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## Human Rights Council

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**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Report of the Secretary-General on the question of the realization in all countries of economic, social and cultural rights**

### *Summary*

The present report is submitted in accordance with Council resolution 19/5. It outlines developments and activities relevant to the promotion and protection of women's economic, social and cultural rights within the United Nations treaty bodies, special procedures and the Office of the United Nations High Commissioner for Human Rights.

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## I. Introduction

1. In its resolution 19/5, the Human Rights Council requested the Secretariat to submit a report on the question of the realization in all countries of economic, social and cultural rights, with a special focus on women (para. 20). Previously, the Office of the United Nations High Commissioner for Human Rights (OHCHR) had submitted, in 2008, a report to the Economic and Social Council (E/2008/76), which addressed economic, social and cultural rights, the principles of equality between men and women and non-discrimination against women. The present report should be considered as a complement to that report.

2. The present report starts by tracing recent developments in this area. It addresses the normative framework of women's economic, social and cultural rights, recalling the main achievements of treaty bodies in clarifying the content of those rights. It also maps developments and activities relevant to the promotion and protection of women's economic, social and cultural rights within the United Nations treaty bodies, special procedures and OHCHR. Finally, it offers some conclusions and recommendations.

## II. Normative framework

### A. Gender equality and non-discrimination as cross-cutting norms

3. Addressing women's economic, social and cultural rights demands important measures across sectors of society, including in both the public and private spheres. Inequality in the enjoyment of human rights by women throughout the world is often deeply rooted in socioeconomic structures and culture, including religious attitudes,<sup>1</sup> and in the power dynamics between men and women that are inherent in family and social settings.

4. The increasing international focus on economic, social and cultural rights during recent years has contributed to raising awareness of the specific human rights problems faced by women in economic and social areas. Attention given to the economic, social and cultural rights of women must take into account the principle of the indivisibility and interdependence of human rights, which emphasizes the importance of all sets of rights and the recognition that the human rights of women form an inalienable, integral and indivisible part of universal human rights.<sup>2</sup>

5. Equality and non-discrimination are essential to safeguarding women's economic, social and cultural rights and are included in most international human rights treaties. According to these principles, the human rights enshrined in the conventions should be guaranteed to everyone irrespective of grounds such as race, colour, sex, language and religion. Differential treatment to the detriment of persons based on those grounds of discrimination is prohibited, except where reasonable and objective justification can be demonstrated.

6. The principle of the equal enjoyment of human rights irrespective of sex was introduced universally by the adoption of the Charter of the United Nations in 1945.<sup>3</sup> The principle has subsequently been elaborated through the 1948 Universal Declaration of

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<sup>1</sup> Human Rights Committee, general comment No. 28 (2000) on equality of rights between men and women, para. 2.

<sup>2</sup> Vienna Declaration and Programme of Action, A/CONF.157/23, paras. 5 and 18.

<sup>3</sup> See arts. 1, para. 3, 13, para. 1 (b), 55 (c), 62, para. 2, and 76 (c).

Human Rights, the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and the 1979 Convention on the Elimination of All Forms of Discrimination against Women and is also referred to in other instruments, such as the Convention on the Rights of the Child, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

7. Article 2, paragraph 2, of the Covenant on Economic, Social and Cultural Rights contains an important guarantee against non-discrimination in the enjoyment of the substantive rights protected in articles 6–15 of the Covenant. Under article 2, paragraph 2, of the Covenant:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

8. This provision prohibits discrimination in the exercise of substantive rights enunciated in the Covenant, setting an immediate obligation to eliminate discrimination on the prohibited grounds. Conversely, article 26 of the Covenant on Civil and Political Rights makes equality and non-discrimination applicable not only to the rights enshrined in that instrument, but to all areas of law. According to the interpretation of the Human Rights Committee in its general comment No. 18 (1989) on non-discrimination, article 26 is not limited to the rights set forth in the Covenant, but should also be applied to economic, social and cultural rights. This interpretation informed the Human Rights Committee's views in two landmark cases, *Zwaan-de Vries v. the Netherlands* and *Broeks v. the Netherlands*.<sup>4</sup> In both cases, the Committee found that differential treatment in the allocation of social benefits based on gender was discriminatory.

9. Article 3 of the Covenant on Economic, Social and Cultural Rights complements the non-discrimination clause in article 2, paragraph 2, by specifically making provision for equality between men and women in the enjoyment of economic, social and cultural rights protected in the Covenant.

10. The Committee on Economic, Social and Cultural Rights has further clarified the concept of equality between men and women. In its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee observed that “formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner. Substantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience” (para. 7). The Committee then underlined that “States parties should take into account that such laws, policies and practice [that are prima facie gender neutral] can fail to address or even perpetuate inequality between men and women because they do not take account of existing economic, social and cultural inequalities, particularly those experienced by women” (para. 8).

