

**Report on the CEDAW Committee Asia Pacific Regional Consultation  
for the Proposed General Recommendation on Human Rights of Women in  
Situations of Conflict and Post-Conflict**

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Sponsored by UN Women and UN OHCHR  
Facilitated by International Women’s Rights Action Watch (IWRAP Asia Pacific)

**Introduction**

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) decided at its 47<sup>th</sup> Session held in October 2010 to adopt a General Recommendation on the Protection of Women’s Human Rights in Conflict and Post-conflict contexts. The purpose of the General Recommendation is to provide appropriate and authoritative guidance to States Parties to the Convention on the measures to be adopted to ensure full compliance with their obligations to respect, protect and fulfil women’s human rights during times of armed conflict and in all peace-building processes, which include the immediate aftermath of conflict and long-term post-conflict reconstruction.<sup>1</sup>

In its preparations for the elaboration of the General Recommendation, the CEDAW Committee has acknowledged that while all civilians are affected by armed conflict and situations of political instability, women suffer disproportionately because of their sex and pervasive gender inequality. The Committee has also affirmed that despite the numerous global commitments to end impunity for human rights violations and to address the gender-specific challenges related to post-conflict participation, women continue to be marginalised from conflict resolution processes and their priority concerns are systematically excluded in from the post-conflict reconstruction agenda.<sup>2</sup>

By giving normative content to the relevant provisions of CEDAW, the proposed general recommendation will outline the content of the obligations assumed by states parties and also make suggestions to non-state actors. The primary purpose of CEDAW Committee’s General Recommendation is to provide authoritative guidance to states parties on the

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[http://www2.ohchr.org/English/bodies/cedaw/discussion2011/summary\\_report.htm](http://www2.ohchr.org/English/bodies/cedaw/discussion2011/summary_report.htm) - Summary report, Committee on Elimination of Discrimination against Women, Day of General Discussion “women in conflict and post conflict situations” 18 July 2011, New York.

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<sup>1</sup> Concept Note, General Discussion on the protection of women’s human rights in conflict and post conflict contexts <http://www2.ohchr.org/English/bodies/cedaw/discussion2011.htm>

legislative, policy and other appropriate measures to ensure full compliance with their Convention obligations to protect, respect and fulfil women's human rights in conflict and post-conflict contexts. The key areas CEDAW Committee has identified for elaboration on CEDAW's authoritative mandate in the context of conflict and post-conflict are: Access to Justice, Women's participation in peace-building processes, Violence against Women and Women's economic opportunities in post-conflict contexts.

The CEDAW Committee mandated the Working Group to elaborate options for this General Recommendation on Women in Conflict and Post-conflict Situations through a global consultation, and a series of regional consultations. The first regional consultation was organized in the Asia Pacific region with the support of the United Nations Entity on Gender Equality and the Empowerment of Women (UN Women) and the Office of the High Commissioner for Human Rights (OHCHR). The planning and organization of this Consultation was facilitated by International Women's Rights Action Watch Asia Pacific (IWRAP).

A two day consultation was organized with the participation of CEDAW Committee members Ms. Pramila Patten (Chair of the Working Group) and Ms. Zohra Rasekh. Ms Milena Pires, CEDAW Committee member from Timor Leste also attended. The consultation was attended by regional experts, government authorities, academics, activists and representatives of national women's machineries and national human rights institutions, and UN agencies. Participants from the Asia-Pacific region included from Bangladesh, Cambodia, Indonesia, India, Myanmar, Nepal, Pakistan, the Philippines, South Korea, Sri Lanka, Thailand, Timor Leste, Fiji, Solomon Islands and Papua New Guinea/Bougainville.

### **Objectives of the Consultation:**

- (a) To provide a venue for the CEDAW Working Group members to engage in a dialogue with representatives from the Asia Pacific region on issues of women in situations of war and armed conflicts, internal disturbances, protracted and civil strife resulting in gross violations of the women's human rights;
- (b) To recognize discrimination and violations of women's human rights in conflict and their limited access to justice, violence against women, participation in peace-building processes and women's economic opportunities in in post conflict situations;
- (c) To address the gender dimensions of transitional justice mechanisms, the role of traditional and native justice systems in post conflict reconstruction processes; recognize abuses in peacekeeping operations; obligations of non-state and state actors; security sector reform and disarmament, demilitarization and reintegration (DDR);
- (d) To build clarity and common understanding on accountability of State to recognize the diverse and significant roles of women in situations of conflict and post-conflict, in particular their roles as agents of change.

