

**United Nations**  
**Division for the Advancement of Women (DAW)**  
**in collaboration with UNICEF**  
**Expert Group Meeting**  
**Elimination of all forms of discrimination and violence**  
**against the girl child**  
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*The elimination of all forms of discrimination and violence against  
the girl child*

Prepared by \*

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\*The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

Let me at the outset express my appreciation on behalf of the Committee on the Rights of the Child for the Commission on the Status of Women for its decision to consider “The elimination of all forms of discrimination and violence against the girl child” as its priority theme during its fifty-first session in 2007. Our appreciation goes also to the United Nations Division for the Advancement of Women, in collaboration with the United Nations Children’s Fund (UNICEF), for organizing an Expert Group Meeting (EGM) on the topic in order to deepen understanding of the issue. The choice of Innocenti Institute for embracing such an important theme will definitely add value to our deliberations.

Elimination of all forms of discrimination against the girl child has been highly placed on the international agenda. As mentioned in the Aide Memoire for this EGM meeting a number of documents have clearly identified the challenges and has made the necessary recommendations. The Convention on the Rights of the Child (CRC) and The Convention on Elimination of all Forms of Discrimination against Women (CEDAW) are key international instruments in so far as the specifying the rights of the girl child from discrimination. As the core issue has been clearly identified; the EGM need to focus its agenda on means to encourage and assist States to take measures that will implement their commitments. We need to guide them among other stakeholders on how to practically eliminate all forms of discrimination against the girl child, There are very important developments taking place; such as the reform of the UN human rights treaty bodies; the launch of the UN Secretary General in-depth study on Violence against children in October 2006. EGM outcome should include a mandate for the Special Representative on VAC with regards to elimination of discrimination against the girl child.

In my presentation I will cover the following:

- Provisions of both Conventions CEDAW & CRC with respect to the elimination of all forms of discrimination against the girl child.
- Complementarities between the two treaty bodies in so far as dealing with the issue; review some of the concluding observations that both treaty bodies have made upon consideration of some State Parties report;
- The way Forward:
- Within the context of the ongoing efforts to reform the UN Human Rights Treaty Bodies System; I will examine measures to push forward the agenda for eliminating all forms of discrimination against the girl child through inter alia; enhancing the work of both treaty bodies.
- The Study on Violence against Children (VAC) as an opportunity to push the cause of the girl child.

**The Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women and the issue of discrimination against the Girl Child:**

Human Rights are universal, and civil, political, economic, social and cultural rights belong to all human beings, including children and young people. Children and youth also enjoy certain human rights specifically linked to their status as minors and to their need for special care and protection. Girl-children are particularly vulnerable to certain human rights violations, and therefore require additional protections.

The human rights of children and the girl-child are explicitly set out in the Convention on the Rights of the Child (CRC), the most widely ratified human rights treaty in history. They are also contained but with special emphasis on the rights of women and the girl-child in other human rights document particularly the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW).

### **The human rights of the girl child at issue**

The human rights of children and the girl-child include the following indivisible, interdependent and interrelated human rights to:

- Freedom from discrimination based on gender, age, race, color, language, religion, ethnicity, or any other status, or on the status of the child's parents.
- A standard of living adequate for a child's intellectual, physical, moral, and spiritual development.
- A healthy and safe environment.
- The highest possible standard of health and to equal access to health care.
- Equal access to food and nutrition.
- Life and to freedom from prenatal sex selection.
- Freedom from cultural practices, customs and traditions harmful to the child, including female genital mutilation.
- To education -- to free and compulsory elementary education, to equal access to readily available forms of secondary and higher education, and to freedom from all types of discrimination at all levels of education.
- To information about health, sexuality and reproduction.
- Protection from all physical or mental abuse.
- Protection from economic and sexual exploitation, prostitution, and trafficking.
- Freedom from forced or early marriage.
- Equal rights to inheritance.
- **Freely express an opinion, and to have this opinion duly taken into account when taking decisions affecting the child's life.**