11. The Convention on the Elimination of All Forms of Discrimination against Women offers further guidance about the scope of the State obligations to ensure gender equality and non-discrimination in the enjoyment of all human rights – including economic, social and cultural rights. States and other actors should give priority to promoting the role of women in society and ending de jure and de facto discrimination based on sex. In

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<sup>4</sup> Communications No. 182/1984, Views adopted on 9 April 1987, and 172/1984, Views adopted on 9 April 1987.

particular, measures and programmes should be adopted to work towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns.<sup>5</sup>

12. Besides the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Covenant on Civil and Political Rights, other human rights instruments elaborate on the application of the principle of equality and the prohibition of gender discrimination to human rights, including economic, social and cultural rights. For example, article 2, paragraph 1, of the Convention on the Rights of the Child enshrines the prohibition of discrimination, including on the basis of sex, and makes it applicable to the whole list of rights recognized in that instrument – civil, political, economic, social and cultural. The Committee on the Rights of the Child has addressed the application of the prohibition of discrimination in relation to specific issues involving economic, social and cultural rights. In its general comment No. 3 (2003) on HIV/AIDS and the rights of the child noted with concern that gender-based discrimination, combined with taboos or negative attitudes to sexual activity of girls, often limits their access to preventive measures (para. 8). For this reason, States must eliminate gender-based discrimination attitudes and norms in the design of HIV/AIDS-related strategies.

13. Another example is provided by article 6 of the Convention on the Rights of Persons with Disabilities, which explicitly mentions multiple discrimination for women with disabilities: “States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms” – including the economic, social and cultural rights included in that instrument (art. 6, para. 1).

## **B. The complementarity between the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women**

14. The scope of article 3 of the Covenant on Economic, Social and Cultural Rights can be further clarified if understood in the light of the standard of equality for women under the Convention on the Elimination of All Forms of Discrimination against Women. That standard requires the elimination of all forms of discrimination against women and mandates States parties to eradicate discrimination, both in the public and private sphere. It is a reflection of the fact that women have historically not fully enjoyed their human rights. Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women defines discrimination against women, and Article 4, paragraph 1, specifies that the adoption of temporary special measures aimed at accelerating substantive equality between man and women should not be regarded as discrimination. Rather, temporary special measures can be fundamental to achieve the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women.

15. While the Covenant on Economic, Social and Cultural Rights focuses on the substantive economic, social and cultural rights and makes applicable to them the prohibition of discrimination on the basis of sex, the Convention on the Elimination of All Forms of Discrimination against Women clarifies the scope of the prohibition of discrimination and the obligation to eradicate it, as applied to the full spectrum of human

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<sup>5</sup> Committee on the Elimination of Discrimination against Women, general recommendation No. 25 (2004) on temporary special measures, paras. 4 and 10.

rights – including economic, social and cultural rights. The two approaches are complementary and should be read in conjunction

16. The framework of equality and non-discrimination, as outlined in the Convention on the Elimination of All Forms of Discrimination against Women, allows an enriched understanding of how violations of economic, social and cultural rights may be experienced by women in various social contexts, while also clarifying State obligations not to commit and to eradicate these violations. The integration of the concepts of equality and the duty to eradicate discrimination under the Convention into the articulation of State obligations under the Covenant on Economic, Social and Cultural Rights illustrates the need to take an integrated approach when addressing women’s economic, social and cultural rights.

17. This holistic and integrated understanding of the rights and obligations contained in these two instruments provides a firm normative basis for demanding substantive advancement on women’s human rights in a manner which reflects the critical importance of economic, social and cultural rights in women’s lives, and thus can increase accountability for women’s economic, social and cultural rights.

### **C. Example of complementarity: the right to health**

18. The right to health is recognized in article 12 of the Covenant on Economic, Social and Cultural Rights. In its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights has clarified its normative content and essential elements, including non-discrimination and acceptability of health facilities, goods and services. Specifically with regard to women, the Committee has held that “to eliminate discrimination against women, there is a need to develop and implement a comprehensive national strategy for promoting women’s right to health throughout their life span [...] The realization of women’s right to health requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health” (para. 21).

19. In turn, article 12 of the Convention on the Elimination of All Forms of Discrimination against Women specifies the scope of the prohibition of gender discrimination in healthcare services: “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning”. It also requires States parties to “ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation”. Article 12 of the Convention not only stresses the State duty to eliminate discrimination in health care, but also offers guidance about the specific areas that the State needs to tackle in order to ensure the acceptability of health services in view of women’s specific health needs. This, in turn, helps to identify the steps needed to eradicate gender biases in the design and delivery of health services.

