



**UNDP Regional Centre for Central and Eastern Europe and CIS
Bratislava, Slovakia**

**DRAFTING GENDER-AWARE LEGISLATION:
HOW TO PROMOTE AND PROTECT GENDER EQUALITY
IN CENTRAL AND EASTERN EUROPE AND IN THE COMMONWEALTH OF
INDEPENDENT STATES**

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CONTRIBUTORS:

Consultants, Researchers and Writers:

Urszula Nowakowska, Irina Liczek (research, writing)

Dono Abdurazakova (sub-regional review of the Commonwealth of Independent States)

Martina Belic, Gordana Lukac-Koritnik (sub-regional review of South-Eastern Europe)

Dace Kavasa (sub-regional review of Central and Eastern Europe and the Baltic States)

Astrida Neimanis (additional research, editing)

UNDP RBEC team:

Anna Raduchowska-Broshwicz

Shahrbanou Tadjbakhsh

Astrida Neimanis

Dono Abdurazakova

Miroslava Stricova

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FOREWORD

Compared to other parts of the world, the challenges of promoting and protecting gender equality under the law in the countries of Europe and the CIS may appear relatively simple. The post-communist legacy has bequeathed to these regions legal systems that in many cases are relatively free of overt gender-based discrimination. On the other hand, indirect gender-based discrimination does exist in our region, and in many ways it has been exacerbated during the past decade of transition. Rather than simply amending laws by rote, we must ensure that legislation actually promotes equality between men and women, and that the monitoring and enforcement mechanisms needed to support this legislation are in place. UNDP's Regional Bureau for Europe and the CIS (RBEC) is publishing this handbook with these goals in mind.

The project that generated this handbook benefited from collaboration between UNDP's regional and national programming, non-governmental organizations and networks, activists, and academics. In particular I would like to thank Urszula Nowakowska for her enthusiasm that was a driving force in launching this project, and for her research that laid the foundation for this handbook, and Irina Liczek who contributed to bring this product to final shape. My thanks also go to RBEC's Regional Gender Advisor Dono Abdurazakova, as well as to Dace Kavasa, Martina Belic, and Gordana Lukac-Koritnik for drafting the sub-regional overviews found in Part I. Anna Raduchowska-Broshwicz and Shahrbanou Tadjbakhsh initiated many of RBEC's gender equality efforts, and were both instrumental in getting this project off the ground. Astrida Neimanis, Miroslava Stricova, and Dono Abdurazakova all helped to see the project through to its completion. I am particularly grateful to Astrida Neimanis for editing and updating the final version of the handbook. Its publication was also facilitated by Sergei Sirotkin, RBEC regional adviser on human rights and good governance. Last but not least, I wish to thank the Gender Focal Points network in UNDP RBEC country offices, who provided information and verified certain aspects of this publication.

Ben Slay
Director
UNDP Regional Support Centre

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TABLE OF CONTENTS

INTRODUCTION.....	5
PART I: REGIONAL OVERVIEW OF GENDER-AWARE LEGISLATION TRENDS.....	ERROR!
BOOKMARK NOT DEFINED.	
EASTERN AND CENTRAL EUROPE AND THE CIS: A REGION WITH MUCH IN COMMON?	8
A. COMMONWEALTH OF INDEPENDENT STATES	9
B. BALTIC STATES AND CENTRAL AND EASTERN EUROPE (CEE).....	16
C. SOUTH EASTERN EUROPE COUNTRIES (SEE)	21
D. TOWARDS GOOD PRACTICE IN THE REGION	26
PART II: GENDER-AWARE LEGISLATION: WHAT CAN WE DO?	29
THE LEGISLATION CYCLE	29
POTENTIAL ENTRY POINTS	29
PART III: CHECKLISTS FOR ENSURING GENDER-AWARE LEGISLATION.....	33
A. INTERNATIONAL OBLIGATIONS FOR THE PROTECTION AND PROMOTION OF GENDER EQUALITY	33
B. EQUAL OPPORTUNITIES AND NATIONAL MACHINERY	34
C. CONSTITUTIONAL LAW	35
D. CIVIL LAW AND FAMILY LAW	37
E. CRIMINAL LAW	40
F. LABOUR LAW AND SOCIAL SECURITY LAW	44
G. LAW ON HEALTH AND REPRODUCTIVE RIGHTS	46
PART IV: COMPENDIUM OF INTERNATIONAL STANDARDS	49
A. UNITED NATIONS	49
B. SELECTED CONVENTIONS OF THE INTERNATIONAL LABOUR ORGANISATION (ILO) ...	50
C. COUNCIL OF EUROPE	51
D. EUROPEAN UNION.....	53
E. STABILITY PACT FOR SOUTH EASTERN EUROPE	58
F. ADDITIONAL REFERENCES AND RESOURCES	58

INTRODUCTION

Gender equality and equal opportunities for women and men are inalienable principles that ground values and standards recognized by the international community. These principles are not only a basic requirement of social justice and genuine democracy, but also a prerequisite for the realization of human rights for all - both women and men.

Progress in the International Arena

The past fifty years, and the last three decades in particular, have shown notable progress in developing international legal instruments and mechanisms aimed at protecting and promoting gender equality. The United Nations and the International Labour Organization (ILO) have produced various conventions crucial for the advancement of women's rights and gender equality. Most of these have been signed and ratified by the majority of the world's governments. Since the UN conference on Human Rights held in Vienna in 1993, women's rights have been officially recognized as an integral, inalienable and indivisible aspect of human rights. Gender-based violence (both in public and private) and the traffic in human beings are now undeniably understood as the abuse of human rights requiring legal (amongst other) responses. Furthermore, regional instruments of the Council of Europe and the European Union (EU) have been put in place to specifically promote and protect gender equality.

Challenges Remain in Central and Eastern Europe and the CIS

Despite this progress, the object and purpose of these various international commitments is not consistently reflected in national legislation and policy - and full gender equality remains elusive. Awareness of these commitments is often insufficient at the national level, both among law-makers and the general public. Consequently, legislators, policy makers and even lobbyists do not always consider international standards and established good practice when introducing and amending legislation. As a result, international commitments and national legislation and practice often represent two divergent realities.

This lack of awareness is further exacerbated by a common misconception that gender equality is limited to the equality before the law. Particularly in this region, where law rarely directly discriminates against women, it can be assumed that gender equality is a "fabricated" or "imported problem." It has been mistakenly assumed that no changes are necessary. However, a different reality emerges when the concrete lives of men and women are examined. Women remain discriminated against in the labour market, underrepresented in decision-making bodies, and still bear most of the burden for unpaid work in the home. Life expectancy among men in many cases remains critically low. Gender-based violence is a widespread problem and trafficking in human beings has reached shocking proportions.

It is difficult to remain indifferent to these and other critical problems concerning women's rights and equal opportunities for men and women. It is therefore critical that governments revisit their commitments to take positive action to promote and protect

gender equality. Strong legislation is required, and it must be accompanied by strong implementation and monitoring mechanisms.

The understanding and the use of international law in advancing gender equality at the national level can not be underestimated, especially where international law can be applied directly. While enforcement mechanisms at the international level need to be strengthened, at the same time existing mechanisms must be used more extensively to improve national legislation and its implementation in relation to gender equality.

Building on Progress to Date – This Handbook

The past decade has given rise to increasing efforts, particularly within the NGO community, to assess national legislation from a gender perspective and lobby for the inclusion of international norms and standards. Moreover, as many countries in the region are involved in the process of European integration, this has been an additional catalyst for ensuring compliance of legislation to such standards. UNDP in the region has striven to support these efforts in various ways. This handbook is intended as another means to support development and implementation of legislation that promotes and protects gender equality.

Several important resource materials have already been published at the international, and regional levels on women's human rights, notably *Women 2000*, an extremely useful review of the situation of women's human rights in the region published by the International Helsinki Federation of Human Rights. Other important efforts have been made to address specific issues related to gender equality, human rights and the law. For example, a CEDAW Assessment Tool was published by ABA/USAID in January 2002, and a review of anti-trafficking legislation was recently published by OSCE.¹ In 2000, the Centre for Reproductive Law and Policy published an important overview of women's human rights in the region from the perspective of sexual and reproductive rights and health.

This UNDP handbook, however, seeks to fill a very specific gap amidst existing literature and resources: to provide practical, regionally-specific guidance to law-makers, governments and activists seeking to bridge the gap between “law on the books” and “law in practice.”

Part I provides a comparative overview of gender-aware legislation and practice in the Eastern and Central Europe and the CIS region according to three loosely-defined sub-regions. The information contained in this overview is meant to highlight some of the particular challenges the region faces, while also underlining some of the important progress that has been made. Part II finishes with practical forward-looking strategies that are specific to the RBEC region. Parts II and III comprise the practical sections of this handbook, which respectively highlight a comprehensive approach to influencing legislation and implementation processes, and provide detailed checklists for reference when analyzing legislation and its implementation. Finally, Part IV is intended as a

¹ This report can be found at http://www.osce.org/odihr/documents/at_refgude.php3

reference guide or compendium of selected international standards and good practice, and points to additional resources.

It is hoped that this handbook will raise awareness about international standards and stimulate dialogue on appropriate national responses to integrating these standards into national law and practice.

PART I: REGIONAL OVERVIEW OF GENDER-AWARE LEGISLATION TRENDS

EASTERN AND CENTRAL EUROPE AND THE CIS: A REGION WITH MUCH IN COMMON?

In 1995 the United Nations Development Programme established a bureau for cooperation with a region of countries known, in short, as Eastern and Central Europe and the Commonwealth of Independent States (CIS).² Today, this regional bureau has country offices in Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Romania, the Russian Federation, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan, the Federal Republic of Yugoslavia (FRY) and the Former Yugoslav Republic of Macedonia (FYRoM)³. This overview considers the situation in these 23 countries, in addition to five countries in which UNDP RBEC is active, but does not have country offices: Czech Republic, Estonia, Hungary, Slovak Republic, and Slovenia.⁴

Despite the fact that many significant differences exist between countries in this region, there are nonetheless various reasons to treat these countries as a common entity. Most obviously, in addition to their geographic proximity, these countries share a common historical and political legacy stemming from World War II and the ensuing Soviet era. Legislation is the principle source of law in these countries, although very rarely, in a few countries, customary norms and Islamic law and custom are recognized. Regarding the status of women, women in this region for the most part are comparatively well educated. They enjoy literacy rates on par with men, although often life expectancy rates for women are higher. Women's political participation remains low.

Significantly, legislation in this region officially embraces gender equality, equal opportunities and participation of both genders in all societal spheres. Most all countries have signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and have made other international commitments in terms of the protection and promotion of gender equality. Constitutional law most often contains an explicit provision prohibiting discrimination on the basis of gender. At the same time, however, because of a shared Soviet history that exalted the socialist heroine-mother, many of these countries still have constitutional provisions that aim to protect motherhood. This spills over into so-called protectionist labour legislation specifically aimed at women. Even in cases where such legislation has been repealed, discrimination against women in the labour market because of their real or potential role as wife and mother is still extremely widespread.

Gender-based violence, including sexual harassment, domestic violence and trafficking of human beings are becoming increasingly recognized as problems that must be addressed through legislation and policy solutions (amongst others), although in most

² To keep things simple, this group of countries is at times referred to in this report as "RBEC countries."

³ As of January 2003

⁴ Cyprus, Malta, and St. Helena have not been explicitly considered in this overview.

cases such solutions still remain weak and underdeveloped. While reproductive and health legislation in most (but not all) countries supports access to health care and contraception, and women's right to choice in terms of abortion, the *de facto* situation reveals serious gaps in terms of access to services, information and education.

These few examples should highlight the most critical challenge in terms of gender-aware legislation in the RBEC countries: narrowing the gap between official commitments and obligations on the one hand, and the reality of men and women on the other.

At the same time, some principal areas of diversity between countries should be mentioned. Economically, these countries greatly differ in terms of national wealth, with an annual per capita GNP ranging from around several hundred US dollars to around US \$10 000. Countries in this region also differ according to both religion (including Roman Catholic, Lutheran, Orthodox and Muslim) and the extent of religious influence on national matters. The region is home to virtually as many languages as countries (although Russian is commonly spoken in a large number of them, and knowledge of English is growing steadily). The size of these countries also varies greatly: while Russia is home to almost 150 million inhabitants, several countries in the region hover around the 2 million mark, or less. Consequently, while some countries include provincial or territorial levels of administration, others are governed at only the national and municipal levels. These differences will inevitably impact the implementation of legislation in each country, and should be considered accordingly.

The analysis below provides a "snapshot" of some of these trends in three loosely defined sub-regions.⁵ This is intended to contextualize the checklist contained in Part III, and assist in clarifying the direction for future efforts. At the same time, it must be stressed that the situation in these countries is constantly evolving, and for this reason, the summaries below can provide, at best, an approximate indication of major trends and challenges.⁶ Additional research and continued analysis from a gender-perspective is still required to maintain an up-to-date profile of the status of gender equality in legislation throughout the RBEC region.

A. COMMONWEALTH OF INDEPENDENT STATES

COUNTRIES INCLUDED: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

The countries composing the Commonwealth of Independent States have one main feature in common – the legislative legacy of Soviet rule. Despite independence and

⁵ These sub-regions have been defined as such as a means of organizing the analysis contained in this booklet. No political, historical or other claims are being made about the necessary grouping of RBEC countries into these regions as such.

⁶ The information contained in these pages is current to the best of the authors' and editors' knowledge up until late 2002.

newly adopted constitutions, this legacy nonetheless persists in legislative frameworks and attitudes towards them in these countries. While the past regime did not formally discriminate in areas of work or education, real equality was never culturally accepted. Moreover, when communist ideology was officially withdrawn, the vacuum was quickly replaced by traditional patriarchal values. The post-soviet era has shown an increase in the prominence of all customary practices in the region, including the traditional treatment of women as wife and mother. This continues to have an impact on the status, choices and opportunities for women, especially those living in rural areas.

The situation is further aggravated by low levels of “legal literacy” among women and problems in terms of access to the legal system. Furthermore, most women do not trust the structures that claim to protect them.⁷ Another barrier is the mistaken yet commonly held view that no gender-based discrimination as such exists in the region.

International Obligations

The CIS has acceded to all the principal international human rights instruments including CEDAW, ratified without reservations. By 2002, most of the countries of the CIS had reported to the CEDAW Committee. Currently, the critical issue remains implementation of recommendations made by the CEDAW Committee.