### **What provisions and articles of the CRC and CEDAW address the issue of the discrimination against the girl-child**

Together the two conventions provide the international legal framework to address the rights of women and children. Both Conventions are based on the principles of human rights as universal, interdependent and indivisible. Taken together they form an essential framework for developing strategies to promote and protect the rights of girls and women throughout the life cycle and to determinedly eradicate discrimination and inequality. The CRC and CEDAW call for:

- Public accountability to the rights of women and children.
- Appropriate participation of women and children.
- Special policy measures for girls' education.
- Legal reforms to guarantee women's right to inherit and children's right to nationality.
- Right to information on reproductive and sexual health issues.
- Recognition of harmful cultural practices as violations of girls' rights.
- The best interests of the child and providing support to women's economic participation.
- Disaggregated data (by sex, geographic origin, age and ethnicity) to facilitate the identification of issues and the effectiveness of actions to resolve them.

The following are excerpts from the CRC and CEDAW that address directly and indirectly the rights of the girl-child.

***The Convention on the rights of the child:***

Non-discrimination is one of the core principles of the Convention on the Rights of the Child as defined in Article 2 of the Convention which stipulates:

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

As a general principles the right to non discrimination

It is worth mentioning here that the Convention adopts a comprehensive approach. The elimination of discrimination against the girl child among other vulnerable groups; is not confined to article 2. As A general principle of the Convention; it applies to, and governs the implementation of all rights enshrined in the Convention.

In summary, this what the CRC says about the rights of the child including the girl – child:

"States Parties shall respect and ensure ... rights ... to each child ... without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.... States Parties shall ensure ... the survival and development of the child.... States Parties recognize the right of the child to the ... highest attainable standard of health...; shall strive to ensure that no child is deprived of his or her right of access to ... health care services.... States Parties shall ... diminish infant and child mortality; ... ensure the provision of ... health care to all children.... States Parties shall take all effective ... measures with a view to listen to the views of the child and duly take it into

account when making decisions affecting the child, SP shall take effective measures to abolish traditional practices prejudicial to the health of children.... States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.... States Parties ... shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall, in case of need, provide material assistance and support..., particularly with regard to nutrition, clothing and housing.... States Parties recognize the right of the child to education.... States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.... States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse...." (*Convention on the Rights of the Child, Articles 2, 6, 12, 24, 27, 28, 32, and 34*)

### ***CEDAW'S handling of the rights of the girl-child***

CEDAW directly addresses the dire need for the improvement of the status of women and girls and stresses the need to abolish all forms of discrimination against them. The following begins with a summary of the stance of CEDAW vis-à-vis women and girls, followed by the articles of CEDAW from which the summary is extracted

"States Parties condemn discrimination against women in all its forms, agree ... to take all appropriate measures, including legislation, to modify or abolish existing laws, ... customs and practices which constitute discrimination against women.... States Parties shall take all appropriate measures ... to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.... States Parties shall ... eliminate discrimination against women ... in the field of education...;... health care...." (*Convention on the Elimination of All Forms of Discrimination Against Women, Articles 2, 5, 10 and 11*).

### **CRC and CEDAW complement one another:**

CEDAW and the CRC contain mutually reinforcing principles to ensure protection and fulfillment of the rights of girls and to end gender-based discrimination.

The CRC and CEDAW provide civil society, governments and UN agencies with a solid basis of international law to guide national legislation and social policies for bringing about gender equality, which is fundamental for social justice and for the creation of an enabling environment for child survival, care and development. Both Committees have advocated the incorporation of the Conventions into national constitutions, as well as the implementation of the various rights in the Conventions through legislation.

### **Overview of the concluding observation of both CEDAW & CRC:**

An examination of some of the concluding observations of the two treaty bodies illustrates that they have common concerns:

#### **Egypt**

**Both CEDAW&CRC** expressed in their Concluding Observations concerns on the high level of illiteracy among women, and the rate at which girls and young women drop out of secondary school and university, which are sometimes due to the discriminatory social attitudes towards the education of girls. Both Committees also expressed concern about the high number of early and forced marriages of girls, especially in rural areas.

