



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

List of issues and questions in relation to the combined initial and second periodic reports of Swaziland*

Legal status of the Convention, constitutional and policy framework

1. Please provide information on the status of the Convention and other international human rights instruments in the national legal system. Please provide examples of instances, if any, in which domestic courts have used the Convention in interpreting the law in the State party. What measures have been taken to remove inconsistencies between statutory law and customary law and practices that discriminate against women and girls?

2. The report provides a definition of discrimination under article 20 of the Constitution and the grounds upon which discrimination is prohibited (paras. 1.2.1 and 1.2.2).¹ Please explain why the definition of discrimination provides a closed list of prohibited grounds, which do not include the grounds of sex and marital status as provided by article 1 of the Convention. Please provide information on the sanctions imposed for discrimination against women, their nature and actual application, and the remedies available for women whose rights have been violated as a result of discrimination. Please provide an update on the progress made to adopt the following legislative and policy measures: the marriage bill, the administration of estates bill, the deeds registry bill, the transnational crime bill, the child justice bill, the employment bill, the sexual offences and domestic violence bill (paras. 1.6.2, 2.5.1, 6.8.1.2 and 11.7.4.7), the draft national gender policy and the draft national land policy.

National machinery for the advancement of women

3. It is indicated in the report that the Gender Coordinating Unit, which is the national machinery for the advancement of women, is “extremely under-resourced both in terms of human and financial resources” and that the “strategy of using gender focal points in the different sectors has also proved challenging as the work

* Adopted by the pre-sessional working group for the fifty-eighth session, meeting from 21 to 25 October 2013.

¹ Unless otherwise indicated, paragraph numbers refer to part II of the combined initial and second periodic reports of the State party (CEDAW/C/SWZ/1-2).



related to gender is designated to officers who already have their own duties and responsibilities”, with such duties and responsibilities taking precedence over their work for the Gender Coordinating Unit (part I, paras. 3.7.8 and 3.7.9). Please provide information on the specific steps taken to improve the allocation of budgetary and human resources to the Gender Coordinating Unit and to address the challenges presented by the gender focal points; the extent to which gender has been mainstreamed in all government structures; and the role of civil society organizations in the advancement of women’s rights in the State party. Please explain the extent to which the drafting of the national gender policy took into account the situational analysis conducted by the Gender Coordinating Unit in 2006 and to what extent the principle of equality as opposed to equity is a main feature of this policy (para. 3.3.7).

Access to justice

4. It is indicated in the report that “justice is generally inaccessible to women”, that the State party has no national legal aid system and that indigent women cannot afford private legal representation because it is expensive (para. 15.5.5). Please provide information on the specific measures being taken to establish a legal aid system with a view to facilitating access to justice for women in the State party. What efforts are being made to improve the capacity and knowledge of the judiciary, the education sector, civil society and the general public with regard to gender equality and women’s rights?

Temporary special measures

5. It is recognized in the report that, while the State party does not have “a specific and comprehensive policy aimed at accelerating the equality of men and women”, various policy documents, such as the National Development Strategy and the Poverty Reduction Strategy and action plan, do recognize the need to implement special programmes specifically targeting women (paras. 4.2 and 4.3). Please provide information on the nature of the temporary special measures envisaged and when they will be introduced in order to complement those provided for in the Constitution relating to women’s representation in Parliament (para. 4.4). What measures are in place to promote the understanding of positive measures for the advancement of women and the implementation of temporary special measures in the State party?

Stereotypes and harmful practices

6. Please indicate whether there exists any comprehensive strategy or initiative aimed at eliminating the “stereotyped roles and unequal gender relations” prevalent in society and the media (para. 5.2.4). What measures are being taken to eliminate stereotypes that promote girls as caregivers and socialize them to accept domestic violence and “persevere” regardless of the problems that they may experience in their marital situation (paras. 5.2.3 and 5.2.6)? Please provide information on the role of traditional leaders and civil society organizations in the elimination of traditional stereotypes and harmful practices in the State party (paras. 3.5.3 and 3.5.4).

7. Please explain the measures taken to eliminate the cultural practice of mourning rites for widows that are not applicable to men (para. 5.3.6). Please

explain the extent to which the provision in the Constitution that prevents society from “compelling a woman to undergo or uphold any custom to which she is in conscience opposed” is invoked by women and complied with by traditional leaders (para. 5.5.8).