Constitutional law

All constitutions of the CIS countries guarantee equality regardless of sex, race, ethnicity, language, religion, social origin, political convictions, individual and social status. They all state that fundamental human and civil rights and freedoms are recognized and guaranteed, according to the principles and standards of international law.⁸ Moreover, these constitutions ensure individuals’ right to vote and be elected, their right to participate in decision-making, their right to employment, education and health care, and equality within the family. However, these formal “equal rights” are often at odds with the *de facto* situation.

The declarative nature of provisions does not automatically provide mechanisms to ensure opportunities for women to participate at all levels and all areas of decision-making process. Moreover, such provisions do little to counteract the pervasive traditional mindset in terms of gender roles that is the root of many gender-related inequalities and problems in the region.

Civil Law and Family Law

⁷ For more detailed information please see "Woman 2000", a report of the results of comprehensive survey undertaken by the International Helsinki Federation for Human Rights (IHF) on women’s rights in Central and Eastern Europe and CIS.

⁸ The only exception with regard of direct gender-based discrimination could be brought from Constitution of Turkmenistan which states that in order to run for Presidency one has to be Turkmen **man**, over 40.

Throughout the region, laws that regulate family relations still preserve the basic principles of the Soviet system: Marriage is defined as a voluntary union of a man and a woman for the purpose of founding a family. Spouses have equal rights (including property rights) and responsibilities in marriage and family life.

The age of consent for marriage is 18, but in some countries (mainly Central Asia), the legal age for marriage is 18 for men and 17 for women. If an individual wishes to enter into marriage at an earlier age, the legal age may be lowered (for example, by a maximum of three years in Belarus, Uzbekistan, or two years in Georgia, provided there is parental consent or other legitimate reasons). Women and men do not legally require permission from their parents to marry. Marriage is based on mutual willing consent; Forcing women to marry or obstructing marriage is prohibited by law, although arranged marriages remain to be common in the Caucasus and Central Asia. Spouses may choose one surname as a common family name, or combine both names. In practice, however, women are more inclined to take their husbands' surnames. Married women's family names in the region usually do not reflect their marital status.

Both women and men have equal right to instigate a divorce but almost all Family Codes contain a provision prohibiting the husband from divorcing his wife during pregnancy, or within one year (or three years, as in Belarus) of the birth of a child. Prenuptial contracts have recently been introduced in some countries to better regulate property rights and responsibilities of spouses in marriage, and in the event of its dissolution. However, only marriages registered in the Civil Registry Bureaux are legally valid. Unmarried couples do not enjoy legal status, although cohabitation or common-law relationships are now comparatively widespread, especially in the western CIS. Common-law partners have no rights or responsibilities in marriage, regardless of the relationship's duration. A common-law partner has no right to property if the relationship ends.

“The abolition of harmful legacies and customs of the past in family relationships” is stated as a goal in the Code on Marriage and Family of Kazakhstan (art.1). This is an acute issue in the region. In some Caucasian and Central Asian countries, especially in rural areas, specific customs such as “bride kidnapping” (whereby a woman is abducted by a man and forced into marriage and sex) still exist and may even be increasing. “Bride kidnapping” and coercion of a woman into marriage are subject to prosecution under criminal law, although there is no evidence of active prosecution or even discouragement by legal structures.

Despite the fact that polygamy was forbidden under the Soviet law, the practice nonetheless persevered, particularly in the patriarchal Moslem environment (Central Asia, Caucasus). Today, despite legal provisions that outlaw the practice, polygamy continues (and is apparently even increasing in some areas), remains socially acceptable and there is no current evidence of prosecution. In a few countries, a debate on polygamy from a legal point of view has emerged over the last decade (Tajikistan, Kyrgyzstan, the Russian Federation).

Labour and Social Security Law

Labour laws in the region proclaim equal employment rights and equal opportunities, and discrimination based on sex is prohibited. Proven cases of refusal to employ a female are punishable by fine or correctional work. The Labour Codes stipulate equal remuneration for equal work.

At the same time, however, labour legislation still reflects a Soviet legacy based on perceived needs of women as mothers. For instance, some labour codes stipulate reduced work quotas for pregnant women upon submission of a medical recommendation. Such women are to be transferred to less strenuous and non-hazardous work, cannot be engaged in night shifts, business trips or work overtime, and are to be paid the average wage earned in the previous job. In order to protect women and children, the current Law on Labour Protection in Kazakhstan (1993) demands that “All women and persons under 18 years shall be hired only after a prior medical examination, and until women reach the age of 45, and minors reach the age of 18, they must undergo such a medical examination annually”. Under current Labour codes in the CIS, , women are banned from working underground or doing jobs that require lifting or moving heavy objects, under the auspices of protecting their reproductive health. Additionally, in some countries (Georgia, Uzbekistan, Kyrgyzstan) women with children between the ages of three and twelve/fourteen years (and until the age of sixteen/eighteen if the child is disabled) may only undertake business trips, or be assigned to overtime, night shifts, weekends or state holiday shifts with the woman’s consent. In some countries, such “benefits” are mandatory.

In addition to labour codes, in the majority if the CIS the Ministries of Labour maintain the lists of hazardous occupations which prohibit women’s employment. Important dimension of the social protection legislation is generous maternity leave for women made up of 56-70 days of pregnancy leave and the same number of days granted after delivery for a child care. Such an approach assumes women to be exclusively responsible for domestic work and childcare. These laws seriously hinder a woman’s career prospects and lower her economic status. In the market economy owners of private businesses are unwilling to hire women to whom they must grant numerous privileges and additional days off. In addition, maternity leave for one to three years must be paid by the employer. Such legislation also denies women the power to make their own informed choices. Moreover, such generous legislative principles are often difficult if not impossible to implement in the context of major social welfare cutbacks in the region. These provisions are inherited from Soviet legislation which was based on now-outdated recommendations of the ILO.

Such legislation affects men as well, depriving them the opportunity to participate actively in their family lives. A few countries have adopted the system of parental (including paternity) leave. For example, article 271 of the new Labour Code adopted in Belarus in 2000, guarantees the right to maternity/ paternity leave until a child reaches the age of three; the parent also receives state benefits. Nonetheless, the practice

demonstrates that the majority of employers interpret that provision as optional for fathers and it is still women who for the most part exercise this right.

Pensions present another issue of concern. In most CIS countries, men retire at 60 (65), but women at 55 (60).⁹ Women live longer (the gender gap in life expectancy in the CIS reaches as high as 12 years (in some areas of Russia – up to 16 years) and therefore form a majority of pensioners. Since women are usually engaged in lower paid jobs, and have long breaks in professional activity due to maternity leaves, they receive smaller pensions and thus constitute a significant portion of the poor.

Reproductive Rights and Health Care

National legislation on health protection across the region declares that every individual regardless of ethnicity, race, age, sex, language, religion, social status, convictions, personal and public position, is entitled to medical assistance. However, given the economic shock that has accompanied transition, current laws on health protection are more declaratory than enforceable.

Family planning and reproductive rights issues are a very pressing and problematic aspect of existing legislation throughout the entire region. As the official Soviet ideology often identified women's civil rights with motherhood, many legislative norms regarding women's health are related to protection of women's reproductive functions but not reproductive rights. Contraception is expensive and sex education is insufficient. Family planning and the regulation of reproductive functions are often considered to be 'inappropriate' for public discussions due to cultural context of CIS society, especially in rural areas. Abortion remains the most common method of birth control and is regulated by legislation. A comprehensive and integrated approach that would consider women's needs throughout the life cycle is still lacking.

Some notable changes, however, are taking place in the region. For example, a new law "On the Reproductive Rights of the Citizens of Kyrgyz Republic" was adopted on 20 December 1999. This law guarantees the implementation of reproductive rights, including the provision of family planning services to all citizens requiring them. The law was drafted in participatory manner, with recommendations of international organisations, NGOs, and other experts taken into consideration. A Law on Reproductive Health and Reproductive Rights was also passed in Armenia on 11 December 2002, and work to amend legislation to include the reproductive rights concept is underway in Georgia. These and other new laws are a testament to the growing awareness in the region of human rights and reproductive rights in particular, and to the necessary translation of such concepts into legislation on reproductive health issues.

⁹ New pension laws and pension reforms which are underway in the region revise the retirement age towards gradual increase. For example, 63 - for men, 58 - for women. In any case, the five-year difference remains and presents a case of gender discrimination. In some countries (Georgia) retirement age is being re-considered to be the same for both sexes.

Criminal Law

The majority of the provisions of the Criminal Codes currently in force in the CIS are “gender neutral”. Exceptions include provisions which limit the application of the death penalty to men (Kazakhstan, Kyrgyzstan, Russia, Uzbekistan) [and which restrict forms of imprisonment for female convicts . In some countries (Armenia, Georgia, for example) sentencing of pregnant woman and mothers of small children is sustained.

Legal and political responses to gender-based violence in the region are inadequate. Domestic violence is particularly prevalent, yet there are no specific legal provisions to prosecute domestic violence (only general legal norms can be applied here). Moreover, although such issues are no longer taboo, widespread opinion still holds that domestic violence is “part of our culture” and therefore part of usual family life. A lack of awareness, alongside inadequate social remedies, support and protection, deter women from making complaints. Moreover, to complain to the police about a “usual beating” is strongly disapproved of by the community, especially in the Central Asian republics.

Rape and other forms of sexual abuse are addressed by Criminal codes, yet these offences remain largely unreported and accurate statistics on rape are very difficult to obtain. Criminal proceedings can only be initiated upon written complaint of the victim. Without this, even a written admission by the perpetrator is insufficient grounds for prosecution. Again, however, victims are deterred from reporting these crimes due to traditional views that blame the victim. This reluctance to come forward is augmented by feelings of shame and guilt, especially in small towns and villages. Moreover, women often lack awareness of the procedures of the criminal justice system and support from institutions and their communities.

Sexual harassment according to Criminal Codes in the sub-region, is a punishable crime, although its definition is often limited in scope (for example, “Forcing a woman to have sexual intercourse by abuse of position”). Although official statistics on the incidence of sexual harassment are not available, according to independent surveys and reports, demands for sexual favours in return for job security is a widespread phenomenon particularly in private sector. Few complaints are made to the police and very few sexual harassment cases come to trial.

However, thanks to the efforts of civil society organisations (both international and national), public awareness is increasing and some recent changes have been made regarding legislation on gender-based violence. Ukraine was the first country to adopt a law “On Prevention of Violence in a Family” in early 2002, and in January 2003 a law on the *Measures for Social and Legal Protection from Domestic Violence* has been approved in Kyrgyzstan. Kazakhstan has also developed draft of stand-alone law on domestic violence, which is now in the process of public discussions.

Issues of trafficking of human beings are not fully addressed by legislation in the sub-region, although they are gaining increasing significance. This is complex international crime that involves forced labour, deprivation of freedom and illegal confinement, bodily

and psychological injuries, battery, rape, false papers, blackmail, and illegal border crossings. In most countries, each of these components is punishable under different legal texts as a separate offence - but the most important, and at the same time the most difficult, task is the legal prosecution of trafficking by punishing all the mediators of the crime. Practically all CIS countries are affected by this problem, whether as countries of origin, of transit, of destination or all of the above. There is an urgent need to further improve the existing legislative framework in order to make it responsive and capable to deal with these new and multidimensional problems. In some countries (Georgia, Russian Federation, Kazakhstan) governments are in the process of designing specific anti-trafficking legislation.

Highly negative attitudes and traditional perceptions still prevail in CIS culture towards same-sex relations. However, at least some changes are being made to decriminalize homosexual behaviour (formerly illegal in all Soviet republics). Homosexuality is still a criminal offence in Azerbaijan, Turkmenistan and Uzbekistan (no reference is made in these codes to sexual relations between females).

Equal Opportunities Law and National Machinery for Gender Equality

The last decade has shown development of equal opportunities framework in the region. Although quotas were abolished with the disintegration of the Soviet Union, currently the need to introduce specific temporary measures for to promote equal rights and opportunities is becoming an issue of public discourse in some countries of the region. There is a growing understanding that constitutional equality provisions are insufficient, and need to be complemented by specific laws that promote equal opportunities and protect women and men from sex based discrimination. Ukraine was the first country in the sub-region to draft a Law "On state guarantees for realisation of equal rights and equal opportunities of women and men.". In the Russian Federation, a similar draft law was approved by the Legislative Department of the President's Administrative Office and the government, and has now been submitted to GosDuma (the Parliament). In Kazakhstan, Uzbekistan and Tajikistan draft laws on equal rights and opportunities have also been developed, and are now in various stages of discussion. Similar plans for drafting legislation on equal opportunities exist in Belarus. Currently, Kyrgyzstan is the first and the only country in the sub-region where the Law "On the State Guarantees for Ensuring Gender Equality" has been approved by the Parliament in January 2003.

At the same time, Equal rights and opportunities frameworks require appropriate machinery for implementation and monitoring of enforcement. At present, such national machineries do exist in some CIS countries. For example, a few countries (i.e. Uzbekistan, Ukraine and Kyrgyzstan) have established Ombudsperson institutions to deal with general human rights cases including violations of women's rights.

Other types of national machinery for gender equality are also emerging in the sub-region, with executive, advisory or legislative powers, set up at the government, parliament or the President's office level. However, most of these fall under the title of "women and family affairs". This reveals a common trend in the sub-region, theoretically and practically, to address women's issues only in relation to family issues. In Tajikistan,

for example, a Committee for Women's and Family Affairs was established in 1993 under the Government and a Committee on Social Protection and Family Affairs was established in the Parliament. In Kyrgyzstan, a National council on Women, Family and Gender Development Affairs with the permanent Secretariat was established by special decree in March 2001 as a part of the President's Administration. A National Council on Gender Policies under the Council of Ministers has been set up in Belarus in 2000 as a major coordinating body in addition to the Department on Family and Gender Issues in the Ministry of Labour and Social Protection. .

B. BALTIC STATES AND CENTRAL AND EASTERN EUROPE (CEE)

Countries Included: Estonia, Latvia and Lithuania, Poland, Czech Republic, Slovakia, Hungary.

Non-discriminatory legislation of the Soviet era in the Baltic States and CEE countries has been supplemented in the last decade with new constitutions, renewed legislative frameworks and international commitments as an integral part of the effort by these countries to adopt the *acquis communautaire* in preparation for the pending EU enlargement. In many cases, positive changes have been propelled by commitments made by these governments, including those made at the UN Fourth World Conference on Women in Beijing (1995), followed by preparation of action plans outlining gender-related priorities.¹⁰ Today, evidence of two different yet complementary approaches to gender equality through the law can be observed: promoting equal opportunities through gender mainstreaming initiatives in all areas of legislation and practice,¹¹ and through focusing on the advancement of women's rights and initiating affirmative actions to stop inequalities.¹²

Priority concerns have included adaptation of labour and social security legislation according to international standards. However, specific concerns relating to women's human rights, such as violence against women, have received less attention. Despite many positive changes in terms of legislation, implementation frameworks in some cases remain weak, and the gap between *de jure* and *de facto* equality remains acute.

