

**NATIONS UNIES
DROITS DE L'HOMME**
HAUT-COMMISSARIAT



**UNITED NATIONS
HUMAN RIGHTS**
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

Mandate of the Working Group on the issue of discrimination against women in law and in practice

POST-2015 SUSTAINABLE DEVELOPMENT AGENDA

**Contributions from the United Nations Human Rights Council's
Working Group on Discrimination against Women in Law and in Practice**

**A normative framework for achieving development goals
for gender equality and the empowerment of women**

New York

January 2015

I. Introduction

The Working Group on the issue of Discrimination against Women in Law and in Practice was established by the Human Rights Council (HRC) in September 2010 with a wide-ranging mandate on the issue of discrimination against women in law and in practice, and on good practices in eliminating such discrimination. The HRC has specifically requested the expert group to make recommendations on the improvement of legislation and the implementation of the law, to contribute to the realization of the Millennium Development Goals, in particular goal 3 on the promotion of gender equality and the empowerment of women. The HRC also requests the expert Working Group, in the discharge of its mandate, to offer support to States' initiatives to address multiple forms of discrimination against women and girls when implementing their obligations as State parties to relevant international human rights treaties with regard to civil, cultural, economic, political and social rights, and related commitments, where applicable.

In carrying out its mandate, the expert group is guided by the established normative framework for equality in international human rights law, as contained in international human rights instruments, in particular CEDAW and Beijing Platform for Action. The expert group's annual thematic reports have focused on eliminating discrimination against women in political and public life (2013), in economic and social life (2014), and will focus on family and culture (2015), health and safety (2016), and a compendium of good practices (2017)

<http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Annualreports.aspx>.

The establishment and implementation of sustainable development agenda would require applying existing human rights obligations of Member States and making sure that there is both awareness of and accountability for elimination of discrimination against women and empowerment of women within this framework. This is incumbent on Member States which have a duty to respect women's human rights and to exercise due diligence to ensure that there be no violation of such rights whether by the State, its agents or private corporations and individuals.

Furthermore, equality in law and practice, which enables women to participate fully in economic and social life, is a crucial factor for sustainable development. This has been well established by numerous research findings, including of UN agencies and the World Bank.

II. Sustainable Development Goals and targets

It is essential to interpret and understand the goals, targets, and indicators in the light of these obligations and truths regarding gender equality.

The expert group welcomes that gender equality is both a stand-alone goal and is mainstreamed throughout all goals and targets. This will be essential also in the drafting of indicators.

It is necessary to have a discourse on the way of interpreting the sustainable development goals in a way which will achieve this purpose. The aim is not only to call the 21st century "the century of women" in the words of the Secretary General, but to work systematically to make it a century in which the equal contribution of women is recognised, facilitated and properly

rewarded. We are talking of empowerment of women, as stated explicitly in the mandate of the expert group and not only of protection of women as victims, which remains absolutely necessary in the light of abuses of women, but of empowerment to play a full and equal role in shaping the human destiny.

The expert Working Group highlights three goals in which the discourse on engendering the goals and targets is particularly pertinent: the stand-alone Goal 5 as well as Goal 3 and Goal 16. The same process of reflection and interpretation will be necessary for all other goals and targets.

III. Goal 3. Ensure healthy lives and promote well-being for all at all ages

3.1 by 2030 reduce the global maternal mortality ratio to less than 70 per 100,000 live births

- Ensure proper pre-natal and post-natal care, which has been assessed to involve the cost of only \$25 per woman, which is far lower than the cost of the maternal mortality rate.
- Reduce the high incidence of maternal mortality amongst women with HIV both by preventing infection, particularly of sex workers, by free and secure provision of condoms, and also by retro-viral treatment for pregnant women.

3.2 by 2030 end preventable deaths of new-borns and under-five children

- Provide nutrition for women in pregnancy and lactation, as required under the economic and social right to food and the right to health in accordance with CESC and CEDAW.
- Address discrimination, which exists in some cultures, in the provision of food to the girl child.

3.6 by 2020 halve global deaths and injuries from road traffic accidents

- Encourage women to drive vehicles, particularly commercial vehicles, in view of the significantly lower accident rate of women drivers.

