

2002

**INTERNATIONAL WOMEN'S RIGHTS
ACTION WATCH ASIA PACIFIC
ANNUAL REPORT**

**International Women's Rights Action Watch – Asia Pacific
(IWRAP Asia Pacific)**

**ANNUAL REPORT
January – December 2002**

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ANNUAL REPORT (January to December 2002)

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PART I: Background, Purpose, Objectives and Overview of the IRAW Asia Pacific Programme

1. Mission Statement

IRAW Asia Pacific has chosen to focus on the promotion of women's rights as women face an additional layer of discrimination as compared to men. As a strategy to achieve its aim of promoting the human rights of women, the organisation has chosen to facilitate the application of international human rights standards at the domestic level. This is done through facilitating the implementation of the CEDAW Convention and working with other treaties whereby discrimination against women can be eliminated through reform of laws and policies. IRAW Asia Pacific sees this approach as addressing the conditions that contribute to women's deprivation while at the same time ensuring that the specificities of women's experiences inform the appropriate reform of law and policy measures.

This strategy involves participating internationally in the monitoring and human rights standard-setting work of the treaty bodies, bringing the voices of women directly to have an impact on such standard-setting and building capacity domestically for the application of such standards.

IRAW Asia Pacific's regional and international activities are not implemented as separate components but rather as means that add value to local activism. In this way, it has attempted to address the "disconnect" that traditionally existed between those groups shaping the development of human rights monitoring at the international level and those grassroots organisations demanding accountability from their governments; a gap which in many ways trumped women's access to the means of claiming and realising their own rights. All of IRAW Asia Pacific's projects and activities are therefore interrelated and evolving

2. Conceptual Basis of the Programme

IRAW Asia Pacific's programme is premised on the belief that, before women can access 'real' equality, several other conditions are needed:

- Standard-setting at the international level that matches the realities of women at the local level;

- A culture of compliance with gender sensitive human rights;
- Women's ability to claim their rights;
- Women forming a constituency with a strong voice to invoke their rights and push for political action and create the necessary political will. This implies the need for capacity building and gender-sensitisation for women themselves, and for those bodies who would put the institutional changes in place (e.g. judges, lawyers, bureaucrats, and parliamentarians);
- Mechanisms for enforcement that are gender-sensitised and have the will to implement the CEDAW Convention; and
- A mechanism for monitoring the fulfilment of State obligations under the Convention to track the progress in making equality a reality for women at the domestic level.

The above factors are interactive and reinforce each other. All of this requires a focus on various actors and types of action. Besides women, we need to impact on all branches of government, legislators, the bureaucracy and the judiciary. We need to look at various institutions within these branches of government or which have an effect on them. These segments of actors include, politicians, bureaucrats at different levels, law enforcers, and prosecutors, specific institutions or mechanisms that monitor and or enforce human rights standards, judges and lawyers.

To achieve this, IWRAW Asia Pacific works with a range of actors, women's groups, lawyers, judges and governments.

3. Origins and Geographical Spread: Filling the Gap

IWRAW Asia Pacific was set up in Malaysia in 1993 to work regionally and nationally towards the achievement of the full potential of the CEDAW Convention. As the only NGO based in the South working with the CEDAW Convention as a main tool for change, IWRAW Asia Pacific has had a critical role filling the gap between the promise of women's rights and their actual realisation. Since 1993, IWRAW Asia Pacific has had a significant presence in 12 countries of Asia. They are:

- South Asia: Bangladesh, India, Nepal, Pakistan, Sri Lanka
- South East Asia: Indonesia, Lao PDR, Malaysia, Philippines, Thailand, Vietnam
- East Asia: Mongolia
- Additionally, some work has also been carried out in Cambodia, China, Hong Kong and Tajikistan.

Since 1997, the programme IWRAW Asia has also been implementing an international programme called "From Global To Local". This programme facilitates the participation of women from all countries reporting to CEDAW in the review process. It has also launched a global campaign on the ratification and use of the optional protocol to the CEDAW Convention.

The main motivation for IWRAP Asia Pacific has been the need to eliminate the disconnect between international human rights standard setting activism and local activism that demanded accountability from governments. Based on IWRAP Asia Pacific's experience, regional organisations in the global South are uniquely positioned to strengthen domestic activism and simultaneously contribute to the progressive interpretation of human rights at the international level.

4. Year 2002: The Beginning of the Third Phase of Work

As women in the region become more motivated and capable of linking domestic activism with international advocacy, it has been essential that IWRAP Asia Pacific take on new roles to maximise our potential to trigger changes in law and policy. IWRAP Asia Pacific entered a third phase of work in 2002 that requires using the existing knowledge base as a starting point to develop a new set of tools to strengthen women's rights-based activism.¹

¹ Since 1993-2001 the programme went through two phases of achievement. In the **first phase**, (1993-1996) consistent with the aim of building women's capacity for change, IWRAP Asia Pacific worked toward **strengthening national women's groups** and alliances in Asia that could sustain Convention-related work in their countries. The role of IWRAP Asia Pacific was catalytic and supportive, and achieved the following results.

The most significant contribution that IWRAP Asia Pacific has made in this regard was to create **clarity of concepts** pertaining to women's rights, equality and non-discrimination and to inspire women's groups in the region to coordinate their advocacy within a rights framework.

Implementing the CEDAW Convention according to its principles requires a change in attitudes and approaches. Hence, the programme has also focused on **developing methodologies and frameworks** for analysing the various sites of discrimination, for developing holistic measures for achieving the *de facto* equality of women and for training women's rights advocates both within and outside of court procedures.

The rights focus of IWRAP Asia Pacific led to its involvement in NGO preparation for and participation in the 1995 Beijing Conference. IWRAP Asia Pacific also took part in the International Conference on Population and Development in 1993 and focused on raising awareness on the link between the CEDAW Convention and reproductive rights.

In its **second phase**, (1997-2001) IWRAP Asia Pacific continued to work toward its long-term goal of bringing about the domestic application of international human rights norms for women. However, the organisation sharpened its approaches for greater impact and effectiveness by developing not only conceptual clarity from a feminist human rights perspective but also methodologies for identifying discrimination against women and State obligations under the CEDAW Convention in varying and evolving contexts.

