

### 3. IMPLEMENTING THE CONVENTION

In order to assist countries with the implementation of the different issues covered by the Convention on the Elimination of All Forms of Discrimination against Women, the Manual has been divided into subject areas.

In reporting, countries are asked to report Article by Article. The following is a reference as to which issue area encompasses the different Article.

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# General

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## ARTICLE 1

For the purposes of the present Convention the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.

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### Commentary

Article 1 sets the parameters for the Convention on the Elimination of All Forms of Discrimination against Women by defining what constitutes discrimination against women, namely any distinction, exclusion or restriction made on the basis of sex. Unlike such international instruments as the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Labour Organisation (ILO) Discrimination (Employment and Occupation) Convention and the UNESCO Convention Against Discrimination in Education which refer to "discrimination based on sex", the Convention concentrates on the elimination of all forms of discrimination **against women** does not, therefore, seek to eliminate discrimination experienced by men.

The principle of equality of right is applied to women under Article 1 irrespective of their marital status. This is important insofar as often women suffer most frequently from discrimination if they have domestic responsibilities and are, therefore, precluded from participating in economic, social or political activities.

### Implementation

1. Examine laws within the country to see whether they discriminate against women.
2. Identify areas within laws whereby women are discriminated against in **practice**. In order to do this a simplified questionnaire could be circulated to government departments, women's groups etc.

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## ARTICLE 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions and effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

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States who become party to the Convention on the Elimination of All Forms of Discrimination against Women are required to pursue without delay a policy of non-discrimination, using all appropriate means. In order to do this they may decide to embody the principle of non-discrimination in their own constitutions or in other legislative acts; establish national machinery to enforce the principle of non-discrimination; abolish existing laws or practices which discriminate against women; and take appropriate measures to end existing discrimination.

Under Article 2 Governments undertake to pursue policy measures to eliminate discrimination embody the principle of equality in national constitutions, civil codes or other laws; establish legal protection against discrimination by the establishment of tribunals; ensure that public authorities and institutions refrain from discrimination; and abolish all existing laws, customs and regulations that discriminate against women.

## Questions to Ask

1. If the country's constitution did not include a guarantee of non-discrimination at the time of ratification, has it amended or begun the process to amend to add such a provision?
2. Has the country passed or amended legislation, to deal with discrimination in specific areas described in the substantive articles (concerning education, health, employment, etc.) of the Convention?
3. Have any laws, regulations, or policies been promulgated that regulate the conduct of official institutions and public authorities towards women?
4. Has the country undertaken any studies of the discriminatory implications of its laws?
5. Has it sought to ensure that laws and policies prohibiting discrimination are effectively enforced through the court system or other tribunals?
6. Have any special remedies or avenues of redress been developed to enable women to pursue their rights? If so, how effective have these been?
7. Has the country attempted to address through legislation or other programmes the modification of customs and practices that result in discrimination against women or perpetuate such discrimination?

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## ARTICLE 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, 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.

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### Commentary

This article is a more general obligation, under which States Parties shall take all appropriate measures, including legislation, for the full development and advancement of women. It thereby guarantees basic human rights and fundamental freedoms to women on a basis of equality with men.

In order to identify areas where women do not have de facto equality with men it is necessary to have reliable statistical information on the situation of women. To bring about the advancement of women, Governments may taken both permanent and temporary measures such as legislative and administrative measures. These may include education, funding, the provision of services or monitoring mechanisms.

### Questions to Ask

1. Have any laws been enacted that affect the status of women with regard to political participation, social participation, economic and cultural life? The question is equality with men, so, if for example, there is a property or literacy requirement for voting, the question would be whether women can hold the requisite property or have equal access to education so they can vote.

### Implementation

1. Use existing statistical data to identify areas where equality for women does nor does not exist.
2. Initiate projects to bring about advancement for women.
3. Initiate legislation to remove discrimination.

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## ARTICLE 4

1. Adoption by States Parties of temporary measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in this Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

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### Commentary

To accelerate de facto equality Governments may use temporary special measures, namely affirmative action or positive discrimination. Such measures shall be discontinued once their objectives have been achieved.

### Questions to Ask

1. Has the Government introduced any temporary special measures to accelerate de facto between women and men? If so,
2. What is the nature of this special measure?
3. Has it been effective? If not, why not?
4. Has it been discontinued? If so, why?

# **Education**

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions of career and vocational guidance, for access to studies and for achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

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### Commentary

In accordance with such documents as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, this Article provides that all necessary measures be taken to give equal rights to women and girls in the field of education to enable them to participate fully in the life of their countries.

Article 10(a), moreover, provides for equal opportunities and access for career and vocational guidance and access to studies at all levels of education and in all types of schools in both rural and urban areas.

### Questions to Ask

1. Is career and vocational guidance which informs girls of the full range of vocational opportunities available?
2. Is information available about these opportunities?
3. Do girls need special encouragement to take up these opportunities? If so, what are they?
4. Do girls encounter any obstacles in taking up these opportunities? If so, what are they?

### Implementation

1. Study career and vocational guidance throughout the education system to evaluate and compare what is provided for girls and boys.
2. Monitor vocational guidance practices to ensure that girls and boys benefit equally. Is particular attention being paid to the needs of girls in rural areas?
3. Develop appropriate courses for career and vocational guidance for teachers.
4. Develop appropriate programmes in career and vocational guidance for students.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

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### Commentary

All students should be able to follow the same curricula, to take the same examinations and be taught by teaching staff with the same qualifications and in schools of the same standards.

### Questions to Ask

1. Are the same curricula options available to girls and boys?
2. If so, are girls aware of the options which are available to them?
3. If they are so aware, do they take advantage of these options? If not, why not?

### Implementation

1. Examine curricula to see whether it is more appropriate to one sex.
2. Discern which sex studies each subject so that gender biases can be revealed and eliminated.
3. Enact measures to ensure that girls follow the same curricula as boys.
4. Monitor quality of staff teaching to ensure that the standards are the same for all students.
5. Incorporate awareness of issues relating to gender bias into all teacher training, both initial and in-service.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(c) The elimination of any stereotyped concepts of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of text books and school programmes and the adaption of teaching methods;

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### Commentary

To break down discrimination against women any stereotyped concept of the roles of women and men should be eliminated through the revision of textbooks and school programmes and the encouragement of co-education and other types of education which will achieve this. To eradicate sex stereotyping it may be necessary to redress imbalances between women and men working in educational establishments.

### Questions to Ask

1. How much sex stereotyping, for example depictions of women as secretaries rather than managers, is there in programmes, curricula, textbooks, etc.?
2. Is sex stereotyping found in all types of schools? For example, do co-educational schools reduce the amount of sex stereotyping or is the reverse the case?
3. Are there equal numbers of women and men employed in the higher levels of education?

### Implementation

1. Undertake a campaign to eliminate sex stereotyping in programmes, curricula, textbooks, etc.
2. Provide role models for girls from schools and community.
3. Undertake positive discrimination campaigns to redress imbalances between women and men at all teaching levels, including higher education, as well as to encourage female students in non-traditional courses, for example, engineering or airline piloting.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(d) The same opportunities to benefit from scholarships and other study grants:

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### Commentary

Women and girls should be afforded the same opportunities as men and boys with respect to scholarships and other study grants.