**CEDAW** also expressed its concern that, although efforts have been made, there is no holistic approach to the prevention and elimination of violence against women, including domestic violence, marital rape, violence against women in detention centres and crimes committed in the name of honour or the punishment of perpetrators.

#### **South Africa**

**CEDAW** expresses its concern at the high level of violence against women, including the high incidence of rape, particularly of young girls. It notes in particular that, given the persistent overall high levels of crime and violence in the country, there is a danger that efforts to address violence against women, although identified as a priority area in the National Crime Prevention Strategy, may become submerged in the larger struggle against violence in society.

Similarly, **CRC** has expressed concern on the high incidence of commercial sexual exploitation. However, the Committee is concerned about the increasing incidence of sale and trafficking of children, particularly girls, and the lack of adequate measures to enforce legislative guarantees and to prevent and combat this phenomenon.

**CRC** further expressed concern towards the insufficient measures that have been adopted to ensure that all children are guaranteed access to education, health and other social services. Of particular concern are certain vulnerable groups of children, including Black children; girls; children with disabilities, especially those with learning disabilities; child laborers; children living in rural areas; children working and/or living on the streets; children in the juvenile justice system; and refugee children.

#### **Morocco**

**CEDAW** expressed concern that, despite the efforts made in the political sphere, women's representation at the policy-making level was minimal; in addition to the profound inequalities affecting the status of women in Morocco. Considerable discrimination in the areas of marriage, conjugal relations, divorce and the custody of children still exists. Laws regarding the punishment of adultery and the ability to pass on nationality continue to benefit the husband to the detriment of the wife. Moreover, blatant inequalities could be observed in women's recruitment, wages and leave entitlements, as well as in legal restrictions on women's, but not men's, employment, which reflected stereotypical attitudes regarding appropriate work for women. The Committee also noted with concern that no legislation was envisaged to protect women against all forms of violence.

**CEDAW** was concerned at the high rate of female illiteracy, which affected girls and rural women in particular. Similarly, **CRC** expressed concern at the high illiteracy rate,

notably of women, and at the high drop-out and repetition rates, gender and regional disparities in the education system, the cost of primary education (supplies, textbooks, etc.) and the decreasing enrolment in early childhood education.

**CEDAW** noted with concern the high rate of maternal mortality in Morocco, the high number of unattended births, the unavailability of safe abortion and the need to develop further reproductive and sexual health services, including family planning. **CRC** expressed a similar concern regarding the particular situation of girls, given, for instance, the high percentage of early pregnancies, which can have a negative impact on their health and education.

Furthermore, **CRC** expressed concern at the disparity in the minimum ages of marriage for boys (18 years) and girls (15 years); as well as direct and indirect discrimination against girls and children born out of wedlock. Moreover, the Committee is concerned at the age-limit set in the legislation regarding certain types of violence against children as children over 12 do not benefit from the same protection as younger children. The Committee is also concerned at the fact that the legislation of the State party does not protect all children below 18 years from sexual exploitation as various ages have been set in several acts regarding sexual exploitation. The Committee is further concerned at the status of child victims of sexual exploitation who may be treated as offenders.

### **Philippines**

**CEDAW** expressed its grave concern about the increasing gap in the rates of employment of women and men and the economic marginalization of women on the other; the deficiencies in the legal system with regard to violence against women, in view of the fact that incest and domestic violence were not specifically penalized by law and were still shrouded in silence; the very low representation of women in politics, top levels of Government and the judiciary.

**CRC** expressed that there has been little progress in fully implementing the relevant principles and provisions of the Convention, in particular with respect to girl children. The Committee expresses similar concerns to that of **CEDAW**.