20. The general recommendation No. 24 (1999) on women and health further elaborates on the State’s health-related obligations and specifies in detail the elements of a national strategy for promoting women’s right to health throughout their lifespan, the implications of the right to health for women and measures to remove the barriers to women’s access to health services, education and information. It also clarifies the detail of the State’s obligations to respect, protect and fulfil women’s rights to health by combating discrimination (paras. 14–25).

21. This example provides an illustration of the need for consistency and mutual reinforcement between applicable international instruments and their respective treaty bodies. While the Covenant on Economic, Social and Cultural Rights provides a definition of the right to health as a universal right, making clear the applicability of the prohibition of discrimination thereto, more detailed and specific guidance about the scope of the associated obligations can be obtained from the Convention on the Elimination of All Forms of Discrimination against Women.

### III. Activities of treaty bodies

22. The present section maps recent developments on the economic, social and cultural rights of women in the work of United Nations treaty bodies.

#### A. Committee on Economic, Social and Cultural Rights<sup>6</sup>

23. On 25 May 2009, the Committee on Economic, Social and Cultural Rights adopted its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights. This General Comment elaborates on article 2, paragraph 2, of the Covenant on Economic, Social and Cultural Rights and discusses its application to the substantive rights enshrined in the Covenant, offering further guidance on the scope of the prohibition of discrimination and on “sex” as a forbidden ground of discrimination. The general comment also clarifies, in paragraph 20, that:

The notion of the prohibited ground “sex” has evolved considerably to cover not only physiological characteristics but also the social construction of gender stereotypes, prejudices and expected roles, which have created obstacles to the equal fulfilment of economic, social and cultural rights. Thus the refusal to hire a woman, on the ground that she might become pregnant, or the allocation of low-level or part time jobs to women based on the stereotypical assumption that, for example, they are unwilling to commit as much time to their work as men, constitutes discrimination.

24. The Committee devoted one day of its forty-fifth session to a general discussion on sexual and reproductive health. The Committee has identified sexual and reproductive health as an integral component of article 12 of the Covenant on Economic, Social and Cultural Rights on the right to health and considers that its general comment No. 14 and its doctrine provide guidance on the implementation of the right to sexual and reproductive health. However, the Committee considered that the importance of the issue for women, its complexity and the apparent extent of implementation gaps, as observed worldwide, would warrant a specific general comment. A wide range of expert panelists offered evidence-based information and substantive contributions on the links between several human rights and sexual and reproductive health, highlighting the importance of sexual and reproductive health in the full enjoyment of the right to health by women.

<sup>6</sup> Prior to 2008, the Committee dealt with women’s rights in its general comments on specific rights: in general comment No. 12 (1999) on the right to adequate food, the Committee, in paragraph 26, requires States to establish: “guarantees of full and equal access to economic resources, particularly for women”; see also the Committee in general comment No. 14 (2000) on the right to the highest attainable standard of health, paragraphs 20–21 on gender.

## B. Committee on the Elimination of Discrimination against Women

25. On 28 October 2010, the Committee on the Elimination of Discrimination against Women adopted its general recommendation No. 27 (2010) on older women and protection of their human rights. Issues related to access to education, social pensions and adequate housing, as well as consent in relation to health or the right, to inherit are addressed in this recommendation and compel States parties to address multiple discrimination against older women. The Committee highlights, in paragraph 12:

Concrete forms of discrimination against older women may differ considerably under various socio-economic circumstances and in sociocultural environments, depending on the equality of opportunities and choices regarding education, work, health, family and private life. In many countries the lack of telecommunication skills, access to adequate housing, social services and the Internet, loneliness and isolation pose problems for older women. Older women living in rural areas or urban slums often suffer a severe lack of basic resources for subsistence, income security, access to health care and information on and enjoyment of their entitlements and rights.

26. It further discusses different types of discrimination that older women face. Women are less present in the formal sectors of employment and tend to be paid less for the same work or work of equal value. According to the Committee, such gender-based discrimination throughout a woman's life has a cumulative effect in old age, leading to disproportionately low incomes and low pensions compared to men or even no pension.

27. During its review of State reports at its forty-eighth session, the Committee on the Elimination of Discrimination against Women made a number of recommendations on women's rights related to housing, land and property issues, including on forced evictions and house demolitions (Israel); the concept of "head of household" in administrative practice and the need for recognition of joint or co-ownership of land (Sri Lanka); and failures of slum-upgrading programmes to systematically address the needs of poor urban women (Kenya).