### Questions to Ask

1. What grants or scholarships are available?
2. Are these grants and scholarships regularly available?
3. Are there any grants or scholarships available solely for women and solely for men?
4. Of those grants and scholarships available to both women and men, what number go to women and what number go to men?
5. How many women are shortlisted for such scholarships and grants as compared to men?

### Implementation

1. Encourage colleges, universities and other grant-giving bodies when they seek private funding or administer scholarship funds to ensure that female students receive an equitable distribution of such funds.
2. In the short term, ensure that funding is available for areas of study which are female dominated. Attention should be paid to seemingly equitable requirements for scholarships or grants e.g. a requirement that a candidate be under 25 to be eligible for such a grant will discriminate against women who may have chosen to have a family before embarking on study.
3. If there are obstacles to women taking up scholarships identify them and take measures to remove them.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

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### Commentary

Women shall have equal opportunities to participate in continuing education programmes, including literacy programmes. Access to continuing education programmes is important in moving to redress the imbalance between women and men, particularly in areas of new technology. Disadvantaged women, especially immigrant women, who are often isolated and dependent, have a particular need for adult education in order to help them to improve the quality of their lives with regard to the double burden of home and paid employment.

### Questions to Ask

1. What are the comparative numbers of women and men enrolling in these courses?
2. Are there any barriers to women's participation? If so, what are they?
3. Is there any particular group of women, for example migrant women, particularly affected by such barriers?
4. What sort of teaching staff in terms of qualifications and experiences offer such programmes?
5. Are there more men than women offering such programmes?

### Implementation

1. Institute courses or increase the number offered if already available in and outside the work-place. Provide such courses at flexible times with adequate child-care facilities. Ensure that they address such needs as functional literacy, academic and technical upgrading, re-entry, retraining and life and adaptation skills.

2. Provide incentives, particularly for women and single mothers who wish to upgrade their skills, in order to get or improve their employment which may reduce their dependence on social welfare programme.
3. Ensure that continuing education courses are well publicised particularly in areas where women congregate.

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as the benefit of all community and extension services, inter alia, in order to increase their technical proficiency;

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### Commentary

This article re-iterates the need for education and training, and in particular functional literacy, to enable women in the rural areas to improve their lives and those of their families. Difficulties exist in providing the necessary services to women in rural areas due, for example, to their inaccessibility and lack of personnel and resources, which require special efforts to be made.

### Questions to Ask

1. Are training and education available for rural women locally?
2. If such training exists, are there statistics indicating how many rural women participate?

### Implementation

1. Review the training and education facilities available to women and girls in rural areas. Assess whether it is gender biased.
2. Develop courses in functional literacy and such skills as book-keeping, management and agricultural techniques which are particularly relevant to the lives of women in rural areas.
3. Ensure that information about educational opportunities is well publicised particularly in places where women go.
4. Encourage the use of women trainers in subjects normally avoided by women.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(f) The reduction of female student drop-out rates and organisation of programmes for girls and women who have left school prematurely;

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### Commentary

Given the fact that more girls than boys leave school prematurely, under this Article Governments should work to reduce drop-out rates for girls and to provide programmes for those women and girls who have left school before completing their studies. Attention should especially be paid to meeting the needs of young pregnant students and young mothers to enable them to complete their education.

### Questions to Ask

1. Are there statistics which show the levels of female student drop-out rates? Are these statistics kept on a comparative basis?

### Implementation

1. Remove regulations, both formal and informal, which prohibit mothers and pregnant students from continuing their education.
2. Provide adequate counselling services to encourage young drop-outs to return to education.
3. Provide day-care facilities and other support services in educational institutions for young mothers.
4. Provide courses in family life education.
5. Publicise continuing education courses so that women who have left school early will be encouraged to attend.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(g) The same opportunities to participate actively in sports and physical education;

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### Commentary

Women and girls frequently have unequal opportunities to participate in sports and physical education with fewer resources being made available for promotion of activities for them..

### Questions to Ask

1. Remove regulations which prohibit participation of women and girls in sports and physical education and sports?
2. Are they distributed equally?

### Implementation

1. What resources, financial and other are allocated to girls and boys for physical education and sports?
2. Consider any dress requirements which may have an inhibiting effect on the participation of women and girls in these activities.
3. Undertake campaigns to eliminate sex stereotyping of women and girls in sports and games and establish positive discrimination programmes where necessary both inside and out of schools.
4. Provide training programmes for women's coaches in sports of all varieties.
5. Promote the participation of women and girls in all forms of sports and physical education.

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## ARTICLE 5

States Parties shall take all appropriate measures:

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

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### Commentary

Governments should recognise that maternity is a social function and family education should teach that both women and men share a common role in raising their children with both parents giving priority to the interests of their children at all times. The involvement of both parents in the raising of children, moreover, is an important measure for alleviating the burden on women of combining domestic duties and employment.

### Questions to Ask

1. Is any provision made for family life education within the country? If so, what is it?
2. How do syllabuses in educational institutions implement this paragraph of Convention?

### Implementation

1. Assess the situation with regard to family life education within your country. Determine whether it is included in the school curriculum and how closely it implements this paragraph of the Convention.
2. Design a model family life education syllabus for circulation within the Ministry of Education, schools, parent/teacher associations, etc.
3. Evaluate the impact family life education programmes have on changing attitudes of students.

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## ARTICLE 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

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### Commentary

Under this paragraph women and girls should receive education with regard to health and family life. In particular they should have access to information and advice with regard to family planning which allows them to decide on the number and spacing of their children. Providing access of girls to such information would assist them in participating equally in family life.

### Questions to Ask

1. Is education for family life and family planning included in school syllabuses? If so, what is taught?

### Implementation

1. Ensure that family planning and family life education is included in training courses for teachers.
2. Provide information on family planning and family life, paying special attention to cultural, linguistic and other differences which impede access to such information.
3. Ensure that information on family life education and family planning is public and widely available.

# Health

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## ARTICLE 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services...

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### Commentary

Under this Article women are ensured equal access to health care services and facilities. Women have special health care needs especially in relation to pregnancy, childbirth and lactation. Because of too many pregnancies or poor health care they frequently suffer from such problems as nutritional anaemia. In addition, in many societies prejudices and social attitudes exist that prevent women from seeking or getting medical attention. Moreover, women are often involved in taking care of other people's health needs (usually children) and their own needs are often neglected or subservient. Special attention should also be given to the provision of safe drinking water, adequate sanitation and education on basic hygiene.

### Implementation

1. Ensure that women have the right to seek and to obtain all forms of health care without permission from husbands or others. (See also 3.8 Civil Rights and Family Law, Article 15)
2. Undertake to promote awareness among women of health problems and available facilities.
3. Ensure that adequate health care facilities are available for women. These should be staffed by personnel trained to deal with women's health problems.
4. Introduce strategies to recruit women for all forms of medical training.
5. Ensure adequate and active involvement of women in policy making and planning of health care at all levels.
6. Provide easy access for women and men to family planning services and counselling, including treatment for infertility.
7. Ensure that there are special services to meet the needs of specially disadvantaged women such as elderly, disabled and migrant women.
8. Provide special services for women who are the victims of domestic violence and sexual abuse.