### **China**

**CEDAW** is concerned about the diverse forms of violence against women in China, including custodial violence, sexual abuse, domestic violence, sexual violence and sexual harassment in the workplace. The Committee is also concerned that economic conditions may contribute to an increase in violence against women.

**Both Committees** are concerned about prostitution in China; in addition to the illegal practices of sex-selective abortion, female infanticide and the non-registration and abandonment of female children. Both also express particular concern about the status of "out-of-plan" and unregistered children, many of them girls, who may be officially non-existent and thus not entitled to education, health care or other social benefits.

As can be seen from these examples of Egypt, South Africa, Morocco, Philippines and China, both Committees would benefit from closer harmonization and coordination.

Within the context of the ongoing efforts to reform the UN treaty bodies, both **CEDAW** & **CRC** have an important role to play. There are a number of documents on the

table for that purpose. The Report of the UNSG “Towards Greater Freedoms” and the plan of action of the High Commissioner for Human Rights to establish a unified standing treaty body replacing the existing 7 UN Treaty Bodies. Though the idea of establishing such a standing unified treaty body has not found the support it needed; the Plan of Action & its concept paper contain several excellent ideas. In my view the implementation of these ideas will diffidently assist us greatly. Among these measures; both CRC & CEDAW should converge towards:

- Using harmonized guidelines;
- Use the same terminology;
- Use the same indicators;
- Make cross reference to one another Concluding Observations.
- The important role of independent national human rights institutions for systematic follow-up/implementation.

I also recommend that the two treaty bodies organize a joint Day of General Discussion followed by a meeting totally devoted to identify the key issues. This should lead to a joint formulation of a General Comment on means to eliminate all forms of discrimination against the girl child.

The two treaty bodies should coordinate their consideration of the reports; if the time gap is small; their must agreement on the issues to be raised with the SP. That the questions put by one treaty body will not be repeated by the other. On the other hand; if the time gap is wide enough; there must be a follow up on the issues raised earlier by one treaty body to monitor the progress achieved or problems encountered.

The two treaty body must have regular contact and exchange of expertise and knowledge. A focal point from each Committee needs to be appointed.

- Designating a devoted focal body for the two committees, in order to:
  - Establish a similar framework combining the output of both committees, and this will enhance the use of joint general comments and recommendations of the two committees.
  - Monitor and execute combined working groups and taskforces between both committees.
  - Effective dissemination of concluding observations from both committees.
  - Unify objectives and approach mechanisms for both committees.
  - Enhance the role of human rights organizations and NGOs in supporting states to effectively adopt objectives of both conventions thus ensuring that such objectives are pragmatically addressed in state programs.

#### **The legal framework to eliminate all forms of discrimination against the Girl Child:**

CEDAW Convention provides a definition of discrimination against women, and comprehensively addresses women’s right to equality and non-discrimination in the civil, political, economic, social, and cultural fields. It requires States parties to pursue a policy of eliminating discrimination against women, and to take all appropriate measures to eliminate



such discrimination, whether committed by public authorities or by any person or organization.

The Convention on the Rights of the Child requires States parties to protect the rights of each child, defined as a human being below the age of eighteen. Among the Convention's general principles are the best interest of the child, a child's rights to life, survival and development, and respect for the views of the child. The protection and promotion of the rights of the girl child is guaranteed through the Convention's principle of non-discrimination.

Upon ratification of these Conventions, States parties assume specific obligations for the full implementation of the Conventions at the national level. The CEDAW Convention requires States parties to embody the principle of equality of women and men in their national constitutions or other appropriate legislation, and ensure, through law and other appropriate means, the practical realization of this principle. States parties are also obliged to adopt legislation prohibiting discrimination, to establish legal protection for women on an equal basis with men, as well as to provide effective remedies against acts of discrimination against women. The Convention on the Rights of the Child also requires States parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention.

As a result of international treaty obligations which flow from ratification or accession, and in accordance with procedures established under domestic legal systems, many States parties to CEDAW and CRC have adopted constitutional and legislative measures to fulfill their treaty obligations at the domestic level. They have also put in place policies, programs and specific measures aimed at the practical realization for women and girls of the rights and principles enumerated in these Conventions.