### **Programme of the Consultation**

The programme was framed to cover the four thematic areas identified above as:

- (i) Dynamics of diverse conflict and impact on women and girls including VAW
- (ii) Women's Access to Justice and Accountability Mechanisms
- (iii) Peace-building and Conflict Transformation
- (iv) Women as change agents

Following introductions by the CEDAW Working Group members and welcoming remarks representatives of the UN Women and OHCHR, panels allowed for keynote presentations by participants from each of the sub-regions: East and Southeast Asia, South Asia and the Pacific. This was followed by interventions from the floor. Summaries were presented after each panel, and the final summaries were made by the CEDAW Working Group.

### **Context of CEDAW Committee's Proposed General Recommendation:**

The CEDAW Working Group stressed that the primary purpose is to provide authoritative guidance for State Parties on the legislative, policy and application measures to ensure full compliance with the Convention's obligations to respect, protect and fulfill women's human rights in conflict and post-conflict situations. Acknowledging the principles from other General Recommendations 19, 24 and 28, this proposed General Recommendation will build on those principles.

The preamble to the Convention establishes the normative framework. The implementation of the substantive provisions of CEDAW as a whole, are critical for the protection of women. Each of the substantive articles can be addressed. However, it will be important to elaborate how and which aspects of Articles can be applied to the situations of conflict and postconflict. For example, it will be important to clarify which aspects of Article 16 need to be covered in the proposed General Recommendation. With regards to Article 9, it will be relevant in the context of statelessness.

This General Recommendation will cover refugees and internally displaced persons. The Working Group is studying the issues of statelessness and refugees and will also study the impact of natural disasters in conflict settings, however, it has recognized the complexity of the issues to be considered in the overall context of this General Recommendation.

The CEDAW Working Group reiterated that the writing of the General Recommendation is within the authority of the CEDAW Convention. Therefore the Working Group has to undertake a dynamic and progressive interpretation of the Convention which will allow the General Recommendation to address complex issues affecting women:

- Diverse forms of conflict, including international and internal conflicts; conflict involving extreme violence, protracted conflicts, armed conflict and those that are not classified as armed conflict
- Conflict prevention
- Multifaceted roles of women in conflict as mothers, victims, combatants, with a view to emphasize women's role as a change agents and not only as victims and vulnerable persons

- Social and cultural norms, practices and sensitivities that determine women's status and role in conflict and post conflict
- Women's roles in conflict management and peacekeeping, including the role of local women that tends to be ignored
- Accountability of non-state actors, which is a major issue, including in this region
- Situate CEDAW in the wider context: Links and synergies of CEDAW with SCR 1325, sister resolutions and respective National Action Plans to implement SCRs

The following is an **analytical summary** of the discussions and recommendations, outlining major issues raised by participants in the consultation, recognizing that it is not possible to cover every intervention in its entirety.

## **THEMATIC SYNTHESIS AND RECOMMENDATIONS:**

### **(i) Dynamics of diverse conflict and impact on women and girls including VAW**

In the Asia Pacific region conflicts are based on politics, ideology, religious identities, ethnic identities and increasingly conflict over natural resources and industries for development where ethnic communities are being targeted. There are State and non state actors, including armed forces, private militia associated with the State or independent of the State, insurgent groups, tribal communities, and transnational actors especially in the context of natural resources.

The common threads are a high threshold of violence and extrajudicial killings, torture and suppression of civil liberties. Often organizations and NGOs are threatened by laws curtailing rights to justice and freedom of expression. Laws of sedition and against unlawful assembly are applied against human rights defenders giving way to an environment resembling a state of emergency. All forms of sexual violence are committed while in custody or outside by armed groups leaving women in a state of complete insecurity. Impunity is rampant for violence committed and therefore no element of accountability or access to justice.

### Recommendations<sup>3</sup>:

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#### **3 CEDAW requires States to:**

- Take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including legislation which incorporates penal sanctions, practical protective measures, such as shelters and counseling, and preventive measures (Gen. Rec.19).
- Suppress all forms of traffic in women and exploitation of prostitution (Art. 6). (Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures.)