International Obligations

All countries of the subregion have ratified CEDAW and have withdrawn any reservations. International requirements have in most cases stimulated revision of existing legislation and adoption of new laws to conform to international standards and establishment of institutional frameworks for the protection and promotion of gender equality.

¹⁰ For Czech Republic, Poland, Hungary, Lithuania resolutions and action plans see <http://www.un.org/womenwatch/world/#eastern> . For Slovakia see www.un.org/womenwatch/confer/beijing/national/eursum.htm

¹¹ for example, Czech Republic, Latvia, Hungary

¹² for example, Poland, Lithuania, Slovakia

Significantly, all countries (as of December 2002) have been offered admission to the European Union. This integration process has required significant changes in national legislation according to the EU strategy on Gender Equality, which states that a gender equality perspective must be integrated into all areas of legislation, according to the principles of gender mainstreaming. Again, while significant progress has been made in terms of legislative amendments, practical implementation remains in many cases weak.

Constitutional Law

The constitutions of these countries all include principles of non-discrimination that are either gender neutral or specifically indicate non-discrimination *inter alia* based on sex. National constitutions that include specific non-discrimination clauses on the basis of sex or stipulate equality between men and women in terms of political, civil economic, social and cultural rights are Estonia, Hungary, Lithuania, Poland, and Slovakia.¹³

An ambivalent example of gender-sensitivity can be found in the Czech Republic's Charter of Fundamental Rights and Freedoms (an inalienable part of the constitution). This charter states that women, adolescents and disabled persons are entitled to increased protection of their health at work and to special working conditions. While this is certainly a gender-specific provision, it treats women as an essentially disadvantaged "special group," rather than stipulating their right to equality within the labour market. Such provisions can lead to indirect discrimination in the workplace (see Labour Law below).

Civil Law and Family Law

While civil codes and laws cover basic principles in family and inheritance law, separate laws and regulations have been adopted in the subregion in regards to marriage, divorce and name changes. The legal age of marriage without parental consent is 18 in all countries for both sexes: Both spouses have mutual rights and duties in family relations and equal rights to property, but they may choose to conclude prenuptial agreements regarding their property. Spouses may choose each other's names, but in some countries the burden of choice rests with the woman. However, an important instance of discrimination can be found in Lithuania, where a married woman must add a suffix to her surname that indicates her marital status.¹⁴ Both spouses have equal rights and duties in regards to children. In practice, however, mothers are usually awarded custody by the courts in the event of divorce.

Criminal Law

Domestic Violence

¹³ Links to all government sites and constitutions can be found at http://www.europa.eu.int/abc/governments/index_en.html

¹⁴ For more information check *Women 2000* by International Helsinki Federation for Human rights, NY, Vienna 2000

Domestic violence against women is becoming increasingly recognised by national governments as a persisting problem requiring special measures. In Poland and Slovakia, “violence against family members” and “abuse of closely related persons” (respectively) are considered (gender neutral) criminal offences. Positive changes also came into effect in the Czech Republic in 2002, with amendments to the Criminal Code: Criminal authorities no longer need the victims’ consent to prosecute perpetrators who are relatives, if the circumstances make it clear that consent was not given or was revoked under duress and in reaction to threats, dependency or subjugation. This makes it harder for perpetrators to pressure the victim not to sanction prosecution. However, such legislative changes have yet to significantly impact the extent of the problem.

Aside from the lack of an adequate legal framework, problems are compounded by low levels of awareness and institutional frameworks (police, medical institutions and the court system) that are ill equipped to deal sensitively with these matters.

Sexual Assault

Rape is a gender-neutral offence in Estonia, Hungary, Lithuania and Poland, while in other countries it can be committed only against women. In almost all countries a private motion by the victim is necessary for prosecution, while only in the Czech Republic, Latvia and Lithuania can a motion be brought by a third party in certain circumstances (primarily if the victim is deemed to be in a helpless situation or if the rape is committed in conjunction with another offence that does not require a private motion). Once the motion is filed, most commonly it is irrevocable. Poland is the only country in the subregion that considers sexual harassment to be a criminal offence.

Prostitution and Trafficking

Prostitution has been decriminalised in all countries, but is only regulated in Latvia and Hungary (i.e. health cards are distributed to sex workers, who must undergo regular health checks; local governments designate areas where prostitution is allowed). A similar law is being prepared in Slovakia. However it is impossible to apply social protection, labour and tax regulations to commercial sex work in any of these countries. The Czech Republic has drafted a law, which would view prostitution as a job and apply all related rules. .

The main focus here has been on criminalizing the actions of those who force others into prostitution or use prostitutes for their own income. This relates to trafficking of people as well. Trafficking in people and in women particularly is a widespread problem in the Baltic and CEE countries. These countries are origin, transit and destination countries for traffickers. All criminal laws include provisions on trafficking in people (laws in the Czech Republic and Slovakia specify trafficking in women) and only few require the so-called “border element” (trafficking to another country) for the offence to be considered a crime.

Labour Law and Social Security Law

While equal access to employment, vocational training and social benefits, as well as guarantee of equal pay for equal work for the most part reveal a non-discriminatory *de jure* situation vis-à-vis labour law in the subregion, such provisions often obscure instances of indirect discrimination. Bound by EU integration process principles of equal pay and equal access to work and training, and social security provisions, countries in the sub-region have amended existing legislation and some new laws are under preparation to include these principles in detail. Most countries have also ratified ILO conventions (if national laws are in contradiction to the principles set therein, the conventions have a higher force).

Although some existing laws still maintain a “protectionist” approach towards women with children (shorter working hours, longer maternity leaves, restrictions on work at nights), new laws should conform to EU principles and equal rights of fathers are envisaged.¹⁵ Such “protectionist” legislation must be carefully analyzed by gender experts, as in many cases it results in discrimination against women. For instance, guaranteeing a shorter working week for mothers often results in a reluctance (or refusal) by employers to hire women of child-bearing age. In other cases, however, such laws may facilitate a more feasible combination of work and family responsibilities for women. For example, the Working and Rest Time Act in Estonia includes a provision allowing for breaks to feed children.¹⁶ A prime concern here is a transition from maternity provisions to parental provisions.

Amendments in civil procedures regarding the reverse burden of proof in employment discrimination cases (required according to EU law)¹⁷ could result in the determination of employment disputes in court. While some countries have already implemented these changes in their labour legislation, in others legislation is being drafted that would be in accordance to EU standards once adopted.

Sexual harassment is a new element in the laws of all Baltic and CEE countries. Only Lithuania gives a clear definition of this phenomenon (in its Equal Opportunities law), while it is only considered an offence under criminal law in Poland. While legislation in other countries provide no particular definition, sexual harassment could nonetheless be addressed through existing labour laws where provisions on integrity of the person in workplace exist.

Reproductive Rights and Health Care

Equal access for men and women to national health care systems is provided in all countries through social insurance schemes. Moreover, free screening of different forms of cancer for women is provided as a preventive policy. Barriers exist, however,

¹⁵ Detailed information on National labour and social security legislation by subject matters you can find in <http://natlex.ilo.org/scripts/natlexcgi.exe?lang=E>

¹⁶ <http://natlex.ilo.org/scripts/natlexcgi.exe?lang=E>

¹⁷ Council Directive 97/80/EC of 15 December 1997

regarding access to contraception: Slovakia and Estonia provide access to contraception partially free-of-charge, but in other countries contraception is neither covered nor subsidized by national social insurance, nor is it covered by private insurance companies.

Lacking effective sex education and contraception policies, abortion is a frequently used means of contraception. Abortion is legal (on demand up to up to 12 weeks of pregnancy) in all countries except Poland. After 12 weeks, abortion (where it is legal) is permissible if there is a threat to the life of the woman or fetus, to be determined by a doctor. Illegal abortion is considered a criminal offence in all countries. It should be noted that reproductive rights in Poland are particularly challenged by the strong influence of the Catholic church.

Equal Opportunities Law and National Machinery for Gender Equality

Lithuania is the only country that has adopted a law on Equal Opportunities (which entered into force in 1999). Poland and Estonia have drafted laws. Lithuania's law defines discrimination and sexual harassment, forbids discriminatory treatment in all areas and was amended in 2002 to include a definition of positive discrimination. The law also creates an institutional framework for its implementation, which also includes dispute resolution through the establishment of an Equal Opportunities Ombudsperson Office. This has proven effective in raising awareness not only on women's rights, but also on men's rights (particularly relating to childcare). This law also prohibits discriminatory job advertisements (in other countries such discrimination is regulated within labour legislation). In lieu of or as a precursor to specific gender equality legislation, other countries have adopted national policies (strategies or concept papers) that outline priorities and future steps to be taken.

At the same time, any provisions for the protection and promotion of gender equality (either in specific laws or integrated into existing law) require effective machinery and institutional frameworks to ensure implementation. Such frameworks can be identified on 3 levels: ministerial, parliamentary and independent. All countries have established departments, bureaux or focal points at the ministerial level to deal with gender equality questions. These units are set up in the ministries dealing with labour and social security issues, but in many cases gender equality issues are not the only responsibility they have.¹⁸ In Hungary and the Czech Republic, councils have been established to coordinate gender equality issues between government, parliament and NGO's. At the parliamentary level, gender equality is addressed either as human rights issue (e.g. human rights committees in Latvia and Estonia) or specifically as equal opportunities or women's issues: the Czech Republic has established a subcommittee on equal opportunities, Lithuania's framework includes a state consultant on equal opportunities, Poland has a women's committee, and Slovakia – a Committee for the Problems of Women.

¹⁸ In Latvia, Lithuania, Estonia, Czech Republic, Slovakia have 1 ½ to 3 people working within ministry mainly with equality between men and women issues (focal point, bureau or offices of EO), however in Hungary the office is established to deal with *women's issues*.

Finally, ombudsperson or similar institutions have been established (or planned) in some cases to review claims on gender-based discrimination. Only Lithuania has a functioning Equal Opportunities Ombudsperson institution. In Estonia, the Legal Chancellor on Human Rights has similar functions, while in Latvia the National Human Rights Office and a Plenipotentiary in Poland are dealing with claims of gender equality along with other human rights issues.

Although the institutional framework seems sufficient “on paper”, most of these governmental institutions lack capacity, and employees are overworked. The inter-organisational committees may lack competence or interest in gender equality issues. Perhaps most significantly, low levels of public awareness regarding the existence or functions of these institutions severely hinder their effectiveness.

C. South Eastern Europe countries (SEE)

Countries Included: Slovenia, Croatia, Bosnia and Herzegovina, Yugoslavia, Albania, Federal Republic of Yugoslavia, Macedonia, Romania, Bulgaria and Turkey

Countries forming the SEE region to a great extent share a common past. Besides Turkey, all countries are undergoing a transition that began in the early nineties after the fall of socialist systems. Most of these countries have experienced internal or external armed conflicts. In most of the successor states of Yugoslavia, heavy international presence (including the close observation of human rights violations) has played a significant role in determining the current legal landscape. Another common feature for most countries (apart from Turkey) is the socialist legacy that officially proclaimed gender equality. This has meant the perseverance of *de jure* equality in much legislation (e.g. equal political rights, equal rights to equal pay, education, social protection, health care etc.). Unfortunately, this legacy has also sustained a complementary pattern: equality under the law, with little regard for equality in practice.

Another particularity of the subregion concerns the rights of ethnic minorities. Minority rights have been endangered in ways ranging from xenophobia, to the denial of ethnic self-determination, to armed conflicts and ethnic cleansing. Minority women usually suffer double discrimination on the account of their gender and ethnicity.

In most of the countries from the SEE region, patriarchal values began reemerging during the early nineties (reflected, for example, in a steep decline in women’s political participation in all countries). With the diminishing scope of conflicts and emergence of the EU integration process in some countries, these trends have shown some signs of reversal in the late nineties.

International Obligations

All countries of this subregion are parties to CEDAW with no reservations (Turkey withdrew its reservations in 1999). However, in some countries, CEDAW is not officially

translated, indicating a lack of political will to fully introduce it in legal systems. Propagation of CEDAW within the court system remains weak.

Constitutional Law

Most constitutions in the SEE countries came into the power in the early nineties, with the exceptions of Turkey (1982) and Albania (1998). However, some of these constitutions have already been amended in the last 10 years, indicating rather unstable legal conditions in SEE countries.

All constitutions, with the exception of Slovenia's, are formulated as "gender neutral," which in practice means taking the masculine gender as the norm. All constitutions recognize equality before the law regardless of gender and include non-discriminatory provisions. For example, the Albanian Constitution stipulates that "no one can be unjustly discriminated against for reasons such as gender [*inter alia*] if reasonable and objective ground does not exist." While such a provision can promote the introduction of affirmative action measures, at the same time, it can justify gender discrimination, depending on interpretation.

All constitutions stipulate equality for women in regards to fundamental freedoms, political rights to vote and be elected, right to employment, education, health care and social protection. At the same time, however, most proclaim special protection of motherhood, children and families. Only the Slovenian Constitution includes a provision on free choice in matters of reproduction. Provisions assuring affirmative action measures are missing from all constitutions and in some (Bulgaria) are prohibited.

Civil Law and Family Law

All SEE countries have a Family Law, except Turkey (Civil Law) and Yugoslavia (Law on Marriage and Family Relationship). Slovenia recently passed new affirmative legislation (Law on Parenthood and Family Incomes and Law on Registered Partnerships for Homosexual Couples). Family Laws have either been revised in the last ten years or are currently under revision.

All Family Laws stipulate the principle of equality of partners during marriage and after its dissolution, describe the conditions for valid marriage and stipulate procedures for divorce. The consent of both partners is required for valid marriage. A promising shift towards greater equality can be found in Turkey, where equality between spouses in the family was recently established by the Constitution and by the new Civil Code enacted 1 January 2002.

Some countries have stipulations that strongly encourage sharing of responsibilities for raising children (i.e. parental leaves at birth or to take care of sick children), but such provisions are not widely used. Some countries still only grant such rights to women.

Divorce procedure is regulated by Family Law, while division of property acquired during marriage can be regulated by Family or Property Laws. Only few countries have equal division of property acquired during marriage. Most countries stipulate proceedings whereby former partners must prove the extent of their contribution during marriage. Some countries have provisions that allow for legal prenuptial contracts. Partners share responsibility for raising children during and after the dissolution of marriage. Succession rights and sharing of property do not exist within the framework of common law marriage in some countries (e.g. Romania).