3.7 by 2030 ensure universal access to sexual and reproductive health care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes

- Repeal restrictive abortion policies, especially in cases of risk to the life or health of the pregnant woman, rape, incest and a non-viable or badly damaged foetus, recognising that such policies in any case, affect poor women in a discriminatory way on grounds of social and economic status.
- Provide sex education for girls and boys, before puberty, as a necessary measure to prevent teenage pregnancies.

- Allow abortion for pregnant teenagers, as an equality measure to allow girls to complete their school education, and also as a health measure, since girls between 15- 18 are exposed to twice the danger of death in childbirth; and under 15, to five times the danger.

3.8 achieve universal health coverage (UHC), including financial risk protection, access to quality essential health care services, and access to safe, effective, quality, and affordable essential medicines and vaccines for all

- Include contraception of choice in universal health care and provide coverage for migrant women, whose reproductive health and protection against domestic violence may otherwise be prejudiced.

3.c increase substantially health financing and the recruitment, development and training and retention of the health workforce in developing countries, especially in LDCs and SIDS

- The training of health providers should include also the trainings on gender equality and non-discrimination and respect for patient 's rights.

IV. Goal 5. Achieve gender equality and empower all women and girls

5.1 end all forms of discrimination against all women and girls everywhere

- The first and primary task is to stop discrimination by States in discriminatory legislation.
- There is well documented evidence of persistent discriminatory legislation and indeed there was an undertaking in the MDGs that discriminatory legislation would be eliminated by 2015.
- The target for achieving this goal should be immediate and not 2030.

5.3 eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations

- The costs in health, education and economic development of these practices is a clear barrier to sustainable development.
- CEDAW Article 5 and the recent General Recommendation of the CEDAW Committee and the CRC have codified the existing international human rights law obligation to eliminate all such harmful practices which cannot be justified by any claim to freedom of culture or religion.
- The obligation to eliminate these practices immediately has featured in the expert group's communications with Member States. Furthermore it has featured in its communication with the President of the Human Rights Council (HRC) regarding the importance of guaranteeing women and girls' equality in the family which was omitted in the HRC resolution regarding protection of the family

(<http://www.ohchr.org/Documents/Issues/Women/WG/ProtectionOfFamily.pdf>). The position of the expert group was since adopted at the annual meeting of Special Procedures by all mandate holders.

5.4 recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies, and the promotion of shared responsibility within the household and the family as nationally appropriate

- The care function for children, the disabled and the aged is primarily carried out by women as an unpaid or underpaid function.
- In its report to the HRC in June 2014, the expert group called for a social protection floor for care which would facilitate the participation of women equally with men in economic and social activities (<http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Annualreports.aspx>). This call was reflected in the subsequent HRC Resolution on Protection of the Family in June 2014.

5.5 ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life

- In its 2013 report to the HRC on eliminating discrimination against women in political and public life with a focus on political transition, the expert group reiterated that the participation of women in political and public life remains much too low – averaging 20% of parliamentarians and 17% of heads of States or governments. The expert group examined good practices as regards participation of women in public and political life and concluded that quota systems are essential to ensure proper representation of women.
- In its 2014 report to the HRC on eliminating discrimination against women in economic and social life with a focus on economic crisis, the expert group discovered that there is a significant gender gap in top leadership in decision-making bodies in business, finance and trade, including in international institutions such as the IMF and the WTO. Out of the world's 2,000 top performing companies, just 29, or 1.5 per cent, had female chief executive officers in 2009. Women account for 4 per cent of chief executive officers in Fortune 500 companies and 4 per cent in information technology and telecommunications companies. In 2012, women had only 16.6 per cent of Fortune 500 Board seats, of which only 0.6 per cent were women of colour. Only 17 out of 177 governors of central banks were women in 2012 (less than 10 per cent). Women are also greatly underrepresented in the leadership of cooperatives and trade unions.
- A number of countries have adopted temporary special measures specifically directed at accelerating de facto equality for women in corporate leadership, entrepreneurship and trade. Legislation with gender quotas for membership of corporate boards has been adopted in 13 countries. Most of the countries with quota requirements belong to the Western European and other States Group, but some are in Africa and Asia.