Based on its experiences in capacity building, IWRAP Asia Pacific has developed a **five module training package**. The aim of the training is to strengthen the domestic application of human rights norms in relation to women's rights. The training focuses on the CEDAW Convention and facilitates an understanding of the Convention both substantively and procedurally

In this phase, IWRAP Asia Pacific continued to place strong focus on national-level capacity building. However, it also facilitated a process by which national groups were able to **build their own capacity by enabling them to participate in regional and international level advocacy** (e.g. at the CEDAW reviews of

5. The Objectives and Activities of the Programme

The long-term goal of IRAW Asia Pacific is to work towards the effective implementation of international human rights norms in relation to women's rights. Recognising the need to mobilise women at the national and regional levels to work with their governments to eliminate discrimination against women, IRAW Asia Pacific objectives are:

Objectives:

a) To help develop skills in rights awareness and build capacity for domestic application and use in local activism of the CEDAW Convention and the human rights instruments as part of the process of monitoring the implementation of the human rights chapter of the Beijing Platform for Action through technical support, orientations and training

- Producing training packages for women activists and government functionaries
- In-country training
- Development of regional pool of trainers
- Technical assistance to file test cases, law reform, campaign for the lifting of reservations, plan for the effective implementation of the CEDAW Convention etc.

State party reports, and the drafting of the Optional Protocol to the CEDAW Convention). The interrelatedness of these projects has enabled participating groups at the national level to build on their experiences and expand the scope of their work effectively; from attending trainings to becoming trainers themselves, from advocacy at the national level to providing input and influencing international processes.

In addition, during this period IRAW Asia Pacific **expanded its constituencies** to build the capacity of governments and government institutions. This has taken place in the following countries: Cambodia, Indonesia, Iraq, Lao PDR, Malaysia, Mongolia, and Thailand.

IRAW Asia Pacific has developed **tools for monitoring** the fulfilment of State obligations and for related advocacy at the national and international level. This monitoring framework is a consensus document emerging from the understanding and needs of the groups working on different issues within their countries. The framework and guidelines provide help to identify intended and unintended discrimination, their contributory factors and effects on women and to assess State obligations. It also helps to understand the cycle of discrimination against women and the interrelatedness of rights. IRAW Asia Pacific is in the process of converting this framework into a user-friendly tool with instructions for its use.

IRAW Asia Pacific established **CEDAW monitoring networks in 12 countries** and built their capacity to use the monitoring framework to identify discrimination and to engage in advocacy – both at the national and international levels – to bring about policy and institutional reform. This was all part of the project known as “Facilitating the Fulfilment of State Obligations to Women’s Equality”.

The collaborative projects that IRAW Asia Pacific initiated with women’s groups in various countries have contributed to **several legislative and policy changes** in countries such as India, Malaysia, Nepal and Pakistan.

b) To contribute to the strengthening of the implementation of the CEDAW Convention and the Beijing Platform for Action through:

- Creation of sub-regional monitoring mechanisms to assess the fulfilment of State obligations thus facilitating the fulfilment of state obligation to women's equality
- Supporting advocacy for the adoption of an optional protocol
- Publicising the CEDAW Convention
- Facilitating the participation of women in post Beijing activities
- Information dissemination and application strategy for the promotion of women's rights

c) To contribute to the enhancement of the CEDAW Committee's effectiveness and to engage in international advocacy for drawing accountability for governments to implement the CEDAW Convention at the national level through:

- Assistance to local groups in the formulation of alternative reports to the CEDAW Committee
- Facilitating the flow of alternative information to the CEDAW Committee
- Facilitating the presence of women at the CEDAW sessions when their governments are reporting and mentoring them to play a positive role in the context of the CEDAW State party dialogue
- Contributing to the formulation of general recommendations by CEDAW and other treaty bodies to promote women's rights.
- Regional policy dialogue with governments on implementing the CEDAW Committee's Concluding Comments
- Publicising the work of CEDAW

d) To promote the development of region-specific gender-sensitive human rights scholarship, strategies and implementing tools through: -

- Developing conceptual clarity on the gender dimensions of human rights norms and methodologies for human rights practice

e) To strengthen international and regional linkages

- Participation in and contribution to relevant programmes of other organisations, attendance at regional and international meetings and conferences

f) To strengthen IRAW Asia Pacific's institutional capability for greater efficiency in and sustainability of its work

- Hiring staff
- Forming pool of consultants
- Establishing linkages with donors and other institutions

6. Who the Organisation Serves

IRAW Asia Pacific is not a membership organisation. It has identified women's groups at the national level, as primary partners. From 1993 to 2001, it has worked in 14 Asian

countries. In each country at least 20 to 35 groups working on a wide range of issues have participated in the orientations and training in the first phase of the programme. The aim of IRAW Asia Pacific has been to raise the awareness of these organisations about the significance of dealing with discrimination against women regardless of the issue they are working on. In the second phase, the involvement of these groups will be focused towards specific actions for eradicating discrimination and holding their governments accountable at the national and international levels. These actions could revolve around filing test cases in court challenging discriminatory laws, campaigns for the withdrawal of reservations, advocacy at the national level for domestic receptivity of the principles of the CEDAW Convention etc.

IRAW Asia Pacific has also identified lawyers and judges as groups to work with in order to sensitise them to the need to use a human rights framework in courtroom advocacy.

A third category that IRAW Asia Pacific works with is government bureaucracies at the national level and human rights commissions.

7. IRAW Asia Pacific's Governance

IRAW Asia Pacific is a reputable non-governmental organisation, established in 1993 to promote the implementation of the CEDAW Convention through training and other capacity building.

IRAW Asia Pacific's organisational governance is as follows:

- i) Board of Directors
- ii) Advisory Committee
- iii) Secretariat (IRAW Asia Pacific's Team)
- iv) Resource and Programme Management Teams
- v) Constituencies in Asia

7.1 Board of Directors

IRAW Asia Pacific has a five-member Board of Directors who have final decision-making authority for all legal and financial matters. Decision-making is by consensus. The board of directors comprises:

- **Shanthi Dairiam**, Executive Director, who founded the programme in 1993. She has a Masters Degree in English Literature from Madras University and a Masters in Gender and Development for the university of Sussex, UK. She has extensive experience in managing women's rights programmes at the national, regional and international levels and has been involved in building capacity for women's rights advocacy for over 25 years, with Malaysian organisations and at the regional and international levels.
- **Noor Farida Ariffin** is currently the Malaysian Ambassador to the Netherlands. She is founder member and former Vice President of Women's Aid Organisation in Malaysia, former president of the Association of Women Lawyers , Malaysia, former

council member of the National Advisory Council for the Integration of Women in Development..