1. To recognize the diversities of conflict that include identity based conflict, religious, ethnic, indigenous, ideology based or conflicts linked to resource and extractive industry exploitation. To urge for the broadest possible articulation of conflict in its diverse contexts across the globe irrespective of how conflict is identified at the domestic level.
2. To acknowledge the continuum of conflict – imminent, protracted conflict, transition and post-conflict and how these are inter-related, how they might overlap in some countries being in more than one phase of conflict and the different nature of conflicts in fragile as well as those in stronger States.
3. To acknowledge the different actors from State to non-state actors: the armed forces, private militia and even including private actors like transnational agencies engaged in humanitarian assistance and the UN which plays particular roles in times of conflict. There is also the role of international financial institutions in funding for transitional and post conflict recovery and development.
4. To comprehend the question of extraterritoriality and the need to acknowledge the role of States that are external to where the conflict is taking place. To compel external States to be accountable for war crimes and crimes against humanity.
5. To address issues of democracy, democratization, rule of law and women’s human rights. In addressing conflict, States could suspend the rule of law and countries might be ruled under emergency measures of various draconian laws that become the norm rather than the exception.
6. To appreciate that conflict does not affect women in a uniform way – there are differences of age, location, political context, women as peacemakers, combatants, engaged in managing or resolving conflict and the cause of conflict. The gendered nature and impact of conflict needs to be addressed. The special vulnerability of women in rural areas should be stressed.
7. The State is obliged to take preventative measures in situations of imminent conflict and in post-conflict situations to ensure there is conflict transformation. There is need for political analysis of both preventative and transformative aspects of conflict.
8. To deal with the invocation of customary law, culture and traditional practices in conflict, transition and post-conflict contexts that are discriminatory towards women. Recognizing the changed roles of women brought a sense of agency; but overall there are serious reservations about using customary standards of justice as customary practices and norms tend to be discriminatory, more often are not transformative for women post-conflict.

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- Conduct public awareness campaigns on attitudes, stereotypes and prejudices that perpetuate violence against women (Gen. Rec. 19).

- Collect data on the extent, causes and effects of violence, and the effectiveness of measures to prevent and deal with violence (Gen. Rec. 19)

9. To deal with the consequences and root causes of conflict which are multifarious. Militarization, expanded military structures and war budgets, the proliferation of arms that inhibit potential peace-making/peace-building or the success of peace processes.

**(ii) Women's access to justice and accountability mechanisms**

In the region, struggles in conflicts have been long and generational and women still suffer even when hostility has ceased. The UN Principles to Combat Impunity<sup>4</sup> provide a holistic framework which could be referred to when providing a gendered approach to the Right to justice, Right to know (to truth) and Right to reparations and guarantees of non recurrence. Urgent and effective measures to support women victims should be implemented together with civil society, using empowering approaches and dealing with psycho-social, health and other urgent needs. Support for victims is the foundation for any kind of programme that aims to transform conflict into lasting peace. Documentation helps to highlight gender-based crimes during the conflict and immediately afterwards and should incorporate psycho-social healing methods.

Recommendations<sup>5</sup>

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<sup>4</sup> E/CN.4/2005/102/Add. 18 February 2005 Updated Set of Principles for the protection and promotion of human rights through action to combat impunity

**5 CEDAW requires states to:**

- Embody the principle of the equality of men and women in national constitutions or other appropriate legislation (Art. 2 (a)).
- Ensure that protections against discrimination are effective and realized in practice through mechanisms that provide redress, including the ability to make complaints and receive remedies (Art. 2(c)).
- Enact laws, including penal sanctions, civil remedies and compensatory provisions, to protect women from all forms of violence (Gen. Rec. 19).
- Provide protective measures, such as refuges, specially trained health workers and rehabilitation and counseling for victims of violence and those at risk, including making services accessible for women in rural areas and isolated communities (Gen. Rec. 19).
- Take specific preventative and punitive measures to overcome trafficking and sexual exploitation (Gen. Rec. 19).
- Implement gender-sensitive training on violence against women for judicial and law enforcement officers and public officials (Gen. Rec. 19).
- Legislate women's equality with men before the law, including equal rights and capacities to conclude contracts and to administer property (Art. 15).