9. Improve health care services for women such as those related to stress, mental health and substance abuse, e.g. alcohol and drugs.
10. Ensure that training of health care professionals includes sensitization to the special needs of women.
11. Encourage the use of counselling services, home care and preventative services.
12. Encourage medical research on the special needs of women, including breast and cervical cancer and introduce preventative measures.
13. Encourage education programmes, both formal and informal which provide information on the health needs of women and girls and their nutritional requirements.
14. Undertake research into medical problems of women resulting from their employment, particularly Repetitive Strain Injury, e.g. injury resulting from constant use of computers and word processors.

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(b) To have access to health care facilities ...

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### Commentary

Easy access to health care facilities is of particular importance to women in rural areas insofar as such services are not readily available.

### Implementation

1. Promote awareness among rural women of health problems and health facilities.
2. Promote the extension of primary health care facilities to women in rural areas.
3. Undertake studies to ascertain facilities available to women in rural areas, distance required to travel for health treatment, numbers of medical personnel available, etc.
4. Promote and organise community-based health care with full participation and involvement of women.

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## ARTICLE 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure on a basis of equality of men and women, access to healthg services including those relating to family planning.

2. Notwithstanding the provisions of paragraph 1 above States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

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### Commentary

Family planning is a responsibility of both women and men and is an area in which there is need to promote male responsibility and women's choice. Women shall be given the necessary health services in connection with child-bearing, including adequate nutrition during pregnancy and lactation.

### Implementation

1. Monitor the provision of services and counselling for women with regard to family planning, including infertility.
2. Promote male responsibility in family planning.
3. Provide guidance on reliable and safe methods of family planning.
4. Provide information on the prevention of sexually transmitted diseases including AIDS.
5. Provide family life education for young people.
6. Encourage increased medical research into family planning, especially with safe methods of contraception for both women and men.
7. Analyse the health services that are provided for women with regard to childbearing, pregnancy and lactation, and ensure that anti-natal care is available.
8. Encourage the provision of nutritional education specific to pregnancy and lactation for women and girls.
9. Ensure the provision of nutritional supplements for pregnant and lactating mothers.

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

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### Commentary

If women in the rural areas are to be able to decide on the number and spacing of their children, it is important that they have access to information, counselling and services in family planning.

### Questions to Ask

1. Is there a national policy with regard to the provision of family planning services for women in rural areas? If so, what is it?
2. How far are family planning programmes targeted to both women and men?
3. What obstacles exist which hinder or prevent women from receiving family planning services and counselling in rural areas?
4. What measures and follow-up facilities are being made available to ensure safe contraception for rural women?

### Implementation

1. Monitor the provision of family planning services and counselling for women in a particular rural area to find out what obstacles exist to its provision and use the findings to improve programmes and practices nationally.

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## ARTICLE 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

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### Commentary

In addition to rights with regard to family law, Article 16(e) states that women have the right to choose freely the number and spacing of their children, and to have access to information, education and services to allow them to exercise this right.

### Questions to Ask

1. Is there a national policy and/or existing legislation on family planning. If so what is it? Does it encompass access to family planning information, education and services?
2. What obstacles exist for women with regard to exercising their rights concerning family planning?

### Implementation

1. Initiate programmes to remove all barriers (cultural, legal, social and economic) which prevent women from being able to make free and informed choices regarding family planning.

# **Employment**

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## ARTICLE 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights ...:

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### Commentary

Under Article 11, women are to be assured the same employment rights as men. Every effort should be made to remove both direct and indirect discrimination. Here indirect discrimination refers to measures which affect women disproportionately, e.g. irrelevant height requirements, age barriers etc.

Article 23 of the Universal Declaration of Human Rights states that "everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment." This theme is reiterated in the ILO Employment Policy Convention (No. 122) which commits States Parties to pursue "as a major goal, an active policy designed to promote full, productive and freely chosen employment" (Article 11). The International Covenant on Economic, Social and Cultural Rights, moreover, provides in Article 6 that the States Parties "recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses and accepts."

The Convention on the Elimination of All Forms of Discrimination against Women may be interpreted as according women the right to choose freely gainful employment for themselves. This means that no legal restrictions should be placed on women, for example any requirement that women must have the consent of fathers or husbands if they wish to work or restrictions such as laws which prevent married women remaining in employment.

Governments are required under this Article to take "all appropriate measures" to ensure that women have the same rights as men to employment. These could also include positive discrimination in the form of "special measures aimed at accelerating *de facto* equality" (see Article 4.1) in addition to measures to eliminate prejudices based on sex-stereotypes.

### Implementation

1. Enact legislation, where necessary, prohibiting discrimination in employment on grounds of sex, marital status or pregnancy, and repeal any conflicting legislation.
2. Examine the adequacy of mechanisms for enforcement, e.g. access to redress through tribunals; possibility of class actions; legislation related to victimisation; or sanctions against employers.

3. Compile and disseminate data on women in employment and ensure relevant data is collected so that a true, complete and comparative picture of women's participation in employment activity is compiled.
4. Where necessary, adopt positive measures to accelerate de facto equality between women and men workers, e.g. widen women's training opportunities including in-service training.
5. Adopt measures to ensure that women receive benefits equally from job creation programmes.
6. Disseminate information through such means as media campaigns to women workers and employers and other workers on women's legal rights and opportunities, their training opportunities and mechanisms for redress in cases of discrimination.

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## ARTICLE 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- 

### Commentary

The Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the ILO Convention No. 122 refer to the "right to work". In its interpretation in both the International Covenant and ILO Convention No. 122, it is linked to full employment policies. It does not mean, however, that everyone is automatically guaranteed a job or that everyone is required to work.

### Implementation

1. Ensure that the special concerns and needs of women workers are integrated into the development of employment policies.
2. Develop and implement policies which promote full employment.
3. Develop policies and programmes to protect women workers in periods of recession.

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## ARTICLE 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

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### Commentary

Under this Article Governments are required to eliminate discriminatory hiring practices. Discrimination in such areas as employment rates, unemployment rates, conditions of service, division of labour through sex-stereotyping and job-selection criteria. Here it is critical to note that discrimination in employment can be both direct and indirect. An example of the former requires men rather than women for a position while an example of the latter is a requirement that applicants be over 5'10". In the latter example it is clear that fewer women than men can apply.

### Questions to Ask

1. Is there a distinction in recruitment and employment practices between women and men? If so what is it?
2. Does the Government ensure that opportunities exist for women in occupations which are not traditionally pursued by women?

### Implementation

1. Evaluate assistance provided to women entering non-traditional occupations.
2. Undertake temporary programmes to encourage women to participate in apprenticeships and/or training.
3. Initiate special measures so that women are able to benefit equally from job creation programmes. These could include childcare and other social support.
4. Ensure that employers advertise positions so that they do not preclude applications from women as well as men. Here ensure that such positions are advertised, for example, in journals which women read.
5. Provide incentives and supports to employers who hire and train women in non-traditional occupations.

