**Working Group on discrimination against women in law and in practice**

**Questionnaire on good practices**

In accordance with its mandate, the UN Working Group on the issue of discrimination against women in law and practice has developed this questionnaire to gather information on “good practices” in eliminating discrimination and empowering women for its next thematic report. Given the centrality of the law to the Working Group’s mandate, the report will focus on the processes by which laws that support women’s equality and enjoyment of human rights come into being and are implemented in ways that support women’s enjoyment of their human rights and fundamental freedoms.

The questionnaire intends to solicit information on how a specific law aimed at addressing discrimination against women and promoting women’s substantive equality has come into being, was effectively implemented (I), and what impacts the law has had for women on the ground (II).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) clearly establishes State obligation to respect, protect and fulfill women’s human rights, ensuring the de facto enjoyment of those rights by women. CEDAW’s framework is founded on the principle of substantive equality, which requires States to take active measures to not only eliminate laws and practices that directly discriminate against women, but to create an environment in which women’s rights can be fulfilled. Good practices in the promotion of women’s human rights thus require a holistic approach that addresses both the causes and consequences of discrimination, and aim at social transformation.

Recognizing the aspiration of the Working Group to better understand the processes and elements which contribute to build “good practices” in legislation and its implementation the Working Group requests that you provide detailed information on at least **one law** adopted in a State that has been successfully implemented in that it has had a notably substantial impact on eliminating discrimination against women in the specific area related to that law and has enhanced women’s enjoyment of their human rights in your national context, such that you consider it a “good practice.” Processes of substantive change often take place over a period of many years, so the law need not be new: this survey should focus on a law whose impact has been substantiated and the impacts of which are still being seen.

The Working Group wishes to thank all stakeholders for responding to this questionnaire **by 12 September 2016.**

**Questionnaire**

**For the following sections, please provide information about a law that has been selected as an exemplary case study of a “good practice” in eliminating discrimination and empowering women in your national context.**

**I. Identification of a law that has eliminated or substantially reduced discrimination and supported women’s empowerment.**

*Background Information on the Law*

1. Name/Title of the Legislation: Act relating to gender equality (the Gender Equality Act)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. Date the law passed and came into force: Passed 13.6.2013, into force 1.1.2014\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. Was it a new law or an amendment of an existing law?

New ( ) Amendment ( x )

 If it was an amendment of an existing law, please providing name/title of existing law and any pertinent information here: Act relating to gender equality (The Gender Equality Act) (1978)

4. Is the legislation focused specifically on discrimination against women/gender equality, or is it part of a larger piece of legislation (i.e. Labour law with provisions around gender)? Please explain.

The Act is focused specifically on discrimination against women/gender equality. The purpose of the Act is to promote equality irrespective of gender, and the Act has the particular objective of improving the position of women.

5. Please provide a summary of the content of the law, its preamble or explanatory note, policy measures, dissemination and implementation regulations, and provisions for access to justice, as well a link to where all these can be found online.

The Gender Equality Act (first adopted in 1978, new Act from 2013) was the first Norwegian discrimination act. It prohibits direct and indirect discrimination of women and men. The purpose of the act is to promote equality irrespective of gender in all spheres of life, and it has the particular objective of improving the position of women. Public authorities and public and private employers shall make active, targeted and systematic efforts to promote gender equality. Employers must report annually on the actual state of affairs as regards gender equality in their undertaking and equality measures that have been implemented and that are to be implemented to satisfy the activity duty. Public committees must be gender balanced. The act prohibits harassment on the basis of gender and sexual harassment. The teaching aids used in schools and other educational institutions shall be based on equality irrespective of gender. In employment relationships, the act states the rights that workers have in connection with parental leave and the right to equal pay for work of equal value.

The act is enforced by the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal. A person who is discriminated against may claim compensation for non-economic loss and compensation for economic loss. Compensation claims must be handled by the ordinary courts of law.

Link to the English translation of the Act: <http://app.uio.no/ub/ujur/oversatte-lover/data/lov-20130621-059-eng.pdf>

The preparatory works of the Act are only to be found in Norwegian: <https://www.regjeringen.no/no/dokumenter/prop-88-l-20122013/id718741/>

 6. When was the first draft of this law introduced, and when was it adopted (please specify dates of first draft and adoption?

The Gender Equality Act (2013) was based on the proposal for a comprehensive discrimination act from the Discrimination Act Committee, which was on public hearing in 2009. The Act was adopted by the Storting (the Norwegian Parliament) 13.6.2013.

*The Law’s Compliance with CEDAW*

7. In your view, does the law in question place a positive duty on the State to achieve substantive equality for women?

Yes ( X ) No ( )

 If yes, please explain:

Section 12 of the act states that public authorities shall make active, targeted and systematic efforts to promote gender equality.