Violence against women

8. Please provide information on the magnitude of the problem of violence against women, including domestic violence. It is stated in the report that reporting by women victims of domestic violence is now more visible and that the State party provides shelters, hotlines and information materials to raise awareness (para. 5.5.7). Please provide information on the number of shelters available, protection orders issued and hotlines established. Are these services coordinated and available around the clock? If so, by whom? Do the service providers regularly receive training on gender-based violence? What measures are being taken to criminalize marital rape (para. 15.5.4) and address the serious problems of rape of children and incest? What measures have been taken to establish monitoring institutions for sexual and domestic violence? Does the sexual offences and domestic violence bill tackle issues of sexual harassment?

Trafficking and exploitation of prostitution

9. Please provide information on the extent of the problem of trafficking in human beings, given that the State party is reportedly a source, destination and transit country for such trafficking. It is indicated in the report that there has been very little research into trafficking in human beings and no adequate reporting (para. 6.2.1). Please state the measures that are being taken to collect data and statistics and develop programmes to combat trafficking in human beings, in particular women and girls, and to establish structures such as a referral mechanism for victims of trafficking. What measures have been taken so that victims of trafficking are no longer charged with crimes relating to violations of immigration laws (para. 6.7.2)? Please provide an update on measures taken to draft amendments to the People Trafficking and People Smuggling (Prohibition) Act of 2009 to allow for permanent residency for foreign trafficking victims. Furthermore, what measures are in place to tackle trafficking of human beings, in particular women and girls, for domestic servitude within the State party?

10. It is indicated in the report that women engaged in prostitution in the State party are subjected to various forms of violence, which contributes to their vulnerability to contracting HIV and other sexually transmitted infections (paras. 6.6.2 and 6.6.3). Please provide information on specific measures to protect women engaged in prostitution against violence. What measures are being taken to remove the appearance of a woman engaged in prostitution as an acceptable ground for defence in a rape case in accordance with the Girls’ and Women’s Protection Act?

Participation in political and public life

11. It is indicated in the report that the representation of women in Parliament and representative bodies remains low (para. 7.4). Please provide information on the number of women elected and appointed to Parliament during the elections of September 2013. Please explain how the *tinkhundla* electoral system, which bans

political parties, affects the election of women to political office. In addition, please provide information on the specific measures being taken to ensure the representation of women in decision-making bodies, both in the public and private spheres of life, especially in the civil service, international organizations, local governments, the judiciary and private corporations.

Nationality

12. Please provide information on the measures being taken to revise the Constitution and the Citizenship Act with a view to amending the discriminatory provisions that restrict the transmission of citizenship by Swazi women to children if their fathers are foreigners (paras. 9.4.2 and 9.4.3). What measures are being taken to introduce legislation governing the acquisition of citizenship by foreign men married to Swazi women so that Swazi women can enjoy their rights on an equal basis with Swazi men married to foreign women, who automatically acquire citizenship upon marriage (paras. 9.4.6 and 9.4.7)? Please provide information on measures taken to reduce the risk of statelessness that children face when they are not claimed by their fathers (para. 9.4.5).

Education

13. It is indicated in the report that an assessment conducted by the Committee on Gender and Women's Affairs in 1996 revealed that secondary school subject choices differed between girls and boys, with girls largely avoiding science subjects (para. 10.11.1). Please explain the measures being taken to improve the number of women taking science subjects. Please also explain the impact that these educational choices eventually have on women in terms of employment, in particular with regard to occupational segregation. What measures are being taken to improve the representation of women in administrative positions in the education sector (para. 10.12.1)? To what extent has the State party sought to address gender stereotypes and gender-based violence in educational settings?

Employment

14. The report shows that there are gender disparities in wage earnings between women and men and that women are underrepresented in "agriculture, mining and quarrying, and in the construction industry" (paras. 11.5.1 and 11.6.1). It is stated in the report that "women are concentrated in industries and levels of skills associated with social services, semi-skilled and unskilled" (para. 11.6.2). Please provide information on the full range of measures taken to close the gender pay gap and to address occupational segregation between men and women. What measures are taken to increase women's employment in non-traditional and better-paid areas of employment? Furthermore, please state the measures taken to address barriers to women's access to employment benefits, such as requirements to provide marriage certificates as proof of matrimony for women married under customary law, and being deprived of employment benefits by relatives upon the death of a husband (para. 13.2.3).