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## ARTICLE 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on a basis of equality of men and women, the same rights, in particular:

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recruitment training;

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### Commentary

This paragraph deals with equal treatment in employment including promotion, benefits and access to training and retraining for women. Its provisions parallel those of Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights which provide for free choice of employment, the right to vocational training and equal opportunity for promotion. The Convention is, however, more explicit in defining the scope of the right accorded to women. No distinction is made between part-time and full-time workers.

### Questions to Ask

1. What legislative or other measures have been taken to promote equal employment opportunities for women and men?
2. What benefits are available to workers? Do these apply equally to women and men?
3. Is security of employment affected by pregnancy? If so, how?
4. Are women encouraged to take up apprenticeships in fields not usually pursued by women?

### Implementation

1. Ensure that adequate social support is given to parents so that women are available not only for part-time employment but have a real opportunity to enter full-time employment.
2. Ensure that employment-related benefits including medical and disability coverage are addressed by anti-discrimination legislation.
3. Ensure that under employment legislation employment benefits which are provided by employers are extended to part-time workers.
4. Undertake programmes to increase the number of women at all levels of training in non-traditional jobs.
5. Initiate research to see whether women are promoted at the same rate as men as a basis for implementation of further measures.

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## ARTICLE 11

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment, in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

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### Commentary

The concept of equal pay has been the subject of international treaties for a long time. The ILO Convention No.100 of 1951 concerning Equal Remuneration for Men and Women for Work of Equal Value states, moreover, that Governments shall "ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value." This Article reaffirms equal pay and equal treatment for work of equal value in addition to equality in job evaluation schemes. It refers to part-time workers, piece-workers and out-workers as well as full-time workers and also deals with such benefits as equal holiday leave and equal pension rights.

### Questions to Ask

1. Does the country have legal provisions guaranteeing the right to equal pay for work of equal value? If so, how effective is their implementation? What obstacles impede their implementation?
2. If such provisions exist, how is quality of work evaluated? Does this evaluation lead to equality of treatment? If not, why not?
3. Are women and men afforded equal benefits as ancillary to work of equal value? If not, why not?

### Implementation

1. Ensure that all members of the labour force, domestic workers and agricultural workers are covered by anti-discrimination legislation.
2. If necessary, introduce legislative provisions to guarantee equal remuneration for work of equal value.
3. Where such legislation is in place, monitor its effectiveness.
4. Review the differential treatment with respect to pay, non-wage benefits and evaluation schemes for women workers, including those involved in part-time work.

5. Evaluate the effectiveness of current enforcement systems as to whether they are complaint-based. Examine who can bring the complaint; whether the procedure is free and well-publicised; and whether complaints can be taken on a representative or group basis.

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## ARTICLE 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment, in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(e) 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 paid leave;

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### Commentary

The right of women to economic support from society, whether or not they have been members of the workforce is recognised in such instruments as the Universal Declaration of Human Rights and the Declaration on the Elimination of Discrimination Against Women. Where unequal treatment exists, it is frequently due to discriminatory employment practices. It is also because many social security provisions are based on models of the family that assume women to be dependents; this limits the right of a woman to benefits in her own right.

### Questions to Ask

1. If the country has social security legislation, are all women covered by such legislation? If not, which groups are excluded and for what reason?
2. If the country has provision for paid leave is such leave equally available to men and women?

### Implementation

1. Introduce or amend legislation to provide coverage for groups of women workers presently excluded from social security legislation. Pay particular attention to self-employed women, women who work part-time and women who work on a piece-work or out-work basis.
2. Where discriminatory elements in social security schemes exist enact legislation for their removal.

(See also Section 3.5 Rural Women, Article 14).

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## ARTICLE 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(f) The right to protection of health and safety in working conditions, including the safeguarding of the function of reproduction;

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### Commentary

Governments are required under this Article to monitor and enforce health and safety regulations in the workplace. This includes protective measures to safeguard the functions of reproduction.

### Questions to Ask

1. What health and safety regulations does the country have?
2. Do these regulations take particular account of the health and safety of women? If so, do these particular provisions concentrate on the function of reproduction?
3. If provisions exist to protect the health and safety of women at work do they unnecessarily exclude women from employment?

### Implementation

1. Information campaigns should be undertaken to inform women of possible health and safety hazards in the workplace, particularly where the work is of a kind more usually undertaken by women.
2. Initiate research with the aim of development of programmes to control and prevent occupational disease in women. For example, information campaigns should inform women of the risk of Repetative Strain Injury.
3. Monitor legislation and amend as necessary to ensure that women are not unreasonably excluded from employment on grounds of protection.

(See also Section 3.3 Health, Article 12).

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## ARTICLE 11

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

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### Commentary

The second paragraph of Article 11 commits Governments to take appropriate measures to prevent discrimination on grounds of maternity and to guarantee women their effective rights to work. It is one of only two Articles which refer to sanctions. Governments agree to prohibit dismissal on the grounds of pregnancy or maternity leave. They also agree to introduce paid maternity leave, or to accord women comparable social benefits. No direction is given as to the length of maternity leave. Women who take maternity leave are to be guaranteed re-employment in their jobs and not to lose seniority or any social allowances. special attention should be paid to providing protection (or alternative work) to pregnant women in types of work which are proven to be harmful to them.

### Questions to Ask

1. Does the country have provisions to ensure that women who are pregnant or on maternity leave are not subject to dismissal? If so what sanctions, if any, are provided for such dismissal?
2. If the country has such a provision, have studies been undertaken to determine the effectiveness of these provisions?
3. Does marital status affect job security?
4. Does the country have a system of maternity leave with pay? If so, how effective is it?
5. Do legal provisions exist to provide women with special protection during pregnancy in types of work proven to be harmful to them? What sort of work is regarded as being particularly harmful?

## Implementation

1. If necessary introduce legislation which prevents an employer from dismissing an employee on reasons related to pregnancy alone. For example, to prevent dismissal of employees who are pregnant, on maternity leave or returned from maternity leave.
2. If necessary, introduce legislation which provides maternity leave with pay or equivalent social benefits and which will enable the woman to return to comparable employment when her maternity leave is ended.
3. If necessary, introduce legislation under which pregnant or lactating women workers may be given suitable comparable alternative work.
4. Ensure pregnant women are afforded suitable protection in the workplace.
5. Undertake research into work and the workplace to isolate potential dangers to pregnant women and women of childbearing age.
6. If necessary, initiate campaigns to inform both employers and pregnant women of the potential dangers to pregnant women and women of childbearing age in the workplace. Inform employers of their obligations and women of their rights in this regard.

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## ARTICLE 4

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.
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### Commentary

Special measures aimed at protecting maternity, including pregnancy, childbirth, recovery from childbirth and lactation, as defined in Article 11, are exempted from the concept of discrimination.

### Questions to Ask

1. Do measures exist to protect pregnant women in the workplace? If so, what are they?

(See also Section 3.3 Health, Article 12 (2))

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## ARTICLE 11

3. Protective legislation relating to matters covered in this Article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

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### Commentary

This paragraph requires regular reviewing of protective legislation and is related particularly to occupational health hazards as they affect women. Attention should be paid to legislation which operates to the detriment of women, for example, which restricts the employment of women during certain hours.

### Questions to Ask

1. Does the country have protective legislation. If so, what is it?
2. If such legislation exists, does it specifically address the needs of women?
3. If there is such legislation is there a provision within it requiring review?