1. To provide a strong gendered approach to transitional mechanisms for accountability and for this to be framed in the context of the right to justice, the right to know, the right to reparations and the guarantees of non-recurrence.
2. To support victims and emphasize the responsibility to take special measures to support women and girl victims should be a pre-condition for women's access to justice. To ensure that special measures for access to justice are focused on the special circumstances of women, e.g. in rural areas.
3. To discuss the applications of the principles of double jeopardy, acquittals, lack of jurisdiction for gender-based crimes, the need for political will to ensure justifiability for gender based crimes, the need to take into account local knowledge and expertise and support for victims.
4. To require reparations with adequate attention to gender based crimes which tend to be ignored over civil and political rights violations such as disappearances and extra judicial killings. To include a reference to reparations requiring acknowledgement.
5. To highlight the importance of documentation of human rights violation to bring cases to court or for transitional justice mechanisms.
6. The need for non-judicial mechanisms in consultation with victims helping women to survive in the understanding that the struggle for justice is a long one and cannot be time bound.
7. To include the right to know and to the truth, and the need for addressing lack of will to deal with these.
8. To highlight the negative impacts of bilateral agreements and prohibitions written into these agreements for dealing with crimes against women. For example, in the case of comfort women.
9. To acknowledge economic justice as part of reparation focusing on loss in relation to economic loss, hunger, food security, etc due to conflict: that reparation and gender justice happens also in the context of post-conflict or post war development where women are subject to chronic and spiraling poverty.

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- Ensure equality between women and men in marriage and family life, in particular regarding ownership, acquisition, management, administration, enjoyment and distribution of property (Art. 16(1)(h)).

- Ensure women and men equality in all areas of economic and social life, including the same rights to bank loans and all forms of financial credit (Art. 13).

- Eliminate discrimination against women in the area of employment and provide the same opportunities, free choice of profession, benefits and conditions of service, vocational training and equal pay for work of equal value (Art. 11).

- Ensure equal access to justice, including the abolition of any restrictions on women's ability to pursue all available remedies (Art. 15, Gen. Rec. 21).

10. To recognize accountability of international financial institutions in the post conflict recovery and development– the International Monetary Fund, World Bank, Asian Development Bank, private actors, and others - as well as of Governments for the aid assistance that could be detrimental for women’s access to justice and reconstruction. Refer to the need for a gendered analysis of all programs in post-war/post-conflict development and recovery.
11. To be concerned about the specific impact of conflict on the girl child that is different from the impact of conflict on women – cases of early marriage and pregnancies.
12. To deal with contradictory domestic systems and the need to use the principle of complementarity so that domestic legal systems can be harmonized with international human rights law and standards. Integrate the definition of gender based crimes such as rape and other sexual crimes in conflict to national penal codes that reflect contemporary realities.
13. To identify democratisation as a fundamental requirement for conflict transformation in post-conflict context, and acknowledge that regional autonomy does not automatically bring social transformation for women.

**(iii). Women’s Role in Peace-building and Conflict Transformation**

The Committee in its General Recommendation no 23 recognised that in times of political crises, the generalized exclusion of women from political participation has the effect of silencing and marginalizing women’s experiences and contributions. It is noted that Articles 7 and 8 of the Convention provide the normative framework for advancing women’s equal and meaningful participation in all processes related to conflict prevention, resolution and the maintenance and promotion of peace. The negotiations and drafting of peace agreements provide State Parties with an opportunity to comply with core obligations under Article 2 of the Convention to eliminate all forms of discrimination against women.

To achieve these objectives, peace agreements must incorporate human rights norms and standards by making reference to international human rights law and its role in the new State, expressly provide for non-discrimination on the basis of sex and gender in the Constitution, include guarantees of economic, social and cultural rights and their justiciability in national courts. Implementing this is instrumental if State Parties intend to ensure the increased representation of women in institutions and mechanisms for the prevention, management and resolution of conflict.

Recommendations<sup>6</sup>

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6 CEDAW requires states to:

- Use measures, such as enhancing resources, special trainings and education, and other steps necessary to compensate for past discrimination and accelerate women’s equality in practice (Art. 3,4(1), Gen. Rec. 5).