8. Does the law contain a definition of discrimination that is in accord with Article 1 of CEDAW?

Yes ( X ) No ( )

 If yes, please direct us to the section of the pertinent document. If not, please indicate if that definition is enshrined already in the constitution or charter of rights.

See section 5, cf. section 6 and 7 of the act.

9. Does the law’s definition of discrimination include and define both direct and indirect discrimination?

Yes ( X ) No ( )

 If yes, please explain:

See section 5 of the act.

10. How has the Constitution supported the process of adoption and implementation of the law? Does the Constitution have an equality and non-discrimination provision?

The Norwegian constitution section 98 states that "All people are equal under the law. No human being must be subject to unfair or disproportionate differential treatment."

The constitution section 92 further states that "The authorities of the State shall respect and ensure human rights that are expressed in this Constitution and in the treaties concerning human rights that are binding for Norway."

11. Does the law contain provisions that address discrimination against women from an intersectional perspective, taking into account a diversity of women’s social identities, statuses and experiences?

 Yes ( ) No ( X )

 If yes, please explain which social identities, statuses and/or intersectional factors are explicitly noted in the law:

12. Whom of the following are bound by the law?

 The State Yes ( X ) No ( )

Public Authorities/Bodies Yes ( X ) No ( )

Civil society organisations Yes ( X) No ( )

Private companies Yes ( X ) No ( )

Individuals Yes ( X ) No ( )

**II. How the law came into being and was implemented**

1. What was the impetus for the development of this law (i.e. social movement activism, political platform, a Supreme Court ruling, an egregious case of discrimination, constitutional reform…)?

The background for the first Gender Equality Act of 1978 was the women's movement in the 1970s. Many western countries established gender equality acts around the same time as Norway. In the years after the millennium, several countries, among others Sweden and the UK, introduced comprehensive discrimination acts prohibiting discrimination on several grounds (ethnicity, disability, sex, sexual orientation etc.). In Norway, a public committee was appointed to propose a comprehensive discrimination act. After the committee's proposal had been on public hearing, the Government decided to keep separate laws for each discrimination ground. The government proposed four new equality and anti-discrimination acts which were adopted by the Storting in 2013.

2. Were there any conditions in the political context that made it possible for this law to be developed and adopted at the time that it was (i.e. a particular political party in power, a conflict/post-conflict situation, a recent ratification of an HR instrument, etc.)?

Yes ( X ) No ( )

If yes, please explain:

Opposition from gender equality organizations against one comprehensive equality and anti-discrimination act (see answer to question no. 4) resulted in the Government's decision to keep separate laws for each discrimination ground.

3. What actors were consulted and how were they consulted in the law’s development and formulation? Check all that apply, and, where possible, provide names of involved individuals, agencies, organizations, etc.

The list of actors consulted can be found in Prop. 88 L chapter 5.1.4: <https://www.regjeringen.no/contentassets/c9d7105d05cc45e9ad9114120c8a6230/no/pdfs/prp201220130088000dddpdfs.pdf>

Legal Experts/scholars (please specify) ( X ) \_Universities, colleges, research institutes, competence centres\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Government Ministries ( X ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NHRI ( X ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NGOs/CSOs ( X ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other social groups (specify) ( X ) \_\_\_\_\_\_\_Employer and employee organizations, religious and life stance communities\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. Was there opposition to the law?

Yes ( X ) No ( )

If yes, please explain from whom and why, and how it was addressed:

Some gender equality organizations opposed the idea of one comprehensive discrimination act prohibiting discrimination based on all the discrimination grounds. They wanted to keep the Gender Equality Act as a separate Act. Even though the majority of those who replied to the public consultation supported one comprehensive act, the then Government decided to propose separate acts for each discrimination ground.

6. Were there other laws that needed to be reformed in order to enact this law?

Yes ( X ) No ( )

If yes, please list and explain:

Only minor changes in other laws were made when the new Gender Equality Law was adopted.

7. Were any international human rights treaties or mechanisms referenced in the law’s creation?

Yes ( X ) No ( )

If yes, please list and explain:

Chapter 3 of the preparatory works of the act discusses relevant human rights instruments, such as CEDAW, ILO conventions and relevant EU law.

8. Did any international/regional/national human rights mechanism issue recommendations to the State in regard to amendment or formulation of this law, or regarding effective implementation? If yes, was this recommendation formulated prior, during or after the adoption of the law?

Yes ( ) No ( X )

If yes, please list and explain:

23 March 2012

There have not been recommendations concerning this law specifically. On a general basis, the CEDAW committee in its concluding observations of 23 March 2012 to Norway's 8th periodic report, stated:

"The Committee is […] concerned that the use of gender-neutral legislation, policies and programmes might lead to inadequate protection of women against direct and indirect discrimination and hinder the achievement of substantive equality between women and men."

The Committee called upon Norway to "Adopt a more gender-specific approach for its legislation, policies and programmes,…".