28. Women's economic, social and cultural rights were also addressed by the Committee in the context of their competence to consider individual communications under the Optional Protocol to the Convention. In *R.K.B. v. Turkey* (communication No. 28/2010), the Committee in its Views on the case on 24 February 2012 ruled that the Turkish courts based their decisions on gender stereotypes, tolerating allegations of extramarital relationships by male employees but not by female employees. The Committee decided that the State had failed to adopt adequate measures to eradicate wrongful female stereotypes in relation to the right to work and to equality of treatment in respect of work, thus violating articles 5 (a) and 11, paragraph 1 (a) and (d) of the Convention on the Elimination of All Forms of Discrimination against Women. The Committee decided that adequate compensation should be paid to the author; that the State should take measures to implement laws on gender equality in the work environment; and that the State should provide training to judges, lawyers and law enforcement personnel on women's rights and gender-based stereotypes.

29. On 10 August 2011, the Committee on the Elimination of Discrimination against Women issued a landmark decision for women around the world, with its Views adopted on 30 November 2007 on the case of *Pimentel v. Brazil* (communication No. 17/2008) – the first case decided on maternal mortality, concerning the death of an Afro-Brazilian low-income woman for lack of adequate maternal health care. The Committee found violations of the rights to health and judicial protection, referring to the State party's obligation to regulate the activities of private health-service providers. The Views also include reflections on why lack of access to adequate maternal-health services constitutes

discrimination against women, and of multiple discrimination, gender and race considerations.

### **C. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families**

30. On 2 December 2010, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted its first general comment – general comment No. 1 (2010) on migrant domestic workers. The Committee builds on general recommendation No. 26 (2008) of the Convention on the Elimination of All Forms of Discrimination against Women on women migrant workers and highlights how women migrants are in a different position from that of migrant men with regard to the migration channels used, the sectors of the labour market where they are employed, the forms of abuse they suffer and their consequences and impact. The majority of domestic workers are women and girls: given, among other things, the gendered labour market, the prevalence of gender-based violence and the worldwide feminization of poverty and labour migration, the Committee recommends that States incorporate a gender perspective in efforts to understand women's specific problems and develop remedies to gender-based discrimination throughout the migration process (paras. 60–61).

31. In the view of the Committee, States parties should repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status (arts. 1 and 7 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families), including restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel (art. 8) or bans on women migrant domestic workers marrying nationals or permanent residents (art. 14), or securing independent housing. States parties should also repeal discriminatory laws, regulations and practices related to HIV, including those which result in the loss of work visas based on HIV status, and ensure that medical testing of migrant domestic workers, including tests for pregnancy or HIV, is only done voluntarily and subject to informed consent.

### **D. Committee on the Elimination of Racial Discrimination**

32. In line with its general recommendation No. 25 on gender-related dimensions of racial discrimination, the Committee on the Elimination of Racial Discrimination has made efforts to take into account gender issues which may be interlinked with racial discrimination, in order to develop a holistic approach to evaluate and monitor racial discrimination against women. The Committee adopted general recommendation No. 34 (2011) on racial discrimination against people of African descent at its seventy-ninth session, in August 2011, where it devoted sections to economic and cultural rights requiring specific attention – such as the right to the use, conservation and protection of lands traditionally occupied by them, the right to their cultural identity and the right to the protection of their traditional knowledge and cultural and artistic heritage – and to gender-related dimensions of racial discrimination. Between 2008 and 2012, while considering the periodic reports of various State parties, the Committee has taken into account the various challenges that women face in the full enjoyment of their economic, social and cultural rights and has issued specific recommendations in this regard.

33. With regard to the right to health, the Committee has indicated that States parties should pay particular attention in improving access to health care for women of African descent and indigenous women.<sup>7</sup> In relation to labour issues, while considering the seventeenth and eighteenth periodic reports of the Netherlands, the Committee expressed concern at the high rates of unemployment in ethnic minority groups, particularly women, and recommended the State party to take effective measures to eliminate discrimination in access to employment (CERD/C/NLD/CO/17-18, para. 12):

#### **IV. Activities of special procedures on women's economic, social and cultural rights**

##### **A. Special Rapporteur on the human right to safe drinking water and sanitation**

34. The Special Rapporteur on the human right to safe drinking water and sanitation has explained in her recent report (A/HRC/21/42) on stigma and the realization of the human rights to water and sanitation, how the intersection of different attributes can compound the discrimination faced by certain groups or persons, such as being a woman and a sex worker, a woman infected with HIV/AIDS or a woman belonging to a certain marginalized group, such as the Dalits. The stigma these groups of women face greatly affects their access to water supply and sanitation. Menstruating women suffer stigma and menstruation remains taboo in many countries. Women often lack appropriate facilities and the necessary privacy to change or wash during menstruation, and cultural perceptions that menstruating women are "contaminated" or "impure" lead to reduced mobility or even seclusion, as well as dietary restrictions and restricted access to water resources and food. The taboos and deeply rooted practices also have a negative impact on girls' right to education, since girls can be absent from school during menstruation, either because there are no appropriate facilities at school or because they are isolated by their family owing to prejudice.