1. Women's participation in policy making processes in the area of peace, reunification, and international relations should be expanded through institutional mechanisms to promote gender-balanced policies. The proportions of female members in government committees within ministries should be expanded (CEDAW Article 4);
2. To expand women's participation at all stages to enable the issues of women's rights and concerns to be incorporated and addressed in all areas of politics, economy, law and national security.
3. To require adoption of temporary special measures as per Article 4 of CEDAW to promote women's equal participation in policy making processes in the area of peace, reunification, and international relations through institutional mechanisms, create an enabling environment through temporary special measures such as quotas, budgetary allocation, technical support/ training etc. States must be obligated to locate issues relating to women's participation at the national level and not only at peripheral levels. Women's representation in parliament should be stressed.
4. To call on States parties to comply with peace agreements and reduce excessive national defense expenditures, redistributing resources to improve general welfare and resolve gender gaps. To reaffirm Article 5 and that women should be included in the decision making over issues such as power sharing, demobilization reintegration of armed forces, formulation of development strategies, infrastructure development and other critical issues.

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- Take measures to eliminate social and cultural patterns of conduct that disadvantage women (Art. 5(a)/Gen. Rec. 3).

- Initiate public education and information campaigns, including by mass media, targeted at stereotypes and prejudices that discourage women's involvement in politics and public life (Gen. Rec. 23/3).

- Consult with women groups on the development and implementation of all policy and programming (Art. 7(c)/ Gen. Rec. 23).

- Respect the civilian and humanitarian character of refugee camps health services, including trauma treatment and counseling, for women trapped in situations of armed conflict and women refugees (Gen. Rec. 24).

- Initiate public education and information campaigns, including by mass media, targeted at stereotypes and prejudices that discourage women's involvement in politics and public life (Gen. Rec. 23/3).

- Consult with women groups on the development and implementation of all policy and programming (Art. 7(c)/ Gen. Rec. 23).

- Take into account the particular problems faced by rural women, including the significant roles which they play in the economic survival of their families (Art. 14 (1)).

- Ensure rural women enjoy adequate living conditions, especially in relation to housing, sanitation, electricity and water supply, and transport and communications (Art. 14(2)(h)).

- Ensure rural women are treated equally in land and agrarian reform as well as in land resettlement schemes (Art.14(2)(g)).

5. To call on States parties especially those emerging from conflict to specifically include in their periodic reports action taken on implementation of SCR 1325, 1820, 1880, 1889 on the full and effective participation of women in peace-building.
6. Bilateral agreements between two countries such as the Status of Forces Agreements, should include protection of women's human rights and children's rights and revision of jurisdiction for victims and survivors as well as gender education.
7. There is a need to bring in beyond the armed groups and the State government, the voice of civil society and the voices of women as equal participants. These demands need to be addressed not only to States who are direct parties to the negotiations but also to States that are facilitating, mediating, the international community that may be funding the process and the UN who may be in a supervisory or peacekeeping position.
8. To reinforce the protection of women human rights defenders during times of conflict. Without this protection and recognition, women human rights defenders can be victimized, resulting in their families and themselves becoming socially ostracized.
9. On UN peacekeeping forces – a recommendation for due diligence to be applied by State Parties who are sending troops for peacekeeping with regards to their selection of soldiers. Anyone with a criminal sexual violation track record should not be accepted. If there are any violations of sexual violence during the peacekeeping mission by soldiers they must be prosecuted; there must also be due diligence in dealings with national armed forces as required by UN guidelines.
10. There are different kinds of sanctions being imposed by one government on another or political and economic sanctions by the UN. There are different impacts of sanctions on the ground, and a number of these sanctions have long term humanitarian impacts. To ensure the application of a UN humanitarian assessment procedure. Suggest that States report on the impact of sanctions during their CEDAW reviews.
11. Women and children make up the majority of populations fleeing from violence, ending up in refugee and internally displaced persons' camps that can expose more threats for women. Acknowledge that in camps, inequalities in the control and distribution of humanitarian resources/aid, can leave women desperate, thereby expose them to sexual exploitation and abuse..
12. To encourage the State or a new government to consider an institution and mechanism to look into peace building in a more sustained method. Addressing the peace agreement is signed – justice for all victims, healing and reconciliation, honoring sacrifices and the long term process of rebuilding.
13. Mental health and psychosocial services should be incorporated into the general health services in conflict and post conflict situations. Public health providers should be gender sensitive. There are also different levels of support: specialized support, community based support.

14. The needs of those who experienced physical disability and the impacts of mental health. They should be included in decision making and not only in the care and health services but at all levels.