### Implementation

1. Where not already in existence, establish an independent body to monitor and report on occupational health hazards.
2. Encourage scientific and technical research studies in areas relevant to women and employment.
3. If necessary, update existing legislation in the light of scientific and technological knowledge and innovations.
4. Ensure that information pertaining to scientific and technological advances is readily available and widely disseminated.

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## ARTICLE 11

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(c) to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

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### Commentary

Under this paragraph, Governments should provide support to enable parents to combine work and family responsibilities particularly through the provision of a network of child-care facilities. As the Convention on the Elimination of All forms of Discrimination against Women does not specify what measures Governments should take to promote their establishment, they may be private, provided by employers, or by Government. They may also take a variety of forms including work-place nurseries, state nurseries and registered child-minders.

### Questions to Ask

1. Do childcare facilities exist? If they do, do they meet existing needs?
2. If childcare services exist are they staffed by trained personnel?
3. Are there any legal measures regulating the establishment and function of such facilities, if they exist? If so, what are they?

### Implementation

1. Study childcare facilities within the country. Evaluate how these meet parental needs and if necessary develop appropriate facilities.,
2. Where necessary assist parents in meeting the cost of childcare, for example, by rendering childcare costs tax deductible.
3. Where appropriate, introduce legislation to provide for paid parental leave.
4. Encourage the adoption of flexible working hours, job-sharing and other measures to enable parents to combine work and family responsibilities. Ensure that such flexibility is available equally to men and women.

# **Rural Women**

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## ARTICLE 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

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### Commentary

This article deals specifically with the rights of rural women. It focuses particular attention on the role they play with regard to the support of their families, including the contribution they make through unpaid work.

### Questions to Ask

1. Are rural women aware of their rights?
2. Is the contribution of rural women taken into account in computing the country's Gross Domestic Product?
3. Is the contribution of rural women taken into account in developing economic and agricultural policies?

### Implementation

1. Ensure that the concerns of rural women are heard by bodies responsible for developing economic and agricultural policies. This can be achieved, for example, through representation of women's bureaux or other machinery on rural development committees.
2. Evaluate the contribution of rural women to agricultural production, the economic survival of their families and their unpaid contribution to the economy.

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

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### Commentary

This article recognises the importance of the participation of women in planning and implementation of development.

### Questions to Ask

1. Are rural women represented in government and on bodies and commissions involved with development planning? If so, what is their representation and input?
2. Are there budgetary provisions set aside specifically for programmes to benefit rural women? If so, what are they?

### Implementation

1. Ensure that the role of rural women is taken into account in elaborating and implementing development plans at all levels.
2. Provide opportunities for the representation of rural women on public advisory boards at all levels.
3. Ensure that women take advantage of the opportunities for such representation.

(See also Section 3.7 Political Participation, Article 7)

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(c) To benefit directly from social security programmes;

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### Commentary

Women in rural areas are likely to be among those least covered by social security programmes. In addition they are less likely to be informed of the opportunities and programmes from which they can benefit.

### Questions to Ask

1. What social security programmes are available to women? Are they specifically directed to rural women?

### Implementation

1. Introduce approaches including legislation to provide social security programmes to women living in rural areas.
2. Undertake a public information campaign to inform rural women of any social security programmes available to them.

(See also Section 3.4 Employment, Article 11)

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(e) To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

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### Commentary

By organising self-help groups and co-operatives women are frequently able to improve their living standards through income-generating activities. Under this Article, Governments are directed to assist women who set up such groups and co-operatives. Non-governmental organisations (NGOs) can also play an important role in this respect.

### Questions to Ask

1. Do any self-help groups or co-operatives exist for women in rural areas?
2. If not, what obstacles exist to hinder their establishment?
3. If such groups exist do they organise to allow women to obtain equal access to economic opportunities through employment or self-employment? If not, what is their position?

### Implementation

1. Study strategies which have been introduced to help women set up co-operatives, e.g. Grameen Bank Project.
2. Train extension workers who are able to help women set up such co-operatives in rural areas.
3. Encourage and assist non-governmental organisations in initiating and expanding the organisation of self-help groups and co-operatives in rural areas.

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(f) To participate in all community activities;

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### Commentary

Encouragement should be given to women in rural areas to participate in community activities. This encouragement is vital in circumstances where women are excluded or restricted from participating in such activities. It is important to note that participation for rural women in community activities is constrained by time limitations due to domestic and other responsibilities.

### Implementation

1. Remove any restrictions which rural women face preventing them from participating in community activities.
2. Provide time for rural women to participate in community activities by reducing their domestic work load by the promotion of sharing of responsibilities within the family and the provision of appropriate technology.

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(g) To have 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;

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### Commentary

Access to credit and loans is of particular importance to women in rural areas if they are to be able to become involved in income generating activities. Women are sometimes discriminated against where land and agrarian reform is concerned. For example they may be unable to own the land on which they live or it may legally belong to their male kin.

### Questions to Ask

1. Does the country have agricultural credit and loan schemes? If so, is any particular attention paid to the needs of rural women?
2. Does the country have any particular marketing facilities? If so, do they pay attention to the needs of rural women?
3. Has the country undertaken any land or agrarian reform? If so, how far has this affected rural women?

### Implementation

1. Encourage the setting up of credit and loan facilities for women in rural areas.
2. Simplify lending procedures to take into account the fact that many rural women do not own collateral and are illiterate.
3. Develop marketing and financial management training courses for women.
4. Undertake a detailed examination of property and family law to see whether it discriminates against women.
5. Ensure that reform measures do not allow women to be divested of their rights to use or own land.
6. In any land redistribution or resettlement scheme ensure that women are recognised as independent beneficiaries.

(See also Section 3.6 Finance and Social Security, Article 13(b), p.58)

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## ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

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### Commentary

This provides for rights to adequate living conditions and also transportation and communication which are extremely important for women in rural areas. Frequently they live without running water, adequate sanitation or electricity and are cut off from potential markets and essential services such as health care and education due to poor roads and lack of transportation.

### Questions to Ask

1. What specific provisions exist to ensure adequate living conditions for rural women?
2. Are there special provisions relating to housing, sanitation, electricity and water supply which take into account the needs of rural women?
3. Are there special provisions relating to transport and communications which take into account the needs of rural women?
4. When reform of sanitation, electricity, water supply, transport and communication is considered are the special needs of rural women taken into account? If not, why not?

### Implementation

1. Ensure that the concerns of rural women are considered when rural development schemes are planned and implemented.
2. Encourage the provision of clean safe water, adequate sanitation and appropriate sources of energy for women in rural areas.
3. Develop as a priority an appropriate transportation system and encourage the development of community-based care services and education.

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**ARTICLE 14**

**2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:**

**(b) To have access to health care facilities . . .**

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(See Section 3.3 Health, Article 12, p.27)

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**ARTICLE 14**

**2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:**

**(b) To have access to health care facilities, including information, counselling and services in family planning;**

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(See Section 3.3 Health, Article 12, p.27)

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ARTICLE 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as the benefit of all community and extension services, inter alia, in order to increase their technical proficiency;

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(See Section 3.2 Education, Article 10)

# **Finance and Social Security**

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## ARTICLE 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- 

### Commentary

Under this Article a woman's rights to benefits which are provided for family support is guaranteed. These benefits could include family allowances, housing subsidies, child care and financial or tax credits. Provisions denying benefits to a single woman on the basis of her presumed dependency on a man are discriminatory.