However, the inclusion of women in economic decision-making is crucial at all levels of policy making: international, regional, state and private institutions, including corporate, trade, cooperative and union. The impact of women-free economic policy making has been an escalating economics of inequality, in which women are the primary but not the only victims.

5.6 ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the ICPD and the Beijing Platform for Action and the outcome documents of their review conferences

- Women's health must be put up front and center – the Lancet has calculated the costs and benefits which, beyond international human rights law, should be an additional, decisive argument in the development framework. The expenditure for preventing maternal mortality is \$25.
- Restrictive abortion laws affect the health and productivity of 40% of the world's women. The imprisonment of women for miscarriage is an ultimate result of retrogressive anti-abortion policies which impose intolerable costs on women, their families and their societies. This is - in addition to being a fundamental violation of women's right to life, health and autonomy over their own bodies - a barrier to sustainable development.

5.a undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance, and natural resources in accordance with national laws

- There are still discriminatory laws which prevent women from taking land ownership or equal inheritance – these must be immediately eliminated.
- Additionally, the problem must be tackled at the local level, where custom or violence against women may prevent women from asserting their legal rights.

5.b enhance the use of enabling technologies, in particular ICT, to promote women's empowerment

- In its report on political and public life, the expert group showed that ICT may be either an opportunity for women's participation in political and public life or another space for violence against women. Both aspects require awareness and regulation.

5.c adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

- We are talking of empowerment of women, as stated explicitly in the mandate of the expert group. Not of protection of women as victims, which remains absolutely necessary in the light of abuses of women, but of empowerment to play a full and equal role in shaping the human destiny.

V. Goal 16. Promote peaceful and inclusive societies for sustainable development, provide

access to justice for all and build effective, accountable and inclusive institutions at all levels

16.1 significantly reduce all forms of violence and related death rates everywhere

- The expert group urges Member States to include the women peace and security agenda, including ensuring women's equal and meaningful participation in all aspects of peace building, ending impunity for all forms of violence against women, and promoting a gender-responsive security sector reform agenda.

16.3 promote the rule of law at the national and international levels, and ensure equal access to justice for all

- The expert group calls on Member States to ensure a gender-responsive judiciary, including through women's representation in the institutions of the judiciary, as this is where there is the least achievements in terms of women's political participation, in comparison with women in the legislative and executive bodies.
- The expert group calls attention to the need to provide legal certainty for women – in terms of guarantees of equality and non-discrimination – particularly in contexts where parallel legal systems exist. The expert group has found that, despite constitutional guarantees for equality between men and women, serious forms of discrimination against women persist when there no special measures to ensure consistency and coherence across the legal systems following international human rights standards.
- The expert group also emphasizes the urgency for effective measures for the legal empowerment for poor and marginalized women, as this is crucial to ensuring the rule of law and equal access to justice for all.

16.6 develop effective, accountable and transparent institutions at all levels

- The expert group emphasizes here that effective and accountable institutions are gender-responsive institutions. The group calls on Member States to ensure that this target is to be achieved by recognizing the diversity of women and addressing multiple and intersecting forms of discrimination faced by women.

16.7 ensure responsive, inclusive, participatory and representative decision-making at all levels

- The expert group urges Member States to provide special measures for women's equal and meaningful participation in all decision making at all levels, including through effective quota systems and by ensuring women's access to financial resource to enable such participation.

16.10 ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

- In light of recent challenges around the world, the expert group emphasizes the urgency of guarantees for women's freedom of movement, expression, speech, conscience and belief.

16.a strengthen relevant national institutions, including through international cooperation, for building capacities at all levels, in particular in developing countries, for preventing violence and combating terrorism and crime

- The expert group calls attention here to national human rights institutions (NHRIs) and to specialized mechanisms for ending all forms of violence and discrimination against women in the context of the imperative for human rights accountability in the global effort to achieve sustainable development.

16.b promote and enforce non-discriminatory laws and policies for sustainable development

- In promoting and enforcing non-discriminatory laws and policies, the expert group calls on States to address the intersections between gender and other grounds of discrimination affecting sustainable development.