- **Rita Raj** has extensive experience in the field of women's health and family planning. Formerly she was the Head of Evaluation of the Federation of Family Planning Associations, Malaysia. She is co-founder of The Asian and Pacific Research and Resource Centre for Women in Malaysia.
- **Ivy Josiah** is the Executive Director of Women's Aid Organisation, Malaysia. She is a Steering Committee member of the Asian-Pacific Women, Law and Development Forum (APWLD) and former Convenor of its Taskforce on Violence Against Women.
- **Maznah Mohamad** is an Associate Professor of Development Studies in Universiti Sains Malaysia. She is a former president and current member of the Women's Crisis Centre in Penang, as well as member of the human rights NGO Aliran.

7.2 Advisory Committee

Programme policy decisions, including the resource implications of each programme, are entrusted to an Advisory Committee, which is appointed by the Board of Directors. The Committee comprises nine members who are regional experts on CEDAW and represent programme partners in Asia Pacific according to geographical regions, the Board of Directors and the staff. Decision-making is by consensus. The Committee meets annually to assess the efficiency in which ideas and programmes are carried out. The Committee also serves as an avenue for fresh ideas and is updated quarterly by a calendar of activities.

The members of the Advisory Committee are listed below:

Savitri Goonesekera, Sri Lanka (Professor of Law, University of Colombo; former member of the CEDAW Committee); Sapana Pradhan-Malla, Nepal (lawyer and women's rights activist); Ruth Manorama, India (community worker and women's rights activist); Mere Pulea, Fiji (international law academic and consultant); Shireen Huq, Bangladesh (women's rights activist); Andrew Byrnes, Australia (Professor of Law Australia National University); Eleanor Conda, Philippines (lawyer); and Ivy Josiah/Maznah Mohamed and Shanthi Dairiam representing the Board.

7.3 Secretariat (IWWAW Asia Pacific's Team)

Executive Director: Shanthi Dairiam (see above)

Programme Officers:

- **South Asia Project:** Rea Chiongson
B.A. Political Science Ateneo de Manila University, J.D. Ateneo de Manila University School of Law (Manila, Philippines) LL.M. Columbia University Law School in New York (Human Rights Fellow, Human Rights Institute).

- **South East Asia Project** Bandana Shrestha
B.A. Sociology/Psychology, University of New England (Australia), M.A. in Practice and Theory of Human Rights, University of Essex (England).
- **Information and Communications Officer:** Tan beng hui
B.Ec (Soc. Sciences) (honours in Economic History), University of Sydney (Sydney, Australia). M.A. in Women and Development, the Institute of Social Studies, Den Haag, the Netherlands.
- **International Advocacy Project:** María Herminia Graterol Garrido
LL.B. Universidad Católica Andres Bello (Caracas-Venezuela); LL.M. Columbia University Law School in New York (Human Rights Fellow, Human Rights Institute).

Administration and Finance Team:

- **Administration and Finance Manager:** Jayanthi Sundaram
Certified Accountant and member of the Association of Chartered Certified Accountants (Malaysia).
- **Administration and Finance Senior Assistant:** Saifulbahri Abdul Malek (until 31st July 2002)
Diploma in Business Studies, Institute Technology MARA (Malaysia)
- **Administration and Finance Senior Assistant:** Liew Siew Yan (as of 24th September 2002)
B.A. Anthropology and Sociology, University Malaya (Malaysia)
- **Administrative Assistant:** Norhidayu Mat Isa (until 9th September 2002)
- **Administrative Assistant:** Maszlifah bt Abdul Rahman (as of 11 November 2002)
Diploma in Business Studies, Institute Technology MARA (Malaysia)

7.4 Resource and Programme Management Teams

Training Working Group: Since 1993, the training working group has been developing key components and methodologies for IRAW Asia Pacific's training package on the CEDAW Convention. Some of the members of the group are: Eleanor Conda (Philippines), Shirin Huq (Bangladesh), Madhu Mehra (India) and Shanthi Dairiam (IRAW Asia Pacific).

Training Resource Team: IRAW Asia Pacific relies on an experienced pool of trainers to carry out workshops and programmes and the national and regional level. Some of the key resource persons are: Eleanor Conda, Shirin Huq, Ivy Josiah, Madhu Mehra, Tulika Srivastava, Andrew Byrnes, Geetha Ramaseshan, S.K. Priya, and Shanthi Dairiam.

From Global to Local Project Team: IRAW Asia Pacific and UNIFEM have convened a group of women's advocates with extensive experience in international advocacy to work together designing and implementing all the components of the project. Alda Facio Women, Gender and Justice Program (ILANUD); Alice M. Miller Columbia

University; Ilana Landsberg-Lewis (UNIFEM) CEDAW Advisor; Kasia Polanska and Marsha Freeman (IWRAP Minnesota), Shanthi Dairiam (IWRAP Asia-Pacific).

Steering Committee of the Global Campaign for Ratification and Use of the Optional Protocol to CEDAW: IWRAP Asia Pacific has convened a Steering Committee comprising two experts from each region to direct the project.. The members of the Steering Committee are: Donna Sullivan (USA), human rights lawyer and women's rights activist, New York University Law School; Barbara Limanowska (Poland), Women's Information Center-OSKA; Eleanor Conda (Philippines), lawyer and member of the 1998 Philippine delegation to the drafting of the OP to CEDAW; Caroline Lambert (Australia) former Project Coordinator the OP-CEDAW Campaign; Tulika Srivastava (India) Executive Director of Association for Advocacy and Legal Initiatives, partner organisation of IWRAP Asia Pacific, activist lawyer, member of the IWRAP Asia Pacific delegation to the drafting of the OP to CEDAW; Alda Facio (Costa Rica), human rights lawyer and women's rights activist, member of the 1998 and 1998 Costa Rican delegation to the drafting of the OP to CEDAW; Ana Elena Obando, Concertacion Inter-Americana de Mujeres Activistas-CIMA (Costa Rica), human rights lawyer and women's rights activist, Process; a representative from Francophone Africa; Leslie Anne Foster (South Africa) Executive Director of Masimanyane Women's Support Centre, coordinated South African CEDAW NGO Shadow Report; Shanthi Dairiam and Maria Herminia Graterol, representing (IWRAP Asia Pacific).