35. To combat silence and stigma, the Special Rapporteur recommends that States make sure that there is sufficient access to information on menstruation and hygiene, including comprehensive sexual education in schools on menstruation, targeting both girls and boys. The provision of adequate hygiene facilities must also be ensured. She recommends promoting better awareness amongst women and men to overcome the embarrassment, cultural practices and taboos around menstruation that impact negatively on women's and girls' lives, and reinforce gender inequities and exclusion.

36. In her report to the General Assembly on how to integrate non-discrimination and equality into the post-2015 development agenda for water, sanitation and hygiene (A/67/270), she emphasized the importance of monitoring the specific situation of women. She called upon States and all actors involved into the post-2015 development agenda to integrate non-discrimination and equality and to also adopt a stand-alone goal on equality as well as a specific goal, target and indicators on water, sanitation and hygiene. Cases highlighted by the Special Rapporteur include:<sup>8</sup>

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<sup>7</sup> Concluding observations of the Committee on the tenth to fourteenth periodic reports of Colombia, CERD/C/COL/CO/14, and on the twelfth and thirteenth periodic reports of Guatemala, CERD/C/GTM/CO/12-13.

<sup>8</sup> Catarina de Albuquerque, Special Rapporteur on the human right to safe drinking water and sanitation, with Virginia Roaf, *On the Right Track: Good practices in realising the rights to water and sanitation* (Lisbon, 2012). See also the report of the Special Rapporteur on good practices, A/HRC/18/33/Add.1.

(a) In Nepal, the Nepal Sanitation and Hygiene Master Plan (2011) helps secure access for people living below the poverty line, families of single women as well and marginalized communities;

(b) In Malawi, the Centre for Community Organisation and Development is working with the Malawi Homeless Peoples Federation, a network of women-led savings groups for people living in informal settlements, to assist households in accessing small loans from a revolving fund to construct both household-level and public composting latrines. Similar initiatives are taking place in the United Republic of Tanzania and Zimbabwe;

(c) Inpart Waterworks and Development Company (IWADCO), a construction company based in Manila, Philippines, also identified a crucial need of water services in slums. It introduces the options available to local communities through awareness-raising programmes and involves them in project design, construction and management. Local community members, generally women and those who lack other income, are chosen to manage the water supply with support from IWADCO.

## **B. Special Rapporteur on violence against women, its causes and consequences**

37. In her report on the political economy of women's human rights of May 2009 (A/HRC/11/6), the Special Rapporteur on violence against women, its causes and consequences, dedicates an entire section to economic and social rights and stresses that (p. 2):

Unless women's agency is recognized and their capabilities supported through social, economic and political empowerment the human rights they are promised will remain abstract concepts. This report identifies how the economic and social rights inherent in the Universal Declaration of Human Rights are directly linked to women's socio-economic security and their capacity to assert their will and resist violence.

38. Furthermore, in her report on reparations to women who have been subjected to violence of April 2010 (A/HRC/14/22, paras. 51–54), she includes access to some economic and social rights as reparation. The Special Rapporteur's report on multiple and intersecting forms of discrimination and violence against women of May 2011 (A/HRC/17/26) suggests a holistic approach to recognizing women's rights to be free from discrimination and violence.

## **C. Special Rapporteur on the right to education**

39. The former Special Rapporteur on the right to education submitted a report to the General Assembly on the human right to sexual education in 2010 (A/65/162). In the report, the former Special Rapporteur places the right to sexual education in the context of patriarchy and control of sexuality. He explains the interdependence of sexuality, health and education and the relationship of this right to other rights from a gender and diversity perspective. In this report, he concluded that (para. 77):

The right to sexual education is particularly important to women's and girls' empowerment and to ensuring that they enjoy their human rights. It is therefore one of the best tools for dealing with the consequences of the system of patriarchal domination by changing social and cultural patterns of behaviour that affect men and women and tend to perpetuate discrimination and violence against women.

40. The report strongly recommends that Governments institute comprehensive sexual education programmes from primary school onwards and train and support teachers accordingly (para. 87 (b)–(e)).