15. To request the UN Peace Building Support Office and the Special Representative of Secretary General to coordinate UN's efforts to address conflict-related sexual violence and include adequate and targeted action and resources for this during conflict and post-conflict peace-building;

16. The General Recommendation could recall CEDAW Articles 5(a) and 2(f) obliging State Parties to provide and implement a legal framework to address harmful and traditional barriers to gender equality; Articles 7 and 8 to provide a normative framework for advancing women's equal and meaningful participation in all processes related to conflict prevention.

17. The State stops illegal forced eviction and implement Articles 2 and 14.2 of CEDAW. The State should respect women's rights as defined in its own domestic law as well as international treaties and ensure their participation in all aspects of society;

18. On the national machinery for women, maintain strong links with the national machinery because it is the institution that is able to articulate the concerns of women and can ensure that issues are brought to the center of government's attention.

19. To urge States to re-envision education so as to de-romanticize conflict and promote peace education .

#### **(iv). Women as Change Agents**

Women's subordinate role to men has been a limiting factor to their meaningful participation in peace-building process and leadership, as it continues to be seen as a man's domain with the State discouraging behavior to promote women as important actors in peace process. Women are often engaged in peace-building activities at the grassroots and community levels, reaching across ethnic and political divides to build mutual understanding and reconciliation and form shared goals for peace.

Women often have particular insight into the consequences of conflict on families and communities, and knowledge about the steps needed to reconstruct these societal structures. Ensuring enough seats for women to make an impact in the peace process has proven challenging as a result of gender discrimination and its consequences. The media often perpetuates negative stereotypes and traditional conceptions about women's capacities, highlighting their victimization rather than their capacity for unique contributions to bring about positive change. Women present unique opportunities to effect the transformation of society and ensure that it is undertaken in a way that promotes equality. In order for women to fully participate in organizing for peace, they require support for early mobilization, skills and resources, space to coordinate and develop their agendas and access to decision-makers.

## Recommendations <sup>7</sup>

1. Women should be participating at all stages of a conflict and at all levels both formally and informally. Be it in early-warning systems, in peace talks, in political decisions that forge resolutions to conflict, constitutional reforms or formulation of development paradigms. Cease-fire and peace agreements must necessarily require women's participation at all stages of decision making, especially at senior levels and onwards.
2. To ensure women's participation by highlighting the State's obligation to create an enabling environment through temporary special measures such as quotas, budgetary allocation, technical support/ training etc. States must be obligated to locate issues

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### 7 CEDAW requires states to:

- Guarantee women the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies (Art. 7(a)).
- Use temporary special measures (setting numeric goals or quota and providing financial assistance, special recruitment schemes and training women candidates) to ensure an increase to critical mass in women's participation (Gen. Rec. 23).
- Ensure women's right to participate in non-governmental organizations and associations concerned with public life, including through incentives to political parties to ensure women's participation in their structures (Art. 7(c)/Gen. Rec. 23).
- Ensure women's right to participate in the formulation of government policy and its implementation and to hold all forms of public office (Art. 7(b)), including through appointment of women, where in government control, to senior positions, including in traditionally male dominated fields (Gen. Rec. 23).
- Establish or strengthen a national women's machinery, including institutions and procedures, to provide advice on the impact on women of government policies, monitor the situation of women and formulate policies and strategies to eliminate discrimination (Gen. Rec. 6).
- Place women's machinery at a high level of government and provide with adequate resources, commitment and authority (Gen. Rec. 6).
- Support gender mainstreaming throughout government departments (Gen. Rec. 6).
- Take measures to eliminate social and cultural patterns of conduct that disadvantage women (Art.5(a)/Gen. Rec. 3).
- Initiate public education and information campaigns, including by mass media, targeted at stereotypes and prejudices that discourage women's involvement in politics and public life (Gen. Rec. 23/3)
- Take specific measures designed to ensure a better gender balance in membership of all United Nations bodies (Gen. Rec. 23).
- Collect data on the percentage of women in the Foreign Service or engaged in international representation, including membership in government delegations to international conferences and nominations for peace keeping or conflict resolution roles and seniority in the relevant sector (Gen. Rec. 23).

relating to women's participation at the national level and not only at peripheral levels.