7.5 Constituencies in Asia²

South East Asia Core Group:

Indonesia	Women's Group for Convention Monitoring (LPBH FAS) Indonesia Women's Association for Justice (LBH APIK)
Laos	Lao Women's Union, Gender Research and Information Development Centre
Malaysia	Women's Aid Organisation
Mongolia	The National CEDAW Watch Action Center Centre for Human Rights and Development
Philippines	Women's Legal Bureau
Thailand	Global Alliance Against Trafficking in Women Gender and Development Working Group and Action Aid

South Asia Core Group:

Bangladesh	Naripokkho Bangladesh Mahila Parishad
India	North East Network National Alliance for Women (NAWO) National Institute for Advanced Studies (NIAS) Association for Advocacy and Legal Initiatives (AALI)

² These are the core groups that IWRAP Asia Pacific works directly with. In turn these groups mobilise and work with different constituencies at the national and local level.

Nepal	Forum for Women, Law and Development
Pakistan	Shirkat Gah Pattan
	Aurat Publication and Information Center Foundation
Sri Lanka	Center for Women's Research (CENWOR) Women and Media Collective

PART II: Implementation According to Plan

Specific activities were planned for 2002 to achieve the stated objectives of IWRAW Asia Pacific. A narrative account of activities implemented is given below. This narrative also includes activities that were not initially planned for but were implemented in response to requests made to IWRAW Asia Pacific.

Highlights/Summary

IWRAW Asia Pacific has been in existence since 1993. Since that time The CEDAW Convention has become well known and much interest has been generated in utilising this treaty to promote women's rights. There has been a need therefore to develop the programme to respond to growing needs in the region and to take it beyond basic capacity building. For example, it has been necessary to develop methodologies for operationalising rights based approaches, as well as for creating new knowledge that elaborates the scope of the CEDAW Convention and a more rigorous understanding of the elements of discrimination as defined by the CEDAW Convention that can be used in litigation and activism at the domestic levels. Other aspects of the work that needed to be developed is the more systematic dissemination and exchange of information and techniques relating to the application of the CEDAW Convention and the linking of such experience with the work of other treaty bodies. A further highlight is the increasing work with governments at their request and the increasing involvement in international advocacy. The latter has been gaining momentum as the women's groups we work with at the national level begin to see the efficacy of utilising international mechanism to enhance national activism .

Through the *Capacity Building* efforts, In 2002 IWRAW Asia Pacific conducted workshops on CEDAW implementation for *government officials* in Mongolia, Cambodia and the Maldives as well as a South Asian Regional Policy Dialogue bringing governments and NGOs together to discuss the implementation of CEDAW's Concluding Comments. In the area of *Developing New Knowledge And Methodologies*, the activities are a Consultation on a Rights Based Approach to Programmes on Reproductive and Sexual Rights (India), A Workshop for CEDAW Committee members on Temporary Special Measures, (article 4.1 of CEDAW), the writing of a Discussion Paper on the Use of CEDAW to Combat Trafficking and the Training of Lawyers to refine legal arguments on discrimination.

The *International Advocacy* component gained strength through our participation in the Day of General Discussion on Article 3 of the International Covenant on Economic

Social and Cultural Rights (Office of the High Commissioner for Human Rights Geneva) and in the Meeting on the Montreal Principles (Canada). This meeting aimed to produce a document called the Montreal Principles that would set out broad principles to guide the interpretations and implementation of the rights found in the International Covenant on Economic, Social and Cultural Rights so that women can enjoy them fully and equally. 2002 was an exceptional year in relation to the CEDAW Review of states parties reports as there were three sessions instead of the usual two. IRAW Asia Pacific had to take on the additional load of facilitating the participation of women in this process for all three sessions through our Global to Local Programme.³ As the third session or the one that was held on an exceptional basis had four countries from Latin America we were able to provide support and guidance in Spanish.

Under *Information Dissemination and Application* is the creation of a website for more effective utilisation of the CEDAW Convention through a process of information collection and dissemination. It contains official as well as practical information on the CEDAW Convention, the CEDAW Committee, the role of NGOs in the treaty process, calls to action, as well as useful links and resources. Complementing this is the “cedaw4change” and “global2local” listservs. The “cedaw4change” is for members to brainstorm, share experiences, seek clarification and contemplate possibilities for further action in relation to how CEDAW and other human rights treaties impact on women.. The global2local is private and open only to those who have previously been involved in the “From Global to Local” programme. It was introduced so that there would be a private and confidential means for these participants to continue to exchange information and share ideas/experiences resulting from their involvement in the programme.

Technical Assistance projects too have gained in significance. In 2002 IRAW Asia Pacific participated in a workshop on Women’s Participation in Politics organised by the Parliamentary Women’s Caucus. Jakarta, Indonesia and gave inputs on the international standards for women’s political participation as well as gave comments on two proposed laws on Formation of Political Parties and Electoral Process from a Gender Perspective.

Of special interest is the technical assistance given to Tajikistan under the sponsorship of the OSCE. Under this activity IRAW Asia Pacific conducted a review of the compliance of the laws of Tajikistan with the requirements of the CEDAW Convention. A second special activity is the participation in the International Peace Mission to Sri Lanka. Concerned that the needs of the people most affected by conflict which is often women and children, should be the subject of the peace negotiations currently underway in Sri Lanka, a number of women’s organisations in Sri Lanka, coordinated by the Women and Media Collective, facilitated an international women’s mission to the north east of Sri Lanka. The aim of this mission was to promote a gendered and rights-based approach to the peace process. It was a privilege for IRAW Asia Pacific to be part of this mission.

³ The Global to Local is a programme that brings women from reporting countries into the CEDAW Review process at the UN. This programme has been taking place since 1997.

Finally, under the Facilitating the Fulfilment of State Obligation project, activities at the national level have moved from research on discrimination to advocacy. As a result, significant gains in *Law And Policy Reforms* have been effected and strategic advocacy steps taken by national level partner organizations utilising the findings of the research on discrimination against women with regard to specific issues. In Pakistan a consultation of 137 newly elected women councillors⁴ was held to assess their needs and difficulties as decision makers. In Sri Lanka, a shadow report was prepared critiquing the government report that was reviewed by CEDAW in January 2002 and a national conference held after the review drawing commitments from the government to implement the Concluding Comments of CEDAW. In Nepal significant legal reforms promoting women's rights were brought about through the County Code Eleventh Amendment Bill. These reforms giving women greater rights on the basis of equality, fall in the areas of inheritance, divorce, adoption, decriminalising of abortion, age of marriage etc.

