity to consider reports is stretched, given the high number of ratifications and the corresponding number of initial and periodic reports to be examined. At its Twenty-Third Session, the Committee decided, on an exceptional basis and as a temporary measure to address the backlog of reports awaiting consideration, to invite States parties to combine overdue reports in a single document.⁴ An exceptional session of the Committee took place in 2002 to reduce the backlog.⁵

To improve reporting under the Convention, DAW has, on request, provided advice to States parties on the Convention's substantive requirements and assistance in fulfilling their reporting obligations. In July 1999, DAW organized a subregional meeting attended, *inter alia*, by participants from countries that had not yet prepared their initial reports (the Central African Republic, Chad, Côte d'Ivoire and Togo). Another subregional meeting, this time for Asia and the Pacific, was held in December 2000 in Fuji, in collaboration with the United Nations Development Programme, UNIFEM, the United Nations Economic and Social Commission for Asia and the Pacific, and the Government of New Zealand. It was attended by countries from Oceania that had ratified the Convention in the 1990s but that had not yet presented their initial reports (Marshall Islands, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu). The International Training Centre of the International Labour Organization (ILO) in Turin has offered training seminars.

Since the judiciary plays a crucial role in the application of human rights norms, DAW convened a judicial colloquium on the application of international human rights law at the domestic level.⁶ Conference participants called for all judges to engage in an ongoing process of comprehensive, in-depth and credible judicial education to integrate international human rights instruments into domestic law and decision-making.

States parties that fulfil their reporting requirements show an increased compliance with reporting obligations under the Convention. More and more reports are prepared in line with Committee guidelines and include statistical data. Zambia, in the preparation of its combined third and fourth periodic report, used not only instructions provided by the United Nations, but also reporting guidelines developed by an NGO, the International Women's Rights Action Watch. Governments have become more self-critical in their reports. Nicaragua's fifth periodic report "acknowledges the difficulties and limitations that have prevented the country from achieving more rapid fulfilment of the commitments it made as a State party to the Convention".

Recently reports have increased in volume and provide more information. The length of an average report is now 80 pages, a long way from the two-page report submitted by Mali in 1987. Opinions may differ as to the utility of States parties' reports, in particular with regard to interpretations of articles of the Convention.⁷ The accuracy of information may also be questionable, and it may be out of date, particularly if there has been a long delay between report preparation and consideration.

Above all, preparation of a report to the Committee provides a unique opportunity in a country to galvanize efforts on women's rights. Due to the Convention's comprehensiveness, many ministries and state departments need to be involved in preparing such a report. The ministry of agriculture or rural development would need to contribute information related to



the implementation of Article 14 on rural women. In Georgia, for instance, a group of experts prepared the report using materials provided by state legislative and executive bodies, and information from NGOs and mass media publications. In Suriname, an NGO rather than the relevant ministry prepared the first draft of the report. In India, nationwide consultations took place from 1993 to 1996 to prepare the report. Meetings were held with a number of women's organizations, NGOs and individual women. Various ministries and government departments also discussed in detail different Convention articles and provided written input. In The Philippines, the report is the product of a consultative process between the Government and NGOs, a process to which the National Commission on the Role of Filipino Women adhered in the spirit of partnership and collaboration with NGOs. In many countries, NGOs have also used the reporting procedure to draw attention to lacunae in CEDAW implementation and have prepared 'shadow reports'.⁸

In the countries selected, the preparation of initial and periodic reports to the Committee was a lengthy process generally involving various ministerial departments and civil society. Several countries circulated the draft report widely among NGOs, the Government and private institutions, inviting them to submit comments. They also held workshops or conferences before report finalization to give various government representatives and NGOs an opportunity to come together and discuss the issues (Jordan, Kazakhstan, Namibia, Tunisia, Viet Nam and Zimbabwe).

Whereas efforts to involve civil society in preparing the report to the Committee have clearly increased all over the world, the involvement of large segments of government and civil society does not always produce the expected outcome. Namibia, for instance, noted that the level of interest shown both inside and outside government was low and pointed out that a more formalized monitoring process was needed.

In some countries, donors provided support for report preparation. Jordan's report was finalized at a national workshop organized in conjunction with UNIFEM. In Zimbabwe, the United Nations Children's Fund (UNICEF) supported initial data collection, and compilation and editing of the draft report, whereas Danish International Development Assistance funded the final editing and production of the report. The Commonwealth Secretariat provided technical assistance to South Africa in preparing the report, establishing of a gender management system and developing gender policies at national and departmental levels. The Canadian International Development Agency's Canada-Caribbean Gender Equity Fund and UNIFEM provided financial and technical assistance to Suriname for report preparation.

Some countries used report preparation as an opportunity to plan for the future. In Jordan, workshops on the draft report also agreed on future measures to be taken by public institutions, NGOs and the National Committee for Women to ensure the effective implementation of the Convention.

THE ROLE OF UNITED NATIONS SPECIALIZED AGENCIES AND BODIES

The Committee's rules of procedure foresee the participation of specialized agencies and bodies of the United Nations, and of intergovernmental organizations and NGOs.⁹ The Committee may invite specialized agencies to submit reports on Convention implementation in areas falling within the scope of their activities.

In the 1990s, the Committee tried to reactivate and reinforce collaboration with the United Nations specialized agencies, in particular FAO, the ILO, the United Nations Population Fund, the United Nations Educational, Scientific and Cultural Organization, UNICEF, UNIFEM, and the World Health Organization (WHO).¹⁰ The Committee continued to request the specialized agencies to present reports on the implementation of the Convention in areas falling within the scope of their activities. It also welcomed the assistance and cooperation of specialized

agencies in implementing its mandate under the Convention and the Beijing Platform for Action, and in the translation and wide dissemination of the Convention.

In follow-up to the Fourth World Conference on Women, the Committee identified areas of concern that were compatible with Convention articles, and decided on priorities to improve coordination and avoid overlap with the activities of United Nations specialized agencies, organs and programmes. Thus, IFAD, the International Monetary Fund, the United Nations Development Programme, UNIFEM, and the World Bank would deal with poverty and structural adjustment programmes, whereas FAO and IFAD would coordinate programmes related to rural women. The Committee also decided to designate one of its members to serve as the focal point for particular United Nations entities. Efforts were to be made to explore cooperation in relation to field-level activities and to develop further ways of integrating the Convention into the work of the United Nations system.¹¹ Subsequently the Committee agreed that representatives of United Nations specialized agencies and bodies should be invited to address the Committee as a whole at a closed meeting on States parties whose initial reports were before the Committee.¹²

Reports by FAO, the ILO, UNICEF and WHO are issued as pre-sessional CEDAW documents. FAO reports focus on activities, programmes and policy decisions undertaken to promote the implementation of Article 14 and related articles. Sometimes the specialized agency may provide more detailed information than the State party does. In the case of Kenya, few statistics were given in the State party report; FAO therefore provided from its own sources supplementary data on population and the labour force.¹³ It also informed the Committee about its emergency operations and food aid during the severe drought that began in 1999, and about the decline in agricultural production (maize, coffee, tea and horticulture). The official report submitted two years earlier (February 2000) had not mentioned these topics. However, FAO did not comment on all reports considered at that session of the Committee, and its comments were limited to specific topics.

INVOLVEMENT OF NON-GOVERNMENTAL ORGANIZATIONS

Over the years, the Committee has paid greater attention to NGOs, who play no formal role in reviewing reports, but can provide additional information on national reports and act as agents for promoting the Convention. Since the World Conference on Human Rights in Vienna, Austria, in 1993 and given the increased attention to violence against women as a human rights issue, an expanding number of activists have focused on human rights and have received training in international law. Thus the non-governmental women's rights community grew considerably in the 1990s. These NGOs know how to refer to women's rights and how to use international human rights instruments as tools in their activities. In their 'shadow reports', NGOs put pressure on States parties and provide alternative information to the Committee's experts.¹⁴

After the Fourth World Conference on Women, collaboration between the Committee and NGOs intensified. Their role in publicizing the Convention and the work of the Committee was noted, in particular the contribution of the International Women's Rights Action Watch (IWRAP), with its regular "IWRAP to CEDAW report", Amnesty International and the International Human Rights Law Group.¹⁵ In 1999, the Committee decided that representatives of national and international NGOs should be invited to provide country-specific information in an informal meeting on States parties whose reports were before the Committee.¹⁶

Many NGO networks use the Convention to give additional leverage to their activities and to advocate for legal reform. In particular, NGOs working on violence against women have always applied a rights-based approach. New NGO alliances are emerging in other fields. For example, a consortium of NGOs in the Southern African Development Community has established a regional platform on women's land and water rights, using legal instruments.¹⁷



CONCLUDING COMMENTS OF THE COMMITTEE

Following the presentation of each State party report, the Committee engages country representatives in a constructive dialogue and later formulates concluding observations or comments. Concluding comments outline factors and difficulties affecting the State party's ability to implement the Convention, positive aspects, and principal subjects of concern; they also contain suggestions and recommendations to enhance CEDAW implementation.¹⁸ The Committee also makes suggestions that it addresses to bodies other than States parties. The concluding comments should assist the State party in implementing its obligations under the Convention and include guidance for the preparation of the State party's next periodic report.¹⁹

Over the years, the Committee has gradually revised its concluding comments, streamlining them while making them more detailed and specific.²⁰ Whereas in the past its comments summarized the discussion, they now tend to address each article of the Convention and detail the specific action to be taken. The Committee requests that concluding comments be distributed widely in order to make government administrators and policy-makers aware of steps taken to ensure de jure and de facto equality for women and the future action required. It also requests governments to disseminate the Convention and its Optional Protocol widely, in particular to women's and human rights organizations. In many countries, concluding comments receive local press coverage and are disseminated by NGOs. The more controversy develops around these comments, the better the coverage. Recently States parties have used them as a tool to plan ahead and strategize. Armenia, for instance, organized a two-day planning conference where it presented the Committee's concluding comments to gender experts, NGOs and the media.

At the outset of concluding comment, the Committee determines whether the principle of direct and indirect discrimination has been properly understood and addressed. It refers specifically to customary and statutory law in rural areas (see Annex II, Table 2). In the case of Kyrgyzstan, for instance, the Committee was concerned that discrimination against women was not sufficiently understood as a multifaceted phenomenon entailing indirect and unintentional as well as direct and intentional discrimination. Regarding the United Republic of Tanzania, the Committee noted that prevailing customary and religious laws are discriminatory towards women and sometimes supersede the constitution. Applied and accepted more widely in rural areas, they often prevent women from inheriting and owning land and property. Commenting on the Zambia report, the Committee urged the Government to strengthen law enforcement and to provide effective remedies through the courts for women who experience discrimination.

