1. Introduction

The current Committee on Feminism and International Law (the Committee) was established by the Executive Council of the ILA in November 2010. The first Committee had commenced its work on Women’s Equality and Nationality in International Law in the 1990s. The successor Committee addressed a new (and related) topic, Women and Migration and presented its Final Report at The Hague Conference in August 2010. During the discussions at the working session in The Hague, there was considerable support for continuing to pursue the innovative focus on feminism and international law. A new mandate was approved by the Executive Council at the same time as the establishment of the Committee in May 2011: Economic Empowerment of Women: Contribution of International Law. The Committee’s work thus furthers the ideal of a just and representative international legal order. At the Committee’s inter-sessional meeting held in Dublin on 15 October 2011, it was agreed to utilise the short period available before the deadline for submissions (8 June 2012) to the Sofia Conference in August 2012 to prepare a brief initial report.

2. Purpose of the Initial Report

The complexity of the umbrella theme, namely ‘economic empowerment of women’, is evident. The Committee decided as an initial step to produce a scoping report to identify ‘Positive Obligations of States Parties in relation to Substantive Equality’ arising from their ratification of treaties contributing to the economic empowerment of women.

3. Scope

Each Committee member chose to examine an instrument (or several), which serves as an example of the breadth of the long-term focus of the Committee, corresponding to the mandate approved by Executive Council. The range of treaties with actual or potential impact on the economic empowerment of women does not fall into any ‘neat’ category. The approach taken was to be as open and inclusive as possible, not least given that we regard this initial report as a scoping report. The treaties analysed fall

---


2 See inter alia Report of the Secretary General on The empowerment of rural women and their role in poverty and hunger eradication, development and current challenges (E/CN 6/2012/3); Report of the Secretary General on Progress in mainstreaming a gender perspective in the development, implementation and evaluation of national policies and programmes, with a particular focus on the priority theme: The empowerment of rural women and their role in poverty and hunger eradication, development and current challenges (E/CN 6/2012/4); Report of the Secretary General on Women’s economic empowerment (E/CN 6/2012/10).
under the auspices of the United Nations (UN), the International Labour Organization (ILO) and also reflect regional arrangements. Those of a regional nature do not form a monolith as regards their legal status (for example, a *sui generis* legal order is created by the constituent treaties of the European Union). Selected ‘soft law’ instruments are reviewed given their salience, especially the Millennium Development Goals (MDGs). Amongst the MDGs’ eight goals, all to be achieved by 2015 are three goals of obvious and proximate relevance to the economic empowerment of women. They are Goal 1: to eradicate extreme poverty and hunger, Goal 2: to achieve universal primary education and Goal 3: to promote gender equality and empower women.

4. **Methodology**

A structure for analysing each instrument was circulated in order to facilitate the work of the rapporteur. At the Dublin inter-sessional meeting, it was agreed that the CEDAW Committee’s General Recommendation 28 (GR 28) provided considerable guidance as to the nature of States parties’ obligations. In line with GR 28 and other well-established international human rights principles we adopt a broad and dynamic understanding of the positive obligations required to achieve substantive equality in the field of women’s economic empowerment.

5. **Economic Empowerment of Women: Positive Obligations of States Parties in relation to Substantive Equality**

5.1 Overview

Driven in part by the global financial crisis women’s economic empowerment has assumed a central place on the agenda of key international human rights actors, including that of the United Nations Entity for Gender Equality and Empowerment for Women (UN Women), the ILO and the UN Secretary General. It is increasingly viewed as an essential contributing factor both to realize women’s rights and substantive gender equality standards, and to achieve broader collective development goals such as economic growth, productivity and efficiency. Therefore, in general terms, women’s economic empowerment can be defined as the process of structural change through which women are enabled to use and control resources and to fully enjoy their human rights, specifically as economic actors. Thus women’s economic empowerment implies a normative ground involving legal obligations of States and non-State actors arising from the international legal order.

Section 5.2 of the report sets out in general terms how key international law instruments address the relationship between substantive equality and positive obligations. Section 5.3 identifies some

---

3 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and Optional Protocol; International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); Convention on the Rights of the Child (UNCRC); UNESCO Convention against Discrimination in Education

4 Protection of Wages Convention, 1949 (No 95); Equal Remuneration Convention, 1951 (No 100); Elimination of Discrimination (Employment and Occupation) Convention, 1958 (No 111); Workers with Family Responsibilities Convention, 1975 (No 156); Night Work (Women) Convention (Revised) 1948 (Protocol adopted in 1990); Maternity Protection Convention, 2000 (No 183); Convention on Domestic Workers 2011 (No 189).

5 The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (PWRA); Council of Europe: European Convention for the Protection of Human Rights and Fundamental Freedoms; European Union: Treaty on European Union (as amended); Treaty on the Functioning of the European Union

6 United Nations Millennium Declaration, General Assembly Res 55/2 (2000); available at [http://www.un.org/millennium/declaration/ares552e.pdf](http://www.un.org/millennium/declaration/ares552e.pdf); Although an argument could be made that they have attained the status of customary international law, this argument has not gained widespread acceptance particularly in light of the ‘weaker’ status of economic and social rights in international law: P Alston, ‘A Human Rights Perspective on the Millennium Development Goals’, paper prepared as a contribution to the work of the Millennium Project Task Force on Poverty and Economic Development by Philip Alston, Special Adviser to the UN High Commissioner for Human Rights on the Millennium Development Goals (no date given), 19-22. Alston argues that there are ‘progressive’ arguments in favour of recognising some aspects of the MDGs as customary international law.


8 One of the five thematic areas of UN Women specifically focuses on ‘Enhancing women’s economic empowerment’: [http://www.unwomen.org/](http://www.unwomen.org/)


10 See e.g Report of the Secretary General on *Women’s economic empowerment* (E/CN.6/2012/10).
crosscutting themes which underpin the economic empowerment of women. Particular substantive areas that emerged as integral to the Committee’s mandate are set out in section 5.4.

5.2 Women’s Substantive Equality and Positive Obligations

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been ratified almost universally (187 State parties as of March 1, 2012) and serves as a highly salient international instrument concerning the human rights of women. It is addressed briefly in this report. Given its importance, it was agreed at the Dublin inter-sessional meeting that in-depth examination of the treaties relevant to the mandate will commence with CEDAW. It is envisaged that the next phase of the Committee’s work will include drafting a submission to the CEDAW Committee.

The Convention prohibits all forms of gender-based discrimination against women and provides for the full equality of women with respect to all human rights and fundamental freedoms, whether in the public or private sphere. CEDAW adopts a holistic approach which anticipates the emergence of new forms of discrimination that had not been identified at the time of drafting, and emphasizes that the Convention is not limited to specific fields of application.

Article 1 supplies a wide definition of discrimination, which encompasses both formal (de jure) and substantive (de facto) equality. Article 2 provides for States parties’ negative and positive obligations to realize the purpose of the Convention. Article 3 forms part of the overarching interpretive framework for the application of the specific obligations set out in Articles 6 to 16. It enjoins States Parties to take ‘all appropriate measures, including legislation’ in ‘all fields’, in order ‘to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.’

The Convention is not a gender-neutral tool but addresses discrimination against women; therefore it seeks to redress the historical subordination of women and to accelerate the achievement of equality. Article 4 together with General Recommendation 25 (GR 25) provides for preferential treatment for women (temporary special measures). Further, Article 5 addresses the structural nature of discrimination that is rooted in social and cultural patterns of conduct of men and women, prejudices, customary and other practices, and stereotyped gender roles.

Overall, Articles 1 to 5 read in conjunction with Article 24 require the States parties to undertake measures at the national level to ensure the prohibition of all discrimination against women and the existence of competent national institutions to realize the substantive equality. Article 24 requires States parties to take ‘all necessary measures at the national level’ to fully realize the rights in the Convention. Its emphasis on national level action restates a fundamental principle of international law. Articles 6 to 16 address specific areas. As discussed immediately below, the nature of the States parties’ obligations mean that all provisions under Articles 6 to 16 entail positive obligations.

According to GR 25 ‘States parties to the Convention are under a legal obligation to respect, protect, promote and fulfil this right to non-discrimination for women and to ensure the development and advancement of women in order to improve their position to one of de jure as well as de facto equality with men’ (para 21). These tripartite obligations are explained further in GR 28, which sets out a comprehensive statement of States parties’ obligations under the Convention, in particular under Article 2. The obligation to ‘respect’ requires that the States parties refrain from adopting laws and policies that interfere directly or indirectly with a woman’s equal enjoyment of her rights. States parties must therefore ensure that their policies do not have adverse consequences for women (‘negative obligation’). The obligation to ‘protect’ (or to ensure respect) comprises the positive obligations of States parties to protect women from discrimination by non-State actors, and to ‘take steps directly aimed at eliminating customary and all other practices that prejudices and perpetuate the notion of inferiority or superiority of either of sexes’. The obligation to ‘fulfil’ (or to promote) requires States parties to adopt public policies and institutional frameworks to combat discrimination against women.