With regard to effective implementation, the CEDAW committee encouraged Norway to:

"Further strengthen the Equality and Anti-Discrimination Ombud, by providing it with adequate human and technical resources and consider authorizing the Ombud and the Tribunal to hear cases of sexual harassment […]"

9. What measures to support implementation were built into the law or developed immediately after (and as a result of) its passing? This could include such measures as budgetary and resource allocation, monitoring mechanisms, data collection, impact measurement mechanisms, independent monitoring, etc. Please list and explain, providing any relevant documents.

The Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal enforce the act, cf. The Anti-Discrimination Ombud Act: <https://www.regjeringen.no/en/dokumenter/The-Act-on-the-Equality-and-Anti-Discrim/id451952/>

In 2015, the then Government presented a White Paper to the Storting on gender equality (Meld.St. 44 (2012-2013)). The present Government withdrew this White Paper and presented its own White Paper (Meld.St. 7 (2015-2016)). The latest white paper is enclosed.

10. How was the law made accessible to the public? Did it include formal training on the new law for all stakeholders involved? Were specific groups of women targeted for these activities? Who was involved in these initiatives, and where did the funding come from? Please answer in detail.

The act is made accessible to the public on [www.lovdata.no](http://www.lovdata.no) as all other Norwegian legislation. The Equality and Anti-Discrimination Ombud works to promote genuine equality irrespective of gender, ethnicity, national origin, descent, skin colour, language, religion or belief in all areas of society. The Ombud also provides guidance to individuals, public authorities and businesses on equality and anti-discrimination legislation. The Ombud received 52,9 million NOK over the state budget in 2016.

11. Have there been any barriers to the law’s full and successful implementation?

Yes ( ) No ( X )

If yes, please explain the barriers and how they were/are being addressed:

12. What kinds of roles are being carried out by civil society/women’s organizations in supporting the implementation and impact of the law? How are these activities being financed?

Several NGOs work for gender equality and receive funding from the government.

JURK (legal aid for women, http://jurk.no/) is a student run legal aid office, which provides free legal aid and legal advice for women. JURK receives government funding.

The MiRA Centre (<http://mirasenteret.no/en/about-us>) offers legal and psychological counseling and legal help concerning among other things, family reunion, marriage and divorce, gender and racial discrimination at work, forced marriage and family violence. The Centre receives government funding.

There are also three regional centres for gender equality and one resource centre for men (Reform) which receive government funding.

**III. The impacts that the law has had for women on the ground**

1. Did the adoption of the law result in the creation of any policies?

Yes ( ) No ( X )

If yes, please list and explain:

The law was an amendment of the 1978 Gender Equality Act.

2. Have court cases/decisions resulted from the law? Has this data been systematically collected? If so, please provide details about the number of cases, convictions, decisions made.

There is little case law regarding the gender equality act. There have been no cases for the Supreme Court of Norway trying the 2013 Gender Equality Act. There was one case for the Supreme Court in 2014, concerning the 1978 Gender Equality Act. There have been only a few Supreme Court cases concerning the 1978 Gender Equality Act as well.

Local and District Courts have had a few cases concerning the 2013 Gender Equality Act. There have been some cases concerning the 1978 Gender Equality Act, including about pregnancy discrimination.

Most discrimination cases are handled by the Equality and Anti-Discrimination Ombud and Tribunal, and not by the courts. This is also the intention behind the enforcement system. It is to be a low threshold system which is easy and costless to use.

3. What specific and measurable outcomes showing the impact of the law on society and on women’s enjoyment of their rights have been recorded as a result of the adoption and implementation of the law? How have these been monitored and by whom?

As the act is quite new and there were no major changes from the previous Gender Equality Act, it is hard to pinpoint specific and measurable outcomes of the law.

The Equality and Anti-Discrimination Ombud keeps statistics of its cases (both guidance and complaint cases). Discrimination because of gender, particularly pregnancy and parental leave, are the major part of the cases. In 2015, out of a total of 1974 cases, 643 were about gender discrimination.

4. Are there other impacts of the law that have been observed?

Yes ( ) No ( X )

If yes, please list and explain what they are, as well as monitoring mechanisms used to observe and/or measure those impacts:

5. What mechanisms have been set up to review and assess the implementation of the law?

The government has not initiated evaluation of the act after it came into force in 2014. Some independent researchers have assessed the law's effect on women's legal protection against discrimination. Some weaknesses have been pointed at. The Government is presently in the process of preparing a comprehensive equality and anti-discrimination act which will cover all discrimination grounds, including gender.

6. Is there data on how the law has affected some groups of women differently (i.e. based on race, ethnicity, religion, social class, age, etc.)?

Yes ( ) No ( X )

If yes, please explain the differential impacts and provide any relevant documents.

7. Has there been independent monitoring of the law?

Yes ( X ) No ( )

Please provide information.

See answer to question I 5 and II 9.