With regard to rural women, the Committee mostly addresses the health and education of women and girls in rural areas. It is concerned about the high illiteracy among women and girls, their unequal access to all levels of education, and the high female drop-out rate. It encourages States parties to introduce further special measures in the area of education, including incentives for parents to send their daughters to school and incentives to encourage the recruitment of more qualified women teachers.²¹ Concerning health, the Committee urges governments to take action to counter high rates of maternal and infant mortality, low life expectancy, the low rate of contraceptive use, teenage pregnancies, unsafe abortions, inadequate health-care facilities and family planning services (particularly in rural areas), and deteriorating health services.²²

The Committee also addresses the lack of information on rural women, especially in the informal sector. It asked Egypt to provide in its next periodic report a comprehensive picture of the situation of rural women, particularly with regard to education, health and employment. It requested Mongolia to collect data and information on women living in poverty, disaggregated by age. It urged Nicaragua to give priority attention to rural women and women heads of household, including in the allocation of budgetary resources.

Access to land and property rights, discrimination in inheritance, and access to resources and credit are also often highlighted in the concluding comments. The Committee invited South Africa to prepare a uniform family code in conformity with the Convention. This would require abolishing polygamy and unequal inheritance and land rights. The Committee also noted that rural women should participate in land reform programmes. Access to land was also an issue in the case of Namibia. The Committee expressed concern that women, particularly in rural areas and despite new laws, were unable to own land. It encouraged the Government to take steps to correct this situation. As for Viet Nam, the Committee recommended that the State party review the existing legal provisions regarding the retirement age of women and men, to ensure that women are entitled to continue productive employment on an equal basis with men.

In its concluding comments the Committee has also emphasized poverty reduction, the full integration of women into rural development, and the elimination of the marginalization of women in agriculture. It recommended, for example, that Kazakhstan set specific targets in poverty reduction programmes for poor women, and especially for women heads of household, older women and rural women.

The Committee has addressed various specific topics relating to the violation of the human rights of rural women: food taboos in the United Republic of Tanzania; the high suicide rate of rural women in China; and violence against women in Egypt, Kyrgyzstan and Morocco. In its concluding comments on Peru, it expressed concern about sexual violence against rural and indigenous women, and the high rate of sexual abuse of adolescents and girl children in emergency zones.

Other treaty bodies have also forcefully addressed discriminatory practices and disparities between statutory law and customary law. The Committee on Economic, Social and Cultural Rights established under the ICESCR, for instance, has criticized discriminatory laws that prevent women from inheriting land in Cameroon (1999), Morocco (2000) and Sri Lanka (1998).²³

CHALLENGES AHEAD

With 26% of initial State party reports not submitted, the Committee and the United Nations system face the challenge of encouraging, putting pressure on, or facilitating the efforts of, governments to fulfil their reporting requirements. The usefulness of the reporting procedure depends on the willingness and efforts made by States parties in the process.

Given the increase in the number of ratifications of all treaty bodies, the reporting process and coordination between the different treaty bodies and complaints mechanisms has become difficult. As illustrated by the high number of countries unable to fulfil their reporting obligations, some changes need to be introduced. The reform agenda of the United Nations Secretary-General has recognized that the existing treaty bodies and human rights mechanisms and procedures constitute a large and intricate network whose growing complexity and the corresponding burden of reporting obligations are straining the resources of Member States and the Secretariat. To improve work in this area, United Nations capacity to help individual countries build strong human rights must be strengthened. The procedures of the treaty bodies also need to be reviewed in order to simplify reporting obligations.²⁴

Another challenge is the integration of a rights-based approach into all areas of work of the United Nations system, in particular into development assistance and emergency relief operations. The human rights framework and its machinery continue to be set apart from other development activities. A rights-based approach needs to be incorporated into the United Nations Development Assistance Framework, in particular into the Common Country Assessment and the preparation of poverty reduction strategy papers. Bringing human rights and development together has become an even greater priority given the commitment to realize the Millennium Development Goals.



- 1 <http://www.un.org/womenwatch/daw/cedaw/reporting.htm>. See also "Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties", HRI/GEN/2/Rev.1, 9 May 2001.
- 2 Rules of Procedure, Rule 50, CEDAW/C/ROP of 26 January 2001. See also "Compilation of Rules of Procedure Adopted by Human Rights Treaty Bodies", HRI/GEN/3, 3 June 2001.
- 3 United Nations, 2002.
- 4 Report of the Committee on the Elimination of Discrimination against Women, A/55/38, page 49, Decision 23/II: Overdue reports required under Article 18 of the Convention.
- 5 General Assembly resolution, A/RES/56/229.
- 6 United Nations, 2000a.
- 7 Byrnes, 1998.
- 8 See <http://iwwraw.igc.org/iwwraw/publications/countries/>.
- 9 Article 22 of the Convention, Rules 45-47, Annex I of the Report of the Committee on the Elimination of Discrimination against Women, A/56/38.
- 10 Report of the Committee on the Elimination of Discrimination against Women, A/50/38.
- 11 Report of the Committee on the Elimination of Discrimination against Women, A/51/38.
- 12 Report of the Committee on the Elimination of Discrimination against Women, A/53/38/Rev.1, Decision 18/II: Specialized agencies and other United Nations bodies, page 3.
- 13 United Nations (2002). "Report provided by specialized agencies of the United Nations on the Implementation of the Convention in areas falling within the scope of their activities, Food and Agriculture Organization of the United Nations." CEDAW/C/2003/II/3/Add. of 7 November.
- 14 <http://iwwraw.igc.org/iwwraw/publications/countries>; www.amnestyusa.org/women; www.htlawgroup.org.
- 15 Report of the Committee on the Elimination of Discrimination against Women, A/50/38.
- 16 Report of the Committee on the Elimination of Discrimination against Women, A/54/38/Rev.1, Decision 20/I: Non-governmental organizations, page 7.
- 17 Platform on Women's Land Rights in Southern Africa, Critical Issues – Women's Land Rights in Southern Africa.
- 18 Article 21, paragraph 1, of the Convention.
- 19 CEDAW Rules of Procedure, Rule 52 and 53.
- 20 Report of the Committee on the Elimination of Discrimination against Women, A/52/38, Decision 16/I: Concluding comments, p.1. A/53/38/Rev.1. Decision 19/II: Concluding comments.
- 21 Egypt, Guinea, Nepal, Yemen, Zambia, et al.
- 22 Cameroon, Democratic Republic of the Congo, Morocco, Mongolia, Zambia, et al.
- 23 Concluding Comments of the Committee on Economic, Social and Cultural Rights. E/C.12/1/Add.40, E/C.12/1/Add.24, E/C.12/1/Add.55.
- 24 United Nations. *Strengthening of the United Nations: an agenda for further change*, Report of the Secretary-General, A/57/387. See also Resolution adopted by the General Assembly A/RES/57/300.



TABLE 1

List of selected states parties to the convention on the elimination of all forms of discrimination against women

Initial and Periodic Reports Considered between the Eighteenth and Twenty-Ninth Sessions of the Committee on the Elimination of Discrimination against Women

State Party	Convention: Date of Signature or Receipt of the Instrument of Ratification, Accession or Succession (as of June 2002)	Committee: Initial or Periodic Report Considered Session/Year	Documents Available
AFRICA			
Algeria		20th /1999	CEDAW/C/DZA/1 of 1 September 1998
Burkina Faso	14 October 1987	22nd /2000	CEDAW/C/BFA/2-3 of 15 February 1998
Burundi	8 January 1992	24th /2001	CEDAW/C/BDI/1 of 3 July 2000
Cameroon	23 August 1994	23rd /2000	CEDAW/C/CMR/1 of 9 May 1999
Congo	26 July 1982	28th /2003	CEDAW/C/COG/1-5 of 8 April 2002
D.R. Congo	17 October 1986	22nd /2000	CEDAW/C/COD/1 of 18 June 1999
Egypt	18 September 1981	24th /2000	CEDAW/C/EGY/3 of 25 July 1996 CEDAW/C/EGY/4-5 of 30 March 2000
Equatorial Guinea	23 October 1984	Not yet considered	CEDAW/C/GNQ/2-3 of 25 September 1995
Guinea	9 August 1982	28th /2003	CEDAW/C/GINB/1-3 of 6 March 2001
Kenya	9 March 1984	28th /2003	CEDAW/C/KEN/3-4 of 14 February 2000
Morocco	21 June 1993	16th /1997 29th /2003	CEDAW/C/MOR/1 of 3 November 1994 CEDAW/C/MOR/2 of 29 February 2002
Namibia	23 Nov 1992 a	17th /1997	CEDAW/C/NAM/1 of 10 February 1997
Nigeria	13 June 1985	19th /1998	CEDAW/C/NGA/2-3 of 26 February 1997
South Africa	15 Dec 1995 a	19th /1998	CEDAW/C/ZAF/1 of 25 February 1998
Tanzania, United Republic of	20 August 1985	19th /1998	CEDAW/C/TZA/2-3 of 30 September 1996
Tunisia	20 Sep 1985 b	14th /1995 27th /2002	CEDAW/C/TUN/1-2 of 17 September 1993 CEDAW/C/TUN/3-4 of 2 August 2000
Uganda	22 Jul 1985	14th /1995 Exceptional/2002	CEDAW/C/UGA/1-2 of 1 June 1992 CEDAW/C/UGA/3 of 3 July 2000
Zambia	21 June 1985	27th /2002	CEDAW/C/ZAM/3-4 of 12 August 1999
Zimbabwe	13 May 1991 a	18th /1998	CEDAW/C/ZWE/1 of 20 July 1996