#### **D. Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context**

41. The Special Rapporteur on adequate housing submitted a report (A/HRC/19/53) in 2011 that focuses on the question of women and their right to adequate housing, looking at progress to date and further efforts needed to ensure that women everywhere are able to enjoy this right in practice. Specifically, the report focuses on recent legal and policy advancements in the area of women’s right to adequate housing, including issues related to inheritance, land and property, as well as strategies for overcoming persistent gaps in implementation of those laws and policies. The report also presents a gender-sensitive analysis of the right to adequate housing and concludes with specific recommendations to States and United Nations agencies and human rights mechanisms to improve the enjoyment of this right for women worldwide.

42. In particular, the Special Rapporteur notes that (para. 3):

Adequate housing for women goes far beyond addressing basic material needs. Because of the close connection that exists between the right to adequate housing and the right to equality, adequate housing for women goes to the heart of social inequality and discrimination. When a woman is unable to access adequate housing and land mainly because she is a woman, she is not only affected in terms of her immediate material needs, she is also relegated to a subordinate and dependent position within society because of her gender. Ensuring that women have access to and control over vital resources such as housing and land is essential to challenging and changing gender power structures and patterns of gender inequality which continue to oppress, exclude and relegate women to the margins.

43. The Basic Principles and Guidelines on Development-Based Evictions and Displacement,<sup>9</sup> developed by the former Special Rapporteur on adequate housing, Miloon Kothari, address the human rights implications of development-linked evictions and related displacement in urban and rural areas. The guidelines include specific references to women’s human rights and gender equality requirements. States are encouraged to “adopt and implement special measures to protect women from forced evictions”<sup>10</sup>, as well as to take into account the differential impacts of forced evictions on women when conducting impact assessments.

#### **E. Independent Expert on minority issues**

44. The 2012 report of the Independent Expert on minority issues (A/HRC/19/56) contains an update on the work of the Forum on Minority Issues following the fourth session of the Forum in November 2011, which focused on “Guaranteeing the rights of minority women and girls”, including economic, social and cultural rights (paras. 65–81).

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<sup>9</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18, annex I.

<sup>10</sup> Ibid., para. 26.

45. The Independent Expert highlights the fact that women and girls belonging to minorities frequently face multiple or intersecting forms of discrimination. This may make minority women and girls particularly vulnerable to violations and the denial of their rights in both public and private life. Without explicit recognition of the different life experiences of minority women and men, such discrimination will often go unnoticed and not be addressed adequately. The Forum addressed the challenges and opportunities for minority women to fully enjoy all their rights, including the rights to have access to quality education, to take part effectively in economic life, to access labour markets and to participate fully in social, cultural and political life (paras. 65–81).

## **F. Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

46. In his report to the General Assembly on sexual and reproductive rights of August 2011 (A/66/254), the Special Rapporteur considers the impact of criminal and other legal restrictions on abortion; conduct during pregnancy; contraception and family planning; and the provision of sexual and reproductive education and information.

## **G. Independent Expert on the question of human rights and extreme poverty**

47. The then Independent Expert on the question of human rights and extreme poverty dedicated a section to women and gender equality in her report on cash transfer programmes in her 2009 report (A/HRC/11/9, paras. 66–72). She recommended that States mainstream gender perspectives into the design and implementation of cash transfer programmes (CTPs) and stated that:

They should assess whether programmes affect women’s decision-making authority and participation, and whether they perpetuate gender-biased stereotyped roles for men and women. Gender equality must also be one of the standards against which the performance of the CTPs are evaluated. States should also strengthen the collection of gender-disaggregated data about the impact of CTPs and ensure that their complaint mechanisms are gender-sensitive.

48. In her report on social protection, old age and poverty (A/HRC/14/31), the Independent Expert devotes a section to women (paras. 19–21), when analyzing the relation between old-age and poverty, and another section to gender equality in programmes when analysing social security in old age (paras. 95–97). Among other things, she stresses how non-contributory pensions can significantly reduce poverty and vulnerability among older persons, in particular women, who live longer and are less likely to benefit from contributory systems. The report provides recommendations on how to ensure that non-contributory pensions comply with core human rights standards.

## **H. Special Rapporteur on the right to food**

49. The Special Rapporteur on the right to food has consistently addressed the gender dimension of the right to food in various contexts, including access to adequate nutrition, economic opportunities such as contract farming and productive resources such as land and seed.

50. In his report to the General Assembly on access to land and the right to food (A/65/281), the Special Rapporteur highlights the critical importance of access to land for women. While he underscores the importance of recognizing customary tenure and

potential role of land reform for realizing more equitable access to land, he cautioned that in order for such measures to remedy historical exclusion of women, they have to be gender sensitive and brought into line with women's rights.