3. To ensure that women combatants are not discriminated against or harassed; treat them like all other combatants but recognizing the special potential they possess for leadership and transformation. Support systems for women survivors need to be emphasized. Action to harness their contribution to society and their inclusion in decision making, implementation etc. is required on the part of states parties as a matter of obligation.
4. Proposed that the General Recommendation to be inclusive and to refer to other relevant international human rights instruments, especially referring to Article 4 of ICCPR dealing with exceptional laws in emergency regimes.
5. Recommend recognition of the contribution of women in government as agents of change; to ensure zero tolerance of violations by peacekeepers by having a training that includes gender sensitivity programmes.
6. Recognize the positive role of women combatants and how their experiences during conflict and the empowerment gained are translated into policy or absorbed into the security apparatus of the country in post-conflict reconstruction.
7. Recommended that the General Recommendation urge States Parties to reform the security sector and strengthen women's engagement in the police sector.
8. Established the link between the inhibiting factors to gender equality to the culture of violence against women will help draw women-agency policy guidelines, educational policies on the right to education and establishing women's right to participation to form agency for peace and therefore one of the core obligations of the State;
9. Bridging the rural and urban divide in regard to women's participation in public life and governance.
10. For women to fully participate in organizing for peace, they require support for early mobilization, skills and resources, space to coordinate and develop their agendas and access to decision-makers.
11. Obligation of States to recognize the potential of women to forge new visions for society in an inclusive manner and ensure equal opportunities. Not to treat women as bearers of culture and bearers of national or communal identities is essential.

### **Synthesis by the CEDAW Working Group:**

#### **1. Scope of General Recommendation**

- Conflicts are the products of many different actors: States and non-state actors, processes and States and not simply the State on whose territory the conflict occurs. A broader range of States should be addressed in the general recommendation through an elaboration of extraterritorial and international obligations under CEDAW and in line with with contemporary human rights and humanitarian law;
- All articles of CEDAW are relevant to the conflict. CEDAW contains no derogation clause and States cannot justify discrimination against women in times of conflict.

## 2. Legal framework

In the light of contemporary developments in human rights law as well as other branches of international law and UN processes around Women Peace and Security, the General Recommendation;

- To consider the intersections, gaps, complementarities and convergences between human rights and humanitarian law, particularly the ways that international law obligations – by both States hosting a conflict and States otherwise engaged - can reference CEDAW’s gender specific guidance to promote and protect the rights of women. CEDAW’s work is in the context of supporting the obligations of States to persons under their sovereign and balance the reality of extra-territorial effects of State actions with respect for building the democratic accountability between state parties and their citizens;
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- To address State obligations for non-state actors; this includes corporations, as well as state responsibility for impact on women’s rights for actions by a State or its agents taken internationally or extraterritorially.
- The obligations of States under the Rome Statute of the ICC and the role of complementarity for States that have committed to revising their national laws to meet the substantive and procedural standards of the Rome Statute;
- Using CEDAW to underscore international commitments made in UN SCR 1325, 1820, 1888, 1889 and 1960 and the relationship between the programmatic steps outlined in the Resolutions as evidence of legally binding obligations under CEDAW.

## 3. Definitions and concepts

- **Violence against women:** For the General Recommendation to articulate the full range of violence affecting women of all ages. The language of accountability should be seen as concurrent with conflict and strife and a process that can take decades to fulfill;

- **Prevention:** Need greater emphasis on CEDAW's application in this regard so as to bring in a broader reference to draw attention to the preventive stage of social integration and problems women face that contribute to the problems of society's reconstruction. Factors for consideration are inter-linkages between peace in the home, culture of militarism and maintenance of a culture of peace. Emphasis should be given to the regulation of possession, sale, trade and criminal use of legal and illicit small arms and light weapons as preventive measures;
- **Early warning systems:** To empower women with communications technologies to prevent widespread harm. Protection of indigenous people's cultural traditions favoring women's roles as peacemakers, investment in girls' and women's education, engaging media leaders and improving monitoring and evaluation indicators in prevention should also be considered.

#### 4. CEDAW's role vis a vis International Humanitarian Law (IHL)

- The CEDAW Committee has recognized the relationship between IHL and human rights in its General Recommendation 19 on Violence against Women. The CEDAW Committee, along with the human rights treaty body monitoring structure has been recognising the need to address simultaneous and complementary applicability of IHL and international human rights protection.
- The General Recommendation must draw the convergence between IHL and IHRL whilst remembering that they are not identical in approach and scope. There is enough evidence of the advantages of their joint application to many complex conflict situations. For example, gender-sensitive pre-conflict training and post-conflict accountability can be strengthened by reading IHL and IHRL together. Whether the approach is to take IHL as *lex specialis* of conflict, or to see specific standards in human rights and humanitarian law as complementary and reinforcing, the application of CEDAW can be informed by, and can further elaborate the standards of humanitarian law;
- The General Recommendation offers the opportunity to ask States Parties what IHL obligations they have accepted and implemented as required by CEDAW reporting guidelines, engaging with the gender-specific application of these obligations as aspects of CEDAW's protection mandate to women during conflict and after conflict and further developing the rationale and scope of the Convention in the light of the operation of IHL where relevant.