ASIA AND PACIFIC

Armenia	13 September 1993	17th /1997 EXC/2002	CEDAW/C/ARM/1 of 26 September 1995 CEDAW/C/ARM/2 of 9 September 1999
Azerbaijan	10 July 1995	18th /1998	CEDAW/C/AZE/1 of 16 September 1996
Bangladesh	6 November 1984	17th /1997	CEDAW/C/BGD/3-4 of 1 April 1997
China	4 November 1980	20th /1999	CEDAW/C/CHN/3-4 of 10 June 1997
Georgia	26 October 1994	21st /1999	CEDAW/C/GEO/1 of 10 March 1998
India	9 July 1993	22nd /2000	CEDAW/C/IND/1 of 10 March 1999
Indonesia	13 September 1984	18th /1998	CEDAW/C/IDN/2-3 of 12 February 1997
Iraq	13 Aug 1986 a	12th /1993 23rd /2000	CEDAW/C/5/Add.66/Rev.1 of 16 May 1990 CEDAW/C/IRQ/2-3 of 19 October 1998
Jordan	1 Jul 1992 b	22nd /2000 22nd /2000	CEDAW/C/JOR/1 of 27 October 1997 CEDAW/C/JOR/2 of 26 October 1999
Kazakhstan	26 Aug 1998 a	24th /2001	CEDAW/C/KAZ/1 of 12 October 2000
Kyrgyzstan	10 February 1997	20th /1999	CEDAW/C/KGZ/1 of 28 August 1998
Maldives	1 July 1993	24th /2001	CEDAW/C/MDV/1 of 28 January 1999
Mongolia	20 July 1981	24th /2001	CEDAW/C/MNG/3-4 of 15 March 1999
Nepal	22 April 1991	21st /1999	CEDAW/C/NPL/1 of 23 November 1998
Philippines	5 August 1981	16th /1997	CEDAW/C/PHI/4 of 25 July 1996
Sri Lanka	5 October 1981	26th /2002	CEDAW/C/LKA/3-4 of 18 October 1999
Uzbekistan	19 July 1995	24th /2001	CEDAW/C/UZB/1 of 2 February 2000
Viet Nam	17 Feb 1982 b	5th/ 1986 25th /2001 25th /2001	CEDAW/C/5/Add.25 of 2 October 1984 CEDAW/C/VNM/2 of 15 March 1999 CEDAW/C/VNM/3-4 of 20 October 2000
Yemen	30 May 1984	EXC /2002	CEDAW/C/YEM/4 of 15 March 2000 CEDAW/C/YEM/5 of 15 February 2002

LATIN AMERICA AND CARIBBEAN

Brazil	1 Feb 1984 b, c	Not yet considered	CEDAW/C/BRA/1-5 of 7 November 2002
Chile	7 Dec 1989 b	14th /1995 21st /1999	CEDAW/C/CHI/1 of 3 September 1991 CEDAW/C/CHI/2 of 9 March 1995 CEDAW/C/CHI/3 of 27 January 1999
Cuba	17 July 1980	23rd /2000	CEDAW/C/CUB/4 of 25 September 1999
Ecuador	9 November 1981	29th /2003	CEDAW/C/ECU/4-5 of 25 January 2002
Guatemala	12 August 1982	EXC /2002	CEDAW/C/GUA/2-4 of 20 March 2001 CEDAW/C/GUA/5 of 17 January 2002
Nicaragua	27 October 1981	25th /2001	CEDAW/C/NIC/4 of 28 August 1998 CEDAW/C/NIC/5 of 9 September 1999
Peru	5 Aug 1981	9th /1990 14th /1995 19th /1998 Exceptional/2002	CEDAW/C/5/Add.60 of 14 September 1988 CEDAW/C/13/Add.29 of 13 February 1990 CEDAW/C/PER/3-4 of 25 November 1994 CEDAW/C/PER/5 of 6 March 2001
Suriname	1 Mar 1993 a	27th /2002	CEDAW/C/SUR/1-2 of 5 March 2002

EUROPE

Albania	11 May 1994	28th /2003	CEDAW/C/ALB/1-2 of 23 May 2002
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TABLE 2

Reference to rural women in the concluding observations of the committee on the elimination of discrimination against women

	Customary Law, de Jure and de Facto Equality	Access to Land and Property	Inheritance	Access to Resources and Credit
AFRICA				
Algeria A/54/38, paras.41-94	yes	yes	yes	
Burkina Faso A/55/38, paras.239-286	yes	yes	yes	yes
Burundi A/56/38, paras.32-67	yes			
Cameroon A/55/38, paras.30-66	yes		yes	
Congo 28th session 2003	yes	yes	yes	yes
D.R. Congo A/55/38	yes	yes	yes	
Egypt A/56/38, paras.312-358	yes			
Guinea A/56/38, paras.97-144	yes	yes	yes	yes
Kenya 28th session 2003	yes	yes	yes	yes
Morocco A/52/38/Rev.1, paras.45-80				
Namibia A/52/38/Rev.1, Part II, paras.69-131	yes	yes		
Nigeria A/53/38/Rev.1, paras.138-174	yes			yes
South Africa A/53/38/Rev.1, paras.100-137	yes	yes (land reform)		
Tanzania, United Republic of A/53/38/Rev.1, paras.206-242	yes	yes	yes	
Tunisia A/50/38, paras.218-277		yes	yes	
Uganda A/50/38, paras.278-344		yes	yes	yes
Zambia A/57/38, paras. 211-261				
Zimbabwe A/53/38, paras.120-166	yes			
ASIA AND PACIFIC				
Armenia A/57/38, paras 25 – 59				
Azerbaijan A/53/38, paras.37-79				
Bangladesh A/52/38/Rev.1, paras.409-464		yes		yes



Participation in Policies/ Programmes	Education Illiteracy	Health	Lack of Data	Other Areas Addressed with Regard to Rural Women
yes	yes		yes	Emergence of fundamentalism and terrorist violence
	yes	yes		Agrarian and land reform
	yes	yes		
yes	yes	yes		Decision-making; access to drinking water
	yes	yes		Ownership, sharing of land
	yes	yes	yes	
yes				Violence against women
yes	yes	yes		
	yes	yes		Decision-making; full access to credit and marketing facilities
	yes	yes		Violence against women
	yes			
	yes	yes		
	yes	yes		National mechanisms allowing women to work actively on matters of land reform policy and problems of rural women
		yes		Traditional practices, including food taboos
	yes	yes		
	yes (sexual abuse in schools)	yes		HIV/AIDS; genital mutilation
	yes	yes		HIV/AIDS; rural women's longer work hours relative to other groups
		yes		Income-generating activities
	yes	yes		Social protection
				Training in new agricultural technologies, strengthening of productive and employment capacity

	Customary Law, de Jure and de Facto Equality	Access to Land and Property	Inheritance	Access to Resources and Credit
China A/54/38, paras.251-336		yes	yes	yes
Georgia A/54/38, paras.70-116		yes		
India A/55/38, paras.30-90		yes	yes	yes
Indonesia A/53/38, paras.262-311		yes	yes	yes
Iraq A/48/38, paras.33-86	yes			yes
Jordan A/55/38, paras.139-193	yes			
Kazakhstan A/56/38, paras.68-113	yes			yes
Kyrgyzstan A/54/38, paras.95-142				
Maldives A/56/38, paras.114-146				
Mongolia A/56/38, paras.234-278				
Nepal A/54/38, paras.117-160				
Philippines A/52/38/Rev.1, paras.275-305				
Sri Lanka A/57/38 (Part I), paras.256-302				
Uzbekistan A/56/38, paras.147-194		yes		
Viet Nam A/56/38, paras.232-276		yes		yes
Yemen A/48/38, paras.199-246		yes		
LATIN AMERICA				
Brazil				
Chile A/50/38, paras.105-159 A/54/38, paras.202-235		yes		
Cuba A/51/38, paras.197-228				
Ecuador A/49/38, paras.499-545				
Guatemala A/57/38, paras.163-208				
Nicaragua A/56/38, paras.277-318		yes		
Peru A/53/38/Rev.1, paras.292-346	yes			yes
Suriname 27th session 2002	yes			
EUROPE				
Albania 28th session 2003	yes	yes	yes	yes



Participation in Policies/ Programmes	Education Illiteracy	Health	Lack of Data	Other Areas Addressed with Regard to Rural Women
				Women agricultural workers; high rates of suicide among rural women; small enterprise development and other income-generating projects
				Land reform; special programmes for the mountainous regions
				Practice of debt bondage
	yes	yes		
	yes	yes		Women and children affected by military action and the blockade
yes	yes	yes		Rural women marginalized in agriculture; special measures needed
	yes	yes		Poverty among woman-headed households and older rural women
				Violence against women
	yes	yes		
		yes	yes	Situation of woman-headed households
		yes	yes	Minority women; access to public services
yes				Migration
yes			yes	Land Development Ordinance; minority rural women
yes	yes	yes	yes	Income-generating activities
yes	yes	yes	yes	Women's retirement age and its negative effects on their access to land
yes	yes	yes		
				<i>Not yet considered</i>
	yes	yes	yes	More data on situation of rural and indigenous women, especially health, employment and educational status
yes				
	yes	yes		
yes				Women heads of household
	yes	yes	yes	Migration of women abroad; sexual violence against rural and indigenous women, and sexual abuse of teenagers and girls in emergency zones
	yes	yes		
	yes	yes		Social insurance and decision-making; trafficking of women and girls

TABLE 3

Legislation pertaining to access to land, property, inheritance and legal capacity

	Equality Enshrined in the Constitution	Equal Access to Land	Right to Property
AFRICA			
Algeria CEDAW/C/DZA/1 of 1 September 1998	The Constitution, which guarantees the equality of all citizens, occupies a position of paramountcy and is the fundamental law that guarantees individual and collective rights and freedoms. Algeria's international commitments prevail over domestic law. Accordingly, the Constitutional Council, in a decision of 20 August 1989, confirmed the constitutional principle whereby international treaties ratified by Algeria prevail over domestic law.		Article 38 of the Family Code provides that "the wife has the right to full freedom in the disposition of her property". The Commercial Code establishes no discrimination between men and women merchants. These two codes provide that women shall enjoy full use of their property, and that they may dispose of it freely without the consent of their husbands.
Burkina Faso CEDAW/C/BFA/2-3 of 15 February 1998	The Constitution guarantees equal rights; the Basic Law sets out the principle of equality and non-discrimination.	Equal access to land and to farm holdings is ensured by Order No. 84-050/CNR/PRES of 4 August 1984 on agrarian and land reorganization. Tenure system is still primarily communal; and women, owing to their status, do not own land.	Assets acquired jointly or separately by the spouses during the marriage form part of the conjugal estate, as do any wages or fees the spouses receive as a couple or individually, and any income deriving from assets covered by the regime of community of property or immovable and movable property brought to the marriage or acquired during it.
Burundi CEDAW/C/BDI/1 of 3 July 2000	Article 17 of the Constitutional Act of Transition establishes the equality of men and women before the law.		1993 amendment of the Code of the Person and the Family includes the right of joint management of family property granted to women, and to the wife if the husband is absent.
Cameroon CEDAW/C/CMR/1 of 9 May 1999	Cameroon's constitutions have always enshrined the principle of gender equality. The main result of giving the Convention the status of a set of constitutional norms is its primacy over the infra-constitutional instruments, namely laws, ordinances and regulations.	Socio-cultural practices restrict women's access to land.	Women's right of ownership is not fully recognized in the Civil Code and the Commercial Code (administration of statutory community property and bankruptcy). Wives are sometimes at a disadvantage before the customary courts, since they must provide evidence of their contribution to conjugal assets.