Note: Systems which may appear to be non-discriminatory may in fact discriminate against women because of the economic and social policies within a country. For example, benefits may be linked to employment which appear non-discriminatory will be discriminatory in situations where a higher proportion of women may be self-employed.

### Questions to Ask

1. Does the country have a system of family benefits? If so, what are they?
2. If such exist, who qualifies for them?
3. How are the various benefits paid? Are they paid directly or through the tax system?
4. Who actually receives the benefits? For example, if the payment is direct, is it paid to the primary care giver or to the family unit?

### Implementation

1. Study tax and family benefit legislation, where it exists, to see how it affects women and the children whom they are supporting.
2. Remove any discriminatory legislation and rules. For example, remove any provision which denies such benefits to single women who are co-habiting or single mothers who are heads of households.
3. Where necessary, implement measures to ensure that women have access to family benefits.

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## ARTICLE 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(b) The right to bank loans, mortgages and other forms of financial credit;

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### Commentary

Equal access to bank loans, mortgages and other forms of credit is of crucial importance to women. It is often dependant on the financial security of the loan applicant and women may not be considered to have sufficient security to borrow. Discrimination may take the form of requiring co-signature by the husband or some other man, or merging a woman's credit rating with that of her husband, or applying different standards of credit women and men when their backgrounds are equal.

### Questions to Ask

1. How do people qualify for bank loans, mortgages and other forms of financial credit (i) from Government? (ii) from private institutions?
2. Do the qualifying requirements affect women and men equally?
3. Is there any mechanism for women who consider they have been unfairly treated to complain?

### Implementation

1. Where necessary, enact legislation and/or implement other measures to ensure women and men equality of access to financial credit.
2. Undertake a campaign to encourage banks and lending institutions to monitor their lending policies and to develop guidelines to ensure women and men equal access to credit.
3. Provide a mechanism through which complaints can be received and dealt with.
4. Explore innovative means of expanding women's access to credit, especially those which use forms of security other than assets such as land. For example, consider loans to groups who will then be jointly responsible for payment.
5. Publish information about available finance and credit facilities.
6. Provide support and advisory services for women with respect to finance and credit.

# **Political Participation**

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## ARTICLE 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

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### Commentary

Under this Article the right of women to vote in all elections and to be eligible for election to elected bodies is reaffirmed. Other international documents on this subject include the Convention on the Political Rights of Women (1953); the Declaration on the Elimination of Discrimination Against Women (1967); the World Plan of Action for the Implementation of the Objectives of the International Women's Year; and the Universal Declaration of Human Rights. The Article goes beyond the existing Convention of the Political Rights of Women adopted by the General Assembly in 1953 insofar as it includes the right of women to vote in public referenda.

### Questions to Ask

1. Do women have the right to vote in all elections on equal terms with men? If so, what percentage of women vote as compared with men? Is the right to vote dependent on any property or literacy requirement? If so, do such requirements adversely affect women?
2. What percentage of women actually participate in political parties?
3. What percentage of women participate in elections and public referenda?
4. What obstacles prevent these women from participation?
5. What percentage of women stand as candidates for publicly elected bodies, locally or nationally? And what proportion of women to men are elected?
6. What impediments exist which prevent women from running for office in the party or committee structure? For example, finance, lack of confidence or general attitudes?

### Implementation

1. Undertake an ongoing review of women's participation in politics and reasons why fewer women participate than men.

2. Establish programmes and activities to encourage more women to participate in political life.
3. Remove any legislative obstacles to voting rights and eligibility for public office.
4. Identify and seek to eliminate any obstacles of attitude.

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## ARTICLE 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

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### Commentary

Such United Nations documents as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the UN Resolution 37/61 on Women and Public Life, the Declaration on the Elimination of Discrimination Against Women and the World Plan of Action for the Implementation of the objectives of the International Women's Year all emphasise the rights of women to participate in the formulation of government policy and to hold office at all levels of government, legislative, executive and judicial. In stating that States Parties "shall ensure" the right of participation the **Convention on the Elimination of All Forms of Discrimination against Women** requires governments to ensure the *de facto* participation of women.

### Questions to Ask

1. Which public offices are currently held by women?
2. What percentage of public offices are held by women?
3. What barriers exist to women's participation in public life?
4. What support services exist within the country to enable women to participate in public life?
5. To which public bodies are women appointed?

### Implementation

1. Undertake research to see how many women are involved in the formulation of government policy and at what levels.
2. Develop a database of women holding public office and those who would be appropriate for appointment.
3. Develop positive discrimination programmes to seek out appropriate candidates and nominees for appointment to public bodies.

4. Provide support services to assist women in participating in public life, e.g. child care facilities the promotion of male responsibility in domestic work.
5. Design and implement training programmes where necessary for those involved in selection and appointment of candidates for public office so that they are aware of possible direct or indirect discrimination against women.

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## ARTICLE 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(c) To participate in non-governmental organisations and associations concerned with the public and political life of the country;

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### Commentary

This is the only reference in the **Convention on the Elimination of All Forms of Discrimination Against Women** to non-governmental organisations. Under this Article the right of women to participate in non-governmental organisations is confirmed. These organisations have an important role in building a strong female constituency through their involvement with policy-making issues.

### Questions to Ask

1. How many NGOs are there and what interests do they represent?
2. To what extent are women's organisations actively involved in policy-making issues, and do mechanisms exist to ensure such involvement?

### Implementation

1. Study non-governmental organisations within the country to see which interests are represented by women's organisations.
2. Evaluate the effectiveness of women's organisations in influencing government policies.
3. Assist women's organisations to provide training to encourage women to be more involved in decision-making and public life.

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## ARTICLE 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

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### Commentary

Article 8 relates to Article 8 of the UN Charter under which the imposition of restrictions are forbidden on the eligibility of men and women to take up employment in the UN or in its subsidiary organisations. However, Article 8 of the **Convention on the Elimination of All Forms of Discrimination Against Women** encourages the employment of women in international agencies, and their inclusion on Government delegations at the international level. Women who wish to be employed in international agencies must be recruited and employed by the international agency concerned, or be nominated as a technical or other expert. Women included on Government delegations may be career diplomats or technical or other experts.

### Questions to Ask

1. What proportion of women are represented in the foreign service of your country and at what levels?
2. What proportion of experts sent to international meetings are women and in which areas of expertise?
3. What percentage of people from your country employed by international organisations are women and in which areas?

### Implementation

1. Keep an annual record of numbers of women and men from your country employed in international agencies, foreign service and at international levels.
2. Monitor the numbers of women as opposed to men on official delegations and compare at which levels they are to be found.
3. Identify and promote qualified women to senior positions at the international level.
4. Provide management skills training and development for women on international assignments.
5. Identify and overcome barriers to the recruitment, selection and advancement of qualified women in these areas.
6. Publicise opportunities for women in these areas.