Project Implementation by Objectives

Objective 1:

To help develop skills in rights awareness and build capacity for domestic application and use in local activism of the Convention and the human rights instruments as part of the process of monitoring the implementation of the human rights chapter of the Beijing Platform for Action through technical support, orientations and training.

1.1 Capacity Building

Eight training workshops were conducted at the national level and there were two types of training that were conducted. One on the application of the CEDAW Convention for which there were two types of target groups- government officials and women activists. Five of the workshops were conducted for government officials in Mongolia, Cambodia and the Maldives and one was for activists in India. The second type of training were two regional lawyers training conducted in Bangalore and Shillong in India.

Application of the CEDAW Convention: Training for Government Officials

a) MONGOLIA

A four-day CEDAW training was conducted at the request of UNDP Mongolia on 26 February-1 March 2002 for government officers and NGOs. The CEDAW Committee had reviewed Mongolia in January 2001 and UNDP Mongolia provided support for capacity building of the government to enable them to implement the recommendation of the CEDAW Committee. IRAW Asia Pacific developed the training programme and provided all the training materials. Shanthi Dairiam, Executive Director and Andrew Byrnes, Advisory Committee member facilitated the training.

⁴ These women councillors were elected as a result of an affirmative action programme to bring women to decision making. In 2001.

The objectives of the training were as follows:

General Objectives

To create awareness of the obligations of the state in ratifying the Convention on the Elimination of All Forms of Discrimination against Women (the Convention) and to develop their skills to apply the principles of the Convention in planning for the advancement of women in Mongolia.

Specific Objectives

1. Raise awareness about the significance of the CEDAW Convention as an instrument to plan development and access rights for women through law and policy reform.
2. Create clarity on key concepts and principles pertaining to women's rights advocated by the Convention: equality, discrimination and State obligation.
3. Provide knowledge and skills in the practical application of the principles of the Convention in priority sectors in order to develop a comprehensive approach to women's development.
4. Provide information on the procedures by which the Convention is monitored by the CEDAW Committee at the United Nations level and discuss the following:
 - The purpose of reporting and key elements of a CEDAW report.
 - Mongolia's 3rd and 4th periodic report reviewed in 2001 and the concluding comments of the CEDAW Committee.
 - Issues pertaining to the implementation of the Convention in Mongolia
 - The role of NGOs.
5. Make plans for follow-up.

Procedure and resource persons

The training was opened by Ms Saraswathi Menon, Resident Representative, UNDP and the opening session was chaired by Ms. B. Shatar, Chair, National Gender Equality Council & Deputy Chair, Cabinet Secretariat. Mongolian resource persons conducted the following sessions:

- Overview of the human rights situation in Mongolia – presentation by Mr. S. Tserendorj, High Commissioner, National Human Rights Commission of Mongolia
- Review of Mongolia's 3rd and 4th periodic reports – presentation by Mr. A. Dagvadorj, Director, Strategic Management and Planning Department, Ministry of Social Welfare and Labour
- The implementation of the Convention in Mongolia: - Government: steps taken – problems and solutions by Ms. B. Shatar, Chair, National Gender Equality Council & Deputy Chair, Cabinet Secretariat
- The role of NGOs – presentation by Ms. J. Zanaa, Director, National CEDAW Watch Network Centre
- Conclusion & Closing remarks by Ms. B. Shatar, National Gender Equality Council

Outputs

Plans were made for the implementation of CEDAW's Concluding Comments.

b) CAMBODIA

Cambodia ratified the CEDAW Convention in 1992 but has not submitted a report as yet to the CEDAW Committee⁵ although a draft had been done by The Cambodian National Council for Women (CNCW), which was established by Royal Decree in 2001. One of the responsibilities of CNCW is to coordinate the writing of the Cambodian. IRAW Asia Pacific was asked to conduct training for the government in Cambodia by UNDP Cambodia, which was held 30 September and 4 October.

This training was intended to build some capacity for report writing and was a UNDP Co Project on Partnership for Gender Equity (PGE), UNDP Asia Pacific Gender Equality Programme (APGEN) with the Ministry of Women's and Veterans' Affairs (MOWVA), Phnom Penh, Cambodia. Shanthi Dairiam, IRAW Asia Pacific developed the training module and facilitated the training.

Procedure

The training was conducted in two parts:

1. One-day training for the Council members and their advisors, which focused on the importance of the implementation obligations of signatories of CEDAW. Twenty-four members and advisers attended this workshop and there were four observers from UNDP and PGE.
2. A four-day training for the technical officers from eight line ministries, which were each represented by three or more people. This workshop was formally evaluated by a written questionnaire, which was answered largely in Khmer. It was answered by 20 of the 31 participants. Thirty-one people attended the second workshop with attendance being very good throughout. There were two observers from UNDP and PGE.

Evaluation of four-day workshop and outputs

The participants found the training very useful. The most useful parts of the training were learning about the Convention itself, reporting guidelines for writing the report and the concept of Substantive equality – opportunity, access and benefit. It appears that participants still lack confidence in writing the report which seems to have to do with a general lack of experience in any kind of report writing.

Other activities

Shanthi Dairiam also met with the Secretary of State, Mme You Ay, who is responsible for CEDAW. Mme You Ay was aware of the inadequacies of the first draft as the consultant identified and was grateful that the workshops were helping all concerned to address these defects.

⁵ The State is obligated to present an initial report to the UN one year after ratification of the CEDAW Convention and periodic reports every four years thereafter.

Follow-up Plans

The CNCW was asked to write formally to the eight line ministries asking them to establish a CEDAW Working Group which should include the three people who had been trained. These groups are to be established and start work immediately. Thereafter they will meet once a week until the draft report is finished. The tentative deadline for completing the draft was set at the end of November.

The draft report will go through an extended process of approval, which was outlined by a member of the Cambodian Human Rights Commission. It will be submitted by CNCW to the Council of Ministers who will send it to their Legal Sub Committee. If amendments are required, these will be made by the responsible ministries and returned to the Legal Sub Committee. It will also be reviewed by the Cambodian Human Rights Commission. It will be returned to the Council of Ministers for formal and final approval. The Ministry of Foreign Affairs will be responsible through the Cambodian Mission to the UN for submitting the report.