**Inheritance/
Succession**

Legal Capacity

Obstacles

Women have full legal capacity to acquire, administer, use and dispose of any property, and the right to sign contracts and engage in business transactions. They retain these rights when they marry, and their personal belongings and the fruits of their labour continue to be entirely at their disposal. (Civil Code, Article 40).

The legal status of women in Algeria presents a dichotomy. The constitutional principle of the equality of the sexes is scrupulously respected when it comes to civil and political rights: women have the status of full citizens. With respect to their personal status, they are governed by the Family Code, which is based in part on the sharia.

Each spouse enjoys full legal capacity, although rights and powers may be limited by the matrimonial regime (Individual and Family Code, Article 298).

In civil matters, an anachronistic duality has survived in the legislation and the courts because of the coexistence of (a) a code of modern law based on French-inspired written law as applicable on the date of independence; and (b) a code of traditional law based on custom and religion.

A peasant woman cannot inherit from her father or her husband.

Men and women have the same legal status in civil matters, in the conclusion of contracts and in the administration of their property.

Matrimonial arrangements, succession, and legacies and gifts are still governed by customary law.

Court has always affirmed the principle of gender equality with respect to the right to inherit on intestacy. Customary practices such as levirate infringe a woman's right to inherit.

Husband administers community property on his own. He also administers his wife's personal property without the need to obtain her consent (Civil Code, Articles 1 421 and 1 428).

Cameroon's dual legal system (Napoleonic Code plus common law) is part of its colonial legacy from the British and French mandates and trusteeships. This dualism is further complicated by the coexistence of customary and written law.

**Equality Enshrined
in the Constitution****Equal Access to Land****Right to Property**

Congo CEDAW/C/COG/1-5 of 8 April 2002	Title II of the Basic Act deals with fundamental rights (Article 14).		The Family Code of 17 October 1984 officially terminated the implementation of the provisions of the French Civil Code and of various customs in the sphere of marriage, filiation and inheritance.
D.R. Congo CEDAW/C/COD/1 of 18 June 1999	Equality between men and women is enshrined in the Constitution; certain provisions of Congolese law remain discriminatory towards women.	Lack of access to land ownership, which is still the prerogative of men.	Property is administered by the husband; the wife does not have the power to administer her own property (Family Code, Article 490); she is entitled to seek a court order in the event of mismanagement of property.
Egypt CEDAW/C/EGY/3 of 25 July 1996 CEDAW/C/EGY/4-5 of 30 March 2000	The Egyptian Constitution pays particular attention to the situation of rural women (Article 16).		
Guinea CEDAW/C/GINB/1-3 of 6 March 2001	Equality between men and women is a fundamental principle of the Constitution (Article 8).	Women have no traditional right to full ownership of land, although no distinction is made between men and women in the Code of Real Estate and Property Law. Women do have a right of usufruct, which allows them to work the family's land and to earn an income therefrom.	The right to own property is guaranteed to all (both men and women) under Article 13 of the Constitution. One of the innovations in family legislation is the provision of the right to spouses to conclude a marriage contract in which they may mutually agree to specify the mode of property ownership as joint or separate or shared in proportions.
Kenya CEDAW/C/KEN/3-4 of 14 February 2000	The Constitution was amended in 1997 to include discrimination on the basis of sex (section 82 (3)); it reserves the right to discriminate in matters of adoption, marriage, divorce, burial, devolution of property at death, personal and customary law (section 83(4) b and c).		A woman may acquire or dispose of her property freely. However, in some instances, especially when the property is owned jointly with the husband, the consent of the husband may be required.



Inheritance/ Succession

Legal Capacity

Obstacles

Discriminatory provisions in the laws governing inheritance, marriage and responsibility for children, and also in criminal law.

The law enshrines the full legal capacity of women whatever their matrimonial status.

Dual legal system; a French-inspired form of modern law was superimposed on the customary law.

The married woman has no legal capacity to sign certain acts and contracts, (Family Code, Article 215); she cannot execute certain legal acts without her husband's consent (Family Code, Article 448).

No significant change has occurred as regards measures and practices concerning the conclusion of contracts, the administration of property, etc.

Upon reaching majority, women may undertake legal transactions with respect to all their property and work proceeds, and may purchase, inherit and manage their property without restriction or limitation or loss of legal capacity.

No restrictions are placed on women's legal capacity by virtue of marriage or ties of kinship.

The Supreme Constitutional Court has issued a number of judgements relating to human rights in general and to the principle of equality between men and women in particular.

A widow receives an eighth of the total inheritance in the presence of children and ascendants of the first degree (Civil Code, Article 483). This is discriminatory to women, insofar as it places them on the same footing as children and ascendants of the first degree. Inheritance by a childless widow in the presence of a child heir or of other widows with children of the deceased is calculated on the basis of every five years of a marriage based on dignity and devotion (Articles 484 and 485).

The Code of Economic Activities guarantees women in general and married women in particular the same right and responsibilities as men to engage in economic activity (Article 6). A married woman's freedom to dispose of property may be subject to certain restrictions by virtue of her statutory or contractual marriage settlement.

The husband is the head of household with all the legal effects arising therefrom. Women find it very difficult to obtain material and agricultural resources, inputs (seed, fertilizer) and services (information and technical training). In the cities, the rights enshrined in the Code are guaranteed without discrimination. The same cannot be said for rural areas.

Law of Succession Act (1981) provides a uniform code for devolution of property on death and gives both men and women equal rights to inherit, own and dispose of property.

Law of contract gives women capacity identical to that of men in entering and concluding contracts.

Customary practices, lack of awareness on legal rights, lack of capacity-building opportunities, stereotyped roles and poverty remain major obstacles to gender equality.

**Equality Enshrined
in the Constitution**

Equal Access to Land

Right to Property

Morocco
CEDAW/C/MOR/2
of 29 February 2002

Since 1992, the preamble of the Moroccan Constitution reaffirms its determination to abide by the universally recognized human rights.

In rural areas, women's potential enjoyment of the right of ownership and the right to benefit from bank loans is restricted by social attitudes and cultural values.

Women have a right equal to that of men to dispose of their property. They may administer, manage and protect their assets in complete freedom and without their husbands' supervision, and are not subject to any gender-related restrictions.

Namibia
CEDAW/C/NAM/1
of 10 February 1997

The Constitution forbids discrimination on the basis of sex (Article 10). Article 23 on affirmative action places a special emphasis on women. Article 14 refers to equality between men and women in all matters relating to marriage and the family. The concept of marital power is clearly unconstitutional and calls for change in the laws of marriage. A married persons equality bill that would eliminate marital power completely is before Parliament.

Women are severely disadvantaged in terms of access to land, labour, agricultural services and assets, natural resources and employment. Rural women are also absent from decision-making and leadership structures.

Women in customary marriages are generally dependent on their husband's authority to sell property or enter into contracts. In some areas the system of *lobola* (bride price) is still popular. Marital power gives the husband control of the wife's property; if the marriage is in community of property, he has control over the joint estate of the couple; if the marriage is out of community of property, marital power gives him control over the wife's separate property.

Nigeria
CEDAW/C/NGA/2-3
of 26 February 1997

The Constitution guarantees rights on the basis of equality between men and women and removes discrimination on the basis of sex.

Under customary law, parties do not have equal rights in matters of marriage, dissolution and right of property, because marriage is a union between two families. Under Islamic law, the spouses have equal rights to a large extent in matters of property ownership and marital obligations. The wife has an unconditional right to all her property.



Inheritance/ Succession

Legal Capacity

Obstacles

A woman's share of inheritance should be half that of a man (Personal Status Code). Most inheritance laws are based on the text of the Koran, which precisely defines the portion to which all heirs are entitled.

Women have the right to hire out their services and engage in commerce without their husbands' agreement (new Commercial Code, Article 17). Law has been abolished that required the husband's approval of any labour contract and gave him the right to cancel labour contracts concluded by his wife without his agreement.

Obstacles to women's access to financial resources have no legal basis, but are the result of the discrimination from which women suffer on a daily basis.

The system of inheritance under civil law does not involve any sex discrimination. Inheritance in customary marriages is governed by the customary laws of the relevant community, unless there is a will. Widows may find that the husband's family lays claim to the house and household assets. Parliament passed a resolution requesting traditional leaders to allow widows to remain on their land, but discriminatory practices continue in some areas.

The common law marital power of the husband over the property and person of his wife denies married women equal rights with their husbands during marriage and limits their capacity to participate in civil society. A wife cannot bring a civil action or enter into a contract without the 'assistance' of her husband. Women married under civil law still need their husband's consent to enter into credit agreements, although this legal disability will soon be removed.

Discriminatory laws relating to marriage and inheritance still exist. Action is still required to address the empowerment of rural women and the grave problem of violence against women.

In all customary law systems, the wife has no right to her husband's estate when the marriage is terminated by divorce.

Three marriage types are recognized: civil law marriages, i.e. those in accordance with the Marriage Act; marriage under customary law; and religious marriage, i.e. those under Islamic law.

Any persons who allege that their fundamental rights have been, are being or are likely to be contravened are free to apply to the High Court, but both women and men in Nigeria are generally reticent about litigation.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

South Africa
CEDAW/C/ZAF/1
of 25 February 1998

The interim and the 1996 Constitution specifically outlaws discrimination based on sex. The present Constitution provides the right to security of the person and socio-economic rights, which both have special significance for women. The Constitution acknowledges the right to property and states that “no provision may impede the state from taking legislative and other measures to achieve land reform or equitable access to natural resources in order to redress the results of past racial discrimination”, a clause that is crucial for the most disadvantaged rural African women dispossessed of access to land by both apartheid and tradition. The Constitution outlaws discrimination based on sexual preference.

Efforts are being made to ensure that gender is taken into account in all new legislation, such as that relating to land tenure. In drafting its land reform policy, the Department of Land Affairs has attempted to give women security and equal rights with men regarding ownership, control and use of land. The Communal Property Associations Act (1996) provides for communal tenure in accordance with the principles of democracy, accountability and equality. It expressly protects the interests of women.

The Black Administration Act (1927) regards women as minors who cannot own property or conclude contracts on their own right. A male relative has to do so on their behalf. The common African law and customary law do not accord women the rights and powers to own property. The homestead head, husband or male relative has to act on her behalf. Territorial legislation and numerous regulations continue to prevent women from owning land on the basis of gender and race. The Department of Land Affairs is concentrating on legislation that will give all married women the right to use property registered in the name of their spouses as security to obtain financial loans.

Tanzania, United Republic of
CEDAW/C/TZA/2-3
of 30 September 1996

The Constitution embodies the principle of equality before the law, and legal practice respects it.