While in some countries the legal age of consent to marriage is 18 for both female and male, in some it is lower for females than males.

In all SEE countries, surveys show that the main burden of household work and child care is still shouldered by women.

Criminal Law

Criminal laws have also been amended in most SEE countries in the last decade and/or are currently under revision.

Domestic Violence

In most of the SEE countries, violence against women is not sanctioned as a gender-specific crime, although that might change in future as some countries are drafting legal amendments or specific laws (Slovenia, Croatia, Bulgaria, Bosnia and Herzegovina). Measures for protection of women in the cases of family violence do not exist in Penal Codes or in the laws on Criminal Proceedings. In some countries (e.g. Croatia) they are included in the Family Code, where family violence occurs in families with minor children.

Rape and Other Sexual Assault

Slovenia, Croatia, and the Republic of Serbia have provisions for marital rape. Sexual harassment is not recognized as a criminal offence. Sexual violence, including within the family, is considered under general provisions dealing with violent behaviour, inflicting bodily harm and the protection of sexual morals and public moral and customs. Rape is a criminal offence if committed outside of marriage. In Turkey, more severe punishments follow if the victim was a virgin.

Regarding all forms of gender-based violence, a common problem in most SEE countries is lack of sensitivity among police forces, offices of public prosecutors and courts.

Prostitution and Trafficking

Prostitution is legalised (where licensed by the state) only in Turkey. Although prostitution is not a crime in any country besides Albania, existing laws may nonetheless

charge prostitutes as being liable for minor offenses. Recent positive developments in Bulgaria include a new section in the Penal Code that deals with the trafficking of human beings for sexual exploitation. Moreover, a new definition is given of "organized crime," expressly criminalizing abduction and unlawful confinement, forced prostitution and trafficking of humans acting on instructions from or implementing the decision of an organized criminal group. In the new Penal Code, stricter punishments are also envisaged for rape of minors (as it is in other countries), as well as for rape for the purpose of coercing to debauchery and prostitution. There have also been recent positive changes in Croatia.

Labour Law and Social Security Law

Apart from Turkey, most of the countries have similar Labour and Social Security Laws. All countries have prohibitions of discrimination on the basis of gender, while some include a definition of discrimination in this legislation. Additionally, all countries have provisions of equal pay for equal work, regardless of gender.

In terms of provisions related specifically to gender equality, Albania's legislation includes a definition of sexual harassment in the workplace and Slovenia's law prohibits gender specific job announcements. (Sexual harassment in Slovenia is covered under the Criminal Code in respect to "Violation of Sexual Integrity by Abuse of Position.") The only gender-specific provisions in other countries include prohibition of work in night shifts for pregnant women and nursing mothers and prohibition of heavy physical work and work that includes handling of dangerous chemicals for women. Bulgaria prohibits business trips for mothers of children up to the age of three. Maternity leaves in some countries have been amended to grant leave rights to fathers as well. However, such measures are still rarely used by male parents.

The age for full retirement is commonly younger for women than men, with a difference ranging from 2 to 5 years. This is justified by the unequal work burden of women in the household.

Missing in most of the laws are measures against sexual harassment as well as provisions for adequate implementation of legislation.

Reproductive Rights and Health Care

Most health care systems of the countries of the SEE subregion have been undergoing reforms in recent years. While new systems still provide basic medical services and paid sick leave for the insured person or while nursing family members, these reforms in many cases have led to a decline in the quality of medical services and full enjoyment of health-related rights.

Nonetheless, a positive example, however, can be found in Slovenia, where the government has adopted a life cycle approach to the protection of health for both sexes. In other countries, health care systems only explicitly address gendered aspects of health

in terms of maternal health. For example, health care systems do not take into account the need to specifically address incidence of disease or illness that is gender-specific or significantly more prevalent among men or women.

In some countries, previously achieved reproductive rights (including sexual education in the school system, available contraception, legal, safe and affordable abortions and counselling centres for reproductive rights) have come under threat due to the heavy influence of the Catholic or Orthodox churches. Exceptions here include Albania and Romania, where abortion became legal only after the fall of the socialist systems. A Law on Reproductive Health was passed in April 2002 in Albania, and a similar draft law is currently under discussion in Bulgaria.

Currently, abortion is legal, with restrictions, in all SEE countries, although access (financial and geographical) has become the major barrier. Moreover, persistent, high abortion rates indicate the need for more education and access to alternative methods of contraception. In most of the countries, with the exception of Turkey, the right to choose abortion on demand rests with the woman, and the consent of the partner is not needed. However, in most countries the consent of the guardian or parent is needed for minors under 16. Counselling before or after abortion is sometimes mandatory, sometimes optional and sometimes does not exist. Abortions are in most cases officially available on demand up to 10 or 12 weeks of pregnancy, after which (up to 22 weeks) a commission of experts must approve a woman's request for an abortion (usually if the pregnancy resulted from rape, or in the case of medical or other risks to the foetus or the woman).

The lack of systemic sexual education in the school system is another common problem in the SEE countries. On the positive side, sex education is mandated country-wide in Albania.

Equal Opportunities Laws and National Machinery for Gender Equality

While few of the SEE countries have passed specific equal opportunities legislation, most are in the process of drafting such laws (e.g. Slovenia, Croatia, Bosnia and Herzegovina, Albania). Progress is noted in Bulgaria, where a law on gender equality was passed in 2001; Romania passed the Law on Equal Opportunities for Women and Men in 2002. Such positive developments are an encouraging sign for better inclusion of women's human rights in national legal systems. Other laws specifically addressing issues of gender equality include laws on mass media (e.g. prohibiting gender stereotyping in Slovenia and promoting positive women's role models in Macedonia) and education law (which in Slovenia includes gender sensitive stipulations).

All SEE countries have introduced national mechanisms for women and/or equal opportunities. For example, in Slovenia, the Office for Women's Policy was founded in 1992, and has recently been renamed the Office for Equal Opportunities, which shows a positive move towards a broader approach to gender mainstreaming. A similar shift of mandate took place in Albania in 2001. In general, however, the influence and effectiveness of these institutions remains to be strengthened.

D. TOWARDS GOOD PRACTICE IN CENTRAL AND EASTERN EUROPE AND THE CIS

Despite some progress over the last years, there is a clear need for continued efforts to guarantee gender equality through the law in the RBEC region. An equally pressing priority is ensuring that “law on the books” is adequately and appropriately translated into real gender equality in the lives of individual men and women.

Each country must adopt its own approach to ensuring gender equality through the law. In most cases, there is still much work to be done. Pressing priorities that still require additional attention in most countries in the RBEC region include the following:

Legislative Priorities:

- A comprehensive definition of gender-based discrimination should be included in Constitutions and national legislation, adapted from CEDAW article 1;
- Constitutional provisions should be complemented by a comprehensive law on equal opportunities for women and men. Such laws should include any necessary legislative measures to increase the number of women in decision-making bodies according to CEDAW article 4. (These strategies should be complemented by any necessary changes to election or political party policies regarding candidate lists);
- Appropriate independent monitoring mechanisms, such as an ombudsperson or similar institution, should be established with the power to recommend corrective action concerning any existing or anticipated shortcomings;
- All existing legal acts should be subjected to a gender-based review by national machinery or any other institution/agency with proven expertise in this field to recommend necessary corrections to improve the reviewed legislation;
- All forthcoming draft laws should be subjected to mandatory gender-based review before submission to Parliament or other institution for further endorsement;
- Specific legislation that considers domestic violence and marital rape crimes to be punishable by law should be drafted and enacted. Punishments should take the form of the restriction of liberty or mandatory community service, not simply a fine, and should be more severe for repeat offenders. The notion of “provocative behavior” should be avoided in domestic violence legislation. The systems of law and law enforcement should establish specialised sections within their departments to handle cases of violence against women. Facilitation of coherent and rapid legal intervention in cases of domestic violence requires training of lawyers, police officers, judges and social workers to deal with women victims of violence;

- Specific legislation should be adopted to punish trafficking in humans and forced prostitution. Such legislation should aim to reduce sexual exploitation and create special criminal procedures related to investigation and trial;
- Clear legal norms against sexual harassment in the workplace should be established, including reprimand of any employers or employees who engage in such behaviour. This should be addressed in Labour legislation, anti-discrimination legislation, as well as policies and procedures within all public and private institutions, according to administrative or civil law;
- In all areas of the labour market special measures should be used to ensure equal opportunities for women and men to promote gender equality rather than to simply “protect” women. Family-friendly measures that encourage participation of fathers in family life should be adopted. The issue of occupational segregation must be addressed and regular reviews of legislation with a view to reducing barriers for women in the labour market should be conducted;
- Urgent measures should be taken to amend existing family laws to help to eliminate traditional practice of polygamy, bridekidnapping and early marriages in countries where these phenomena exist;
- Legislation should be adopted to provide for compulsory and continuous sex education in all secondary schools;
- Where applicable, continuing legislation changes should follow new EU policies and standards on gender equality;

These legislative strategies should be complemented by broader approaches, including:

Policy Strategies

- Adequate policy must be developed, implemented and monitored in order to guarantee implementation of legal norms. This requires on-going gender analysis of the situation in all policy areas;
- Gender equality should be considered as part of all policy and not just a part of social, family or employment policies (i.e. implementation of gender mainstreaming principles);
- New policies and policy amendments should focus not only on women’s rights in traditionally male areas of activity, but also on men’s rights in traditionally female areas, thus contributing to the elimination of gender stereotypes;

Institutional Strategies

- National machineries should be given a clear mandate to focus on gender equality issues in all areas (i.e. gender mainstreaming). The mandate of gender equality machineries should not be limited to family, social or employment issues;
- National machinery for gender equality should be strengthened through financial and human resources, and given more executive power;

Education and Awareness Raising

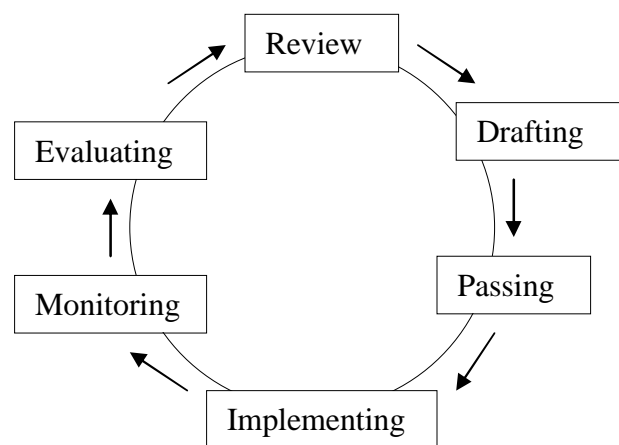
- Employees of the judicial system should receive on-going, systematic training in international standards and commitments regarding gender equality. Judges must be knowledgeable in full and in detail of international law and standards (CEDAW in particular) when deliberating in the context of national judicial proceedings;
- Effective public awareness campaigns remain one of the strongest tools for changing the human rights culture in a country. Regular awareness-raising campaigns on the importance of full gender equality are needed. Amongst other priorities, such campaigns must promote an ideology of the family that is based on equal rights and obligations, both in relation to spouses and to children, and should encourage fathers to take an active role in family life;
- Systematic training in gender issues and gender mainstreaming should be given to all public officials, including officers of local administration authorities in gender issues. Gender issues should be included in curricula of the law schools, police academies, medical and other professional schools;
- Law enforcement officials, medical professionals, judges and lawyers should be trained how to deal with gender sensitive cases (particularly domestic violence, rape, trafficking, prostitution) and have professional assistance of psychologists or trained social workers if necessary;
- Media representatives should be educated regarding gender issues so that they may become strong partners in the dissemination of information regarding gender equality, and in the generation of public debate and participation;

PART II: GENDER-AWARE LEGISLATION: WHAT CAN WE DO?

THE LEGISLATION CYCLE

Ensuring full protection and promotion of gender equality according to law is a job that is never quite done. Jurisprudence evolves, standards shift and institutional frameworks are continuously adapting to new challenges posed by these changes. This is not a process with a beginning and an end, but rather an ongoing cycle.

The development and transformation of good laws into good practice therefore requires attention to various stages throughout this process:



Efforts at all stages will feed into this continuous cycle of ever-improving standards and mechanisms to guarantee full equality for both women and men.

POTENTIAL ENTRY POINTS

Interventions by NGOs, researchers, staff of national machinery for gender equality and other interested parties can and should occur at all stages of this cycle:

Legislation Review:

- ◆ **Review:** The checklists found in the following pages can guide you to undertake such a review. These include questions both about “law on the books” (i.e. formal or de jure protection and promotion of gender equality) and “law in practice” (i.e. de facto mechanisms, frameworks and strategies that can help ensure effective implementation of legislation). These checklists do not provide formulaic prescriptions, but are rather intended to reveal gaps and existing discrimination, and stimulate debate on appropriate legal solutions.

- ◆ **Familiarization with International Standards:** A good benchmark for discerning the appropriateness of existing legislation are the norms and standards set out in international commitments. The compendium at the end of this handbook can point you to such standards.
- ◆ **On-going Research:** A “legislation review” often involves more than reading the law: it requires analysis of the situation that will highlight the differing needs and situations of men and women, so that law and policy can address these differences.
- ◆ **Institutionalization of Legislative Review:** While individual, in-depth legislative reviews by a variety of experts is always helpful, a standardized approach will systematically ensure that new legislation does not include direct or the possibility of indirect discrimination against either gender. Many countries have established commissions or offices within the Parliamentary or governmental apparatus, which have the mandate to review all proposed legislation from a gender perspective.

Drafting Legislation:

- ◆ **Collection of international best practices:** In many cases, drafting new legislation does not require “reinventing the wheel.” Good practices and strong legislation is in place in other countries. Collect such examples to form the basis of debate for appropriate national legislation.
- ◆ **Adaptation of international law for local circumstances:** Good practice and standards also exist in international law. The compendium at the end of this handbook highlights many documents outlining these norms and standards, which can provide the basis for new drafts and proposed amendments to national legislation. Such norms need to be adapted to fit local circumstances and institutional structures.

Passing Legislation:

The most significant entry point for passing legislation is effective lobbying, which includes the following:

- ◆ **Be aware of the process:** The process of passing legislation differs from country to country. Knowing how legislation is passed, who has authority to introduce new drafts and who has power to approve and veto this legislation is an important first step for being able to influence this process. Assessing appropriate timing for introducing new legislation is also important.
- ◆ **Know your allies:** Which decision makers (parliamentarians, cabinet ministers, etc) or groups of decision makers (parties, factions, parliamentary committees, etc) are likely to support the proposed legislation or amendments? How can you form alliances with these groups and/or individuals to improve the possibility of passing legislation?