Conclusion

PGE was very pleased with the outcomes of the training. The trainer brought a wealth of experience to the task. This included knowledge of the review of country reports in New York, experience in conducting training sessions and knowledge gained from this kind of work in other Asian countries. Examples given from these experiences greatly enriched the workshop and added interest to what, for some, started out being a rather dry subject. This was dispelled by the stories from other countries, group work and discussion, and case studies from Cambodia, which had been prepared by the two Deputy Secretaries of CNCW.

Participants reported that the trainer was also very effective in introducing the participants to the guidelines for writing the CEDAW report, which was clearly new information to the participants. This helped them to understand why the draft chapters they had written in 2001 were inadequate.

Finally, the securing of a commitment to further report writing and getting the participants to develop a timeframe in which it would be done, meant that the workshop ended on a positive note. This was a very satisfactory conclusion to the work done during the week.

c) MALDIVES

IWRAW Asia Pacific carried out two sets of CEDAW training for two groups of government staff of the Maldives on 20-25 October. Maldives had presented their initial report to the CEDAW in January 2001 and the Ministry for Women and Social Security requested the training to develop capacity of the government for CEDAW implementation. Shanthi Dairiam planned and implemented the training. Each training session lasted for two days. The training was funded UNICEF Maldives.

The training aimed to create a better understanding of the obligation of the State as a party to the CEDAW Convention and to develop some skills in the application of this Convention. The training covered the following topics:

- **Treaty law:** What is a human rights treaty; human rights treaties as a source of international law **and the** distinction between treaties and World Conference Plans of action. The legally binding nature of treaty obligations and Constitutional provisions for treaty law implementation in the Maldives.
- **The CEDAW Convention:** The history and key features of the Convention as well as key concepts and principles.
- **Skills in the practical applications of the CEDAW Convention.**
- **UN procedures for monitoring the implementation of the CEDAW Convention:** The reporting process and its significance.
- **Issues pertaining to the implementation of the convention in the Maldives:** Developing a methodology for implementing the Concluding Comments.

Other activities

Shanthi Dairiam held discussions on CEDAW implementation with the Minister for Women and Social Security, The Deputy Minister of Planning, the Attorney General of the Maldives and the Gender Focal Point of UNFPA. She also visited and had discussions with a women's group in one of the islands.

The Minister for Women stated that the policy of her Ministry is to mainstream gender so that CEDAW can be effectively implemented. The CEDAW report and Concluding Comments had been published. But she said that the country was being opened economically and the Law Reform Commission had priorities such as broadening the legal system to include laws for the market economy so it would be a matter of time before a Presidential decree would be possible to accommodate international treaties.

The Attorney General was cognizant of both direct and indirect discrimination in the country but he was of the view that the Attorney General was only a technician and it was up to the government to decide to bring in reforms that would help eliminate discrimination. If the government made the decision his office would take action. He also felt that affirmative action policies should not compromise national interest and that it would not be possible to eliminate all differences between women and men. He agreed that there was a need for an act to eliminate discrimination and a programme to implement the CEDAW Convention. Regarding Shariah provisions, he was of the view that reforms should be brought about without diminishing the authority of the Shariah, which is given in an ideal situation. The objectives of the Shariah should prevail. He agreed that rights of the female child to inheritance should be strengthened.

He realised that the Maldives was unique in that there was a qualification in the constitution that only a male could be President and that it would be progressive to bring the Maldives constitution on par with other constitutions. He also stated that when he is a member of the cabinet he is not just a technician but will comment on policy. He reiterated that he would not initiate any action to implement the Convention but that the Minister for Women should take the lead in this matter.

The Deputy Minister for Planning stated that that the Ministry of Women had a role to play in all development plans at the project appraisal stage, but there is no structure to circulate a policy from and to the Women's Ministry or to the Planning Ministry. Interventions can only be made at the cabinet level. At the National Development Plan level there is a committee for streamlining policies and the Women's Ministry is represented there. But this only for development plans. Issues or policies pertaining to the law, finance, population do not come under development.

While it is possible to discuss concepts at the preparation stage of a project there is no methodology for impact assessment and capacity has to be built for this. He stated that the Women's Ministry is seen as a line Ministry. It should be a more like a central agency so it can have some authority.

The discussions with the women's group was inspiring. They showed commitment and eagerness to develop skills in advocacy through which the equality of women could be promoted in a context where 100 % of the population was Muslim.

One significant gain that had been made was the appointment of a woman as atoll chief. Hitherto there had been only male chiefs under the rationale that the chiefs would have to lead the prayers and only men could do that. This obstacle has been overcome by separating the role of imam from that of the administrative role of the atoll chiefs.

Application of the CEDAW Convention: Training for Women Activists

a) INDIA: Training for Women's Activists in Orissa, July 13-15, 2002

Two regional trainings on CEDAW were planned for India in 2002. One training was to be held in Orissa for the Eastern Region and the other in Bihar. The regional training in Orissa was held on July 13-15, 2002 in Hotel Marrion, Bhubaneswar, Orissa. It was organised by NAWO-Orissa with the support of NAWO-India and IRAW Asia Pacific. IRAW Asia Pacific provided background materials for the training as well as funding support. There were approximately 63 participants from NGOs in West Bengal and Orissa as well as government representatives. The training was inaugurated by the Law Minister of Orissa, Mr. Biswabhusan Harishchandan. The workshop sessions were on:

Session 1: Understanding Women's Realities- Sex and Gender

Session 2: Social Norms

Session 3: Discrimination against women and substantive equality

Session 4: Main features of the CEDAW

Session 5: Group Work (Three case studies were given for discussion)

Session 6: Women's Human Right and History of the Convention

Session 7: State Obligation under the Convention and Optional Protocol

Session 8: Reporting Procedure, Shadow Reports and Concluding Comments

Session 9: Group Work: Planning & Strategies

Session 10: Evaluation and Closing

A planning and strategies session came out with following strategies on how to improve the status of women at the grassroots level: (1) convening of a one-day workshop to be organised for government departments; (2) drafting of a concept letter on CEDAW to be circulated to district administrators by NAWO; (3) disseminate information on CEDAW to the State, women's colleges and women's commissions; (4) sensitising media persons about CEDAW; and (5) assisting NGOs on CEDAW.