The main legal problems facing women centre on issues of divorce, custody and child support, and property adjustment after dissolution of marriage and after the death of their husbands.

Tunisia
CEDAW/C/TUN/3-4
of 2 August 2000

The Constitution (1959) enshrines the principle of legal equality between the sexes (Articles 6 and 7), and subsequent laws establish women’s economic, social, political and cultural rights. The Constitution strengthened the principle of the equality of citizens by explicitly decreeing, by way of the amendments made to Articles 8 and 21, the inadmissibility of discrimination between the sexes. The Personal Status Code, the Nationality Code, the Criminal Code and the Labour Code underwent a series of reforms following measures announced on the occasion of Women’s Day on 13 August 1992 and adopted in July 1993 by the Chamber of Deputies.

To encourage access to property by married women, a law was promulgated organizing the regime of the joint estate of husband and wife in accordance with the new relations of shared responsibility and partnership governing the couple, as stipulated in new Article 23 of the Personal Status Code.

Neither the Code of Obligations and Contracts nor the Property Code make any sex-related distinction in regard to the possession, acquisition, management or disposal of property. Act No. 98-97 of 9 November 1998 concerning the regime of the joint estate of husband and wife established a new system of property based on partnership and joint management within the couple. Under Article 24 of the Personal Status Code concerning the separation of property owned by married couples, women dispose of property that they acquire during the marriage under the same conditions as their husbands.



Inheritance/ Succession

Under civil law, a wife has a claim to maintenance and support against her deceased husband's estate even if his will has bequeathed all of the property to others. Under customary law, a woman has no right of inheritance from her husband. A relative of the husband, usually a brother, becomes the guardian of both the wife and the children. A widow and a daughter have no legal right to inheritance in customary law if there is no testament, or have a lesser right than a son.

Legal Capacity

The General Law Fourth Amendment Act (1993) and the Matrimonial Property Act (1984) abolished the marital power of the husband, which required a wife to obtain her husband's permission before entering into a contract. African customary law still discriminates against women with regard to legal capacity. The Black Administration Act (1927), 11(3)(b) makes a wife a minor in terms of both common and customary law.

Obstacles

Many rural African women face the legal difficulty that they cannot hold title to land, although they are given the right to cultivate the land and build a home on a plot allocated to the household head. In most rural areas, households generally use communal land belonging to the people of that area. The Department of Land Affairs recognizes that gender-neutral legislation on its own is not sufficient as women are largely ignorant of the Land Reform Programme and their rights.

The law of succession is under discussion. Individuals and religious institutions have made comments that will enable the Government to draft a uniform law on matters of succession.

Cultural norms and traditions continue to militate against women. The law requires the courts to consider the customs of the parties concerned before determining issues concerning custody of children, division of property and inheritance.

The Personal Status Code (1956), instituted, in matters of inheritance, a mandatory bequest in favour of the daughter's children if she should predecease her father; and further instituted statutory reversion, whereby an only daughter inherits her parents' estate in its entirety.

In accordance with Article 27 of the Personal Status Code, at the age of 20, a woman may exercise her full rights, assume her responsibilities and enjoy the same capacity as men to institute proceedings in regard to matters of personal status, civil and commercial acts, and political rights, with no limit, except in the cases of legal incapacity provided for by law and applicable to men and women without distinction.

Given the wide extent of the reforms introduced, it was essential to ensure that behaviour was modified and the social fabric adapted. It was not simply a question of attuning the country to the new political choices laid down in basic documents such as the Declaration of 7 November 1987, but it also entailed ensuring that the cultural choices that formed the basis of the new social order would be long-lived.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Uganda

CEDAW/C/UGA/3
of 3 July 2000

The new Constitution (1995) includes sex as a discrimination clause (Article 21(3)). It recognizes equality before the law and equal protection of the law in Article 21(1) and (2). The Constitution is credited as being one of the most gender-sensitive constitutions of the continent. Laws applicable in Uganda include statutory law, case law, common law and doctrines of equity. Statutory law takes precedence over any other. Customary law only applies in the absence of statutory and case law. Uganda has a dual court system: formal and informal.

The Land Act and the Domestic Relations Bill will determine the future prospects of women to access and ownership of land, marital property and other forms of real property. Women's access to land, property and credit is still extremely low. With the coming into force of the 1998 Land Act, rural women's rights to land have been strengthened: they not only have access to land but also control and ownership.

Legal aid services for women relating to inheritance, property rights, marriage, assault, divorce, separation and child support are provided by the Federation of Uganda Women Lawyers, the Law Development Centre (Makerere University) and the Legal Aid Project of the Uganda Law Society.

Zambia

CEDAW/C/ZAM/3-4
of 12 August 1999

The Constitution (Article 11) provides that every person is entitled and will continue to be entitled to fundamental rights and freedoms without distinction; only in 1994 were the terms "sex" and "marital status" included.

The Constitution recognizes a dual system whereby customary or traditional law is administered by local courts, which often uphold customs that discriminate against women, usually on matters of inheritance, marriage or compensation for property.

Customary law denies women any rights to family property or maintenance on dissolution of marriage, while statutory law provides for the sharing of property between husband and wife and the maintenance of either spouse on divorce. The Ministry of Land has a strategic plan of integrating gender perspectives into land issues to redress the gender imbalance and other forms of discrimination in landholding by encouraging women and people with special needs to own land.

Zimbabwe

CEDAW/C/ZWE/1
of 20 July 1996

The Constitution guarantees everyone the right to equality before the law and protection of the law.

The Government set up the Commission of Inquiry into Land Tenure to resolve the problem of unequal access to land, especially with regard to the disadvantaged, mostly women. They were under-represented on the Land Tenure Commission since only one member out of 12 was a woman. The Government enacted the Land Acquisition Act (1990) to address the problem of inequitable land distribution.

The Matrimonial Causes Act (1985) allows for an equitable distribution of matrimonial property between spouses on divorce. The Deed Registries Act (1991) enables a married woman to deal in immovable property without the assistance of her husband. The Immovable Property (Prevention of Discrimination) Act (1982) prohibits discrimination including on the grounds of sex, in respect of the sale, lease or disposal of immovable property and the financing of such sale, lease or disposal.



Inheritance/ Succession

Legal Capacity

Obstacles

A legally married woman is entitled to 15% of the property of her deceased husband. A widower is also entitled to 15% of the property of a deceased wife's estate but in reality usually takes the whole estate. Under customary law, it is assumed that widow and children will be taken care of by the deceased's kin. In practice, this is usually not the case as widows and their children are dispossessed of the family's assets and usually forced to move back to the widow's parents' home.

Women have the legal capacity to enter into contracts in their own names. The Constitution (Article 26(1)) gives women the right to own property either individually or in association with others. Women enter into credit, real estate and other commercial transactions on their own.

Law is gender-neutral, but its application and enforcement tends to be biased. The legal regime discriminates against women and perpetuates women's subordinate position in society. In laws of marriage, divorce and inheritance, there is no gender equality. The woman is always in a subordinate position.

The Interstate Succession Act 6 of 1989, which gives spouses rights of inheritance and supersedes customary law, is not widely known, partly because relatives of the deceased choose to ignore the law.

Customary law is unwritten and administered by a local court system dominated by men and composed of untrained justices who come from a patriarchal background.

Inheritance rights are governed by both general and customary law. The devolution of property is in accordance with customary law. The customary law of inheritance disadvantages women and does not recognize their right to inherit from their husbands and vice versa, unless a will provides for the contrary. Women cannot inherit from their fathers except if there is no surviving son but a daughter only. The Legal Age of Majority Act does not put men and women on the same footing in inheritance.

Women above the age of 18 have legal capacity to marry or enter into commercial contracts or to sue or be sued in their own rights (Legal Age of Majority Act, 1982). Women can acquire property in their own right. In dividing the property, the courts will look at the principle of equity rather than who bought what. The courts take into account the duration of the marriage, the direct and indirect contributions of the parties, and the needs of each spouse and their minor children.

Three types of marriage exist: civil marriage, registered customary marriage, and unregistered customary marriage. The Matrimonial Causes Act (1985) does not apply to unregistered customary law marriages. At least 80% of women are rural-based, marry under customary law and do not register their marriages, mainly because they do not know that registration is legally required.

ASIA AND PACIFIC

<p>Armenia CEDAW/C/ARM/1 of 26 September 1995 CEDAW/C/ARM/2 of 9 September 1999</p>	<p>In 1995, Armenia adopted a new Constitution and created its own legislative foundation, which entered into force in 1999. The principle of equal rights of men and women is set out in Articles 3, 4, 15, 16 and 32 of the Constitution and is indirectly laid down in many other articles.</p>		<p>Women enjoy equal real estate ownership and other property rights. According to Article 3 of the Family and Marriage Code, husbands and wives possess equal personal property rights.</p>
<p>Azerbaijan CEDAW/C/AZW/1 of 16 September 1996</p>	<p>The Constitution enshrines equal rights and obligations (Article 19), and defines the right to equality (Article 25). The State guarantees the equality of rights and freedoms of everyone irrespective of sex.</p>	<p>Articles 27-70 specify the basic rights and freedoms enjoyed by Azerbaijani citizens, including the right to property.</p>	<p>Spouses have equal rights in respect of the ownership, enjoyment and disposition of joint property, regardless of whether it was acquired from the earnings (income) of the husband or of the wife.</p>
<p>Bangladesh CEDAW/C/BGD/3-4 of 1 April 1997</p>	<p>The Constitution establishes that all citizens are equal before the law and are entitled to equal protection of the law (Article 27); that the State shall not discriminate against any citizen on the grounds of sex (Article 28); and that all citizens enjoy fundamental rights (including the right to property) (Article 26).</p>		<p>It is customary for a woman not to claim her share of the family property unless it is given willingly. Women often surrender their right to property in exchange for the right to visit their parental home and seek their brothers' assistance in cases of marital conflict.</p>
<p>China CEDAW/C/CHN/3-4 of 10 June 1997</p>	<p>The Constitution established legal rights for women and men in political, economic, social, cultural and family life. The Women's Act (1992) is China's first basic law dealing with women's rights and interests.</p>	<p>The Women's Act stipulates that women enjoy equal rights with men in the distribution of land under the household contract responsibility system, and in the allocation of private plots for growing crops or building houses.</p>	<p>Article 29 of the Women's Act stipulates that the lawful rights and interests of women in joint ownership relations, as well as in marriage and the family, shall not be infringed. Article 44 stipulates that, in case of divorce, the living quarters jointly rented by the husband and wife shall be divided by mutual agreement.</p>
<p>Georgia CEDAW/C/GEO/1 of 10 March 1998</p>	<p>The constitutional provisions on the equality of citizens before the law (Articles 14 and 38) and the rights of aliens are consolidated in the Georgian Citizenship Act (Articles 4 and 8).</p>		<p>The right to property and inheritance is guaranteed to all persons on an equal basis (Article 21 of the Constitution). The new Civil Code, adopted on 27 June 1997, includes a section on family law that expands on the provisions relating to the equality of personal and property rights and the obligations of spouses (Book V).</p>



**Inheritance/
Succession**

Legal Capacity

Obstacles

Women can enter contractual relations alone in their own right. A woman can use her name, without the requirement of second or collateral persons, except for property that belongs equally to both members of the couple.