# **Civil Rights and Family Law**

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## ARTICLE 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
  2. States Parties shall grant women equal rights with men with respect to the nationality of their children.
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### Commentary

While Article 15 of the Universal Declaration on Human Rights provides that "everyone has the right to a nationality", for married women this right has sometimes been affected by laws which either impose on women the nationality of their husband, or cause them to lose their nationality on marriage to a foreigner. The Convention on the Nationality of Married Women, adopted by the General Assembly in 1957, provides that neither marriage nor its dissolution, nor the change of nationality of the husband should automatically change that of the wife. Under the Convention on the Elimination of Discrimination Against Women, women have equal rights with men to acquire, change or retain their nationality. The Article, however, should not be read as compelling a woman to maintain her nationality or disadvantage her in any way.

This Article also provides that women shall be granted equal rights with men with regard to the nationality of their children. This means that where the nationality of a child is concerned the nationality of both parents must be taken into account.

### Questions to Ask

1. Do both unmarried and married women have equal rights with men to acquire, change or retain their nationality?
2. Do women and men have the same rights with respect to gaining residence and employment status for their spouse in situations where the spouse is a non-national?
3. How is the nationality of a child determined?

### Implementation

1. Examine laws regarding nationality to ensure that women have equal rights with men.
2. Propose necessary amendments to legislation dealing with citizenship.
3. Ensure that the nationality and citizenship of children is not solely dependent upon the nationality and citizenship of only one parent.

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## ARTICLE 15

1. States Parties shall accord to women equality with men before the law.
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### Commentary

Both Article 7 of the Universal Declaration of Human Rights and Article 26 of the International Covenant on Civil and Political Rights are concerned with the equality of all before the law. Article 15 of the Convention on the Elimination of All Forms of Discrimination Against Women focuses on areas which have traditionally been subject to discriminatory treatment. Among other things equality before the law refers to equality in the administration of the law in the courts and other tribunals.

### Questions to Ask

1. Is information on the rights of women disseminated in such a way that it is accessible to women? Is it written with women in mind and distributed in places where women go?

(See also Section 3.2 Education, Article 14(d), p.22)

2. Are women represented on the judiciary?

(See also section 3.7 Political Participation, Article 7(b), p.60)

3. Are women given similar damage awards as men in comparable circumstances? Are women and men sentenced similarly in comparable circumstances?
4. Has any research been carried out regarding judicial reasoning and judicial practices that have a differing impact on women and men?
5. If legal aid is available is it provided equally to women and men? If so, do women know about it and take advantage of it? If not, why not?

### Implementation

1. Repeal any legislation which does not provide for the equality of treatment in the enforcement of the law.
2. Review and remove any discriminatory practices which are unfavourable to women in the application of the law.

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## ARTICLE 15

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contract and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

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### Commentary

Under paragraph 2 women shall be given a legal capacity which will enable them to perform civil and juristic acts on the same basis as men, and particularly the right to conclude contracts and administer property. Women are to be treated on the same basis as men in all legal proceedings in courts and tribunals. Disparate impact should also be examined in relation to legal aid coverage and delays in legal proceedings, particularly in family law matters.

Paragraph 3 relates to those contracts and all other private instruments of any kind with a legal effect directed at restricting the legal capacity of women. Such contracts or agreements are to be deemed null and void.

### Questions to Ask

1. Do women have the right to make contracts in their own name? (This could include such contracts as credit, real estate, commercial transactions, and obtaining health care without their husband's permission).
2. Do women have the same rights as men to administer property? If not, why not?
3. Has the country outlawed, by judicial decision or statute, contracts which restrict women's legal capacity? This could include marriage contracts which have the effect of limiting women's legal capacity. It certainly would include commercial contracts in which women give up rights to negotiate on their own.
4. Can women take their place in the legal system on an equal basis with men? This includes having their testimony being given equal weight with that of men, allowing women lawyers to represent clients before tribunals, serving on juries or other citizen panels, allowing women to sue and be sued in their own right.
5. Do women have the same rights as men to be appointed to the judiciary? If so, how many women as opposed to men have been appointed?

## **Implementation**

1. Review laws and repeal those which provide for the legal incapacity of women. Here take account of the fact that the legal incapacity of women may result from their legal incapacity to conclude contracts, to administer property or appear in court. Furthermore, women may be legally hampered if they are not equally represented on the judiciary.

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## ARTICLE 15

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

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### Commentary

As in the International Declaration on Human Rights, Article 13(1) and the International Covenant on Civil and political Rights, Article 12(1) this paragraph provides that women shall have equal rights with men in laws which provide for freedom of movement, the right to choose their residence and domicile.

### Questions to Ask

1. Are women and men accorded the same legal rights of freedom of movement?
2. Are women and men accorded the same rights to choose their residence?
3. Does marriage limit a woman's right to choose her residence?
4. Is a woman's domicile dependent on that of her husband or on marriage? Does she retain her domicile of origin?

### Implementation

1. If legislation exists which provides that a woman must automatically have her husband's domicile, review and amend it.
2. Ensure that women, particularly if married, have the same right to choose where they live as men.

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## ARTICLE 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

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### Commentary

The development of international standards with regard to family law has proved most difficult since family law is usually based on traditional or religious practices which assume that there are distinct roles for men and women and hence distinct rights within the family structure.

Such UN instruments as the Universal Declaration of Human Rights, the Declaration on the Elimination of Discrimination Against Women, the International Covenants on Civil and Political and Economic, Social and Cultural Rights, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutes and Practices Similar to Slavery (1956), and the Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962). The Convention on Slavery addresses itself to the problem of ensuring that intending spouses give their free and full consent to a marriage, while that on Marriage reiterates this provision and, in addition, provides that states should specify a minimum age for marriage and that all marriages must be registered. These provisions are repeated in the Convention on the Elimination of All Forms of Discrimination Against Women.

Under this Article women have equal rights and responsibilities with men with regard to marriage and family relations. They have the right to enter freely into marriage and choose a spouse, have the same rights to equality during a marriage and at its dissolution, including the division of property and the recognition of the contribution of the homemaker. Women shall also have the same personal rights as their husbands with regard to choosing a family name, profession or occupation and with regard to ownership, management and disposition of property.

## Questions to Ask

1. Do women have the same freedom to choose a spouse as men?
2. Does the country ensure that all marriages are entered into with the free and full consent of the women? For example, if the country has traditionally accepted child betrothals or marriages, has legislation been introduced to restrict this practice?
3. Are there registration procedures for marriage?
4. Are women aware of their right to retain their own family name in marriage? If so, are they aware of this right?
5. Do married women have the same rights as their husbands to dispose of property? Here take into account whether disposal of property requires the consent of the other spouse.
6. What are the rules regarding inheritance in the country? Are they beneficial to women? If so, do women make use of them?
7. On the bankruptcy of the husband how are the rights of the wife affected?
8. On dissolution of marriage what are the rights of the wife with respect to property? Are these the same as the rights of the husband?
9. Do women have rights to maintenance on divorce?
10. What rights do co-habitees have with respect to joint property during the relationship and on its breakdown?
11. Do co-habitees have a right to maintenance during the relationship or on its breakdown?

## Implementation

1. Review existing legislation regarding marriage, maintenance and property rights.
2. Inform women of their rights.
3. Initiate strategies to ensure that women take advantage of their rights.

