

“CEDAW AT ITS 30TH ANNIVERSARY”
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General recommendation on Women’s Access to Justice

Mrs. Victoria Popescu, Vice-Chair of the CEDAW Committee

*Honorable Minister,
Madame Deputy High Commissioner for Human Rights,
Ladies and Gentlemen,*

I am honored to address this august assembly and to express, from the outset, my personal gratitude to the Turkish Government for its generous initiative to host this meeting on the occasion of the 30th anniversary of the CEDAW Committee.

Furthermore, I am particularly pleased to commend the outstanding contribution of Ms. Feride Acar, my dear colleague and friend, together with whom I had the chance to work in the CEDAW Committee since 2003, when she was the Chairperson of this treaty body.

Allow me now to briefly introduce the General Recommendation on Women’s Access to Justice, in my capacity as a member of the working group which is coordinated by the Chair of our Committee, Ms. Silvia Pimentel.

As you know, women worldwide still face numerous challenges and barriers in their access to justice, despite a positive trend indicating that ever more countries are committed to eliminate gender-based discrimination from their legislation and practice.

It’s noteworthy that access to justice is at the very core of the CEDAW Convention and, likewise, constitutes a major priority for the CEDAW Committee. Eliminating discrimination from legislation and guaranteeing women’s access to justice on an equal footing with men is one of the basic objectives of the Convention, alongside those of ensuring gender equality, both *de jure* and *de facto*, and doing away with gender stereotyping.

In its constructive dialogues with the States Parties and in its concluding observations, the CEDAW Committee emphasizes that respect, protection and fulfilment of women’s human rights, including their legal rights, can only be guaranteed if effective domestic remedies are available. Access to justice is regarded as an essential component of the rule of law and a means for women to claim all their human rights enshrined in the Convention. The Committee also recommends the States Parties to assess the impact of domestic laws, policies and action plans and to evaluate the progress achieved towards the realization of women’s substantive equality with men.

Important references related to access to justice are also contained in a number of previous general recommendations of the Committee. For instance, General Recommendation 28 on the core obligations of States Parties under Article 2 of the Convention states that laws should provide effective protection of women’s rights and

that effective and accessible legal remedies and reparations, including compensation, should be guaranteed in order to fully implement the Convention.

Considering the major importance of this topic, the Committee has embarked on the elaboration of a General Recommendation on Access to Justice. A Concept Note was endorsed by the Committee during its last session. According to its practice, the Committee will organize a general discussion on this GR, in February 2013, in order to enable inputs from relevant parties, including from civil society, academia, UN agencies and entities.

The purpose of this GR is to provide the States Parties with clear guidelines and recommendations in the implementation of the CEDAW Convention with respect to women's access to justice and the elimination of barriers thereto.

The GR builds on the Convention's provisions, in particular on articles 2 and 15 which provide the legal basis for access to justice. Article 2 constitutes the main source of obligations for States to ensure the availability of remedies for women subject to discrimination, while article 15 enshrines the principle of equality before the law.

Likewise, the new GR also relies on the Committee's long-standing practice in addressing access to justice, as reflected in its concluding observations, its decisions under the Optional Protocol and some of its previous general recommendations.

It is also noteworthy that the GR will address the main obstacles and barriers faced by women in accessing justice, at various stages of the justice chain. These are mainly barriers pertaining to the substance of law, institutional obstacles and cultural challenges.

For example, discriminatory laws or provisions have persisted in many countries, in areas such as personal status, domestic violence, property rights, inheritance and employment – with a direct negative impact on women. Besides, there is still little public awareness of the special laws and policies adopted to protect women's rights and a weak capacity of law enforcement officers to implement this legislation.

Additional obstacles stem from the high costs of the legal system, lack of adequate legal aid and serious limitations in existing remedies provided either by law or in practice.

Likewise, some cultural traditions and settings may discourage women's appealing to justice, in particular with regard to family-related issues, such as domestic violence, marriage status, child maintenance, inheritance, property rights.

Special attention will be attached in the GR to the status of the disadvantaged groups of women, such as rural women, indigenous women, migrant women, elderly women, women with disabilities etc., who face additional challenges in accessing justice because of the multiple discriminations they are affected by. Moreover, women living in conflict and post-conflict contexts, where institutional infrastructure has been devastated by war, encounter especially aggravated difficulties in their access to justice.

In conclusion, I wish to highlight that the General Recommendation on Access to Justice is intended to be a friendly action-oriented tool, to be used by Governments which bear primary responsibility in the promotion and protection of human rights, as well as by the other main stakeholders – such as women and human rights’ NGOs, parliaments, academia, mass media and private sector.

Thank you for your attention.