The right to property acquired during marriage is recognized for both spouses, even if the property is registered in the name of one of the spouses (Article 23).

Islamic law provides rights of inheritance for women, but precludes inheritance on an equal basis with male heirs. Under the Hindu Women’s Right to Property Act (1937), a widow, or all widows in a polygamous marriage, inherits the same share as a son. For Christians, the Succession Act of 1925 provides equal inheritance between sons and daughters.

Except for inheritance, all other matters concerning property are governed by civil law (ownership, administration); women can administer property, and be executors or administrators of estates. Women have the right to make contracts, including those related to credit, real estate and other property as well as other commercial transactions.

The Constitution guarantees equal rights for men and women in the public life. It does not extend this to the private sphere, however, where it recognizes and allows for personal laws based on religion, which are sometimes discriminatory against women.

Article 31 states that, by law, men and women have equal rights to inherit property. Widows have the right to dispose of inherited property, a right that may not be infringed upon by anyone.

In inheritance by law, the wife, together with the children and parents, is considered a direct heir and has the right to an equal share. In inheritance by testament, the wife receives the obligatory share, which is not less than half of what she would receive by law.

Under the Civil Code, women have the same right as men to conclude any agreements, and to own, manage and dispose of property. They have the right independently to receive financial services (credit, loans) without having to obtain anyone’s permission.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

India CEDAW/C/IND/1 of 10 March 1999	Article 14 of the Constitution of India ensures the right to equality; Article 15(1) specifically prohibits discrimination; Article 16 provides for equality of opportunity to all. Article 13(3) provides for affirmative action in favour of women by empowering the State to make special provisions for them. Article 39 ensures the right to adequate means of living for men and women equally, and equal pay for equal work.	Different personal laws exist for various religions: The Hindu Marriage Act (1955); the Indian Christian Marriage Act (1862) and the Indian Divorce Act (1869) applicable for Christians; and the Muslim Women's Protection Act and the Parsi Marriage and Divorce Act of 1936.	The only law according a wife substantive rights to her husband's property, by express provisions of unity of possession and community of interest of the property of both spouses during marriage, is the Portuguese Civil Code (1867) applicable generally to all inhabitants of the State of Goa and the Union Territories of Daman and Diu.
Indonesia CEDAW/C/IDN/2-3 of 12 February 1997	The 1945 Constitution states that every citizen has equal status, rights and obligations, and opportunities both in the family and in society. Equal status and rights between men and women is emphasized in the 1978 Guidelines of State Policy.	The Agrarian Act of 1960 guarantees the right of women to own land.	Property acquired during marriage is common property; property brought in by the husband or the wife and property acquired by either one of them as a gift or an inheritance remains under the respective control of either one of them, provided the parties have not decided otherwise.
Iraq CEDAW/C/IRQ/2-3 of 19 October 1998	The Constitution (1970) embodies the elimination of discrimination against women (Article 19). Since mankind's first laws and legal codes, Iraq has shown concern for women. The Code of Hammurabi affirms the full legal capacity of women and contains provisions to protect the wife and safeguard her financial and human rights.	The Agrarian Reform Law (117/1970) gave women the right to exercise economic independence and to hold a tract of land for reclamation and cultivation on the same terms as men. The regulations of the Agricultural Bank also permit women to borrow on an equal footing with men.	Law 191/1975 makes men and women equal in respect of financial rights and privileges. A wife may keep her movable and immovable property, and manage it as she sees fit in her own interests. Her rights as a spouse include the entitlement to a dowry and to maintenance, as regulated by the Personal Status Code.
Jordan CEDAW/C/JOR/1 of 27 October 1997 CEDAW/C/JOR/2 of 26 October 1999	The Constitution (Article 2) states that Jordanians are equal before the law and that there is no discrimination among them on the grounds of race, language or religion as regards their rights and duties. Although the principle of equality is set out in the Constitution and in Jordanian law, some existing laws contain discriminatory provisions.	The administration of movable and immovable property is based on the legal ownership of such property. If the wife owns property, she has the right to administer it, even though property acquired after marriage is often registered in the husband's name, unless it is a question of acquisition by inheritance.	According to religious directives, men are the guardians of women. A wife may leave the house or allow anyone else to enter it only with her husband's permission. She may dispose of property only insofar as he permits her to. Should the marriage contract be dissolved, the wife does not have the right to demand half the husband's property, for example, and she will receive only what he sees fit to give her. This will include the amount he agreed to in the marriage contract as the part of the dowry payable upon divorce, plus any property registered in her name at the time the marriage contract was drawn up or during the marriage.



Inheritance/ Succession

Legal Capacity

Obstacles

In spite of the Hindu Succession Act, granting equal inheritance rights to women except in case of co-parcenary property, women are invariably coaxed into relinquishing such rights in favour of male heirs. Although co-parcenary rights have been granted on equal terms to women in some states, they remain on paper only.

Although women have the legal capacity to enter into contracts in their own names, relatively few do so in practice because of the limited property they hold.

Hindu Personal Law and Christian Personal Law have been overhauled to give women greater rights regarding inheritance, adoption and divorce; personal laws of some minorities and other communities have remained unchanged on the basis of a policy that the demand for such changes must come from within the communities themselves before the State can intervene.

Women's lack of direct access to land, which is related to the inheritance system and the role of customary law in land and property matters, also restricts their access to credit and therefore to other commercial outputs.

Women have the right to seek bank loans, mortgages, etc. Single women can secure a mortgage if they have the means to provide the collateral required by the banks. Laws relating to marriage and others have been amended to permit a married woman to set up a trade or business without her husband's permission.

Although the legal provision exists, because of culture and customs, women are reluctant to set up any business without the consent and approval of their husbands or fathers.

The Personal Status Code (188/1959), as amended, is the basic enactment regulating matters of personal status in Iraq, such as marriage, kinship, child custody and inheritance. An exemption is made for non-Muslim citizens, for whom matters such as marriage and its dissolution are regulated by the religious communities to which they belong.

The Civil Code (1951) makes no distinction between men and women in terms of legal capacity. The Commercial Code (10/1984) and all previous such codes make no distinction between men and women with respect to the pursuit of trade or the conduct of business, provided that the person concerned has legal capacity and is of Iraqi nationality. There is no requirement for the husband's prior approval.

It is difficult to speak of a country's implementation of laws in isolation from the circumstances in which it finds itself. The embargo imposed on Iraq has affected all segments of society, including women.

The Act on personal status stipulates that at the husband's death, the wife is entitled to the deferred portion of the dowry and to her share of the inheritance, which varies according to the number of claimants to the estate (children, parents and collaterals). Social practices have been prohibited that, in the past, deprived women – wives or daughters – of a share of the inheritance. The practice of a widow marrying a brother of her dead husband has now disappeared, except for a few cases in the countryside.

Men and women have equal rights with respect to the independent use of property and regarding contracts for sales, purchases, hire and participation. A wife is not obliged under religious or substantive law to maintain part of her property in order to support herself or her children; she can do so voluntarily if she wishes to share in the household expenses. Women are forbidden to travel alone, even on pilgrimage, or to choose a place of residence since a woman belongs to her husband.

Jordan continues to be governed by customs and traditions making the man the household head. Certain acts are considered within the domain of men, and are therefore unacceptable for women to carry out. Although the sharia accords women the right to inherit from both their fathers and their husbands, they frequently renounce that right in favour of a close male relative.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Kazakhstan
CEDAW/C/KAZ/1
of 12 October 2000

The Constitution (1995) guarantees fundamental human rights and freedoms. Its Article 14 states that all are equal before the law and before the courts.

The Ministry of Agriculture has recommended to local authorities that they allocate plots of land on a priority basis to mothers with large families and to single mothers. The agrarian reforms being carried out in Kazakhstan apply equally to men and women.

A transaction concluded by one of the spouses involving the disposition of their common property may be nullified by a court on the grounds of the lack of consent of the other spouse. This can occur only at the request of the wronged spouse and where it is proved that the other party to the transaction knew or should have known the lack of consent of the other spouse to the transaction. Apart from common property, legislation provides for the right of each spouse to his or her own property. The property of each spouse includes property belonging to each spouse prior to the marriage, property received by the spouses during the period of the marriage as a gift or an inheritance or through some other transaction (Article 34).

Kyrgyzstan
CEDAW/C/KGZ/1
of 28 August 1998

The Constitution (Article 15) prohibits discrimination against women in the political, economic, social, cultural and civil spheres.

A return to agricultural production based on unmechanized family labour is creating the conditions for a revival of paternalistic arrangements and values. This is reinforcing Muslim traditions and customary law.

Changes in the economic and social position of women are creating an urgent need for institutionalized assistance in obtaining equal access to land resources and other property.

Maldives
CEDAW/C/MDV/1
of 28 January 1999

Personal law, which includes family and inheritance law, is exclusively governed by the sharia.

Women can and do hold title to land, which is allocated by the Government based on need; joint ownership is possible when either party within the marriage specifically requests it. Divorced and widowed women are also eligible to apply for land.

Men and women can and do maintain and manage their property and finances separately, but the actual extent of this needs to be researched. In the event of divorce, spouses divide equally any property registered as joint property.

Mongolia
CEDAW/C/MNG/3-4
of 15 March 1999

The Constitution adopted in 1992 guarantees that every citizen will be protected from violations of human rights and freedoms and will have infringed rights restored. About 170 laws have been passed since the adoption of the new Constitution, including many provisions prohibiting gender discrimination.

Family law in Mongolia guarantees the right of spouses to common ownership of property acquired in marriage, and their equal parental and spousal rights and duties in respect of the family and children.

As a result of privatization in the agricultural sector, rural women heads of households have now become property owners. At the same time, they are facing difficulties in meeting their needs for rest, study and health care.



**Inheritance/
Succession**

Legal Capacity

Obstacles

The Civil Code (1999) guarantees the equal property and personal non-property rights of the spouses and equal rights in inheritance.

The Civil Code makes no distinction in the legal capacity of citizens on the basis of gender.