---

12 UN Document, CEDAW/C/GC/28
It requires States parties to take positive steps to ensure that in practice, men and women enjoy rights on a basis of equality.\textsuperscript{13}

ICERD prohibits racial discrimination in the enjoyment of all civil, political, economic, social and cultural rights, many of which are critical to women’s economic empowerment. As discussed further below, the Convention is of particular significance for women who are especially vulnerable to economic exploitation, such as migrant workers and domestic workers.

UNCRC and CEDAW underscore that respect for the rights of the girl child is crucial if she is to reach adulthood with the skills and sense of identity that will allow her to achieve her potential. Girls’ human rights in the field of education are dealt with in section 5.4 of this report.

Labour is the primary source of income – and thus economic empowerment – for the vast majority of the world’s population. The standards, programmes and policies established by the ILO are directly concerned with ensuring social justice in the arena of economic empowerment. In accordance with the ILO aim of ensuring an equal playing field for groups particularly disadvantaged in the arena of work, a number of the ILO’s standards specifically address the position of women. In addition, some ILO standards deal with situations which tend to specially or disproportionately affect women.

Turning to regional instruments, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) partly addresses the Committee’s mandate through protection of core standards. The European Convention on Human Rights (ECHR) in Strasbourg has frequently reiterated that sex equality is a major objective of the Council of Europe and has stipulated that gender is a suspect ground under the discrimination prohibition (Article 14).\textsuperscript{14} Both direct and indirect forms of discrimination are prohibited. However, reliance can only be placed upon Article 14 when the subject matter of the application falls within the ambit of a right protected under the Convention or its Protocols.\textsuperscript{15} This limitation is tempered somewhat by two features of the Court’s jurisprudence, (1) the expansive interpretation it accords some civil and political rights\textsuperscript{16} and (2) its case law which establishes that unlawful discrimination may occur even where the primary Article has not been infringed.\textsuperscript{17} Where the Strasbourg Court has determined that the primary provision has been breached it generally does not go on to consider arguments based on Article 14.\textsuperscript{18} This approach has been criticised in dissenting judgments and by human rights analysts. It evidences a ‘certain judicial economy’,\textsuperscript{19} which has had detrimental effects on the evolution of discrimination case law. The Convention operates principally to protect individuals from interferences with their human rights, imposing obligations on States to refrain from such incursions. However, positive obligations to take appropriate steps to ensure respect for those rights and freedoms are now an established feature of the Strasbourg Court’s jurisprudence.\textsuperscript{20} We explore the nature of these obligations as applied in select areas below.

\textsuperscript{13} See also General Comment No 28 of the Human Rights Committee, General Comment No 16 of the Committee on Economic, Social and Cultural Rights, General Recommendation No 25 of the Committee on Elimination of Racial Discrimination.

\textsuperscript{14} See e.g. Burghartz v Switzerland (1994) 18 EHRR 101.

\textsuperscript{15} Botta v Italy (1998) 26 EHRR 241. Protocol 12 creates an independent guarantee of equal treatment, thereby affording a degree of protection that extends beyond non-discrimination in relation to the other rights. It has yet to be ratified by the majority of the Council of Europe States parties.

\textsuperscript{16} In Airey v Ireland (1979) 2 EHRR 305, 26 the Court noted: ‘Whilst the Convention sets forth what are essentially civil and political rights, many of them have implications of a social or economic nature. The Court therefore considers, like the Commission, that the mere fact that an interpretation of the Convention may extend into the sphere of social and economic rights should not be a decisive factor against such an interpretation; there is no water-tight division separating that sphere from the field covered by the Convention.’

\textsuperscript{17} See e.g. Abdulaziz, Cabales and Balkandali v the United Kingdom (1985) 7 EHRR 471.

\textsuperscript{18} Chassagnou and others v France (2000) 29 EHRR 615 represents the Court’s modern ‘approach’: a complaint of a violation of Article 14 will only be undertaken where there is a clear inequality of treatment in the enjoyment of the substantive right in question which is a fundamental aspect of the case: C Ovey and R White, Jacobs and White, The European Convention on Human Rights, 4th edition, (2006, Oxford), 422.


The European Union (EU) is also a regional actor, with a range of instruments of interest to our topic. The European Union Treaties (Treaty on European Union (TEU) and Treaty on the Functioning of the European Union (TFEU)) address the issues *inter alia* of economic well-being and of equality. The TEU’s contribution to our topic is more indirect than its sister Treaty, the TFEU. At one level, there is confirmation in the TEU Preamble of the attachment of the Member States to a list of key principles, including equality and the rule of law, the fundamental social rights as defined in the European Social Charter of the Council of Europe (1961) as well as those of the Community Charter of the Fundamental Social Rights of Workers. In the text of the Treaty we find confirmation that the Union is founded on listed values including equality; in addition there is reference to the prevalence of common values to the Member States, including equality between women and men (Article 2). Of more precise interest is Article 6(1) whereby the Charter of Fundamental Rights of the EU is accorded the same legal value as the Treaty. At the same time, Article 6(1) paragraph 2 explicitly states that the Charter shall not extend in any way the competences of the Union as defined in the Treaties. The growing importance of the Charter for the EU can be inferred from the fact that the swearing-in of the most recent College of Commissioners in the Court of Justice extended to the members of the Commission pledging to uphold the Charter. References to the Charter in cases brought to the Court of Justice support this inference being drawn. Relevant provisions of the Charter are addressed below.

The EU is currently negotiating accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as provided for in TEU Article 6(2). In addition to accession to the Convention, TEU Article 6(3) confirms that fundamental rights as guaranteed by the Convention and as they result from the constitutional traditions common to the Member States form part of the general principles of the EU. Thus the comments already made on the Convention are applicable.

The TFEU is the replacement of, and successor to, the European Community Treaty (EECT). The stated focus of the TFEU is the organisation of the functioning of the Union and the determining of the areas of, delimitation of, and arrangements for exercising its competences (TFEU Article 1(1)). However, substantively, the economic thrust remains, with policies extended or refined, and augmented by new policies (Articles 2-6), reflecting economic and societal changes in the intervening years. As the successor to the EECT/ECT the TFEU builds on the extensive *acquis communautaire* developed through reliance on EECT Article 119 (as amended). To take one example: EECT Article 119 was of particular importance for our topic although not listed as one of the activities of the Community (Article 3). In the second of the three cases taken by Madame Gabrielle Defrenne, the Court of Justice made clear that Article 119 pursued a double aim (paras 8 and 12). One was to ensure that there was no competitive disadvantage suffered by those undertakings which remunerated women equally to men – what we can term the economic argument. This had been an important factor in the eventual agreement to include this provision. The second aspect of Article 119, according to the Court, was that it formed part of the social objectives of the Community, which was not merely an economic Union (sic), but was at the same time intended, by common action, to ensure social progress and seek the constant improvement of the living and working conditions of their peoples. According to the Court, this double aim, which was at once economic and social, showed that the principle of equal pay formed part of the foundations of the Community (paras 9-12). The reference to the social objectives of the

---

22 Adopted as a Declaration by 11 Member States at the European Council meeting in Strasbourg, on 9 December 1989 and accepted in 1998 by the new UK Labour government. Both are also referred to in the TFEU (Article 151), when dealing with Social Policy.
24 See *inter alia* C- 236/09 Association Belge des Consommateurs Test-Achats ASBL and others v Conseil des ministres, paras 16 and 17 (1 March 2011 nyr).
25 The slow down in progress towards accession was noted during the general discussion at FIDE 2012, 31 May 2012, but at a later stage in the Conference confirmation was received that progress had recommenced, see [http://www.fide2012.eu](http://www.fide2012.eu). Any delay in progress towards accession would impact on the multilayered approach of the EU to the protection of rights, including those of interest to our topic.
26 EEC Treaty was changed to EC Treaty by the (original) Treaty on European Union (signed at Maastricht in 1992).
28 Although Madame Defrenne was not personally successful in all three cases, she did raise issues which could be regarded as setting an agenda for later legislative attention, namely definition of pay, equal pensions and working conditions, including job retirement age.
29 *Defrenne II* para 9.
Community confirms the importance of the Preamble to an understanding of the wider focus of the EECT.

In many ways the TFEU reflects the distance travelled since the 1950s and the sole article of direct relevance to our topic—equal pay (EECT Article 119, TFEU Article 157). There is now the requirement that in all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women (Article 8). In addition, the Union, in defining and implementing its policies and activities, shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (article 10). The language should be noted, namely ‘shall aim to promote equality/….to combat discrimination’. The debate on the underlying approach reflected in these goals—namely ‘equality’ and ‘non-discrimination’—highlights the dilemma as to the (most) effective way to achieve equality.

The revised provision on equal pay (EECT Article 119, TFEU Article 157) has moved from the original narrow requirement and now includes a legal basis for the adoption of secondary legislation extending beyond pay to equal opportunities and equal treatment, as well as equal pay. Importantly for our topic, this article (para 4) allows Member States to maintain or adopt measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers. The use of ‘under-represented sex’ in the Article 157(4) should be noted, and the use of ‘women in the first instance’ in Declaration 28 indicating the preferred direction.