- ◆ **Know your obstacles:** What are the likely impediments you see to passing legislation? Are certain influential groups or individuals likely to be opposed? What measures can you take to anticipate resistance and diffuse it?
- ◆ **Be available to answer questions:** Experts and individuals involved in the drafting process should be available to explain and justify the proposed legislation and/or amendments. For example, in some countries, experts and NGO representatives have the opportunity to speak at Parliamentary committee hearings and other similar forums. Participation in press conferences and other media events is also important.
- ◆ **Provide access to relevant background materials:** Distribute information packages including relevant international standards and model laws from other countries to key decision-makers. Ensure that any important research that justifies the new legislation and amendments is also available.
- ◆ **General Awareness Raising:** If public opinion strongly supports legislative amendments, this will undoubtedly influence decision-makers. Be sure that the public is well informed about the importance and added value of proposed legislation or amendments.

Implementing Legislation:

Responsibility for the implementation of legislation will usually be stipulated in the law itself. In order to support effective implementation, consider the following:

- ◆ **Institutional framework:** What institutions will be primarily and peripherally responsible for overseeing implementation? Are officials adequately trained and prepared? What sort of accountability mechanisms are in place? Would cooperation with NGOs improve implementing mechanisms?
- ◆ **Budget:** Have implementing institutions been granted sufficient budgets for the effective implementation of legislation?

Monitoring and Evaluating the Implementation of Legislation:

- ◆ **Data collection:** Data collection is a vital aspect of tracking progress and noting weaknesses in the implementation of legislation. This includes:
 - Collection of both quantitative and qualitative data that can measure the effectiveness of implementation.
 - In the case of qualitative data, commissioning in-depth sociological surveys where necessary
 - Ensuring that all points of data collection disaggregate data according to sex (and presenting data this way in their reports)
 - Provision of any necessary training to researchers and data collectors
 - Ensuring that adequate resources have been allocated for these purposes

- ◆ **Reporting and Awareness Raising:** Based on collected data, regular reports should be presented to decision-makers on the status of implementation (reports should also include recommendations for improvements). The general public should also be made aware of this information through appropriate media (press conferences, publications, on-line reports, etc).

PART III: CHECKLISTS FOR ENSURING GENDER-AWARE LEGISLATION

The tables below present questions related to gender equality in various areas of law. Perhaps ideally, these checklists would provide “blueprints” for guaranteeing gender equality through the law. However, it is impossible to offer one formula that would be appropriate for everyone. Although as an international community we share a common goal (i.e. *de jure* and *de facto* gender equality), the paths to achieving this goal can be very different. Each country must navigate its own path towards gender equality through the law, bearing in mind international standards and the national context.

The following checklists have therefore been designed to:

- (a) reveal gender-based discrimination inherent in current legislation
- (b) uncover gaps in or lack of specific legislation for the promotion and protection of gender equality
- (c) suggest ways that such gaps and discrimination might be addressed.

In other words, these checklists should raise questions rather than *prescribe or dictate formulaic answers* regarding gender equality in the law. They should serve as the starting point for dialogue and debate.

These checklists have been grouped according to areas of legislation. Each area contains two sets of questions:

- **“Law on the Books”** – What do the formal provisions state? Are there any significant gaps in existing legislation?
- **“Law in Practice”** – How and how often has formal legislation been applied? What barriers might exist regarding the implementation of legislation? Are institutional and other frameworks adequate for ensuring *de facto* implementation of the law?

A. INTERNATIONAL OBLIGATIONS FOR THE PROTECTION AND PROMOTION OF GENDER EQUALITY

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
CONVENTIONS	
<p>Has your country signed and ratified the Convention on the Elimination of All Forms of discrimination Against Women (CEDAW)?</p> <p>If yes, did it file any reservations? Have these been subsequently removed?</p> <p>Has your country ratified the UN Covenant on</p>	<p>Do any official monitoring mechanisms exist for fulfilment of convention obligations?</p> <p>Have reporting requirements for CEDAW and other conventions been fulfilled?</p> <p>When compiling CEDAW and other such reports, are all relevant government bodies and civil society organizations consulted in the</p>

<p>Civil and Political Rights and the additional protocol permitting individual complaints?</p> <p>Has your country ratified the UN Covenant on Economic, Social and Cultural Rights ?</p> <p>Has your country ratified the European Convention on Human Rights and the Social Charter?</p> <p>Which ILO Conventions have been ratified by your government?</p> <p>Is international law directly applicable in your country?</p> <p>What other international legal commitments has your government made? How do they pertain to gender equality?</p>	<p>process?</p> <p>Do civil society organizations compile and submit alternate reports? Are such reports made public in your country?</p> <p>How otherwise have women’s rights non-governmental organizations been involved in using international laws and standards to improve the situation of women in your country? What has been the government response to these efforts?</p> <p>Are judges, lawyers and decision-makers adequately familiar with the specific nature of international obligations according to these conventions?</p> <p>Are principles of international law applied in practice? Are there any examples?</p>
UN GLOBAL CONFERENCES	
<p>Has your country signed the declarations of:</p> <ul style="list-style-type: none"> • the International Conference for Population and Development in Cairo (1994) • the Fourth World Conference on Women in Beijing (1995) • Beijing +5 (2000) • other UN conference declarations? <p>Were any reservations entered in regards to these declarations?</p>	<p>Did your government prepare a National Plan of Action following the Beijing Conference? Was it implemented?</p> <p>Were any other explicit measures taken to fulfil obligations entered into at these global UN conferences?</p>
EUROPEAN COMMITMENTS (where applicable)	
<p>If your country is currently involved in the EU accession process, has your country reviewed and amended national legislation to determine its conformity with European Union standards for gender equality?</p>	<p>Are there any cases alleging gender discrimination filed against your country before the European Court?</p>

B. EQUAL OPPORTUNITIES AND NATIONAL MACHINERY

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
Has a law guaranteeing equal opportunities	Are equal opportunities laws translated into

<p>for men and women been drafted and/or adopted?</p> <p>Are affirmative action or other temporary measures, such as the quota system or “zebra” system¹⁹ mandated by law in order to enhance gender equality in terms of political representation?</p> <p>Where applicable, does the law stipulate fines or other punitive measures for political parties that do not abide by the quota or zebra system?</p> <p>Is the establishment of any mechanisms or institutions for ensuring gender equality and women’s human rights (such as an ombudsperson) mandated by law?</p> <p>Is the establishment of national machinery for the protection and promotion of gender equality mandated by law?</p> <p>What is the official role of the national machinery within the government? Does it have any decisive power or is the role primarily advisory?</p>	<p>comprehensive policies at the national and/or local level? (e.g. regulations and guidelines for ensuring equal opportunities, adopting a gender mainstreaming approach, establishment of implementation and monitoring mechanisms)?</p> <p>Does any gender mainstreaming policy function in practice (i.e. are equal opportunities for women and men an integral part of your government’s policy?)</p> <p>Do any institutions or machineries established by law have independent budgets and adequate resources?</p> <p>Is there any body (committee, advisor) at the parliamentary level dealing with gender equality and equal opportunities?</p> <p>Have public awareness initiatives been undertaken in order to educate the public about the need for equal opportunities law or other temporary measures to eliminate discrimination?</p> <p>Is the public aware of their rights and of laws and institutions established to promote and protect them?</p>
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C. CONSTITUTIONAL LAW

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
GENDER EQUALITY AND DISCRIMINATION ON THE BASIS OF SEX	
<p>What provisions, if any, prohibit discrimination on the basis of sex?</p> <p>Are there any gender-related provisions that may be discriminatory? For example:</p> <ul style="list-style-type: none"> provisions referring to the “protection of the family” provisions that refer to the “special” role of women in family life or in reproduction? 	<p>If sex is not listed, inter alia, as an explicit basis for non-discrimination, are there any examples of case law that understand sex to be included as a basis for non-discrimination?</p> <p>Have any provisions on the “special status” of women or the protection of the family been used in a discriminatory way against women? Alternatively, have such provisions justified the use of quotas or other affirmative action towards</p>

¹⁹ A “quota system” will mandate a minimum number of seats to be held by men or women in parliament, Minister’s council or other high decision making body. A “zebra system” mandates that candidate lists be presented to voters in such a way that men and women alternate on the list. This means neither men nor women will comprise less than 50% of candidates, and that those candidates entering office will be in similar proportions of men and women.

<ul style="list-style-type: none"> provisions that state extensive health protection and special working conditions for women, or other specific groups 	women?
REFERENCE TO INTERNATIONAL LAW	
<p>Is there any reference in your constitution to international human rights law?</p> <p>Is the precedence of international law over national law explicitly stated?</p> <p>Can international law be applied directly?</p>	<p>Are there any examples where international law has been used to supersede national constitutional law?</p>
POLITICAL AND CIVIL RIGHTS	
<p>Are provisions on the right of women to vote and to be elected (in representative democracies) included?</p> <p>Are any restrictions placed on who may hold office as head of state (age, gender or other)?</p> <p>Is the right of free association and forming of associations, including trade unions, explicitly guaranteed for both men and women?</p> <p>Does constitutional law include any provisions on minimum participation of women at any level of decision-making (i.e. quotas)?</p>	<p>Are women and men equally represented in public office? If equal political and civil rights are guaranteed by law, what barriers might exist to greater political participation of women? For example:</p> <ul style="list-style-type: none"> stereotypical attitudes towards women in politics masculinist political culture lack of adequate personal resources <p>Are temporary measures (zebra system, quotas)²⁰ necessary to foster greater gender balance in political decision-making?</p> <p>Have any public awareness or education campaigns been undertaken regarding gender balance in decision-making bodies?</p>
CULTURAL, ECONOMIC AND SOCIAL RIGHTS	
<p>What provisions guarantee the freedom to literary, artistic, scientific, technical and other forms of creativity?</p> <p>What provisions guarantee the right of citizens to freely use their capabilities and property for entrepreneurial and other economic activity not prohibited by law?</p> <p>What provisions guarantee the right to education regardless of sex at all educational levels?</p>	<p>Has there been any study undertaken by the government of legal, social, economic, or cultural barriers for women to fully enjoy their human rights?</p> <p>If non-discrimination on the basis of culture or tradition is a part of constitutional law, do any examples of case law exist where this been used in defence of harmful traditional practices against women?</p>
MECHANISMS FOR PROTECTION OF CONSTITUTIONAL RIGHTS	
Do anti-discrimination or equal rights	If a constitutional court exists, have any cases

²⁰ See previous footnote.

<p>provisions encompass discrimination by private institutions or individuals?</p> <p>Does constitutional law include provisions for a constitutional court or other mechanism where constitutional complaints can be lodged?</p> <p>If such a mechanism exists, are there any restrictions on eligibility criteria for those filing complaints (i.e. citizenship, age, sex)?</p>	<p>relating to gender equality been heard? What was the outcome?</p> <p>In the absence of a constitutional court, are there any other means by which individuals can have violations of constitutional law redressed?</p> <p>Is the public aware of means by which they can have constitutional complaints formally redressed?</p> <p>Does the process of lodging a constitutional complaint pose financial or other barriers to those wishing to do so?</p>
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D. CIVIL LAW AND FAMILY LAW

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
PROVISIONS ON EQUALITY	
<p>Are equal rights and responsibilities of both spouses in marriage explicitly mandated by law?</p> <p>Are equal rights and responsibilities of both parents in regards to childcare and child rearing mandated by law?</p> <p>Do both men and women have equal rights under the law to appeal to a court against an infringed or disputed right or interest?</p>	<p>Does any case law exist regarding unequal division of responsibilities within the home or in regards to childcare? What was the outcome?</p> <p>What data has been collected on the <i>de facto</i> division of rights and responsibilities within the home?</p>
PROVISIONS REGULATING MARRIAGE AND SEXUAL RELATIONS	
<p>Does the law explicitly state that marriage is the result of the wilful consent of both prospective spouses?</p> <p>Is polygamy explicitly prohibited by law?</p> <p>What provisions exist regarding the ownership of property acquired during marriage and in the time prior to marriage?</p> <p>Are provisions concerning inheritance in any way gender-specific?</p> <p>Are there any provisions regulating minimum age for men and women to get married?</p> <p>What is the minimum age established by law</p>	<p>Are there any accepted cultural or traditional practices that contravene laws related to equality in marriage (e.g. “bride kidnapping,” forced marriage, polygamy?)</p> <p>What trends exist regarding <i>de facto</i> ownership of property and inheritance?</p> <p>Has any research been conducted on decision-making within family units? Despite legal guarantees of equality, what trends exist regarding access to and control over family resources?</p> <p>What is the average age of marriage for women and men? Has any research been conducted regarding forced or coerced marriage?</p>

<p>with respect to beginning sexual life (i.e. age of consent)? Does age of consent to sexual relations differ for men and for women?</p> <p>Does age of consent to sexual relations differ for heterosexual and same-sex relations?</p> <p>Is sexual life prior to the age of consent subject to criminal punishment? Do provisions regarding punishment differ for men and women? For same-sex and heterosexual relations?</p>	<p>What is the average age of beginning sexual relations for women and men? Has any research been conducted regarding forced or coerced sexual relations?</p>
PROVISIONS CONCERNING CITIZENSHIP	
<p>Regarding marriage to a person who is not a citizen of the country in question, are spouses of both genders equally affected by citizenship provisions?</p> <p>How is the citizenship and nationality of any children determined? Does the mother's citizenship carry the same weight as the father's?</p>	<p>What is the common practice regarding citizenship and nationality of children born to parents of different citizenship?</p>
PROVISIONS CONCERNING NAMES	
<p>Do women have the right to retain their own name after marriage?</p> <p>Does the law require selection of one family name for both spouses? Do women have the same rights as men to nominate their name as the family name?</p> <p>Can both women and men legally add their spouse's surname to their own?</p> <p>Does a woman's name indicate her marital status (through official title or grammatical changes to the surname)? Does a man's?</p> <p>What provisions determine of the name of any children born</p> <p>(a) inside of registered marriages</p> <p>(b) outside of registered marriages?</p>	<p>What is the common practice regarding name changes upon marriage? To what extent is such practice dictated by custom and tradition?</p> <p>What is the common practice for designating surnames of children?</p> <p>Has any case law exist challenged discriminatory provisions? What was the outcome?</p>
PROVISIONS REGULATING DIVORCE AND CHILD CUSTODY	
<p>Do provisions exist that enable a husband or wife to file for divorce separately and individually?</p> <p>Do provisions allow for filing a non-fault divorce? Do such provisions include any</p>	<p>What practical barriers exist to equal treatment of both spouses in divorce and custody cases (e.g. financial status, preferential treatment according to custom)?</p> <p>What trends exist in practice in terms of</p>