51. Likewise, in his report on contract farming (A/66/262), he elaborates on how women are excluded from benefiting from such arrangements. He observes that "even where most of the work is in fact performed by the wife and other family members, it is not unusual for the contract to be signed by the husband, as head of the household" (para. 21). Furthermore, he points out that women lose control over decision-making when crops are produced for cash rather than for local consumption, as they tend to have decision-making power over the use of food produced for self-consumption but not over how the income of the household is spent. Thus, he concludes that "unless the framework for contract farming respects women's rights and is gender sensitive, it will undermine gender equality" (ibid.).

## **I. Special Rapporteur in the field of cultural rights**

52. In her fourth thematic report (A/67/287), submitted to the General Assembly at its sixty-seventh session, the Special Rapporteur in the field of cultural rights focused on the enjoyment of cultural rights by women on an equal basis with men (paras. 24–39). She proposed to shift the paradigm from one that views culture as an obstacle to women's rights to one that seeks to ensure equal enjoyment of cultural rights.

53. Women have the right to access, participate in and contribute to all aspects of cultural life. This encompasses their right to actively engage in identifying and interpreting cultural heritage and to decide which cultural traditions, values or practices are to be kept intact, modified or discarded altogether. Throughout her report, the Special Rapporteur underlined that cultural rights must be understood as also reflecting who in the community holds the power to define its collective identity, and that the reality of intra-community diversity makes it imperative to ensure that all voices within a community, including those that represent the interests, desires and perspectives of specific groups, are heard, without discrimination.

54. In particular, the Special Rapporteur recommended that States address the issue of restrictions on women wishing to undertake any form of art and self-expression, to enter cultural heritage sites or premises, to participate in cultural events or ceremonies and to engage in interpreting and applying particular texts, rituals or customs (para. 79).

55. The Special Rapporteur also observed that preserving the existence and cohesion of a specific cultural community should not be achieved to the detriment of one group within the community, for example, women. Importantly, combating cultural practices that are detrimental to human rights, far from jeopardizing the existence and cohesion of a specific cultural community, stimulates discussion, which facilitates an evolution towards embracing human rights, including in a very culturally specific way.

## **J. Working Group on the issue of discrimination against women in law and in practice**

56. In September 2010, the Human Rights Council established a Working Group on the issue of discrimination against women in law and in practice. The Working Group's focus is to identify, promote and exchange views, in consultation with States and other actors, on good practices related to the elimination of laws that discriminate against women, including in the area of economic, social and cultural rights.

57. In its first report to the Council (A/HRC/20/28), the Working Group has identified, as thematic priorities for 2012–2013, discrimination against women in law and in practice in political and public life, and in economic and social life (paras. 32–35).

## **V. Activities of the Human Rights Council**

### **The Council’s panel discussion on women’s economic, social and cultural rights**

58. On 20 September 2012, the Council’s panel discussion on women’s human rights took place pursuant to resolution 6/30 on integrating the human rights of women throughout the United Nations system. At its nineteenth session, the Council requested that the annual discussion on integration of a gender perspective focus on the issue of economic, social and cultural rights of women and the empowerment of women, including in the context of the achievement of Millennium Development Goals. The panel examined how the Council and its subsidiary bodies had integrated a gender perspective in promoting and protecting economic, social and cultural rights. Lessons learnt from these experiences informed recommendations for future work and opportunities for fully integrating gender concerns and human rights into the post-2015 development framework.

59. The Council was encouraged to:

- (a) Strengthen accountability mechanisms for systematic integration of gender;
- (b) Increase implementation of the resolution 6/30;
- (c) Strengthen the integration of gender throughout special procedures and mechanisms, including the universal periodic review;
- (d) Develop gender perspectives on economic and social rights to address macroeconomic policies;
- (e) Ensure that gender equality and human rights are at the centre of the post-2015 agenda and address the ways in which women’s human rights are impacted by economic policies.

## **VI. Activities of the Office of the United Nations High Commissioner for Human Rights**

60. This section offers an overview of further initiatives undertaken by OHCHR within its mandate to promote and protect the economic, social and cultural rights of women.

61. OHCHR prepared a series of reports on maternal mortality and morbidity as a human rights issue, as requested by the Council. In the first report in 2010 (A/HRC/14/39), the High Commissioner outlined seven important principles of a human rights-based approach: non-discrimination, accountability, participation, transparency, empowerment, sustainability and international cooperation. In 2011, a compilation of good practices (A/HRC/18/27 and Corr.1/Rev.1) was presented, in which the High Commissioner observed five common features of good practices related to the reduction of maternal mortality and morbidity in line with human rights obligations: enhancing the status of women by removing barriers to an effective human rights-based approach to eliminate maternal mortality and morbidity, ensuring sexual and reproductive health rights, strengthening health systems to increase access to and use of skilled care, addressing unsafe abortion, and improving monitoring and evaluation. The report showcases some examples

that have been effective in reducing maternal mortality and morbidity. Such examples combine sustained efforts to address the underlying causes of maternal mortality and morbidity, while ensuring better access to quality health care and empowering women.