The pay gap remains as we have seen. Economic activity in general will contribute to progress, and clearly the economic policies of the EU and its Member States will impact on all economic actors. This is where the overarching Articles (8 and 10) can have an impact of relevance to our topic. Labour law is of relevance for all stakeholders in the economy. It has to be acknowledged that the increase in European legislation has not been without its critics. While the European model has been directed at ensuring a common playing field, thus preventing ‘social dumping’, and also providing a minimum level of protection for workers, those parts of the world which pursue what could be described as a less regulated workplace regime, are seen as enjoying a competitive advantage over the EU.

Detailed analysis of relevant principles from these intertwining sources cannot be explored in this contribution, due to length constraints. However, as we shall see, they represent just part of the multilayered EU approach to (sex/gender) equality in general, and to economic empowerment of women in particular.

5.3 Cross-cutting Themes

Intersectionality
The most economically disadvantaged women suffer discrimination on the basis of an amalgam of grounds, including but not restricted to sex, which is often referred to as ‘intersectional’ or ‘compound’ discrimination. Women’s experience of discrimination on the basis of sex/gender is often compounded by their ‘race’, colour, disability, age, descent, religion, national or ethnic origin, or indigeneity, and sexual orientation. According to the CEDAW Committee: ‘Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in Article 2.’ Thus the full dimensions of women’s economic disempowerment cannot be understood if the inquiry is limited

---

31 Declaration 28 on ECT Article 119(4), annexed to the ECT by the Treaty of Amsterdam.
32 Declaration 28 on ECT Article 119(4), annexed to the ECT by the Treaty of Amsterdam, article 5.
33 Declaration 28 on ECT Article 119(4), annexed to the ECT by the Treaty of Amsterdam, article 5.
35 GR 28, para 18.
to an examination of inequality on the ground of sex/gender alone. The intersection of sex
discrimination with other forms of discrimination may even produce novel forms of discrimination
against women, which may go unnoticed in the absence of an intersection analysis. For this reason the
CEDAW Committee enjoins States to ‘adopt and pursue policies and programmes designed to
eliminate such occurrences, including, where appropriate, temporary special measures in accordance
with article 4, paragraph 1, of the Convention and general recommendation No. 25.’

While ICERD does not make specific reference to women’s experience of racial discrimination, the
Committee on the Elimination of Racial Discrimination (CERD) adopted a General Recommendation
on the gender-related dimensions of racial discrimination in 2000, which is of the utmost importance to
our mandate. As CERD observes: ‘There are circumstances in which racial discrimination only or
primarily affects women, or affects women in a different way, or to a different degree than men. Such
racial discrimination will often escape detection if there is no explicit recognition or acknowledgement
of the different life experiences of women and men, in areas of both public and private life’. To this end,
CERD has committed itself to developing, in conjunction with the States parties, a more
systematic and consistent approach to evaluating and monitoring racial discrimination against women,
as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment
of their civil, political, economic, social and cultural rights on grounds of race, colour, descent, or
national or ethnic origin.

PWRA highlights the importance of ensuring the human rights, including their economic and social
rights, of several particular groups of women, notably widows (Article 20), elderly women (Article 22),
women with disabilities (Article 23) and women in distress, including poor women and women house-
hold heads from marginalised groups, and pregnant, nursing women or women in detention (Article
24).

Feminist scholars have critiqued the approach of the ECtHR to compound discrimination against
women especially in its case law concerning Islamic dress. Judgments are said to ignore the
complexities of the intersections of gender and religion. However, a case concerning the recognition
of a Roma woman’s marriage for social protection purposes suggests that the Court is sensitive to some
forms of discrimination faced by ethnic minority women.

TFEU Article 19 (former ECT Article 13) extends the prohibited discriminatory grounds beyond the
original EECT Article 119 (now TFEU Article 157) focus on equal pay for equal work (for men and
women). Article 19 provides for appropriate action to be taken (by the Council) to combat
discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual
orientation. Two Directives based on ECT Article 13, were adopted in 2000. Both Directives cover
the public and private sectors, and both specifically exclude differences of treatment based on
nationality and is without prejudice to provisions and conditions relating to the entry into, and
residence of third-country nationals and stateless persons in, the territory of Member States, and to
any treatment which arises from the legal status of the third-country nationals and stateless persons
persons irrespective of racial or ethnic origin in relation to: (a) conditions for access to employment,
to self-employment and to occupation, including selection criteria and recruitment conditions,
whatever the branch of activity and at all levels of the professional hierarchy, including promotion;
(b) access to all types and to all levels of vocational guidance, vocational training, advanced
vocational training and retraining, including practical work experience; (c) employment and working
conditions, including dismissals and pay; (d) membership of and involvement in an organization of
workers or employers, or any organization whose members carry on a particular profession,
including the benefits provided for by such organizations; (e) social protection, including social

---

36 Ibid.
37 In the ICERD Preamble, para 1, it is recognised that the UN Charter requires Member States to promote and
encourage the universal observance of all human rights and fundamental freedoms ‘without distinction as to race,
sex, language or religion’.
38 CERD, General Recommendation No 25 on Gender Related Dimensions of Racial Discrimination.
39 Ibid, para 1.
40 Ibid, para 3.
41 See further A Vakulenko, ‘Islamic Headscarves and the European Convention on Human Rights: an
42 Muñoz Díaz v Spain, Application No 49151/07, 8 December 2009.
security and healthcare; and (f) social advantages; (g) education; (h) access to and supply of goods and services which are available to the public, including housing. Directive 2000/78/EC differs from the previous Directive, not just in the personal scope. Its purpose is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment. The material scope of both Directives as regards (a) to (d) above is the same; however, Directive 2000/78/EC does not extend to social advantages, education, goods and services including housing - (f)-(h) above. In addition, justification of differences of treatment on grounds of age is provided for. Reviewing the material scope as set out, one can see the possibility of vulnerable women suffering multiple disadvantages finding themselves excluded from the scope of protection of this Directive.

Elimination of Violence Against Women
Economic empowerment cannot be attained where women are subject to violence stemming from both private and state actors. UN Women points out that women remain vulnerable to violence and discrimination in the private domain, particularly within marriage and the informal employment sector. There is no specific article on gender-based violence under CEDAW, but the Committee rectified this omission through its GR 19 (1992); this fundamental document - issued three years after the first GR 12 on the same topic - gave the authoritative interpretation that violence against women is a form of discrimination prohibited by the Convention, stating that 'the full implementation of the Convention required States to take positive measures to eliminate all forms of violence against women' (paras 1, 4, 6). Also, it should be noted that the work of the UN Special Rapporteur on Violence against Women has made significant contribution to addressing gender-based violence.

Violence against women has featured in the individual complaints considered by the CEDAW Committee. For instance in the communication V K v Bulgaria, relating to psychological, emotional, economic and physical violence perpetrated by the claimant’s husband, the CEDAW Committee held that the State party had violated the rights of the author of the communication under Article 2 (c), (d), (e) and (f), in conjunction with Article 1, and Article 5 (a), in conjunction with Article 16, paragraph 1, of the Convention, as well as GR 19. It highlights positive obligations of the State party relevant to Economic Empowerment of Women in family life. This jurisprudence should be reflected upon and

44 UN Document, HRI/GEN/1/Rev 9(Vol II).
45 UN Document, HRI/GEN/1/Rev 9(Vol II).
47 See the annual report of the Special Rapporteur on violence against women, its causes and consequences is UN Document A/66/215 (1 August 2011).
referred to in the constructive dialogue mechanisms with States parties as well as in the Committee’s general recommendations.

The Protocol to the African Charter of Human and Peoples’ Rights on the Rights of Women in Africa (PWRA) explicitly prohibits of ‘all forms of violence against women, including unwanted or forced sex, whether the violence takes place in private or public’ (Article 4(2)(a)). Significantly it is recognised that violence against women can include economic harm (Article 1 definitions) and States parties are required to adopt, *inter alia*, economic measures that may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women (Article 4(2)(b)).

The European Court of Human Rights has on several occasions confirmed that states have positive obligations to prevent violence against women and that human rights violations by private actors may be imputed to the state if insufficient measures have been taken to prevent women’s rights violations. Gender-based claims concerning rape, abortion, and until 2009 ‘domestic’ violence, are addressed as violations of substantive provisions but not as a form of inequality. It is hoped that *Opuz v Turkey* marks the beginning of a more robust approach to women’s right to substantive equality. In that case the ECtHR found that domestic violence is a form of gender-based violence which amounts to discrimination against women. Critically, the judgment holds States parties accountable for failing to take adequate steps to protect victims of repeated domestic violence, even absent any active malfeasance on the State’s part. It derived support for this stance from a range of human rights instruments including CEDAW.