15. According to the report, notwithstanding that the Employment Act of 1980 provides for a 12-week maternity period, the law is applied differently in the Government and in the private sector, with the latter granting its employees only 2 weeks with full pay (para. 11.7.4.5). It is further stated in the report that most

women are employed in small businesses and in the informal sector where their labour-related rights are not enforced (para. 13.2.3). Please provide information on measures being taken to enforce the application of labour laws, especially with regard to maternity leave, to ensure that women employed in the public and private sectors enjoy equal maternity benefits. Furthermore, please provide an update on whether the unemployment insurance benefit fund proposed under the employment bill, which seeks to guarantee the full payment of benefits during maternity leave, has been established (para. 11.7.4.7).

Health

16. Please provide information on the strategies and programmes in place to deal with the high levels of maternal and infant mortality (paras. 12.4.1 and 12.6.1). Please explain the specific interventions that have been designed to address the problem of limited antenatal care following the study conducted in 2006-2007, in which it was estimated that only 54 per cent of women with signs of pregnancy complications were informed of those complications and only 78 per cent were physically examined (para. 12.5.1). Furthermore, please state the measures in place to address the lack of skilled health personnel, which is partly attributable to emigration (paras. 12.1.3, 12.5.2 and 12.9.1).

17. Please provide information on the measures taken to address the “increasing HIV prevalence among women of reproductive age” and the limited access to antiretroviral treatment for pregnant women (para. 12.5.2). Please also indicate the measures in place to address the non-use of contraceptives by women, as a result of prevailing social and religious norms, and the root causes of vulnerability to infection, such as stigma and discrimination (paras. 12.3.2. and 12.3.4).

Rural women

18. It is indicated in the report that, in Swazi society, men are the link between women and the land (para. 5.3.4). Please explain the measures in place to improve access to land by women and remove barriers to land ownership, such as those requiring women to seek the consent of their husbands before purchasing land (para. 3.1.5). What measures have been taken to review inheritance laws on women’s access to land (para. 5.5.5)? Please also provide information on the programmes in place to facilitate access to farm inputs and meteorological and agricultural information (para. 14.8.1). What progress has been made, in particular in rural areas, to achieve the goal of halving the population without access to safe water by 2010 and to ensure access to proper sanitation and waste disposal by 2010 and 2015 respectively (para. 14.9.2)? Furthermore, what measures are being taken to improve access by rural women to medical facilities and services (paras. 12.2.2 and 14.3.2)?

Equality before the law and legal capacity

19. Please state the measures being taken to revise the courtroom dress code, which prohibits women from wearing trousers in court and compels them to cover their heads at all times while in the courtroom (para. 15.5.3). Furthermore, what measures are being taken to revise the rule in evidence that requires no corroboration regarding sexual offences, which is recognized in the report as being

based on the “stereotypical assumption that women are prone to lie about sexual offences” (para. 15.5.4).

20. It is indicated in the report that, in a “marriage out of community of property where marital power has not been excluded”, a husband becomes the administrator of the couple’s joint estate and of the wife’s separate estate (para. 15.2.1). It is further indicated in the report that this confers authority on the husband to make representations and carry out transactions on behalf of the estate without the knowledge or consent of the wife. Furthermore, it is indicated in the report that a woman loses her locus standi in civil suits and cannot conclude contracts or register immovable property in her name (paras. 15.2.1 and 15.2.2). Please explain the measures being taken to revise the law to ensure that the same legal capacity, identical to that of men, and the same opportunities to exercise that capacity, as well as to conclude contracts and to administer property, are afforded to women. Please also explain the measures that are being taken to put an end to the practice of dispossessing women of their land when their husbands die.

Marriage and family relations

21. Please provide information on the impact of the “fault” principle in divorce law on women and the division of matrimonial property upon divorce should a woman be found to be at fault (para. 16.4). The Constitution states that “marriage shall be entered into only with the free and full consent of intending spouses”. What measures are in place to combat forced marriages in order to ensure informed and voluntary consent? What is the permissible age of marriage under customary law?

Amendment to article 20 (1) of the Convention

22. Please indicate any progress made towards acceptance of the amendment to article 20 (1) of the Convention, relating to the Committee’s meeting time.