The expert bodies established to monitor implementation of the Conventions in States parties, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child, are particularly concerned with the status of the Conventions in domestic legal systems. Both Committees have advocated the incorporation of the Conventions into national constitutions, as well as the implementation of the various rights in the Conventions through legislation.

Both Committees have stressed the relevance of the Conventions and the jurisprudence of the Committees in domestic litigation. The status of international treaty law in domestic law is resolved differently in different countries, but there is a growing number of cases in which domestic courts and tribunals, from constitutional courts to lower-level courts, have referred directly or indirectly to international human rights law including in cases concerning women and children. International human rights instruments and the decisions of judicial and quasi-judicial bodies with regard to these instruments are increasingly used by judges and magistrates as a tool to attain the goals of these instruments.

The judicial colloquium to commemorate the anniversaries of these two Conventions provides an opportunity for judicial practitioners from around the world to examine how international human rights law can be used at the domestic level to achieve equality for women and girls, and to exchange experiences in this regard.

## **Conclusion and recommendations:**

**The way forward:** We have a golden chance to make a difference. **The timing of our meeting** is very opportune for the following reasons:

1. The hard work done by CEDAW & CRC has generated more awareness of the issue of discrimination against the girl child. The Concluding Observations of both treaty bodies provide the recipe to the State as well as the civil society. All we need is the political will on the part of SP. Our duty as experts would be to assist states to move forward.
2. Our meeting today can propose means to ensure synergy between both CEDAW & CRC including on follow up and monitoring. It coincides with the ongoing efforts to reform the UN treaty bodies. Many documents are currently on the table: UNSG Plan of Action “towards greater freedoms” and the High Commissioner for Human Rights plan of action with its Concept paper. A number of meetings at different levels were held for that purpose. I am privileged to have represented the Committee to all these meetings. Great ideas were put forward to consolidate the coordination and mutual enforcement of CEDAW & CRC.
3. Our meeting also coincides with a very important event. The Secretary-General’s Study on Violence against Children will be presented to the General Assembly at its sixty- first session in October 2006. It will provide a thorough analysis of the problem, examining the various settings in which children experience violence—the family, schools, other institutional settings, the community and work settings. A gender analysis is central to the study, with the relationship between violence and gender-based violence constituting one of the cross-cutting issues. The Secretary-General’s In-depth Study on Violence Against Women, also to be presented to the General Assembly at its sixty-first session, will examine, *inter alia*, the forms and manifestations of violence against women across their lifespan and State responsibility in eliminating such violence.
4. The Independent Expert on VAC has recommended the appointment of a high profile Special Representative to raise awareness and to promote the issue of violence against children. Let me say here that the highly participatory process through which this study has been prepared is very unique. It helped create a sense of ownership in many parts of the world. Looking at the recommendations of the 9 regional consultations that took place reveals that the participatory process adopted by the study unleashed a sense of ownership; soul searching and courage in confessing what has long been denied. We have a historic opportunity to uproot all forms of violence against children and we must not waste it. **Our meeting here can propose a mandate for the special representative on VAC with regards to the elimination of discrimination against the girl child.**
5. **The finalization of the study is only the beginning of the process to eliminate violence against children including discrimination. We need to assist states to implement the recommendations. We have a golden opportunity to build on the outcome of the regional consultations. It has generated a very strong sense of ownership on the part of many stakeholders. They form the core of the final recommendations of the study. This participatory process has encouraged a more transparent courageous attitude on the part of governments. It is time to act and we as experts can be instrumental in that.**

Let me close by saying that there is no disagreement about the manifestation and negative impact of discrimination against the girl child. But **there is lack of adequate progress due to the absence of clarity on the way forward to improve the situation.** The EGM should focus on assisting States and other stakeholders to prevent discrimination against the girl child. Some options are open now for action.