5.4 Substantive Areas

We address particular substantive areas in this section. We note that the inequalities women encounter in one field (may) affect their rights and opportunities in others. Discrimination in access to education and training affects access to employment, for instance.

**Education**

The right to education (Articles 13-14, ICESCR; Article 10 CEDAW; Articles 28 and 29 UNCRC; Article 14 Charter of Fundamental Rights of the EU) is expressly recognised by the Committee on Economic Social and Cultural Rights (CESCR) as an ‘empowerment’ right, playing ‘a vital role in empowering women’. ‘Education is both a human right in itself and an indispensable means of realizing other human rights’. Under CEDAW States parties must take all appropriate measures to eliminate discrimination against women and girls in education.

Both UNCRC and the UNESCO Convention against Discrimination in Education specify that primary education is to be compulsory and free to all – this is not the case in many countries and limits the ability to girl children to access education. PWRA specifies that in education and training, all forms of discrimination must be eliminated and women’s equal opportunity and access guaranteed (Article 12).

ICESCR articulates the most wide-ranging and comprehensive provisions in international human rights law related to education, setting out guarantees to both the ‘social’ dimension and the ‘freedom’ dimension of the right, imposing negative and positive obligations upon States to respect (characterized as an obligation of conduct), to protect (to guarantee the exercise of the right in horizontal relations, between private groups or individuals) and to fulfil (obligation of result, including obligations to facilitate and to provide: States are requested to make adequate levels and forms of

---

50 See e.g. *Mahmut Kaya v Turkey*, Application No 22535/93, ECHR 2000-III.
52 *Tysiąc v Poland* (2007) 45 EHRR 42.
53 See e.g *Bevacqua and S v Bulgaria*, Application No 71127/01, 12 June 2008 (violation of Article 8, right to respect for family life); *Kontrová v Slovakia*, Application No 7510/04, 31 May 2007 (violation of Article 2 (right to life) and a violation of Article 13 (right to an effective remedy).
54 Application No 33401/02, Judgment of 9 June 2009.
56 See further UN Document, CEDAW/C/GC/28, para 21.
education available and accessible for all). In GC No 13, the CESCR refers to the right to receive an education in all its forms (whether public or private, formal or non-formal) and at all levels as characterized by the interrelated and essential features of availability, accessibility, acceptability and adaptability. Under the wording of Article 13, the parameters of States parties’ obligation to fulfill (provide) are not the same in relation to primary, secondary, higher and fundamental education. Moreover, minimum core obligations on the right to education apply irrespective of the availability of resources. States parties have immediate obligations in relation to the right under Article 13, including an immediate duty to provide primary education (as compulsory) for all (Article 13(2)(a)), guaranteeing ‘that the right will be exercised without discrimination of any kind’ (Article 2 (2)) and taking ‘deliberate, concrete and targeted steps’ (Article 2 (1)) towards the full realization of the right to education. As for the specific obligation of States parties to make education available and accessible in a non-discriminatory way, GC No 13 states as follows:

‘The prohibition against discrimination enshrined in Article 2(2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination ... The adoption of temporary special measures intended to bring about de facto equality for men and women and for disadvantaged groups is not a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided they are not continued after the objectives for which they were taken have been achieved ... States parties must closely monitor education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination.’

Furthermore, according to the CESCR, ‘implementing Article 3, in relation to Article 13, requires, inter alia, the adoption of legislation and policies to ensure the same admission criteria for boys and girls at all levels of education. States parties should ensure, in particular through information and awareness-raising campaigns, that families desist from giving preferential treatment to boys when sending their children to school, and that curricula promote equality and non-discrimination. States parties must create favourable conditions to ensure the safety of children, in particular girls, on their way to and from school.’ In cases of religious or other non-State entities’ educational systems, States parties must ensure the enjoyment of the core elements of the right to education according to equality and due diligence standards, supervising and monitoring the overall performances of educational services under the non discrimination guarantee enshrined by ICESCR. Compliance with obligations ‘to protect’ implies that minimum non-discrimination guarantees apply to all forms of education, be they public, private or privatised.

The CRC Committee’s General Comment on Article 29 (addressing the aims of education) notes that pedagogic methods are as important as the content of the curriculum. ‘Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child...’. Based on this statement it could be argued that States are obligated to eliminate methods that treat girl children differently than boy children and which suggest that girl children have a lower status.

The MDGs do not specifically recognise education as a right or ‘the empowering effects that such a designation might have...’ despite the almost universal ratification of the Convention on the Rights of the Child. The 2011 Millennium Development Goals Report indicates that the target of universal

---

58 Committee on Economic, Social and Cultural Rights, General Comment No 13, The right to education UN Doc E/C 12/1999/10 (1999), para 43.
59 Ibid, paras 31 ff.
61 General Comment No 1, Article 29(1) The Aims of Education, CRC/GC/2001/1, 17 April 2001.
62 P Alston, op cit, 27.
primary education by 2015 will not be met. 63 53 per cent of those out of school are girls. ‘Only three regions – the Caucasus and Central Asia, Latin America and the Caribbean, and South-Eastern Asia have achieved gender parity in primary education...’ 64 Significant progress has not been made in the other regions. The picture is similar for secondary education. 65 Interestingly, gender parity is the highest at tertiary level worldwide but there are distinct regional differences. ‘Only Eastern Africa and Northern Africa have achieved gender parity in tertiary education.’ 66

**Vulnerable Employment and the Informal Economy**

Women are disproportionately represented in what would be described as ‘vulnerable employment’ (that is ‘own-account work’ and ‘contributing family work’) as well as in the ‘informal working’ sector, (in other words, ‘work undertaken without legal protection, typically without social protection or social security benefits, or work undertaken in unregistered (or informal) enterprises or cooperatives’). 67 Globally some 53 per cent of women are employed in vulnerable jobs outside of the formal sector in homes, small businesses and on farms. This figure runs to 80 per cent in sub-Saharan Africa and South Asia. 68 Many rural women, especially in developing countries work in the informal agricultural sector, lacking legal protections. For example, in South Asia, 70 per cent of women workers, compared to 40 per cent of male workers, were engaged in agriculture. 69

Failure to include such work within the ambit of minimum wage and other labour laws leaves many women without vital economic and personal protection.

Substantive inequality in access to credit and land are also critical issues for women working in agriculture and women engaged in entrepreneurial activity. Discrimination in access to credit may be directly related to discrimination in civil laws on ownership of property, inheritance and the ability to enter into contracts.

Gender discrimination in access to land is a major cause of women’s economic disempowerment in rural areas. 70 Concerning female land ownership, the United Nations Settlement Programme (UN-HABITAT)’s Deputy Executive Director, Inga Bjork-Klevby pointed out in 2011 that only 3 per cent of the land in the world is owned by women. 71 While 115 countries recognize equal property rights for women, in some of those countries, however, laws that explicitly discriminate against women also remain in effect. 72 UN Women reports that most of the world’s women live in States where two or more legal systems operate in tandem. In such States, the protection of human rights can vary among legal systems, some of which control matters that greatly impact women, such as family law. Thus civil or constitutional law equality guarantees may be overridden by customary or religious laws which limit women’s rights to own real property, inherit marital property, or receive a share of marital property on divorce. 73

---

64 Ibid, 20.
65 Ibid, 21.
66 Ibid.
71 UN Habitat, ‘Call for gender equity in land distribution’ (Nairobi 12 April 2011) <http://www.unhabitat.org/content.asp?cid=9796&catid=283&typeid=6&subMenuId=0> accessed 22 February 2012.
The ILO Social Policy (Basic Aims and Standards) Convention 1962\textsuperscript{74} contains several provisions of relevance to the economic empowerment of women in this context, including those concerning independent entrepreneurs and protections for agricultural workers. Article 1 of the Convention enunciates as a general principle a positive duty on States parties to direct all policies primarily to the well-being and development of the population. The manner in which this positive duty is to be carried out is elaborated in subsequent provisions of the Convention. Article 4 (c) identifies the supervision of working conditions as a measure to be considered by national authorities as a means of securing for agricultural workers, the best possible standards of living and an equitable share in any advantages which may result from improvements in productivity or in price levels. Article 5 imposes a positive duty on States parties to take measures to secure for independent producers and wage earners, conditions that will enable them to improve their living standards through their work and to ensure a minimum standard of living that takes into account the essential needs of workers. A possibly problematic provision in the Convention is Article 4(c) which requires State authorities to enforce laws on land use and ownership in a manner that would ensure that land is used, \textit{with due regard to customary rights}, in the best interests of the inhabitants of the country. The provision stands the risk of being interpreted as allowing the application of customary laws which prohibit women from owning or inheriting real property.