Other strategies enumerated in the group presentations include: (1) translation of CEDAW in regional languages; (2) preparation of training module for women at the grassroots level; (3) making the Panchayat and district administrators aware of CEDAW; (4) incorporating CEDAW in policy training; (5) development of networks to combat trafficking in women; (6) dissemination of information on CEDAW at all levels, through e.g. street plays, documentary films, TV, leaflets; (7) inclusion of CEDAW in police training model; (8) sensitisation of government on CEDAW; (9) sensitisation of media on CEDAW; (10) documentation of cases on violence against women, including development of guidelines on information collection. For NAWO, the participants suggested (1) more training of trainers for grassroots-level workers and for Women and Child Development Department and Law and Home Department; (2) translation of CEDAW in local languages; (3) State policy advocacy; and (3) fund allocation on the activities listed.

The participants in their evaluation stated that they found the training useful, effective and very informative. They stated that the speakers were good and the presentations were clear and descriptive. They liked the methodology and found the materials very useful. However, others commented though that the training was too heavy for three days and that there is a need for the training to be more participatory, with more visual aids and less lectures. They also mentioned that they need more advice and suggestion for the action plan.

The Bihar training did not take place in 2002 and instead was held on March 28-30, 2003 in Patna, Bihar.

Application of the CEDAW Convention: Training for lawyers

The training programme for lawyers proposes to introduce international standards and feminist perspective as a basis for women's rights to be claimed through legal initiatives and litigation. International norms can be a means for the actualisation of women's rights in a country, particularly when considering rising challenges such as fundamentalism and situations of armed conflict. It is important for lawyers and human rights activists to engage in the process of evolving a core set of universal norms and standards for women's rights. Otherwise, rights for women will be subject to changing ideologies and shifting economic and political contexts.

IWRAW Asia Pacific aims to build the capacity of lawyers to apply the principles and standards contained in the CEDAW Convention to their work. The training includes

exercises to develop skills in the use of the Convention to advance women's rights. Through the lawyers training, technical assistance is provided to enhance the capacity of core group members and partners to: a) Raise awareness of lawyers of the advantages of using feminist principles and international human rights norms and integrating CEDAW to legal initiatives and litigation strategies; b) Create clarity on key concepts and principles pertaining to women's rights advocated by the Convention: equality, discrimination and state obligation under treaty law; c) Create familiarity with the obligations that the state has undertaken through ratification of international human rights treaties and by being a party to the recommendations and plans of actions of the UN World Conferences; d) Develop skills in identifying the discriminatory aspects of the law and the legal system in order to develop a comprehensive approach to legal activism; and e) Develop common strategies and possibilities of exchanging information.

IWRAW Asia Pacific's training programme for lawyers provides practical training in preparing model briefs and developing arguments in relation to specific issues. A number of lawyers trainings have been convened by IWRAW Asia Pacific with local partners since 1994, including national level trainings in Nepal (2000) and Bangladesh (2001) and two regional training activities for lawyers in India in 2002.

a) INDIA

In 2002, the two regional training for lawyers in India covered the following themes/topics: 1) Understanding some concepts: Non-Discrimination; substantive equality and state obligation; 2) Women's Rights in the U.N. System: UN Human Rights System and Mechanisms; Sources of International Human Rights Law; 3) The CEDAW Convention: The History of the Convention and the key features of the Convention; State obligation: constitutional provisions relating to treaties; 4) Law and the Legal System: Role of law and women's rights activism; 5) Application of the Convention in litigation and legal initiatives; 6) Mechanisms provided to monitor implementation of the CEDAW Convention: CEDAW and reporting process: the Indian experience; The Optional Protocol to the CEDAW Convention; 7) Practical Legal Activism: planning for the effective use of the CEDAW Convention.

- **Lawyers Training, North East India Regional Training (25-29 November, 2002)** The training was coordinated by the North East Network in collaboration with NAWO and took place in Shillong, Meghalaya. 17 lawyers and human rights activists from Manipur, Assam, Nagaland and Meghalaya took part in the training. The main resource persons were: Madhu Mehra, Geetha Devi and Geetha Ramashen.
- **Lawyers Training, Southern Regional Training (13-15 December)** The training was coordinated by NAWO in Bangalore. More than 44 lawyers from Southern states: Tamil Nadu, Kerala, Andhra Pradesh, Lucknow and Karnataka participated. The main resource persons were: Geetha Devi, SK Priya, Maria Graterol and Shanthi Dairiam. It is important to note that new elements to the training were introduced. For example: one session focused on the uses of Article

1 of the CEDAW Convention in litigation; new case studies were introduced and landmark decisions of Courts in India and internationally were discussed.

From 2003-2005 IRAW Asia Pacific plans to assist partner organisations, both in the region and internationally, in conducting these trainings. Technical assistance includes: sharing and contributing resource material, drawing up the training programme, providing the experts, and where necessary, help with the running of the training itself. By 2005 we hope to publish training materials specifically designed for building the capacity of lawyers and judges on applying CEDAW. The training for lawyers will also be linked to the Global Campaign for Ratification and Use of the Optional Protocol to CEDAW, as in order to initiate communications before CEDAW, it is necessary to “exhaust domestic remedies.”

1.2 Technical Assistance

a) Workshop on Women’s Participation in Politics organised by the Parliamentary Women’s Caucus. Jakarta, Indonesia. (15-16 July 2002)

Sponsored by UNDP PARAGON Regional Governance Programme, Shanthi Dairiam attended this meeting to give inputs into international standards for women’s political participation and to review two proposed laws on Formation of Political Parties and Electoral Process from a Gender Perspective.

b) Review Of The Compliance Of The Law Of The Republic Of Tajikistan With The UN CEDAW Convention (July/ August 2002)

At the invitation of the Organization for Security and Cooperation in Europe (OSCE) Shanthi Dairiam reviewed the laws of Tajikistan for compliance with CEDAW. The Republic of Tajikistan ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on October 23, 1993. However, the authorities have so far prepared no report as to its implementation.

In 1999, the OSCE ODIHR signed a Memorandum of Understanding with the Tajik Government on cooperation in the field of Human Rights in the country. Through a joint effort between the main agencies working in the field of treaty reporting: the OSCE/ODIHR, the OHCHR, the UN Tajikistan Office of Peace building (UNTOP), the Swiss Agency for Development and Cooperation as well as the Department for Constitutional Guarantees of citizen’s rights in the Presidential Apparatus, the Tajik Government, in the early 2002, set up a National Commission which established the necessary inter-ministerial mechanism. The commission is responsible for the implementation of all international obligations of Tajikistan in the field of Human Rights. One of its first actions will be to report on the CEDAW Convention.