<p>restrictions (on the basis of sex or other)?</p> <p>According to the law, can a judge refuse to grant a divorce? On what grounds?</p> <p>What provisions explicate the division of property after divorce? Can these be discriminatory towards women?</p> <p>Is the contribution of domestic and other unwaged work in the home considered as a part of the divorce settlement?</p> <p>How is custody of a child and visitation by a non-custodial parent decided by the courts?</p> <p>What provisions outline legal obligations to pay maintenance to a divorced spouse?</p> <p>What provisions outline legal obligations to pay child support in the event of divorce?</p>	<p>granting child custody, and determining alimony and child-support payments? Regarding court decisions on custody and support payments, is there any evidence of systematic discrimination against women or men? Has any such discrimination been challenged in the courts? What was the outcome?</p> <p>Despite legal provisions for the payment of alimony and child support, are regular payments common practice and easily enforceable? What barriers exist in terms of guaranteeing payments?</p>
PROVISIONS CONCERNING COMMON-LAW RELATIONSHIPS	
<p>What are the rights and obligations of common-law (unregistered) couples:</p> <p>(a) towards each other</p> <p>(b) towards their children</p> <p>(c) concerning property rights upon separation?</p>	<p>Has any case-law challenged discrimination against common-law relationships?</p> <p>What are the common trends regarding child custody and property upon dissolution of common-law relationships?</p> <p>What are public attitudes towards common-law relationships?</p>
PROVISIONS CONCERNING SURROGATE MOTHERS	
<p>Do provisions exist that state the rights of surrogate mothers and mothers of children born through assisted reproductive technologies?</p> <p>Do provisions exist that regulate identification of fatherhood in these cases?</p>	<p>What is the situation in practice? Is there any evidence of situations involving coercion or exploitation of women?</p>
PROVISIONS CONCERNING SAME-SEX COUPLES	
<p>Are same-sex couples entitled to the same rights and responsibilities under the law as heterosexual couples?</p>	<p>Does any case law exist that challenges discrimination against same-sex couples? What was the outcome?</p> <p>Are same-sex couples treated with dignity and in a non-discriminatory manner in exercising their rights?</p>

	Has any research been conducted regarding attitudes towards the rights of same-sex couples?
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E. CRIMINAL LAW

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
CRIMES AGAINST FAMILY OR LIFE	
<p>Are any of the following considered crimes under national legislation:</p> <ul style="list-style-type: none"> • bigamy • bride kidnapping • failure to pay alimony (to a divorced husband or wife) or child support? <p>Are there any special provisions concerning women victims or pregnant women victims of murder?</p>	<p>Where bigamy, bride kidnapping and failure to pay alimony and/or child support are criminalized, to what extent are such cases prosecuted?</p> <p>To what extent do custom, tradition and gender-based stereotypes play a role in prosecution of the gender-related criminal offences?</p>
CRIMES COMMITTED BY WOMEN AND PARENTS WITH YOUNG CHILDREN	
<p>Do any special sentencing provisions exist regarding pregnant women, women who breast-feed or women with young children?</p> <p>What provisions exist regarding pregnant women who are convicted and incarcerated?</p> <p>What provisions exist regarding incarcerated women with children?</p> <p>Do any special provisions exist regarding convicted or incarcerated men with children?</p> <p>Is the death penalty legal? If yes, are women exempt from the death penalty?</p>	<p>In practice, are pregnant women prisoners and those who are nursing treated with dignity according to international standards?</p> <p>If in practice special considerations are given to mothers of small children in terms of sentencing, are similar considerations given to fathers?</p>
GENDER-BASED VIOLENCE	
<p>Is the definition of gender-based violence reflected in the national legislation?</p> <p>Are the following provided free of charge to victims, according to law:</p> <ul style="list-style-type: none"> • legal aid • medical services to establish and certify injuries • other medical and/or psychological counselling services • interim shelter and/or support 	<p>Where specific legislation on gender-based violence does not exist, what legal provisions are used to prosecute offences? Is the specificity of gender-based violence considered in prosecution and sentencing?</p> <p>Is there an adequate understanding of the definition of gender-based violence by prosecutors, judges and law-enforcement officials? How is this understanding reflected in case law?</p>

<p>Is there a provision for an additional private prosecutor in public prosecution cases? If so, what is their role?</p> <p>Is it possible according to the law for victims of violence to play an active role if the crime is publicly prosecuted?</p> <p>Can an NGO participate in the trial on behalf of a victim of a violent crime?</p> <p>To what extent does the criminal prosecution depend on the victim's co-operation?</p> <p>Is there a victim compensation system?</p> <p>What legal guarantees exist for victim's rights?</p> <p>According to the law, do victims of violence need to be informed of their rights and the process and outcome of criminal proceedings? Do victims have access to the file of the pending case?</p>	<p>What sort of barriers exist that might deter victims of gender-based violence from reporting offences, for example:</p> <ul style="list-style-type: none"> • An inadequate support and shelter system for victims of domestic violence • Insensitivity on the part of the law-enforcement, medical and courts systems • General acceptance of gender-based violence within the community • Shame, ostracization and other repercussions from family, the workplace or the community towards victims who report gender-based violence • Lack of awareness among the general public about gender-based violence • Apprehension among victims regarding child custody issues • Economic dependence of victims on their abusers • Reluctance in the court system to prosecute offenders • Financial restrictions (no access to legal aid, requirement for victims to cover medical expenses to certify injuries, etc). <p>Has any research been conducted to establish the influence of any of the above factors on reporting and prosecution rates?</p> <p>What statistics are available on the scale of the problem, the number of prosecutions, dismissal sentencing etc.? Are they gender specific? Are any problematic trends being addressed through legislative and/or procedural amendments?</p> <p>In practice, are victims fully informed about their rights, the court sessions, the verdict and sentencing, and the perpetrator's release from custody?</p>
<p>DOMESTIC VIOLENCE (see also GENDER-BASED VIOLENCE)</p>	
<p>Do specific provisions (criminal, civil) regarding domestic violence exist?</p> <p>Does the law cover psychological abuse?</p> <p>Are domestic violence cases publicly prosecuted or does the victim have to file charges against the perpetrator to initiate criminal investigation?</p>	<p>What statistics are available on domestic violence? Does any data exist concerning the scale of the problem, the number of domestic violence interventions, official refusal to intervene or to initiate a case, dismissal of cases, and sentencing?</p> <p>Are there any specific departments at the police</p>

<p>Are there any temporary measures available (civil, criminal) such as restraining orders which protect victims' rights to stay in their household without the perpetrator?</p> <p>What kind of preventive measures can the police use (restraining order, temporary arrest) in cases of domestic violence?</p> <p>Is there any governmental plan of action regarding domestic violence?</p> <p>Does a victim of violence have the right to refuse to testify?</p> <p>Do any legal provisions refer to the perpetrator's child custody and visitation rights in the case of conviction for domestic violence?</p>	<p>station or the prosecutor's office dealing with domestic violence cases?</p> <p>What barriers exist that might deter victims of domestic violence from reporting offences (refer to list in previous section)?</p> <p>Is rehabilitation available for perpetrators of domestic violence?</p> <p>What trends exist in practice regarding child custody and visitation rights in the case of domestic violence convictions?</p>
RAPE AND OTHER SEXUAL ASSAULTS (see also GENDER-BASED VIOLENCE)	
<p>What provisions apply to rape?</p> <p>Are provisions on rape gender specific?</p> <p>Does the law cover marital rape?</p> <p>Is rape publicly prosecuted or does the victim have to initiate the case?</p> <p>What provisions apply to incest?</p> <p>Do any legal provisions refer to the perpetrator's child custody and visitation rights in the case of conviction for incest?</p>	<p>Are law enforcement officers, prosecutors and judges adequately trained to handle sexual assault cases with appropriate sensitivity?</p> <p>Do procedures for prosecution of sexual assault cases take into consideration the needs of the victim to the maximum extent possible?</p> <p>Is there a specific department at the police station or the prosecutor's office dealing with sexual assaults?</p> <p>What trends exist in practice regarding child custody and visitation rights in the case of incest convictions?</p> <p>What data exists on the prevalence of rape, incest and other sexual assaults? What data exists regarding the frequency of reporting and prosecution, and sentencing?</p>
PROSTITUTION AND TRAFFICKING	
<p>What provisions cover prostitution? Is commercial sex work criminalized or regulated?</p> <p>Are commercial sex workers (prostitutes) granted full rights as employed persons?</p> <p>Where applicable, does the legal regulation of</p>	<p>In the implementation of laws governing and/or regulating prostitution, is care taken to ensure that victims of forced prostitution are not revictimized?</p> <p>Are law enforcement officers trained to deal with prostitution and trafficking cases with appropriate</p>

<p>prostitution infringe upon the basic human rights of commercial sex workers?</p> <p>Is law pertaining to prostitution written in gender neutral language (i.e. applicable to both women and men)?</p> <p>Is pimping considered a criminal offence?</p> <p>What provisions cover illicit trafficking in human beings?</p>	<p>sensitivity?</p> <p>What data exists on the extent of commercial sex work, and on arrests, prosecution and sentencing of sex work-related offences?</p> <p>What are public attitudes towards commercial sex work?</p> <p>What data has been collected on illicit trafficking in humans?</p> <p>Have any public awareness or prevention campaigns been implemented for potential victims of trafficking and forced or coerced sex work?</p>
<p>SEXUAL HARRASSMENT (see also GENDER-BASED VIOLENCE)</p>	
<p>Is a legal definition of sexual harassment specified (in the Labour Code, Equal Opportunities law or elsewhere)?</p> <p>What criminal law provisions, if any, apply to sexual harassment?</p> <p>Where specific provisions on sexual harassment do not exist, does the Labour Code or other law provide for means by which to have such complaints addressed (for example, in relation to the integrity of the person in the workplace)?</p>	<p>Have any complaints concerning sexual harassment been official lodged? What was the outcome?</p> <p>Has any in-depth research been conducted on the incidence of harassment, frequency of reporting and outcome of complaints?</p> <p>Have any private companies adopted any sexual harassment policies, guidelines or codes of conduct? Have any professional or industry organizations developed such codes? If yes, what is the situation regarding implementation and complaints resolution? What repercussions have followed for both victims and harassers?</p> <p>What are public attitudes towards sexual harassment? Have any information or educational activities been conducted for the general public, trade unions or employers organizations?</p> <p>Have any education or prevention activities been implemented for potential victims and harassers?</p>
<p>SAME-SEX RELATIONSHIPS</p>	
<p>Are same-sex relations (or specific acts often associated with same-sex sexual behaviour, such as sodomy) considered a criminal offence?</p> <p>Are same-sex relationships for men and women treated differently under criminal law?</p>	<p>Are reforms being pursued to decriminalize homosexual relations, where applicable?</p> <p>Would traditional and/or religious values or a lack of tolerance deter gays and lesbians from lodging official complaints regarding rights violations? (Is any research being done in this area?)</p>

	<p>Are legislators sensitized to handle cases concerning gay and lesbian issues in an appropriate manner?</p> <p>In cases where homosexuality is not considered a criminal offence, are gays and/or lesbians disproportionately targeted under other criminal offences (i.e. public morality or decency ordinances)?</p>
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F. LABOUR LAW AND SOCIAL SECURITY LAW

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
LABOUR LAW: ANTI-DISCRIMINATION PROVISIONS	
<p>Are both men and women entitled by law to receive equal pay for work of equal value?</p> <p>Are there any special anti-discriminatory provisions in the Labour Code or any other special Employment Act?</p> <p>Is dismissal of those who are granted/entitled to maternity or parental leave prohibited by law?</p> <p>What provisions specify procedures for claims of discrimination? For example, is a reverse burden of proof implemented in the case of discrimination?</p> <p>Do any provisions exist concerning sexual harassment at work? (See also “E. Criminal Law” above)</p> <p>What provisions exist that stipulate fair grounds for and procedures related to dismissal, termination of contracts or refusal to renew contracts? Are any “protection periods” specified during which time employers cannot dismiss employees? What role may trade unions play?</p>	<p>What implementation, monitoring and reporting mechanisms exist for anti-discrimination provisions?</p> <p>Have any cases of gender-based discrimination been filed? What was the outcome?</p> <p>Is data being collected to monitor the <i>de facto</i> situation and the effectiveness of legislation? Data should be collected in answer to the following questions:</p> <ul style="list-style-type: none"> • Are men hired more often than women (a) in certain jobs (b) in certain sectors (c) at certain levels? • How do salaries for men compare to salaries for women performing similar tasks in the public and private sectors? • What is the common practice regarding hiring and dismissing women with children or pregnant women? • Do employers claim gender bias in hiring practices? What reasons do they state? • What percentage of the total waged force are part time workers? What percentage are full time workers? What percentage of part time and full time workers overall are women? Is there any income differential between women and men? • What is the gender break-down of individuals involved in the unofficial or “shadow” economy?