As noted above, indigenous women often encounter intersectional forms of discrimination. CERD has underlined that it may be necessary to adopt \textit{permanent} measures that treat different racial groups differently, such as recognizing the rights of indigenous peoples to lands traditionally occupied by them, in order to achieve substantive equality.\textsuperscript{75} Article 14 of CEDAW addresses the specific rights of rural women as a vulnerable group. These include the rights to:

- Be involved in ‘development planning at all levels’.
- Benefit from ‘all community and extension services’ among other types of education.
- ‘[O]rganise self-help groups and cooperatives in order to obtain equal access to economic opportunities’.
- ‘[H]ave access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform, as well as in land resettlement schemes’. and
- ‘[E]njoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.’

Under PWRA:

- Within marriage, women must enjoy the right to acquire their own property and administer and manage it freely (Article 6).
- On separation, divorce or annulment of marriage, women have to right to an equitable sharing of the joint property deriving from the marriage (Article 7).

States parties must also:

- Create conditions to support the economic activities of women, particularly in the informal sector where a system of protection and social insurance for women should be established (Article 13(e)).
- Establish a minimum age of work and punish all forms of exploitation of children, especially the girl-child (Article 13(g)).
- Recognize the economic value of women’s work in the home (Article13(h)).

\textit{Domestic Workers}

Approximately 90 per cent of domestic workers are women and most do not have regulated contracts of employment, access to social insurance and other rights enjoyed by workers in other paid employment sectors.\textsuperscript{76} Domestic workers are especially at risk of abuse and exploitation, including excessive working hours without rest, non-payment of wages, forced confinement, physical and sexual abuse, forced labour, and trafficking.\textsuperscript{77} The ILO Convention on Domestic Workers 2011 (No 189)


\textsuperscript{76} ILO, \textit{Decent work for domestic workers}, Report IV(I) (2010, Geneva).

\textsuperscript{77} Under Article 6 of CEDAW the States parties are required to take appropriate measures to suppress trafficking.
attempts to redress these harms and if implemented would assist in securing substantive equality for the women affected. Domestic work is defined as work performed in or for a household. A domestic worker is a person engaged in domestic work ‘within an employment relationship.’ One who performs domestic work ‘occasionally or sporadically and not on an occupational basis is not a domestic worker’ (Article 1).

Domestic work is acknowledged in the preamble to the Convention as ‘undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights….’ Thus, the ILO General Conference found it is necessary that the general standards of all international labour conventions and recommendations which apply to all workers should be supplemented with additional standards specific to domestic workers. Recommendation 201, Concerning Decent Work for Domestic Workers, expands upon the rights and protections to be accorded to domestic workers. It has details that address the special circumstances of domestic workers. For instance, programmes are to be established for relocating and rehabilitating domestic workers who have been subjected to abuse, including temporary accommodation and health care.

The positive steps required to safeguard the rights of migrant domestic workers are also outlined in the CEDAW Committee’s 2008 General Recommendation No 26 on women migrant workers 78 and the United Nations Committee on Migrant Workers General Comment No 179 adopted in January 2011.

_Siliadin v France_ 80 is a highly significant ECtHR decision that dealt with the interface between trafficking for the purposes of forced labour and domestic work, as well as the vulnerability of girls. The Court recognised for the first time that Article 4 ECHR concerning slavery, servitude and forced labour, imposes positive obligations (drawing on relevant provisions of international treaties, particularly Article 4 of the ILO Forced Labour Convention 1930). States are obliged to adopt and ensure effective implementation of criminal law provisions making the practices set out in Article 4 punishable offences (para 89). The case concerned a young girl who, while illegally present in France, had worked for private individuals without pay over a four-year period. One of the families involved was prosecuted, but acquitted on appeal. A civil case resulted in the second family being ordered to pay compensation for exploiting the applicant. The European Court of Human Rights found that the girl had been subjected to servitude and to forced labour. It considered that the criminal law legislation in force at the material time had not afforded the applicant specific and effective protection. Consequently, the French State had not fulfilled its positive obligations under Article 4.

According to the ECtHR all human trafficking falls within the prohibition of slavery, servitude or forced or compulsory labour. 81 States are under a positive obligation to (1) investigate situations of potential trafficking not only domestically but to cooperate effectively with other States concerned; (2) to establish and enforce both criminal and civil law measures to counter trafficking; and (3) to protect the rights of victims of trafficking. This should include the regulating businesses often used as a cover for human trafficking and repealing immigration rules that encourage, facilitate or tolerate trafficking. 82

**Social Protection**

For the ILO ‘a rights-based approach’ to the social protection floor plays a ‘key role in guaranteeing equal access to benefits and protection for women and on unlocking the productive capacity and enabling women to participate in the labour market.’ 83 It regards the extension of social protection to the informal economy as a major means of furthering gender empowerment.

Article 11 of CEDAW provides for the ‘right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to

---

78 CEDAW/C/2009/WP 1/R.
79 CMW/C/GC/1.
80 Application No 73316/01, 26th July 2005
81 Rantsev v Cyprus and Russia, Application No 25965/04, 7 January 2010.
82 Ibid, para 284.
paid leave, and the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.’ Ms B J v Germany\(^{84}\) dealt with alleged discrimination against a woman following divorce proceedings based on statutory provisions for: the equalization of pensions and accrued gains, and maintenance after termination of marriage. She asserted violations of Articles 1, 2 (a-t), 3, 5 (a and b), 15 (2) and 16 (1.c.d, g and h) of the Convention by Germany. The Committee ruled that the complaint was partly inadmissible for non-exhaustion of domestic remedies, partly because the facts occurred prior to Germany being bound by the Optional Protocol. As the merits of the case were not dealt with the potential impact of the case is unknown. Because of recent tendencies in family law reform, including that of Germany, which worsens the situation for spouses who have been married for a long time, the economic empowerment of women upon marriage dissolution should be examined from a more gender-sensitive perspective.

*Dung Thi Thuy Nguyen v The Netherlands,*\(^{85}\) concerned a woman who worked as a part-time salaried employee and, together with her husband, as a co-working spouse in his enterprise. She gave birth to two children and took maternity leave. Though she was insured under two separate insurance contracts, one insurer did not pay any benefits during her maternity leave because of the so-called ‘anti-accumulation clause’, which only paid benefits which exceeded another insurance. It was claimed that the ‘anti-accumulation clause’ violated Article 11(2)(b) of the Convention and it constituted direct discrimination against women based on pregnancy, because she was not awarded full compensation. The Committee declared that this case should be admissible, however, it decided there was no violation. The Committee interpreted Article 11(2)(b) (‘States parties shall take appropriate measures [ ] To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances’) as the obligation to introduce some kind of compensation, not necessarily ‘full’ compensation.

Compensation for maternity leave is provided under the ILO Maternity Protection Convention, 2000 (No 183), but it also does not oblige state parties to provide for ‘full compensation’. This topic should be examined further in light of its centrality to the economic empowerment of women.

The right of everyone to social security under Article 9 ICESCR includes, as clarified by GC No 19, the right to access and maintain benefits, whether obtained publicly or privately, in cash or in kind, *without discrimination* in order to secure adequate protection, inter alia, from: (a) lack of work-related income caused by sickness, disability, *maternity*, employment injury, *unemployment*, *old age*, or death of a family member; (b) *unaffordable* access to health care; (c) insufficient *family support*, particularly for children and adult dependents.\(^{86}\) States parties shall take effective measure (‘take steps’, Article 2(1), ICESCR) to fully realize, within their maximum available resources, this right, adopting all measures able to guarantee a minimum enjoyment of social security benefits (availability, adequacy, accessibility are central normative elements of the provision). States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. Given the States parties obligations (of immediate effect) to guarantee that the right to social security is enjoyed without discrimination (Article 2(2), ICESCR) and equally between men and women (Article 3), special attention should be devoted to those individuals and groups who traditionally face difficulties in exercising this right, including, inter alia, *women*, the unemployed, *workers inadequately protected by social security*, *persons working in the informal economy*, sick or injured workers, people with disabilities, older persons, children and adult dependents, *domestic workers, homeworkers* (GC No 19, para 31). Under a gender (substantive) equality approach (GC No 19, para 32), the implementation of article 3 in relation to article 9 requires, for example, equalization of the compulsory retirement age for both men and women; ensuring that women receive equal benefits in both public and private pension schemes; guaranteeing adequate maternity leave for women and parental leave for both men and women. In social security schemes linking benefits with contributions, States parties should take steps to eliminate the factors that prevent women from making equal contributions to such schemes (i.e. intermittent participation in the workforce on account of family responsibilities and unequal wages) or ensure that schemes take account of such factors in the design of benefit formulas (i.e. by considering child rearing periods or periods to take care of adult dependents in relation to pension entitlements). Non-contributory schemes must also take account of the fact that

---


women are more likely to live in poverty than men and often have sole responsibility for the care of children (GC No 19, *ibid*).

Like other human rights enshrined by the ICESCR, the right to social security imposes on States parties obligations to respect (to refrain from interfering directly or indirectly with the enjoyment of the right), to protect (to prevent third parties from interfering in any way with the enjoyment of the right) and to fulfil (to adopt the necessary positive measures, including the implementation of a social security scheme, directed towards the full realization of the right). When examining the reports of States parties and their ability to meet the obligations to realize the right to social security, the Committee will consider the effects of the assistance provided by all other actors. The incorporation of human rights law and principles in the programmes and policies of international organizations will greatly facilitate the implementation of the right to social security (GC No 19, para 84).