#### 5. Questions of extraterritorial obligations of States

- Treaty bodies are increasingly articulating that States have positive obligations to promote the realization of rights both inside and outside of its borders. For example, CESCR states that States Parties must take positive steps to ensure the fulfillment of the right to health, water, food and other rights (General Comment 3). Such positive steps may include 'international assistance and cooperation,

especially economic and technical’ and the obligation ‘to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or political means, in accordance with the Charter of the United Nations and applicable international law.’ (General Comment 14);

- The gendered dimensions of extraterritoriality have not been explored. There is a need to also explore if CEDAW can take the approach by CESCR, the HRC and other treaty bodies and engage the states parties in reviewing their positive obligation where action has an extraterritorial impact;
- Corporations’ engagement with rights abuses can take the form of complicity with States in abusing rights, such as through accepting State-sponsored security forces, abuse right through gender discriminatory hiring and secret agreements for access to land, resources or food policies which have gendered effects. The General Recommendation will have to address ways in which corporations affect women’s rights at the outset of conflict, in its continuance and in its resolution. Guidance will have to be provided to States Parties as host or home nations on their obligations under article 2(e).

## **6. CEDAW’s complementary role with other UN structures/ Security Council**

- To highlight the synergy between the two sets of standards – CEDAW and the SCRs. While SCR 1325 helps to broaden the scope of CEDAW’s application by clarifying its relevance to all parties in conflict and peace, CEDAW provides concrete strategic guidance for actions to be taken on the broad commitments outlined in SCR 1325. The General Recommendation can really support and strengthen the relevant SCRs and bring a shift from the narrow focus on single aspect of women’s rights to equality, security, democracy and full participation, geo-political interests and unaccountable political promises.

## **7. Access to justice**

- The General Recommendation needs to address the importance of pursuing accountability during conflict;
- It should encourage States Parties to enact laws in line with the definitions of the constituent acts that constitute war crimes, crimes against humanity and genocide enshrined in the Rome Statute of the ICC. States who are party to CEDAW and the Rome Statute are already required to pass domestic laws in conformity with the Statute. Even if a State is not party to the Rome Statute, the General Recommendation can recommend that State parties bring domestic legislation in conformity with the Rome Statute.

## **8. The diversity of women in conflict, transition and post-conflict**

- Critical for the General Recommendation to draw the State Parties attention to the varying forms concerns of access to justice, participation in peace-building, violence against women and economic opportunities may take in the course of conflict, during transition and post-conflict;
- Women take on diverse positions in conflict. Their experiences will vary in accordance with their actual alliances and with those perceived as key actors. It is crucial to emphasize that substantive equality is not met by the promotion of women within a dominant ethnic or political group. Temporary special measures under Article 4(1) may be needed to address the diverse situations of these women including as recognized in General Recommendation 25;
- Articles 4, 5 and 7 are very relevant to the experiences and gender specific needs of women combatants and women who are formally or informally associated with an armed group, who are often overlooked in conflict and post-conflict settings. It is important to capture the situations, motivations, capacities and restraints on women and their gender specific needs during conflict, transition and post-conflict periods;
- To include concerns for women as perpetrators of crimes as well as victims. Recent trials of women for war crimes highlight the need for CEDAW through this General Recommendation to develop the underlying equal rights of women as defendants and prisoners of war, including freedom from arbitrary detention, liberty and degrading treatment and the right to a fair trial;
- Need to acknowledge women's intersectional identities during conflict and highlight the many ways women participate in peace-building efforts. Also to elaborate on the States' obligation to address the barriers to the rights of women to participation. Questions have been raised about the selection process and how at times only certain women's voices are represented. These have to be considered;
- To raise the issue of women and culture in the context of article 5(a) and 2(f) as to what constitutes barriers for women as change agents. To question the States' deployment of cultural stereotyping during and after conflict in ways that limit women's opportunities.