More women than men participated in migratory movements. Some 472 000 people emigrated in 1998, and 269 000 immigrated, resulting in a migration deficit of minus 203 000. As regards international migration, more women than men emigrated, and more women than men immigrated.

The rules of customary law (adat) are being re-established among the population. Women risk losing all the gains made in terms of their rights, and not obtaining any benefit from the land reforms.

A revised draft family law has been submitted to the State Great Hural. Revisions mainly affect the areas of family property regulation, children's upbringing and parental responsibility.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Nepal CEDAW/C/NPL/1 of 23 November 1998	The Constitution stipulates that no discrimination should be made against any citizen in the application of general laws on the grounds of sex (Article 11(2)).	Any woman who has completed 15 years of married life and is at least 35 years old may obtain her share of property from her husband and live separately (Muluki Ain, Partition).	A daughter can only share property belonging to her parental family if she is unmarried and after the age of 35 years (Muluki Ain, Partition, Nos. 1 and 16). A woman needs permission from her father (if unmarried) or from her adult son (if married or widowed) before disposing of immovable property (Muluki Ain, Women's Property, No. 2).
Philippines CEDAW/C/PHI/4 of 25 July 1996	The Constitution (1987) ensures fundamental equality between women and men. The Constitution and the Family Code (1987) removed many of the gross inequalities in law pertaining to marriage, family and property relations.	Administrative Order No. 2, Series of 1993, provides that all farm workers who are married to each other are entitled to three hectares each, provided that their vested rights to the land have been duly established. A separate certificate of land ownership agreement must be issued to each spouse.	Articles 96, 211 and 225 of the Family Code state that the husband's or father's decision should prevail in case of disagreement in the administration and employment of community property, in parental authority or in the exercise of legal guardianship over the property of a couple's minor child.
Sri Lanka CEDAW/C/LKA/3-4 of 18 October 1999	Constitutional reform has included non-discrimination on the grounds of "gender, marital status, maternity and parental status" in addition to "sex". The Supreme Court has been a powerful instrument for enforcing the fundamental rights guaranteed by the Constitution.	The Land Development Ordinance (1934) discriminates against rural women. In new settlements, land is allocated to the man household head.	
Uzbekistan CEDAW/C/UZB/1 of 2 February 2000	The Constitution guarantees and establishes the equality of citizens before the law, their equal rights and freedoms, and the inadmissibility of exercising rights and freedoms to the detriment of the interests of other persons, the state or society.	Legislation has removed all obstacles preventing women agricultural producers from being fully fledged land owners: long leases have been introduced with the right of inheritance and mortgage, coupled with the unconditional right of all people to benefit from the results of their own labour.	Article 2 of the Family Code (1998) provides that a husband and wife have equal personal and property rights. Property acquired by spouses during marriage or property acquired prior to registration of the marriage with joint resources is shared property, unless otherwise provided for by law or by marriage contract. In fact, an innovation in family legislation is that spouses now have the right to conclude a marriage contract specifying joint or separate property ownership, or property shared in defined proportions. In addition, each spouse separately owns property that belonged to him or her prior to marriage.



**Inheritance/
Succession**

Legal Capacity

Obstacles

The Act Concerning Land (1964) prevents a daughter from inheriting the tenancy rights of her father or mother. A widow forfeits the property of her husband or his family if she is found to be sexually disloyal to her deceased husband (Muluki Ain, Women’s Property, No. 6).

Women have equal legal capacity to conclude any legal contract under the Contract Act (1996).

Women lawyers have filed petitions against certain discriminatory legal provisions in the Supreme Court. The Court’s response has been positive and it has issued a directive order to the Government to amend discriminatory laws within two years.

One of the greatest obstacles to the equalization of women’s rights is the patriarchal traditional power structure within the family. Even when statutory laws have been revised in women’s favour, customary laws continue to render them purely academic.

Inheritance is based on the principle of primogeniture, which is alien to the legal system of Sri Lanka and denies women in new settlements the right to family land if they had no land in locations of origin.

Women have equal rights with men under the law. They can seek to uphold their rights in court and appeal against unlawful acts committed against them in administrative proceedings. The law on citizens’ appeals guarantees equitable consideration of an appeal.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Viet Nam
CEDAW/C/VNM/2
of 15 March 1999
CEDAW/C/VNM/3-4
of 20 October 2000

The 1992 Constitution stipulates that all citizens are equal before the law (Article 52), and that men and women citizens have equal rights in all fields (Article 63).

The 1993 Land Law provides for equal land-use rights between women and men. According to customs and traditions, however, most land-use certificates are in the name of the husband, generally the head of household. Consequently, it is very difficult for women to use those certificates to apply for a mortgage. Many women after marriage have no land to cultivate because their parents and parents-in-law do not allow them to use land allocated to their respective families.

Women still encounter various difficulties in implementing their equal rights to property, particularly in determining possession rights. Legally, women cannot use ownership certificates in their husbands' names of jointly- owned property in civil transactions or as collateral when applying for bank loans. Local administrations advised families that family property should be registered in both the husband's and the wife's names. This is also a positive measure to protect women's interests in case of divorce.

Yemen
CEDAW/C/YEM/4
of 15 March 2000
CEDAW/C/YEM/5
of 15 February 2002

The 1994 Constitution was amended in 2000. All its terms and provisions are based on Islamic law, the sharia.

Property and related matters are regulated by Chapter IV of the Civil Code (Law No. 19 of 1992), which gives women the right to own property, subject only to those restrictions that also apply to men. Divorce does not entail a division of property: the woman retains all her personal possessions, the husband not being entitled to any part of them.

LATIN AMERICA AND CARIBBEAN

Brazil
CEDAW/C/BRA/1-5
of 7 November 2002

The Federal Constitution (Article 5) accords to all individuals formal equality before the law, without distinction of any kind. The Constitutions of Ceará and Sergipe are the only ones that deal expressly with the issue of rural working women. As a result of the activities of women's rights groups during the Constituent Assembly, a significant share of the rights claimed by women were incorporated into the text of the 1988 Constitution.

Law 8 629 (1993) related to the agrarian reform guarantees that the title deed and concession of use will be granted to the man or the woman, or to both, irrespective of their marital status, preferably to the heads of large households (Article 19). The new federal Constitution guarantees equal rights between men and women, irrespective of their marital status, in the granting of title deeds or concession of land use for the purpose of agrarian reform (Article 189).

The new Civil Code (2003) eliminates discriminatory gender rules such as the husband being head of the conjugal partnership; the preponderance of paternal power; the husband's authority in managing the couple's assets, including the woman's private assets; the man's right to have the marriage annulled, in case he did not know in advance that his wife was not a virgin and to disinherit a daughter whose conduct he does not approve of.



Inheritance/ Succession

Legal Capacity

Obstacles

Women usually are not entitled to land inheritance from their parents, owing to traditional son preference in inheritance. Based on regulations on the rights to possession, inheritance, participation in production and business activities, the law ensures, on the basis of equality between men and women, the right to bank loans, mortgages and other forms of financial credit.

Article 8 of the 1995 Civil Code states that in civil relations, parties are all equal. Women have the same rights and obligations as men under the law (Civil Code, Articles 16-19). Authorities have annulled many civil contracts (e.g. to purchase or sell a house or other valuable property) concluded by the husband without consulting his wife. The courts have also nullified such contracts when a wife brought suit against her husband for deception in family property transactions.

Prejudicial customs and practices have resulted in attitudes and conduct that give women inferior status, or that cause negligence or maltreatment of women and children. Women, especially of ethnic minorities, have limited knowledge of the rights and obligations stipulated in the Land Law.

A woman may inherit from her deceased husband, after deduction of the amounts required for funeral expenses, her own subsistence during *'iddah* (the specified time before a Muslim widow or divorcee may legitimately remarry), payment of his debts and the execution of the will. A widow and her daughters inherit regardless of whether the deceased's estate consists of land or movable property. The widow and all her children, both sons and daughters, inherit either type of property, without discrimination, even where the deceased man has not left a will.

Women have the full right to perform actions entailing legal effects, such as entering into contracts on their own behalf and engaging in commerce (Commercial Code, Article 8 (Law No. 32 of 1991)).

Family relations are regulated by the Law of Personal Status (Law No. 20 of 1992) and amendments thereto. The provisions of that law are derived from the sharia, which stipulates that in the union of a man and a woman, each party has rights and duties vis-à-vis the other in the interests of their mutual affection and kindness. Article 40 of the Law of Personal Status states that it "is the wife's duty to obey her husband in matters conducive to the interests of the family".

The Civil Code has been changed to allow a widow to remarry without losing the right to paternal power with regard to the children of the previous marriage and to exercise freely her rights with regard to the persons and property of such children, including the right to administer the property and to usufruct (Articles 393 and 248).

The Statute of Married Women eliminated from the Civil Code the precept that the married woman was incapable, placing her in the same category as minors. It also revoked the requirement of the husband's authorization for a married woman to undertake commercial activities. Men and women now share responsibility for their families, in their own common interest and in that of their children.

The lack of public investments in basic services in rural areas, the focus on urban development, and an emphasis on agro-industry, especially agro-industry for export, have reinforced the historical trend privileging urban over rural areas.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Chile
CEDAW/C/CHI/3
of 27 January 1999

Article 1 of the Constitution entitles everyone to the right to equal opportunity, while Article 19, among other constitutional guarantees, establishes "equality before the law". Civil and labour laws expressly prohibit any form of discrimination, including discrimination on the basis of sex (Civil Code, Article 55, Labour Code, Article 2). The Convention is the law of the State under the provisions of the second paragraph of Article 5 of the Constitution. The definition of discrimination contained in the Convention is therefore fully applicable.

Women married under the joint ownership regime do not have the same capacity as men to acquire, administer and dispose of joint property, unless the parties expressly mention their wish to adopt another regime. The husband is the head of the conjugal partnership and administers the joint estate and the wife's property (Civil Code, Article 1 749). Despite the general capacity accorded to her by law, a woman married under this regime cannot dispose of her own property, unless it has been expressly excluded from the husband's administration, nor can she receive proceeds from such property, which becomes part of the assets of the conjugal partnership administered by the husband (Article 1 725).

Cuba
CEDAW/C/CUB/4
of 25 September 1999

The 1976 Constitution, as amended by the People's National Assembly (parliament) in July 1992, establishes the principle of the equality of men and women (Article 41). It addresses discrimination (Article 42) and provides that women and men shall enjoy equal rights in economic, political, cultural, social and family matters (Article 44).

There is no distinction based on sex with regard to the right of rural landowners to obtain credit and bank loans.