In acute and limited circumstances the ECHR can give rise to a right to a minimum level of social provision from the State. It has yet to find such a violation, however. While there is no right to social protection, such payments (including non-contributory benefits) fall within the definition of the ‘possessions’ that are protected from deprivation and interference under Article 1 of Protocol 1 (prohibition of discrimination) in conjunction with Article 1 of Protocol No 1 (protection of property). In a judgment that could be regarded as recognizing intersectional discrimination, the Court took account of the fact that the applicant belonged to a community within which the validity of the marriage had never been disputed or regarded as being contrary to public order by the Government.

**Formal Sector Employment**

Access to work on equal terms with men, as well as equal conditions of employment, remain a significant barrier to women’s economic empowerment. Available figures from around the world demonstrate that women are more likely to be confined to low-paid and low-skilled jobs as opposed to higher paying legislative, senior official or managerial jobs. While 117 countries have passed equal pay legislation, women continue to be paid 10 per cent to 30 per cent less than men. A report commissioned in 2008 by the International Trade Union Confederation (ITUC) and based on a survey of 63 countries had placed the pay gap between men and women worldwide at an average of 16 per cent. A subsequent 2010 report of the ITUC based on a survey of 43 countries showed an overall

---

87 The sister treaty of the European Convention for the Protection of Human Rights and Fundamental Freedoms is the European Social Charter, which focuses on economic and social rights. Article 8 is of particular relevance to women’s economic empowerment. However, the major weaknesses of the monitoring system of the European Social Charter is that it only allows for collective complaints and the final decision of the European Committee of Social Rights are only recommendations and as such non-binding and non-enforceable in the national legal system of Contracting Parties.

88 *O’Rourke v the United Kingdom* (2003) 36 EHRR 31: failure to provide shelter to a homeless person did not by itself violate Article 3 but sufficiently severe destitution in appropriate circumstances could amount to inhuman or degrading treatment. See further *Limbuela v Secretary of State for the Home Department* [2006] 1 AC 396.

89 See e.g *Gaygusuz v Austria* (1996) 23 EHRR 364 and *Stec v United Kingdom* (2006) 43 EHRR 47.


91 *O’Rourke v the United Kingdom* (2003) 36 EHRR 31: failure to provide shelter to a homeless person did not by itself violate Article 3 but sufficiently severe destitution in appropriate circumstances could amount to inhuman or degrading treatment. See further *Limbuela v Secretary of State for the Home Department* [2006] 1 AC 396.

92 See e.g *Gaygusuz v Austria* (1996) 23 EHRR 364 and *Stec v United Kingdom* (2006) 43 EHRR 47.


median gender pay gap of 26 per cent in favour of men.\textsuperscript{94} Significantly, the earlier ITUC report had asserted that the global gender pay gap was not a result of lack of training or expertise on the part of women. It had in particular noted that ‘[a]ccording to research by the European Commission, the pay gap in European Union member states increases with age, years of service and education.’\textsuperscript{95}

Noting the limited impact of legislation that extends formal equal rights to women UN Women concludes substantive equality for women will only be achieved through a range of other laws and policies to make the workplace more accessible to women. Central to the success of these policies is taking into account the fact that in all countries, women are primarily responsible for household and child-rearing tasks – unpaid labour which impacts on their ability to access the labour market on equal terms to men. This limits their options to take advantage of formally equal opportunities, usually relegating women to part-time, temporary or casual work, which is less well paid and has fewer or no benefits.\textsuperscript{96}

On the regional level there are international instruments which impose various positive obligations on States parties aimed at securing women’s substantive equality in the formal employment sector. Under PWRA, for instance, women’s equal opportunities in work and career advancement and other economic opportunities must be promoted, including:

- equal access to employment (Article 13(a)).
- equal remuneration for work of equal value (Article 13(b)).
- punishment of sexual harassment in the workplace (Article 13(c)).
- freedom to choose their occupation, freedom from exploitation in the workplace (Article 13(d)).
- guarantee adequate and paid maternity leave (Article 13(i)).
- ensure equal application of tax laws to women (Article 13(j)).
- recognise and enforce the right of salaried women to the same allowances and entitlements as those guaranteed to married men for their spouses and children (Article 13(k)).

The only social policy competence included in the list of activities of the European Community (EECT Article 3(i)) related to the establishment of the European Social Fund (ESF) and its role in improving employment opportunities for workers and contributing to raising their standard of living. The TFEU does not make explicit reference to the ESF when setting out the categories of competence, but does provide a specific legal basis for the adoption of secondary legislation (Article 164). Coinciding with Treaty and legislative developments reflecting societal, political and economic changes, the ESF now fulfils a more nuanced role, extending specifically to gender equality measures.\textsuperscript{97} Reflecting the stated importance attached to ensuring gender equality in employment, the ESF programming for 2007-2013 comprised two approaches: a) Gender mainstreaming, which incorporated the gender dimension into all ESF priorities, and b) specific actions aimed at getting women into work and sustaining them there.\textsuperscript{98} These approaches reflect the requirement in TFEU (Article 8) to eliminate inequalities and to promote equality in all the Union’s activities. Translation of the stated approaches into tangible positive substantive rights for women may be regarded as a ‘work in progress’, while at the same time it serves as an example of what could, or can be done.

The draft regulation (Draft)\textsuperscript{99} for the period 2012-2020 confirms this nuanced approach, particularly in relation to women, reflecting the requirements of TFEU Articles 8 and 10. Reference is made to evaluations having shown the importance of taking the gender aspect into account in all dimensions of programmes, while ensuring that specific actions are taken to promote gender equality (Draft, recital 10). In addition, there is confirmation that the implementation of the priorities financed by the ESF should contribute to combating discrimination based (\textit{inter alia}) on sex (Draft, recital 11). The mission of the ESF includes the promotion of gender equality, equal opportunities and non-


\textsuperscript{95} Ibid, 10.


\textsuperscript{97} http://ec.europa.eu/esf/main.jsp?catId=52&langId=en# accessed 16 February 2012.

\textsuperscript{98} http://ec.europa.eu/esf/main.jsp?catId=52&langId=en# accessed 16 February 2012.

discrimination (Draft, article 2). Substantively the Member States and Commission ‘shall promote equality between men and women through mainstreaming and specific targeted actions in particular with the aim of increasing the sustainable participation and progress of women in employment, reducing gender-based segregation in the labour market, combating gender stereotypes in education and training and promoting reconciliation of work and personal life for men and women’ (Draft, Article 7).

Non-Discrimination in the Area of Employment
A range of employment-related rights and duties are set out under ICESCR. The core elements associated with the exercise of the right to work in all its forms and at all levels are availability, accessibility, acceptability and quality. These essential features imply the right to demand that States carry out policies and programs to promote progressively full employment, non-discrimination and equal treatment, as well as opportunities of work freely chosen, implementing minimum standards concerning health, safety and human dignity of workers. According to the CESCR, ‘any discrimination’ and unequal treatment in the public and private sector, mandated or tolerated by the States, which has the purpose or effect of nullifying or impairing the equal enjoyment or exercise of employment-related rights (equal compensation, recruitment, access to self-employment, retention, termination, promotion, training, benefits, health and safety, social care, patriarchal constraints on women’s working conditions) is potentially violative of the ICESCR. On the specific topic of women and the right to work, the GC No 18 expressly states (para 13): ‘Article 3 of the Covenant prescribes that States parties undertake to ‘ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights’. The Committee underlines the need for a comprehensive system of protection to combat gender discrimination and to ensure equal opportunities and treatment between men and women in relation to their right to work by ensuring equal pay for work of equal value. In particular, pregnancies must not constitute an obstacle to employment and should not constitute justification for loss of employment. Lastly, emphasis should be placed on the link between the fact that women often have less access to education than men and certain traditional cultures which compromise the opportunities for the employment and advancement of women.’

Critical to the advancement of women’s substantive equality are the States parties’ obligations ‘to protect’ regarding horizontal discrimination which can involve a wide range of responsibilities and violations related to regulatory, distributive and redistributive policies in every phase of working life, from early education and training to retirement. The obligation ‘to fulfil’ includes the obligations to provide, facilitate and promote that right; it implies that States parties should adopt appropriate measures to safeguard persons within their jurisdiction from infringements of the right to work by third parties. They include omissions such as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to work of others; or the failure to protect workers against unlawful dismissal.’