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## ARTICLE 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children. In all cases the interests of the children shall be paramount;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation. In all cases the interests of the children shall be paramount;

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### Commentary

Article 16(d) and (f) refer to women's rights with regard to their children whether they are married or single parents and whether the children be 'natural' or 'adopted'.

### Questions to Ask

1. Do women have the same rights to custody of their children as men? Are these rights, if they exist, affected by the marital status of the woman?
2. Who is the natural guardian of the child?
3. Do women and men have the same rights to adopt children or refuse to have their children adopted?
4. Do single parents have the right to appropriate child support? What is its practical effect, i.e. can it be enforced both territorially and extra-territorially?
5. What are the rights of surrogate mothers, including mothers of children born by virtue of artificial means?
6. Do women have rights with respect to the choice of the family name of their children? If so, do they know them and exercise them?

## **Implementation**

1. Create awareness of the responsibilities of both parents to participate in the bringing up of their children.
2. Review law and practice, and take appropriate measures where necessary, with regard to preference based on sex in matters of guardianship, wardship, trusteeship and adoption.
3. Ensure that single parents have the right to obtain an order for appropriate child support and that this right can be effectively enforced.
4. Review how the principle of the paramount rights of the child affect decisions relating to children.

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## ARTICLE 16

2. The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

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### Commentary

Paragraph 2 refers specifically to the question of minimum age for marriage and the registration of marriages. While a minimum age for marriage is required, no specific age is given.

### Questions to Ask

1. Do provisions exist setting a minimum age for marriage and are they enforced by sanctions? If there are exceptions to such minimum age what are the grounds for such exceptions?
2. If there is a criminal provision setting the age of consent to sexual intercourse does it reflect the age of consent to marriage?
3. Are there procedures for the registration of marriage? If so, what are they and are they enforced?
4. Is information disseminated about laws on age of marriage and registration of marriage?

### Implementation

1. If there is no legislation setting a minimum age for marriage, introduce such legislation. Here take account of the usual minimum age set in other jurisdictions.
2. If such legislation exists determine whether it is being complied with and effectively enforced.
3. If there is no system for the registration of marriages, introduce such a system.
4. If there is a system for the registration of marriages ensure that it is being complied with.

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**ARTICLE 16**

**1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:**

**(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;**

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(See Section 3.3 Health, Article 12)

**Other**

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## ARTICLE 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(c) The right to participate in recreational activities, sports and in all aspects of cultural life.

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### Commentary

This paragraph refers to the rights of women in recreational activities, sports and cultural life. It includes access of women to sports, such as administrative, coaching and competition and to other forms of recreation. If women are to enjoy equal rights in each of these areas it is necessary to remove legal and systemic obstacles which affect their participation. It is also necessary to pay attention to the funding of sports and recreation programmes for women and girls, and the distribution of grants. Other issues to be considered under this Article could include equal opportunities for women in the arts and other forms of culture and equal access to funding for the arts.

### Questions to Ask

1. What are the barriers, e.g. social, economic, cultural, to women's participation in recreational activities, sports or any aspect of cultural life?

### Implementation

1. Amend legislation so that sports are included in the application of anti-discriminatory legislation where it exists.
2. Ensure that equal funding is available for women's sports programmes.
3. Promote the participation of women in sport and fitness activities.
4. Ensure that sex-role stereotyping in sports is eliminated.
5. Study women's access to the arts and cultural life.
6. Ensure that funding is available for women artists on an equal basis with men.

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## ARTICLE 5

States Parties shall take all appropriate measures:

(a) 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;

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### Commentary

This Article refers to interpersonal relationships between women and men, and the need to eliminate practices based on ideas of the superiority or inferiority of one sex and sex role stereotyping.

The question of violence against women is not dealt with specifically under any one article but is clearly fundamental to the spirit of the **Convention on the Elimination of All Forms of Discrimination against Women**. All forms of violence against women (mental, physical and sexual) are of concern here and include not only family violence but also confinement.

### Questions to Ask

1. Do husbands have the right to chastise their wives, or are sanctions exercised against them if they do so?
2. How is violent behaviour between spouses perceived by women and men? Are there any public campaigns to raise awareness about violence against women as a problem? And if there are, do they attempt to change the attitudes of men?
3. Are there public information programmes to educate women about their rights? If so, to what extent does the media contribute to such programmes?
4. In education is use made of materials on how to resolve conflict in non-violent ways?
5. Where marriage payments are customary (e.g. dowry, brideprice), how many cases of violence related to marriage payments are reported? Is there legislation against these practices? If legislation does exist, does it provide sanctions against both parties (i.e. both those asking for and those making a marriage payment)?
6. What steps have been taken to inform law enforcement officials of the issue of violence against women, particularly within the home?

7. Is there a place for women to go when faced with violence within the family?
8. Is there a process to deal with violent and sexually-offensive films and magazines?
9. How are the victims of sexual assault treated by law enforcement officers?
10. Are there any special procedures to deal with the sexual abuse of children?

### **Implementation**

1. Undertake public information campaigns to educate the population about violence against women and children and to educate women in particular as to their rights.
2. Provide a system of protection for women and their children at risk, e.g. shelters.
3. Encourage educational institutions at all levels to incorporate in course content materials on the position of women and on non-violent conflict resolution.
4. Review legislation on court procedure in sexual offence cases.
5. Undertake research to determine whether current practices and perceptions reflect traditional attitudes and practices, and whether positive aspects of such traditional approaches could be drawn on in combating violence.
6. Monitor media portrayals of women.
7. Develop information on non-stereotypic socialisation of children from the earliest age for use in schools and dissemination through, e.g. NGOs, literacy programmes, ante-natal/post-natal clinics.

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## ARTICLE 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

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### Commentary

This Article binds States Parties to take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women. The Article addresses trafficking and exploitation but does not appear to bind a State to punish women who choose to be prostitutes.

Historically international law has dealt with the exploitation of prostitution through such international Conventions as those dealing with the traffic in persons and slavery (Slavery Convention 1926; Protocol Amending the Slavery Convention (1953); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956); Abolition of Forced Labour Convention (1957); Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)). The 1949 Convention outlaws the procurement and enticement of another person for the purposes of prostitution and the exploitation of prostitution of another person (man or woman) and forbids the keeping of brothels. It is likely that Article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women would cover all these circumstances but would probably not go so far as the World Plan of Action adopted in Mexico in 1975 which provides that "specific legislation and other measures should be taken to combat prostitution and the illicit traffic in women, especially young girls."

### Questions to Ask

1. Does the country have legislation to prevent traffic in women and girls? If so, is it implemented effectively? What sanctions exist for such traffic?
2. Is prostitution illegal in the country? If so, what sanctions exist for prostitution?
3. If prostitution is legal, do sanctions exist to protect prostitute women from exploitation?

### Implementation

1. Review legislation to ensure that traffic in women and girls is prohibited and that severe sanctions exist if such legislation is contravened.

2. Monitor the implementation of such legislation if it exists.
3. Review legislation to ensure that the exploitation of prostitution is prohibited and that severe sanctions exist if such legislation is contravened.
4. Monitor the implementation of such legislation if it exists.