Each spouse requires the other's consent to acts connected with the ownership, administration or alienation of the common property of a marriage; this requirement applies equally to both of them. Excluded from the common property is personal property acquired before or during the marriage, which either spouse may dispose of freely.

Ecuador
CEDAW/C/ECU/4-5
of 25 January 2002

The Constitution clearly establishes the equality of women and men before the law, and the duty of the State to respect and enforce respect for human rights. Article 37 of the Constitution protects marriage, maternity and family property, and equally supports women household heads.

The Agrarian Development Law (1994) promotes training for *campesinos* and organization for productive purposes. It activates the land market, guarantees land ownership, provides for mechanisms to enable the small-scale producer to gain access to credit, and rationalizes agricultural marketing processes. It also streamlines administration in the National Agrarian Development Institute for formalizing rural land ownership, and provides incentives for investment in the agricultural sector.

In the civil domain, to contract liens on conjugal property, the 'head' of the conjugal partnership must obtain written authorization from the other spouse. In the absence of this, any such contracts are not executed or lose legal force. The conjugal partnership can be headed by either of the spouses by common agreement; but in the absence of an explicit pronouncement, the husband is deemed responsible for its administration.



Inheritance/ Succession

There are no inheritance restrictions for women, who can be executors or administrators of an inheritance under the same conditions as men. Law No. 19 585 of 26 October 1998 amended the Civil Code in filiation to confer equal status on all children (categorized as legitimate, born out of wedlock and illegitimate) by providing for the free establishment of paternity, improving the inheritance rights of the surviving spouse, and extending paternal authority (*patria potestad*) to the mother.

Legal Capacity

The legal capacity of women is identical to that of men. The case of marriage entered into under the regime of joint ownership of property is an exception to this statutory norm. Until 1989, when the Civil Code was amended (Act No. 18 802), a woman who married under the joint property regime was considered less capable than her husband. Act No. 19 335 of 23 September 1994 included, as an alternative to the joint ownership and separation of property regimes, the sharing of assets regime.

Obstacles

Overcoming poverty is seen as the biggest challenge facing the country.

Women and men have equal rights with regard to the legal capacity to inherit, regardless of whether the legator died testate or intestate.

The Civil Code (Law No. 59 of 16 July 1987) invests both sexes with the same legal capacity and means of exercising it. Cuban women have the legal capacity to sign civil and commercial contracts of every kind, administer property and obtain financial credit.

Women are equally empowered to be executor of a will or administrator of any inheritance.

Article 1 489 of the Civil Code establishes full legal capacity for women on equal terms with men, guaranteeing their principles of freedom of contract, and freedom of work, commerce and industry. In 1989, the Constitutional Guarantees Tribunal declared null and void those articles of the Commercial Code that prohibited women from acting as stockbrokers, public auctioneers and trade agents.

Statistics show that most conjugal partnerships are headed by the husband.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Guatemala
CEDAW/C/GUA/2-4
of 20 March 2001,
CEDAW/C/GUA/5
of 17 January 2002

Article 4 of the Constitution recognizes equality among all human beings. Its Article 46 stipulates that, in human rights matters, treaties and conventions take precedence over the Constitution, with the result that the definition of discrimination contained in a convention can be invoked before a court of law.

The Civil Code establishes provisions for marriage settlements (Articles 116, 121 and 125), community of property (Article 122), separation of property, (Article 123) community of acquisitions (Article 124), subsidiary regime (Article 126) and property of each spouse (Article 127). Under the Civil Code, betrothal does not create an obligation to enter into marriage; however, it does create the entitlement to demand the return of gifts made as a pledge of a marriage that did not take place.

Nicaragua
CEDAW/C/NIC/4
of 28 August 1998
CEDAW/C/NIC/5
of 9 September 1999

The Constitution guarantees equality under the law between men and women, and aims to eliminate discrimination against women.

Amendments to the Constitution establish the concept of family assets; the Labour Code establishes equal rights for men and women; and the Agrarian Reform Act gives women the right of access to land. Land ownership solves the problem of women not having access to financial resources; therefore, the policy is vital in the context of the right of women to control their own productive resources.

Law No. 209 on stability of ownership was amended in 1997 by the inclusion of Article 32 providing for title ownership by couples. This has extended women's access to property titles. Legislation permitting title ownership by women is being prepared.

Peru
CEDAW/C/PER/5
of 6 March 2001

Article 2(2) of the Constitution embodies the principle of equality before the law. Accordingly, no person may be discriminated against on the grounds of origin, race, sex, language, religion, opinion or economic status, or on any other grounds. The Constitution of 1993 contains three articles governing the application of treaties in national legislation. Treaties signed by the State and in force are part of national law. A convention is therefore deemed to be incorporated into the body of domestic law for purposes of legislating on national matters.

Through the Commission for the Formalization of Informal Ownership, duly registered property deeds are issued to families living in informal settlements and urban districts. In these situations, possession of the housing lots is not in question, but the owners lack the juridical certainty that can come only from universal recognition through issuance of the corresponding property titles duly recorded in the national system of public registers.



Inheritance/ Succession

Legal Capacity

Obstacles

Guatemalan legislation recognizes the institution of de facto union; that is, the stable, free and exclusive union, for a period of time determined by law, of a man and a woman who have lived together openly and continuously for the same purposes and with the same effects as if they were married.

Indigenous women's lack of access to land is attributable to many factors, including the fact that in Guatemalan society men own the land and indigenous women are rarely given a share in it. With regard to access to credit, indigenous communities in general do not have the necessary means to obtain credit, such as good organization and property to secure it.

The Institute for Agrarian Reform (INRA) and the Nicaraguan Institute for Women have been working since 1990 to promote women's right to own property. An awareness campaign was undertaken, including INRA experts, to give women first right of ownership of the plots they are cultivating.

Each spouse retains the right to administer his or her personal property and to dispose of or mortgage it (Civil Code, Article 303). Either spouse may authorize the other to assume total or partial responsibility for such administration (Article 313). The disposal or mortgaging of joint property requires the authorization of both husband and wife, but this is not the case for acquisitions of immovable property by one of the spouses individually (Article 315).

The informal property situation is unfair to women. In the informal real estate market, when a family sells its property, there is no requirement that the deed of sale be signed by both spouses; therefore, the husband has unilateral control of the property.

Equality Enshrined in the Constitution

Equal Access to Land

Right to Property

Suriname

CEDAW/C/SUR/1-2 of
5 March 2002

The concept of discrimination has been laid down in Article 126 bis of the Penal Code. The Constitution prohibits discrimination (Article 8) and incorporates the principle of equality of men and women (Article 35). However, no sanctions have been instituted with regard to violation of this principle. Furthermore, legal provisions in the national legislation (e.g. Elections Act, Holiday Act, Law on Nationality and Residence, and Personnel Act) are in conflict with these principles.

Land policy is based on Decree L-1-1982 No. 10. If a woman holds title to land, in most cases she has acquired it through inheritance. Only rarely has she acquired it by applying to the Ministry of Natural Resources, which is responsible for land policy. The only possibility for tribal women to obtain title to land is for them to obtain individual title on the basis of the L-Decree, which contradicts the concept of collective land and the inalienable ownership of land in the interior. The Government instituted the Commission on State Land for Indigenous Peoples and Maroons.

The Civil Code does not prevent the acquisition of property on the basis of gender.

EUROPE

Albania

CEDAW/C/ALB/1-2 of
23 May 2002

The Constitution states that all are equal before the law and that no one shall be unjustly discriminated against on the grounds of sex, race, religion, or ethnicity (Article 18). With regard to international documents, the Constitution foresees that "an international agreement ratified by law is superior to the laws of the country that do not agree with it" (Article 122).

A special chapter of the Civil Code deals with common property among members of a farm family (Articles 222-230). The household is represented in property relationships with third parties by the household head, elected by the household members. The household head is, by tacit agreement, the man, and the land is registered under his signature. If the household head wants to alienate the family land, he can easily coerce his wife and other household members.

Normally land is registered in the name of the household head (the husband), thus denying the right of community property after marriage to the woman. The same applies for the registration of private companies: whereas even when the wife's financial contribution is equal or even more than that of her husband, a private company is registered under his name.



Inheritance/ Succession

Inheritance can only take place upon death (Civil Code, Article 859). If the wife is the sole heir, she inherits her husband's entire estate. If there are legitimate children from the marriage, the estate is divided among the wife and these children. The inheritance of widows and widowers is provided for in the Civil Code (Article 862).

Legal Capacity

The legal capacity of married women is regulated by Decree C11 (Bulletin of Acts and Decrees 1981, No. 23). Married women can enter into legal contracts on their own, without permission or assistance from their husbands. A cohabitation contract allows them to settle their mutual property rights.

Obstacles

Women in the interior are dependent on men villagers for access to land, since laying out/clearing the fields and building worksheds are men's responsibilities. With the support of NGOs and the Government, women have acquired tools to clear fields themselves if men are absent because of gold-mining, logging or trade. An obstacle for women's access to land is the lack of an adequate fixed income, a requirement for granting state land.

The first line of inheritance is the spouse and children (also those born out of wedlock) in equal parts (Article 361). If there are no children, second-line heirs may inherit. Nonetheless, the spouse is entitled to half of the inheritance. In a regime of common property, a spouse may dispose only of 50% of the property acquired after marriage.

Legal capacity is acquired at 18 years of age (Civil Code, Article 6(1)). However, a woman who is not yet of age has full legal capacity through marriage (Article 6(2)). This right is not lost even if the marriage is invalid or is dissolved before the coming of age of the woman. Every person who has legal capacity can act in civil trials (Civil Procedure, Article 91).

A woman takes a man's place when he is absent, either because of abandonment, separation/divorce or emigration, but only if no other men can replace him (father-in-law, oldest son, etc.). Normally, upon marriage, the wife moves to the husband's house. She therefore often has no claim over the house since it was not acquired during marriage.

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Additional sources of information on national mechanisms for the advancement of women can be found on the United Nations website:

- A complete listing of countries and their compliance with the Beijing Platform for Action and the International Legal Instruments on Women, which includes also information on national mechanisms
(<http://www.un.org/womenwatch/daw/country/index.html>).
- Replies by governments to a questionnaire for the five-year review in 2000, inter alia on national budgets allocated for women-specific policies/programmes and on structures and mechanisms that have been put in place in follow-up to the Beijing Platform for Action
(<http://www.un.org/womenwatch/daw/followup/countrylist.htm>).
- An overview of national implementation strategies or plans of action, prepared by governments in 1995-1997 as requested in the Beijing Platform for Action, which include critical areas of concern and selected activities, institutional arrangements, and the allocation of national and international resources
(<http://www.un.org/womenwatch/confer/beijing/national/natplans.htm>).