---

101 See GC No 18, para 12.
102 According to the GC No 18, para 6, ‘The right to work is an individual right that belongs to each person and is at the same time a collective right. It encompasses all forms of work, whether independent work or dependent wage-paid work. The right to work should not be understood as an absolute and unconditional right to obtain employment. Article 6, para 1, contains a definition of the right to work and paragraph 2 cites, by way of illustration and in a non-exhaustive manner, examples of obligations incumbent upon States parties. It includes the right of every human being to decide freely to accept or choose work. This implies not being forced in any way whatsoever to exercise or engage in employment and the right of access to a system of protection guaranteeing each worker access to employment. It also implies the right not to be unfairly deprived of employment.’
103 For instance in its concluding observations on New Zealand’s third periodic report (E/C 12/NZL/3) the Committee on Economic, Social and Cultural Rights noted ‘with concern the horizontal and vertical occupational segmentation by gender in the State party, which constitutes an obstacle to addressing the gap in the remuneration between men and women. The Committee notes with particular concern that the wage gap is more significant in the public sector’ (E/C 12/NZL/CO/3, 31 May 2012, para 14). It recommended that ‘the State party continue to educate men and women about equal career opportunities with a view to promoting their pursuance of education and training in fields other than those traditionally dominated by either sex and take specific measures to promote women’s advancement in the labour market. The Committee also calls upon the State party to amend its legislation on equality in employment so as to effectively provide for equal pay for work of equal value and apply the Job Evaluation Tool to this effect. Moreover, the Committee urges the State party to take steps, with a clear timeline, to correct the gender wage gap in the public sector’ (ibid).
104 See GC No 18, para 35, ‘Violations of the obligation to protect follow from the failure of States parties to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to work by third parties. They include omissions such as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to work of others; or the failure to protect workers against unlawful dismissal.’
legislative, administrative, budgetary, judicial and other measures to ensure its full realization. Each State shall also comply with due diligence standards in relation to prevention, investigation, prosecution, adjudication and effective remedies in cases of unequal treatment and discrimination relating to employment.

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No 111) also sets out a range of positive obligations:

- to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof – Article 2.
- to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the said policy – Article 3(a).
- to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the said policy – Article (3)(b).
- to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the said policy – Article (3)(c).
- to pursue the said policy in respect of employment under the direct control of a national authority – Article 3(d).
- to ensure observance of the said policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority - Article (3)(e).
- to indicate in its annual reports to the ILO, on the application of the Convention, the action taken in pursuance of the said policy and the results secured by such action- Article (3)(f).

CEDAW addresses the economic rights of women in greater detail than the ILO Convention in providing for such issues as maternity leave, the position of rural women, the role of the judiciary in ensuring the effective protection of women against discrimination as well as sanctions for discrimination against women.106 Significantly, the ILO Convention requires the establishment of a national authority with specific responsibility for ensuring non-discrimination in the area of employment and occupation.107

As noted above, CERD recognises that racial discrimination may be experienced differently by women, and it has undertaken to devote particular attention to ensuring that the gender-related dimensions of racial discrimination are addressed. It has acknowledged that ‘certain forms of racial discrimination may be directed towards women specifically because of their gender’, including in its examples the ‘abuse of women workers in the informal sector or domestic workers employed abroad by their employers’.108

**Family Responsibilities**

Article 18(3) of UNCRC sets out the obligation to provide child-care services for working parents. This affects both the mother’s economic empowerment as well as the life chances of the girl child, as without adequate child-care facilities it is more likely that girl children will suffer economic exploitation that will affect their education and future economic well-being. The ILO Convention Concerning Workers with Family Responsibilities (No 156) is also highly relevant. It applies to all branches of economic activity and all categories of workers. In setting out the obligations of States parties Article 3 states that ‘each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.’ Note that this implies both formal equality and some degree of substantive equality and an affirmative obligation of States. However, the obligations are in fact less forceful than this Article might suggest, as most of the substantive provisions are limited in their positive obligation by requiring only ‘measures compatible with national conditions and possibilities.’

---

105 The role of the judiciary in ensuring the effective protection of women against discrimination is of crucial importance considering recent decisions by national judicial or quasi-judicial bodies whose conformity with employment protections afforded to women by international law is debatable.

106 See Articles 11, 14, 2(c) and 2(b) CEDAW respectively.

107 See Discrimination (Employment and Occupation) Convention (Convention No 111) Articles 3d - e.

This limit appears in the provision requiring States parties to act “to enable workers with family responsibilities to exercise their right to free choice of employment,” (Article 4) to “take account of the needs of workers with family responsibilities in community planning [and] to develop or promote community services . . . such as child-care” (Article 5) and to “enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities,” including through “measures in the field of vocational guidance and training” (Article 7). The limitation to measures compatible with national conditions and possibilities, does not apply however to the obligation of ‘competent authorities and bodies’ to “take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.”

In addition to the limitation on most of the substantive obligations to ‘measures compatible with national conditions and possibilities,’ the Convention specifically acknowledges that the obligations may not take effect simultaneously with becoming a Party. ‘The provisions of this Convention may be applied by stages if necessary, account being taken of national conditions.’ However, whatever measures are adopted, insofar as they apply to workers with responsibilities to dependent children, must apply to “all [such] workers.” Each State must state in its first report to the ILO “in what respect, if any, it intends to make use of the faculty given by paragraph 1’ and in subsequent reports the extent to which effect has been given or is proposed to be given to the Convention’ (Article 10).

Equal Remuneration
In relation to equal pay the ILO Equal Remuneration Convention, 1951 (No 100) imposes the following three positive duties on all States parties:

- To promote, by means appropriate to the methods in operation for determining rates of remuneration, and ensure, in so far as is consistent with such methods, the application to all workers of the principle of equal remuneration for men and women workers for work of equal value – Article 2(1). According to Article 2(2), the principle is to be applied by means of (i) national laws or regulations; (ii) legally established or recognised machinery for wage determination; (iii) collective agreements between employers and workers; or (iv) a combination of the above three.

- Where such action will assist in giving effect to the provisions of the Convention, to take measures to promote objective appraisal of jobs on the basis of the work to be performed – Article 3(1). According to Article 3(2), the methods to be followed in this appraisal may be decided upon by the State or by private parties: ‘by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto. Also, Article 3(3) provides that differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

- To co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of [the] Convention – Article 4.

The Convention phrases the duty of the State to promote and ensure application of the principle of equal remuneration for men and women workers for work of equal value as a duty that it holds with respect to ‘all workers’. Coupled with the Convention’s listing of collective agreements between employers and workers as being among the means through which the principle may be applied, this points to a duty of the State to intervene in the private sphere to ensure equal pay for women. A positive duty to intervene in the private sphere is of great significance as a significant proportion of inequality in the payment of women occurs in the private sphere.

Termination of Employment
With employment being the primary source of income for most of the world’s population, termination of employment constitutes a primary threat to the economic empowerment of individuals. Termination of employment on grounds of pregnancy constitutes discrimination against women. Yet, recent
statistics demonstrate a rise in complaints of termination of employment on grounds of pregnancy. The foregoing points to a need for international and national laws protecting women from economic disempowerment by virtue of termination of employment on grounds of pregnancy – whether such termination occurs in direct or constructive form. The ILO Convention Concerning Termination of Employment at the Initiative of the Employer, 1982 (No 158) addresses this area.

Articles 5 and 6 of the Convention list, *inter alia* sex, marital status, family responsibilities and pregnancy, absence from work during maternity leave and temporary absence of work because of illness or injury as not constituting valid reasons for termination of employment. The Convention, furthermore, provides the following protections for employees subject to termination of employment:

- in case of termination on grounds of the worker's conduct or performance, an opportunity to defend himself against the allegations made – Article 7.
- in case of termination of employment which the worker concerned considers unfair, a right to appeal against the termination to a court, arbitrator or other impartial body – Article 8.
- in case of any termination of employment, a reasonable period of notice or compensation in lieu thereof, unless the worker is guilty of serious misconduct as defined in the Convention- Article 11.
- in case of any termination of employment, a right to severance pay from the employer as well as - subject to the normally applicable qualifying conditions - unemployment or social security insurance benefits – Article 12.
- in case of mass terminations contemplated for reasons of an economic, technological, structural or similar nature, a duty of consultation with workers’ representatives as well as notification to national authorities – Articles 13 – 14.

It appears problematic that a Member State is entitled under Article 2 to exclude the application of all or some of the provisions of the Convention to workers on a temporary contract. Article 2, however, seeks to balance the prejudicial effects of this entitlement by requiring States to provide adequate safeguards against employers signing temporary contracts as a means of evading the protections provided by the Convention.

6. Conclusions

Global Instruments

The human rights-based approaches of all the UN treaty-monitoring bodies on issues of women’s economic empowerment could be better coordinated and integrated toward a more coherent roadmap of substantive and procedural empowering guarantees. In particular there is potential for mutual reinforcement between ICESCR and CEDAW obligations, which has not been widely recognised or practised. ICERD usefully interprets and gives more substantive content to the obligation to eliminate racial discrimination in the enjoyment of human rights and fundamental freedoms than is contained in many other international treaties, including the ICCPR, ICESCR, and CRC. With the adoption of General Recommendation 25 in 2000, CERD established an important connection with CEDAW obligations. There is considerable scope for strengthening this connection, which has yet to be explored.