62. In 2012, the High Commissioner prepared technical guidance on the application of a human rights-based approach to policies and programmes for the reduction of preventable maternal mortality and morbidity (A/HRC/21/22 and Corr.1 and 2). Guidance is aimed principally at policymakers seeking to design maternal health policies in accordance with human rights requirements. It follows the policy cycle of planning, budgeting, implementation, monitoring and accountability, including details of the required steps from a human rights perspective at each stage.

63. OHCHR and UN-Women convened an expert group meeting on good practices and lessons learned in realizing women's rights to productive resources, with a focus on land, from 25 to 27 June 2012. The meeting focused on legislative and policy reforms and other initiatives to realize women's rights to productive resources, in particular land, as well as on going challenges and ways to address those challenges.

64. Building on the work and consultations carried out by the mandate holders of the Special Rapporteur on adequate housing since 2002, OHCHR released in 2012 a publication on women and the right to adequate housing.<sup>11</sup> This publication identifies the specific challenges, discrimination and biased attitudes faced by women in relation to adequate housing. The publication also considers issues such as inheritance, forced evictions, domestic violence, HIV/AIDS and the financial crisis through a substantive-equality lens and suggests ways to move forward on an issue that affects millions of women in both developing and developed countries.

65. OHCHR in collaboration with the International Network for Economic, Social and Cultural Rights, hosted a consultation on women and economic, social and cultural rights in October 2011 in Geneva. The consultation brought together key actors working on women's economic, social and cultural rights: United Nations treaty bodies (the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Human Rights Committee); special procedures (including the recently established Working Group on the issue of discrimination against women in law and in practice and the Independent Expert on human rights and international solidarity); civil society advocates and experts; human right and gender advisors from United Nations agencies (the United Nations Population Fund, the United Nations Children's Fund (UNICEF), UN-Women and the World Health Organization) and OHCHR staff members. The consultation identified key challenges faced by women in the enjoyment of their economic, social and cultural rights, and mapped substantive issues in need of conceptual clarity, better coherence or practical guidance.

66. In Kenya, OHCHR actively supported the creation of the Gender and Equality Commission in the light of the newly adopted Constitution. The Commission is the principal organ of the State for ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination. It is also mandated to work with other relevant institutions in the implementation of policies for the progressive realization of the economic and social rights specified in the Constitution and other applicable laws.

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<sup>11</sup> *Women and the Right to Adequate Housing* (United Nations publication, Sales No. E.11.XIV.4). Available from [www.ohchr.org/Documents/Publications/WomenHousing\\_HR.PUB.11.2.pdf](http://www.ohchr.org/Documents/Publications/WomenHousing_HR.PUB.11.2.pdf).

67. In the Middle East, OHCHR is working with partners to enhance skills in monitoring and reporting on economic, social and cultural rights. In this regard, it organized in February 2012 a training programme for national human rights institutions and non-governmental organizations in the region to build their capacity on the situation of women, including systematic reporting on women's economic, social and cultural rights. This initiative was a response to gender gaps in the region.

68. Between 2011 and 2012, OHCHR has provided technical assistance, including capacity-building activities, to a coalition of civil society organizations working on the issue of mortality among pregnant women as a violation of women's right to health and right to life. The Office has recently provided the Ugandan Parliament with legal advice on the reform of national legislation (Oil Bills, Marriage and Divorce Bill, the Sexual Offenses Bill and particular provisions of the Penal Code Act).

## VII. Conclusions

69. **Advancing women's economic, social and cultural rights calls for an integrated approach that draws on the various human rights instruments addressing the issue. Particular attention should be paid to the harmonious interpretation and mutual reinforcement of the rights and obligations contained in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women. Such a comprehensive approach can help to clarify the scope of State obligations and increase accountability for women's economic, social and cultural rights.**

70. **Efforts have been made to clarify and advance women's economic, social and cultural rights by treaty bodies and special procedures, as reflected in this report. In some areas, such as maternal mortality, housing rights, social protection and cultural rights, these efforts have helped to identify obstacles and specific measures that States need to put in place to respect, protect and fulfil women's economic, social and cultural rights.**

71. **However, these efforts are still somewhat fragmented and not systematically undertaken. A comprehensive and collaborative approach from treaty bodies and special procedures, capable of taking account of the work of each other, is likely to yield better results in this area.**

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