LABOUR LAW: “FAMILY FRIENDLY” PROVISIONS AND MEASURES	
<p>What provisions refer to employment leave (maternity, paternity, other parental and childcare)? Are such provisions gender-specific or can they be applied equally to men and women?</p> <p>Does the law guarantee employment during maternal/parental leave? What provisions stipulate continuation of income during this period of time?</p> <p>According to law, is maternal/parental leave considered gainful employment for the purposes of calculating pensions and other benefits?</p> <p>Do provisions guarantee employees returning from parental leave the same working position, level and salary as prior to leave?</p> <p>Are there any other legally supported measures (job sharing or other flexible work arrangements) to help parents combine outside employment and family life?</p> <p>What provisions, if any, pertain to state-sponsored or subsidized childcare? Are all children guaranteed a place in such programmes?</p>	<p>Where parental leave is specified by law, to what extent do both women and men take advantage of these provisions?</p> <p>In practice, what is the accessibility (financial, geographical) and availability of childcare?</p> <p>In the absence of state-sponsored childcare, do individual institutions offer free-of-charge or subsidized childcare options to their employees? What other means do parents use to resolve childcare and work obligations?</p> <p>To what extent do men and women take advantage of any other family-friendly employment programmes or options?</p> <p>What, if any, are the practical repercussions for employees taking advantage of family-friendly policies (e.g. in terms of job advancement, other benefits, status in the workplace)?</p> <p>Has any research been conducted on employer and employee opinions towards family-friendly employment policies?</p> <p>Have any awareness or educational efforts been undertaken regarding the economic and other advantages of family-friendly provisions among employers, employees and the general public?</p>
LABOUR LAW: “PROTECTIONIST” LEGISLATION	
<p>Do any professions or workplaces legally exclude the possibility to hire women? If yes, on what grounds are women partially or wholly excluded (all women, pregnant women, women of certain age groups)?</p> <p>Do any provisions mandate compulsory rest for women between working shifts?</p> <p>Are there any legal provisions ensuring special protection to pregnant women employed in workplaces deemed harmful? What are the specifics?</p>	<p>If protective legislation does exist, is it subject to regular review in light of scientific and technology achievements, new industry standards and international practice?</p> <p>Have any protectionist provisions been challenged? What was the outcome?</p> <p>Has any research been conducted on the practical impact of protectionist legislation on economic opportunities of women?</p> <p>If workplaces are in fact harmful to the health of employees, are efforts to improve standards for <i>all</i> employees underway – rather than simply excluding women?</p>

SOCIAL SECURITY LAW	
<p>What provisions exist regarding financial support (regular or occasional) or social assistance to groups such as:</p> <ul style="list-style-type: none"> • Widows/ers and orphans • Women on maternal leave (pregnant women or mothers, including those who are unemployed or students) • Mentally and physically disabled people (including financial help to care-givers of mentally or physically disabled children) • the unemployed • workers or employees seeking medical leave or leave for recuperation for work-related injuries <p>What conditions are specified regarding the eligibility of support to the above groups? Are any provisions gender-specific or discriminatory against women or men?</p> <p>What is the retirement age for women and for men? Is age of retirement mandatory? Is non-remunerated work and parental leave taken into consideration in the calculation of pensions?</p>	<p>In practice, do any barriers exist for women or for men in terms of collecting or being eligible for social assistance?</p> <p>Has data been collected on differences in income or prevalence of poverty among men and women pensioners? Are differences aggravated by different legal ages of retirement?</p> <p>Has any data been collected regarding the contribution of non-remunerated work? Have methodologies been developed for the systematic collection of such data?</p>

G. LAW ON HEALTH AND REPRODUCTIVE RIGHTS

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
GENERAL	
<p>Is affordable and accessible health care guaranteed to all, according to the law?</p> <p>What provisions refer to quality of care? How are the qualifications of health care professionals regulated?</p> <p>Do specific laws enshrine patients’ rights?</p> <p>Is there a law on reproductive and/or sexual health? What areas of sexual and reproductive health does it refer to? Does this law include a life-cycle approach for both women and men?</p> <p>Does the law include any provisions on population control that would restrict a woman’s free and informed choice in regards</p>	<p>In practice, is affordable, accessible and high quality care available to all? What mechanisms are in place to ensure that it is?</p> <p>Has any research been conducted on gender-specific barriers to high-quality, accessible health care (e.g. financial barriers, lack of specialists in rural regions, lack of attention by the public health system to specifically male or female health issues, etc)?</p> <p>What enforcement and monitoring mechanisms pertain to any law guaranteeing patients’ rights? Can professional tribunals impose punishments and/or disciplinary measures? Are victims compensated for their claims?</p>

<p>to family planning?</p> <p>Is sex education mandated by law? At what age?</p>	<p>What enforcement and monitoring mechanisms pertain to any law on reproductive health?</p> <p>What is included in the curricula of sex or health education classes? Are teachers adequately trained?</p>
ABORTION	
<p>Is safe and legal abortion available on demand, according to the law?</p> <p>Are fees for abortion covered under the health act?</p> <p>If restricted access to abortion is available, what is the nature of these restrictions? For example:</p> <ul style="list-style-type: none"> • Can an abortion on demand only be granted in the first trimester? • Is a referral by a physician or team of medical professionals required? • Is risk to the woman's or fetus's health a factor in granting abortion? • Does the male partner/husband have the right to contravene a woman's decision to have an abortion? <p>Where abortion is legal, what restrictions are placed on a young woman's right to abortion? For example:</p> <ul style="list-style-type: none"> • At what age can women have access to abortion on demand (where there is such a general provision)? • Is parental notification and/or consent required? <p>What methods of abortion are legal?</p>	<p>In cases where abortion is illegal or access is restricted, what is the common practice for women seeking abortion? What sort of research has been conducted on the health, economic and social effects of illegal abortion?</p> <p>Is patient confidentiality respected in practice?</p> <p>Even if cases where abortion is legal and safe, what other barriers might exist for women choosing abortion? For example:</p> <ul style="list-style-type: none"> • Prohibitive financial expense • Lack of trained abortion providers in all areas of the country • Prevalent trend of conscientious objection among medical professionals (perhaps due to strong religious influence)
CONTRACEPTION	
<p>Is contraception provided free-of-charge or at subsidized rates according to the law? Are any subsidies only available to certain groups (e.g. women who have had an abortion, young women, women with children)?</p> <p>Do any laws restrict advertisements or dissemination of information on contraception?</p>	<p>In practice, what barriers exist in terms of access to contraception (e.g. lack of information and awareness, low-quality products, high expense, taboo surrounding purchase of specific methods of contraception for women or young people, etc)?</p>
STERILIZATION	
<p>Does the law on reproductive health or any</p>	<p>If sterilization is illegal, what is the common</p>

<p>other law contain provisions applying to sterilization? Is sterilization legal?</p> <p>Where legal, is sterilization provided free-of-charge?</p> <p>Where legal, is sterilization without informed consent prohibited by law?</p> <p>Where such a law exists, what restrictions exist in terms of age, number of children, spousal consent, mandatory counselling or other factors? Do discrepancies exist between restrictions placed on men and those placed on women?</p>	<p>practice for women or men seeking sterilization?</p> <p>Is there any evidence of coercion or other violation of patients' rights in performing sterilizations (particularly on young women, women of specific economic, ethnic or social backgrounds, women with physical or mental disabilities)?</p>
<p>HIV/AIDS AND OTHER SEXUALLY TRANSMISSABLE INFECTIONS (STIs)</p>	
<p>Is the deliberate transmission of STIs considered to be a crime?</p> <p>Is testing for HIV voluntary and anonymous according to the law?</p> <p>Is pre-test, post-test and on-going counselling available free-of-charge?</p> <p>Do specific laws protect the rights of people living with HIV and AIDS?</p> <p>Are AIDS-related medications and treatments provided free-of-charge to people living with HIV and AIDS according to the law?</p> <p>What provisions pertain to mandatory notification, registration, reporting and treatment of people living with HIV and AIDS, or other STIs?</p> <p>Do any special provisions relate to pregnant women who are living with HIV and AIDS?</p> <p>Are people living with HIV and AIDS or other sexually transmissible infections prohibited from being employed in certain workplaces or professions, or from engaging in certain activities?</p>	<p>What policies exist regarding prevention of STIs?</p> <p>Are people living with HIV and AIDS treated with dignity and respect by health care professionals?</p> <p>What is the level of stigma and taboo surrounding HIV and AIDS?</p> <p>What sort of education and awareness campaigns have been conducted regarding the rights of people living with HIV and AIDS and the prevention of HIV and AIDS?</p> <p>What trends exist regarding the rise of STIs and HIV and AIDS among men and women? Are specific policies and programmes being implemented to address the specific needs of men and women?</p> <p>Do sex education programmes include life skills training and training related to gender relations, such that men and women (particularly young people) are empowered to enjoy healthy sexual relations?</p>

PART IV: COMPENDIUM OF INTERNATIONAL STANDARDS

Selected International Instruments for the Promotion And Protection Of Equality Between Men And Women And Women's Rights

The following pages highlight selected international standards for the promotion and protection of gender equality, including documentation related to trafficking and violence against women. It should be noted that questions of gender equality, as a mainstreamed concern, are pertinent to many additional documents not explicitly mentioned here. Please consult the internet sources provided for additional information.

A. UNITED NATIONS

Major UN Declarations and Conventions

For more information on the Convention on the Elimination of All Forms of Discrimination Against Women, including country reports, general recommendations and documentation of CEDAW sessions, go to: <http://www.un.org/womenwatch/daw/cedaw/sessions.htm>

For a list of Core Treaties relating to the rights of women and the rights of children, including summaries, full texts and participation status (as at 15 June 2001), go to: <http://untreaty.un.org/English/TreatyEvent2001/index.htm>

- ◆ United Nations Convention against Transnational Organized Crime, 2000
- ◆ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000
- ◆ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000
- ◆ Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), adopted at the March 1999 Session of the Commission on the Status of Women
- ◆ Declaration on the Elimination of Violence against Women, 1993
- ◆ Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990
- ◆ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987
- ◆ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985
- ◆ Convention on the Elimination of All Forms of Discrimination of Women, 1979
- ◆ International Covenant on Economic, Social and Political, 1966
- ◆ International Covenant on Civil and Political Rights, 1966
- ◆ Optional Protocol to the International Covenant on Civil and Political Rights
- ◆ Convention on Consent to marriage, Minimum Age for Marriage and Registration of Marriages, 1962
- ◆ Convention on the Nationality of Married Women, 1957
- ◆ Convention on the Political Rights of Women, 1952
- ◆ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950
- ◆ The Universal Declaration on Human Rights, 1948

UN Global Conference Commitments

For additional information and documentation on UN Global Conferences and Special Sessions of the UN General Assembly, please visit:

<http://www.un.org/events/conferences.htm>

For full documentation and information regarding the Fourth World Conference on Women and Beijing +5, please visit: <http://www.un.org/womenwatch/daw/followup/beijing+5.htm>

- ◆ The World Summit on Social Development, Johannesburg 2002
- ◆ World Conference against racism, racial discrimination, xenophobia and related intolerance, Durban, South Africa, 2001
- ◆ The Problem of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) in all its aspects: Special Session of the General Assembly, New York, 2001.
- ◆ Beijing +5 Review: Special Session of the General Assembly, New York, 2000.
- ◆ The Beijing Declaration and the Platform of Action adopted at the Fourth World Conference on Women, September 1995
- ◆ Copenhagen Declaration on Social Development, adopted by the World Summit for Social Development, Copenhagen, March 1995
- ◆ Program of Action adopted by the International Conference on Population and Development, Cairo September 1994
- ◆ Vienna Declaration and the program of Action, adopted by the World Conference on Human Rights, Vienna June 1993

Other Resolutions of the General Assembly or Economic and Social Council

For additional documentation on ECOSOC resolutions, reports of the UN Secretary General and the General Assembly, and reports of expert groups, please visit: <http://www.un.org/womenwatch/daw/documents/index.html>.

- ◆ ECOSOC Agreed Conclusions 1997/2 on Gender Mainstreaming
- ◆ Report of the Secretary general to the General Assembly on traffic in women and girls, August 1995
- ◆ Preliminary report of the Special Rapporteur on violence against women to the Commission on Human Rights - November 1994
- ◆ ECOSOC resolution adopting the long term program of work of the CSW to the year to the year 2000; May 1987
- ◆ ECOSOC resolution establishing the Commission on the Status of Women (E/RES/5(2)11, 21 June 1946)

B. SELECTED CONVENTIONS OF THE INTERNATIONAL LABOUR ORGANISATION (ILO)

For full documentation of all ILO conventions, please visit: <http://www.ilo.org/ilolex/english/convdisp1.htm>

- ◆ Maternity Protection Convention, revised 2000 (No. 183)
- ◆ Home Work Convention, 1996 (No. 177) (supplemented by Recommendation No. 184)
- ◆ Part-Time Work Convention, 1994 (No. 175) (supplemented by Recommendation No. 182)
- ◆ Night Work of Women Employed in Industry, revised in 1984 (No. 89)
- ◆ Termination of Employment Convention, 1982 (No. 158)
- ◆ Workers with Family Responsibilities Convention, 1981 (No. 156) (supplemented by Recommendation No. 165)

- ◆ Employment Policy Convention, 1964 (No. 122)
- ◆ Discrimination (Employment and Occupation) Convention, 1958 (No.111) (supplemented by the Recommendation No. 111)
- ◆ Equal Remuneration Convention, 1951 (No. 100) (supplemented by Recommendation No. 90)

C. COUNCIL OF EUROPE

For additional Council of Europe documentation pertaining to equality between men and women, please visit: <http://www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm>

Selected Conventions of the Council Of Europe

To search for specific European treaties, please visit the treaty database at: <http://conventions.coe.int/treaty/EN/cadreprincipal.htm>

- ◆ Additional Protocol To The European Social Charter Providing For A System Of Collective Complaints; Strasbourg, 9.XI.1995
- ◆ European Agreement Relating to Persons Participating in Proceedings of the European Court of Human Rights Strasbourg, 5.III.1996
- ◆ European Social Charter signed by the Council of Europe on October 1961 and entered into force on 26 February 1965 (Revised Strasbourg, 3.V.1996)
- ◆ Protocol no. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Restructuring the Control Machinery Established thereby Strasbourg, 11.V.1994
- ◆ Protocol No. 1 To The European Convention For The Prevention Of Torture And Inhuman Or Degrading Treatment Or Punishment Strasbourg, 4.XI.1993
- ◆ Protocol no. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; Strasbourg, 4.XI.1993
- ◆ Additional Protocol to the European Social Charter (1988): right to equal opportunities in matters of employment and occupation without discrimination on the grounds of sex (art. 1)
- ◆ European Convention For The Prevention Of Torture And Inhuman Or Degrading Treatment Or Punishment; Strasbourg, 26.XI.1987
- ◆ European Convention for Prevention of Torture and Inhuman or degrading Treatment, adopted 26 November 1987
- ◆ Explanatory Report on the European Convention on the Compensation of Victims of Violent Crimes, Strasbourg 1984
- ◆ European Convention on the Compensation of Victims of Violent Crimes, Strasbourg 24 XI 1983
- ◆ European Convention for the Protection of Human Rights and Fundamental Rights, 1950 (including nine protocols)

COMMITTEE OF MINISTERS

For full texts and additional recommendations, decisions and resolutions of the Committee of Ministers, please visit: http://www.coe.int/t/E/Committee_of_Ministers/Home/Documents/

Resolutions of the Committee of Ministers

- ◆ Resolution (75) 28 on Security for Women at Home

Recommendations by the Committee of Ministers

- ◆ Recommendation no. (2002) 5 on the Protection of Women against Violence
- ◆ Recommendation no. (2000) 11 on Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation
- ◆ Recommendation no. (1998) 14 on Gender Mainstreaming
- ◆ Recommendation no. (1996) 5 on Reconciling Work and Family Life
- ◆ Recommendation no. (1990) 4 on the Elimination of Sexism from Language
- ◆ Recommendation no. (1990) 2 on Social Measures Concerning Violence within the Family
- ◆ Recommendation no. (1989) 3 on the Flexibility of Retirement age
- ◆ Recommendation no. (1987) 21 on Assistance to Victims and the Prevention of Victimization;
- ◆ Recommendation no. (1985) 11 of the Position of Victims in the Framework of Criminal Law and Procedure;
- ◆ Recommendation no. (1985) 4 on Violence in the Family
- ◆ Recommendation no. (1985) 2 on Legal Protection Against Sex Discrimination