---


ICESCR provisions and current interpretations of positive obligations in employment, social security and educational matters show adequate standards of protection of women’s rights involved in their empowerment in the economic sphere. Yet the potential of employment, social security and education rights, entailing a ‘process of change’ and the ‘ability of making choices’ in terms of ‘economic empowerment’ of women, still remains to be thoroughly explored. The main problematic issues are those related to the effects of the enjoyment of these core ESC rights on the horizontal relations (between private groups or individuals: private labour relations, privatization of social security and education services). The obligation ‘to protect’ requires States parties to guarantee the exercise of these sets of rights through positive actions as well to prevent and prohibit the violations of individual rights and freedoms by third persons. Strengthening positive obligations ‘to protect’ women against harmful activities carried out by non-state actors (broadly defined, as to include international organizations) can strongly contribute to a more effective enforcement of due diligence standards under ICESCR (as well as under CEDAW).

In relation to implementation, the large number of reservations to CEDAW and the lack of effective follow-up mechanism for both concluding observations and the views on individual complaints certainly devalues the role of the Convention.

Given CEDAW’s admonition that countries are to change the cultural and social practices that affect women’s rights and that the obligations under the Convention are to be carried out with due diligence, the MDGs are not fully consistent with CEDAW. The only target set for Goal 3 is ‘Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015.’ Changing laws relating to women’s ability to access loans, register businesses, and land ownership should be seen as necessary to the achievement of Goal 3. In addition the jurisprudence under CEDAW obligates States to change the behaviour of private actors. To give real meaning to Goal 3 some attention should be given to the role private actors play in either promoting or hindering women’s economic empowerment. However it appears that the framework adopted for the implementation of the MDGs does not address the behaviour of private actors nor does it pay sufficient attention to the manner in which such actors may erode human rights.

The ‘women’s empowerment’ process is also at the core of several actions from private business actors building strategic partnerships with intergovernmental agencies to promote a common standard of gender economic empowerment. In this context, UN Women is partnering with the UN Global Compact to promote the Women’s Empowerment Principles — an international global corporate code of conduct and practice on empowering women in the workplace, marketplace and community. These principles call for companies to ensure that women represent at least 30 percent of decision-making groups at all levels and to ensure equal pay for equal work. They ground and support companies’ efforts to establish high level corporate leadership for gender equality and tailor existing policies and practices on working conditions, health, safety, education and professional development, so as to realize women’s empowerment.

Despite these developments, UN Women’s commitments to work with governments and multilateral partners to ensure the full realization of women’s economic security and rights (including to decent work and social protection) shows an inadequate approach to gender substantive equality, mostly in the light of the global economic crisis. In providing a ‘gender lens’ to economic non state actors (such as international financial institutions and TNCs), the Women’s Empowerment Principles initiative elaborates vague and ineffective commitments, clearly instrumental to formal equality standards of non-discrimination (for example, only principles no. 4 and 5 expressly refer to women’s specific needs

113 P Alston, op cit at 3, 17.
114 Joint initiatives and partnerships at the international level promote the interactive participation of governments, international financial institutions and TNCs, the private sector, investors, nongovernmental organizations, academics and professionals to the development of soft law commitments on women’s economic empowerment in the labour markets. See for example the Global Private Sector Leader Forum and the World Bank Group Action Plan at <http://siteresources.worldbank.org/INTGENDER/Resources/336003-1232650627030/WB_GPSLBrochure.pdf >.
in education and enterprise development; all other clauses just mentioning prospective achievements of gender equality of women and men workers)\textsuperscript{116}. A shift from a market-based approach to a humane rights-based approach focused on equity in business and employment affairs should be the way to realize and enforce gender equality and non-discrimination principles and to overcome the longstanding marginalization of economic, social and cultural rights by the main players at all levels of the global economy.

\textit{Regional Instruments}

At the level of implementation the ECHR system compares favourably with its global counterparts. For example, following ECtHR case law on gender-based violence,\textsuperscript{117} the Council of Europe adopted a new Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), which was opened for signature in May 2011.\textsuperscript{118} However, the ECHR’s relatively narrow focus on civil and political rights, coupled with the parasitic nature of Article 14, limits the impact of the Convention on women’s economic empowerment.

The European Union has developed provisions relevant to the Committee’s mandate over its 60 years of existence. The TEU (including its supplementary external sources of protected rights as listed in Article 6) and the TFEU articles discussed earlier, as well as the Charter of Fundamental Rights of the European Union, reflect how far we have travelled in this time. All that said, it must be remembered that equal pay for equal work for men and women – a clear substantive positive obligation from the earliest times – remains unfulfilled.\textsuperscript{119} We must not be complacent, given what remains to be tackled.

PWRA contributes to a comprehensive regulation of women economic rights though specific provisions that are tailored to the African situation. For example, Article 20 of the Protocol deals with a particularly sensitive issue in the African context – widows’ economic rights – by providing for the right of an African widow to inherit her husband’s property and to continue to live in the matrimonial home. Beyond this, the Protocol has also made provision for one important global tool for ensuring the economic empowerment of women – transparency in employment procedures. PWRA (Article 13) imposes a positive obligation on African States to take measures to ensure transparency in the recruitment, promotion and dismissal of women. This is to be welcomed.

\textbf{Next steps}

This initial report serves to give a sense of the breadth and complexity of the mandate, and allowed the Committee to use the brief time available before the Seventy-Fifth Conference in Sofia, to develop cooperation between the widely scattered members. The more substantial phase will commence with CEDAW, seen as a potentially important international instrument for the achievement of economic empowerment of women, and specifically the fulfilment of States parties’ substantive obligations. Looking at the next step, leading to the completion of the first phase of the Committee’s mandate, having identified gaps in fulfilment of positive obligations of States parties it would be appropriate to

\textsuperscript{116} The same trends can be pointed out with regard to the ‘Protect, Respect and Remedy’ policy framework proposed by the UN SG Special Representative for better managing business and human rights issues. See the Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework \texttt{A/HRC/17/31, 21 March 2011, at <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>}. Women and gender issues are just mentioned through the document as questions relevant for due diligence and formal equality obligations and for vulnerability and/or marginalization challenges.\textsuperscript{117} With specific regard to violence against women, the aim of the Convention (thus gathering CEDAW’s general purposes) is that of contributing to the elimination of all forms of discrimination against women and promoting substantive equality between women and men, including by empowering women. Indeed, the idea of economic empowerment comes out in the text of the new treaty. Under Article 1 b, the Convention contributes ‘to the elimination of all forms of discrimination against women and promote[s] substantive equality between women and men, including by empowering women’. Moreover, States parties undertake ‘to promote and effectively implement policies of equality between women and men and the empowerment of women’ (Article 6). Broadly speaking, the instrument makes explicit reference, \textit{inter alia}, to issues of ‘economic harm’ (Article 3(a), ‘economic violence’ (Article 3(b), ‘empowerment and economic independence of women victims of violence’ (Article 18(3)).\textsuperscript{118} Foubert, op cit.
make a submission/recommendation to the CEDAW Committee at that stage. The Committee’s work will critically evaluate relevant aspects of CEDAW and associated domestic legal developments. With a view to developing recommendations we will examine instances of good practice aimed at realizing the economic empowerment of women.

It would be very constructive if the Committee’s study on women’s economic empowerment promoted more links between the work of the CEDAW and ICERD committees, and a better understanding of the intersectional nature of women’s economic disempowerment in the work of the other human rights treaty bodies and in international law more generally. This could form the basis for the follow-on work of the Committee, after the completion of the first phase.

Judy Walsh, Rapporteur Patricia Conlan, Chair

Participation:

Present at inter-sessional meeting in Dublin 15 October 2011:
Klaus Michael Alenfelder, Patricia Conlan, Mary Coombs, Adriana di Stefano, Marjory Fields, Yoko Hayashi, Anja-Riitta Ketokoski and Judy Walsh. Amaka Okany (and Marijn Heemskerk– potential future member, and Maria Cardines – independent consultant who has carried out field work for UN agencies, for example in Pakistan and China, and who gave an overview of her work,) participated via Skype. Sujata Manohar was to have been involved, via Skype, but was indisposed on the day – and contributed in writing, as did Jernej Letnar.

Contributions received from:
Klaus Michael Alenfelder,* Patricia Conlan, Mary Coombs, Adriana di Stefano, * Tina Dolgopol,**
Marjory Fields, Yoko Hayashi,* Amaka Okany, Dianne Otto**
Due to family developments Giuliana Redin’s contribution was postponed.
* collaborated together
** New members joined subsequent to the Dublin meeting, and two of these new members, Tina Dolgopol and Dianne Otto, contributed to this initial report.

Draft sent to the Committee and comments received from:
Tina Dolgopol, Marjory Fields, Yoko Hayashi, Amaka Okany, Dianne Otto.

Other:
Mary Coombs has stepped down from the Committee, and her contribution is acknowledged, with thanks.
Judy Walsh’s contribution as rapporteur was extensive, generous and invaluable.