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

For full texts and additional documents, please visit:

[http://assembly.coe.int/Main.asp?Link=/asp/doc/EDocMenu\(SQL\).asp?Language=E](http://assembly.coe.int/Main.asp?Link=/asp/doc/EDocMenu(SQL).asp?Language=E)

Resolutions of the Parliamentary Assembly

- ◆ Resolution 1247 (2001) on Female genital mutilation
- ◆ Resolution 1216 (2000) on Follow-up action to the United Nations 4th World Conference on Women (Beijing, 1995)
- ◆ Resolution 1212 (2000) on Rape in armed conflicts
- ◆ Resolution 855 (1986) on Equality Between Women and Men
- ◆ Resolution 1018 (1994) on Equality of Rights Between Men and Women
- ◆ Resolution 1079 (1996) on Increased Representation of Women in the Council of Europe's Parliamentary Assembly
- ◆ Resolution 1092 (1996) on Discrimination against Women in the Field of Sport and More Particular in the Olympic Games
- ◆ Resolution 1154 (1998) on the Democratic Functioning of National Parliaments

Recommendations by the Parliamentary Assembly

- ◆ Recommendation 1545 (2002) on a Campaign Against Trafficking in Women
- ◆ Recommendation 1474 (2000) on the Situation of Lesbians and Gays in Council of Europe member states
- ◆ Recommendation 1469 (2000) on Mothers and Babies in Prison
- ◆ Recommendation 1450 (2000) on Violence against Women in Europe
- ◆ Recommendation 1435 (1999) on the Role of Women in the Field of Science and Technology
- ◆ Recommendation 1413 (1999) on Equal Representation in Political Life
- ◆ Recommendation 1374 (1998) on Situation of Refugee Women in Europe
- ◆ Recommendation 1362 (1998) on Discrimination between Women and Men in the Choice of a Surname and the Passing on of Parents' Surnames to Children
- ◆ Recommendation 1325 (1997) on Traffic in Women and Forced Prostitution in Council of Europe Member States

- ◆ Recommendation 1321 (1997) on Improving the Situation of Women in Rural Society
- ◆ Recommendation 1281 (1995) On Gender Equality In Education
- ◆ Recommendation 1271 (1995) on Discrimination Between Men and Women in the Choice of a Surname and in Passing On the Parent's Surnames to Children;
- ◆ Recommendation 1269 (1995) on Achieving Real Progress in Women's Rights
- ◆ Recommendation 1261 (1995) on the Situation of Migrant Women in Europe
- ◆ Recommendation 1146 (1991) on Equal Opportunities and Equal Treatment for Women and Men on the Labour Market;
- ◆ Recommendation 1008 (1985) on Women in Politics

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

For full texts and additional recommendations of the Congress of Local and Regional Authorities of Europe, please visit: <http://www.coe.fr/cplre/textad/indexe.htm>

- ◆ Recommendation 111 (2002) on women's individual voting rights: a democratic requirement
- ◆ Resolution 134 (2002) on women's individual voting rights: a democratic requirement
- ◆ Recommendation 68 (1999) on women's participation in political life in the regions of Europe
- ◆ Resolution 85 on women's participation in political life in the regions of Europe

SPECIAL MINISTERIAL CONFERENCES ON EQUALITY BETWEEN WOMEN AND MEN

The full texts of the proceedings from the 4th Ministerial Conferences on Equality between Men and Women, as well as additional documentation pertaining to equality between men and women, can be found at: <http://www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm>

- ◆ Declaration on Equality Between Women and Men as a Fundamental Criterion of Democracy (4th European Ministerial Conference on Equality Between Women and Men, Istanbul, 1997)
- ◆ Declaration on policies for Combating Violence against Women in a Democratic Europe (3rd European Ministerial Conference on equality between women and Men, Rome, 1993)
- ◆ Resolution on Rape and the sexual Abuse of Women adopted (3rd European Ministerial Conference on equality between women and Men, 1993)
- ◆ Text adopted by the 2nd European Ministerial Conference on equality between women and men (Vienna, 1989)
- ◆ Proceedings of the 1st European Ministerial Conference on equality between women and men (Strasbourg, 1986)

D. EUROPEAN UNION

Selected Paragraphs of EU Treaties

For full texts of these treaties (consolidated versions) please visit: <http://www.europa.eu.int/eur-lex/en/treaties/index.html>

- ◆ Treaty on European Union (Art. 6, 11 on fundamental human rights)
- ◆ Treaty establishing European Community (Art 2, 3 on integration of gender equality, Art 137 and 141 on equal opportunities between men and women within the labour market).

EUROPEAN PARLIAMENT

Resolutions

For full texts and additional resolutions of the European Parliament, please search the database at:

<http://www3.europarl.eu.int/omk/omnsapir.so/pv2?PRG=GENECRAN&APP=PV2&LANGUE=EN&TYPEF=TITRE>

2002

- ◆ Resolution on the Commission report on Equal Opportunities for women and men in the European Union, 6th annual report
- ◆ Resolution on representation of women among the social partners of the European Union
- ◆ Resolution on the joint text for a European Parliament and Council directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions
- ◆ Resolution on the report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Annual Report on equal opportunities for women and men in the European Union, 2000
- ◆ Resolution on EU policy towards Mediterranean partner countries in relation to the promotion of women's rights and equal opportunities in these countries

2001

- ◆ Resolution on sexual violence against women, particularly Catholic nuns
- ◆ Resolution on the Commission report on the implementation of Council Recommendation 96/694 of 2 December 1996 on the balanced participation of women and men in the decision-making process

2000

- ◆ Resolution on participation of women in peaceful conflict resolution
- ◆ Resolution on the Commission annual reports "Equal Opportunities for Women and Men in the European Union - 1997, 1998, 1999
- ◆ Resolution on the outcome of the Special Session of the General Assembly of the United Nations (Beijing +5)
- ◆ Resolution on the communication from the Commission to the Council and the European Parliament 'For further actions in the fight against trafficking in women'
- ◆ Resolution on women in decision-making
- ◆ Resolution on the communication from the Commission entitled: "Women and science" - Mobilising women to enrich European research

1999

- ◆ Resolution on the interim report of the Commission on the implementation of the medium-term Community action Programme on equal opportunities for men and women (1996 to 2000)
- ◆ Resolution on violence against women and the Daphne Programme
- ◆ Resolution on the report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the state of women's health in the European Community

1998

- ◆ Resolution on the role of cooperatives in the growth of women's employment
- ◆ Resolution on the particular impact of unemployment on women

- ◆ Resolution on International Women's Day and the violation of women's rights

1997

- ◆ Resolution on the Communication from the Commission to the Council and the European Parliament on trafficking in women for the purpose of sexual exploitation
- ◆ Resolution on the Annual Report from the Commission: Equal opportunities for women and men in the European Union 1996
- ◆ Resolution on the Commission Communication - Incorporating equal opportunities for women and men into all Community policies and activities - "mainstreaming"
- ◆ Resolution on the need to establish a European Union wide campaign for zero tolerance of

violence against women

- ◆ Resolution on discrimination against women in advertising
- ◆ Resolution on the Commission communication - A code of practice on the implementation of equal pay for work of equal value for women and men
- ◆ Resolution on the violation of women's rights

1996

- ◆ Resolution on implementation of equal opportunities for men and women in the civil service

1995

- ◆ Resolution on the Fourth World Conference on Women in Beijing: Equality, Development and Peace
- ◆ Resolution on the evaluation of the 3rd Community action programme on equal opportunities for women and men and proposals for the 4th Community action programme

- ◆ Resolution on equal treatment and equal opportunities for women and men

EUROPEAN UNION: COUNCIL OF MINISTERS

For additional information on documentation of the Council of Ministers and the European Commission pertaining to gender equality, please visit:

http://europa.eu.int/comm/employment_social/equ_opp/information_en.html#sci

or on equal opportunities, please visit:

http://www.europa.eu.int/pol/equopp/index_en.htm

Directives

- ◆ 2002/73/EC: Amending Council Directive 76/207/EEC on the implementation of the

principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

- ◆ 2000/78/EC: Establishing a general framework for equal treatment in employment and occupation
- ◆ 98/59/EC: On the approximation of the laws of the Member States relating to collective redundancies
- ◆ 97/81/EC: Concerning the framework agreement on part time work concluded by UNICE, CEEP and ETUC
- ◆ 97/80/EC: On burden of proof in cases of discrimination based on sex
- ◆ 96/97/EC: On the implementation of the principle of equal treatment for men and women in occupational social security schemes
- ◆ 96/34/EC: On the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC
- ◆ 92/85/EEC: On the introduction of measures to encourage improvements in the safety and health

Resolutions

- ◆ Resolution of the Council and of the Ministers for Employment and Social Policy, meeting within the Council of 29 June 2000 on the balanced participation of women and men in family and working life
- ◆ Council Resolution of 20 May 1999 on women and science
- ◆ Resolution of the Council and of the Representatives of the Governments of the Member states meeting within the Council of 6 December 1994 on equal participation by women in an employment-intensive economic growth strategy within the European Union
- ◆ Council Resolution of 30 June 1993 on flexible retirement arrangements

Declarations

- ◆ Council Declaration of 19 December 1991 on the implementation of the Commission recommendation on the protection of the dignity of women and men at work, including the code of practice to combat sexual harassment

Regulations

at work of pregnant workers and workers who have recently given birth or are breastfeeding

- ◆ 91/533/EEC: On an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship
- ◆ 86/613/EEC: On the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood
- ◆ 79/7/EEC: On the progressive implementation of the principle of equal treatment for men and women in matters of social security
- ◆ 76/207/EEC: On the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions
- ◆ 75/117/EEC: On the Approximation of the Laws of the Member States Relating to the Application of the Principle of Equal Pay for Men and Women

- ◆ Council Resolution of 29 May 1990 on the protection of the dignity of women and men at work
- ◆ Council Resolution 1987 on protective legislation for women in the Member States of the European Community
- ◆ Resolution of the Council and of the Ministers for Education, meeting within the Council, of 3 June 1985 containing an action program on equal opportunities for girls and boys in education
- ◆ Council Resolution of 7 June 1984 on action to combat unemployment amongst women
- ◆ Council Resolution of 12 July 1982 on the promotion of equal opportunities for women

- ◆ Council Regulation (EC) No 2744/95 of 27 November 1995 on statistics on the structure and

distribution of earnings

Decisions

- ◆ Council Framework Decision on combating trafficking in human beings (2002)
- ◆ Council Decision of 13 March 2000 on guidelines for Member States' employment policies for the year 2000
- ◆ Council Decision of 27 November 2000 establishing a Community action programme to combat discrimination (2001 to 2006)
- ◆ Decision of the European Parliament and of the Council of 24 January 2000 adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preventive measures to fight violence against children, young persons and women
- ◆ Council Decision of 22 December 1995 on a medium-term Community action program on equal opportunities for men and women (1996 to 2000);

Recommendations

- ◆ Council Recommendation of 14 February 2000 on the implementation of Member States' employment policies

EUROPEAN COMMISSION

Decisions

- ◆ Commission Decision relating to Gender Balance within the Committees and Expert groups established by it (19/06/00)

Recommendations

- ◆ 98/370/EC: On the ratification of 1996 ILO Convention No 177 on home work
- ◆ 87/567/EEC: On vocational training for women
- ◆ 92/131/EEC: On the protection of dignity of women and men at work
- ◆ 82/857/EEC: On the principles of a Community policy with regard to retirement age

Communications

- ◆ COM (2001) 15508: Communication from the Commission to the Council and the European Parliament Framework strategy on gender equality work programme for 2002
- ◆ Communication from the Commission of 7 July 2000 addressed to Member States on the Commission Decision relating to a gender balance within the committees and expert groups established by it
- ◆ COM (2001) 6905: Communication from the Commission to the Council and the European Parliament - Framework Strategy on Gender Equality: Work Programme for 2001
- ◆ COM (2000) 8638: Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions "Towards a Community framework strategy on gender equality (2001-2005)" and Proposal for a Council Decision on the Programme relating to the Community framework strategy on gender equality (2001-2005)
- ◆ COM(95) 221: Commission Communication to the Council, Parliament and Economic and Social Committee on a new partnership between men and women: equal sharing and participation - the European Community's priorities for the fourth UN World Conference on Women (Beijing, September 1995)

E. STABILITY PACT FOR SOUTH EASTERN EUROPE

Full documentation related to the Stability Pact can be found at: <http://www.stabilitypact.org/index.shtml>

- ◆ Gender Task Force – Progress Report June 2002 (Istanbul, 2002)
- ◆ Gender Task Force Strategy Overview 2001-2003 (Bucharest Regional Conference, 2001)
- ◆ Stability Pact Declaration on NGO-Government Partnership in South Eastern Europe, adopted by the WT-I Meeting in Bucharest, 2001.
- ◆ Task Force on Trafficking in Human Beings (Bucharest Regional Conference, 2001)

F. ADDITIONAL REFERENCES AND RESOURCES

Internet resources:

<http://www.un.org/womenwatch/confer/beijing/national/natplans.htm> (National Action Plans related to the Beijing Fourth World Conference on Women)

<http://www.un.org/womenwatch/daw/cedaw/states.htm> (signing and ratification dates of States parties)

<http://www.un.org/womenwatch/daw/cedaw/reports.htm> (Recently filed national reports to CEDAW)

<http://www.ihf-hr.org/publicat.htm> (IHF-HR publications and references to reports, surveys and other relevant documents)

<http://natlex.ilo.org/scripts/natlexcgi.exe?lang=E> (national labour and social security legislation by countries and by subject matters).

http://www.europa.eu.int/abc/governments/index_en.html (links to national government sites and EU related matters)

<http://www.eonet.ro/Countries.htm>: Country information related to integration of EU equal opportunities legislation

www.seeline-project.net/reports.htm (South East Women's Legal Initiative: National reports on Constitutional Law)

<http://www.seeline-project.net/NM.htm> (South East Women's Legal Initiative: National reports on National Machineries)

Publications

Women 2000 by International Helsinki Federation for Human rights, NY, Vienna 2000

Women of the World: Laws and Policies Affecting Their Reproductive Lives – East Central Europe. The Centre for Reproductive Law and Policy. New York, 2000.