With the intention of contributing to the reporting process, the OSCE Mission to Tajikistan commissioned Shanthi Dairiam, Executive Director, IRAW Asia Pacific, based in Kuala Lumpur, Malaysia to analyse compliance of the Tajik national legislation with the CEDAW Convention. The contents of the report draws on an analysis of a number of laws translated

for this purpose as well as on reports of academics, international organisations and non-governmental organisations. It is also based on interviews and discussions held with government officials, representatives of non-governmental organisations and some grass roots women's groups during a visit to Dushanbe on 2-6 August 2002. Part of this process included a one-day round table discussion on 5 August 2002 in Dushanbe in which government officials and NGO representatives participated. Shanthi Dairiam was assisted in her mission by a local consultant Mr Nurmakhmad Halilov who participated in all the discussions and prepared a paper that provided a gender analysis of selected laws.

The CEDAW Convention is extremely broad in its coverage, dealing with virtually all areas of social life. In addition, the Convention obliges States parties not just to ensure that their constitutions and laws are on their face in conformity with the Convention, but also that the rights guaranteed in the Convention and implementing domestic laws are in fact enjoyed in practice. Thus, any evaluation of the implementation of the Convention must include not only an analysis of the laws and policies adopted in particular fields, but must also examine the extent to which those laws and policies have been implemented in practice. While a comprehensive review of the implementation of the CEDAW Convention in Tajikistan was not carried out, a number of major areas in which there appear to be inconsistencies between national law and practice and the CEDAW Convention were identified.

Summary of findings and recommendations

In Tajikistan, the Constitution guarantees equality for women and by and large there is also an array of laws that have in formal terms integrated the CEDAW principle of equality. The State has in this sense provided the normative standards for equality. This has not however protected the rights of women in Tajikistan because the *de facto* situation of women does not match the standards set in the law. Mechanisms and procedures as well as programmatic measures such as education of women on awareness of their rights through legal literacy and provision of legal aid, which will provide them with the resources to access the courts, are lacking. As a result, enforcement and implementation of the law is weak and therefore women are not in a position to exercise the rights provided for in the law. Therefore, it cannot be stated that there is compliance with obligations under CEDAW because Article 2a obligates the state to “– ensure through law and other appropriate means, the practical realisation of the principle of equality”. The laws are there but “other appropriate means” are not there. Obviously laws alone are insufficient.

Among the many reasons why the Constitutional guarantee for equality does not benefit women is the lack of the definition of discrimination, and accessible structures and mechanisms to make claims. In this regard, it is recommended that an Equality Law be enacted to provide statutory guarantees for equality so that the justiciability of the right to equality becomes feasible

There are also some gaps in substantive law. There is inadequate legal protection for women against gender-based violence. It is recommended that laws on domestic violence

and sexual harassment are enacted and amendments to the criminal code in the area of provisions on rape are made.

The courts have no clear understanding of equality, non-discrimination and human rights as conceptualised in the CEDAW. The courts have inadequate experience in deciding on cases of discrimination, so training and gender sensitisation for judges, lawyers and court officials is recommended.

The State Programme on Equal Rights and Opportunities of Women and Men has the potential to function as the instrument through which the elimination of discrimination can be mainstreamed programmatically into all ministries and sectors but it has no concrete action plan or procedures and has no benchmarks to monitor progress. Monitoring of all state action with regard to women's advancement is weak. This needs to be addressed.

Institutional arrangements for co-ordination and implementation are also weak. The Committee for Women and Family Affairs needs to create horizontal connections with all ministries to execute The State Programme on Equal Rights and Opportunities of Women and Men. The mandate of the Committee and that of all the ministries must be clarified to ensure that that of the former is one of co-ordination and that of the latter is one of implementation. Clear lines of accountability must be established. All key personnel in the various government structures including the Committee for Women and Family Affairs must receive training on gender; human rights, equality and the rights based approach to development.

Priorities for implementing The State Programme on Equal Rights and Opportunities of Women and Men must be set especially in the absence of resources. But there has to be resource mobilisation once priorities are set so that the programme is effectively implemented and the Committee can function efficiently.

The situation of rural women needs urgent attention. There are at least 26,000 war widows. They lack social status because of patriarchal values and lack economic independence. They are vulnerable to exploitation and their dire need for resources for survival puts them at risk of exploitation by traffickers. It is recommended that a holistic programme be implemented for them so that they can enjoy economic, civil, social and health rights.

Many of the problems of women, their lack economic independence, low educational levels, poor political representation, prevalence of domestic violence etc. stem from the patriarchal culture that sees men as social superior and prescribes differential rules, behaviours and identities for women and men. An ongoing campaign should be launched that will counter this negative culture. (A full report is available with IRAW Asia Pacific)

c) Guest Lecturer At Hong Kong University (14 – 20 April 2002)

Shanthi Dairiam was invited by the Centre for Comparative and Public Law of the University of Hong Kong to lecture to the LLM Human Rights students on the

experiences of the CEDAW review and to conduct a public lecture. This visit took place in April 2002. The public lecture took place on the 20th of April and the title of the lecture was “Equality and Non-discrimination: The Two Essential Principles for the Promotion and Protection of the Human Rights of Women.” The lecture was co-organised by the Centre for Comparative and Public Law and the Women’s Studies centre of the University of Hong Kong. Two others who spoke on the occasion were **Ms. Wai Ha Lam**, the External Organiser of the Association for Advancement of Feminism and **Ms. Chan Yu**, Director of the Hong Kong Federation of Women’s Centres. Shanthi Dairiam also visited the Equal Opportunities Commission and the Hong Kong Federation of Women’s Centres.

d) Gender Training Series (21-23 June 2002)

Shanthi Dairiam was a resource person for the Federation of Family of Planning Associations, Malaysia which conducted gender sensitisation training for their staff and volunteers. At the training, she was responsible for the sessions on Substantive Equality and Non-discrimination. The training was conducted in Malacca, Malaysia.

e) International Women’s Peace Mission to the North East Of Sri Lanka (13-18 October 2002)

As a result of the Memorandum of Understanding (MOU) between the Government of Sri Lanka (GOSL) and the Liberation Tigers of Tamil Eelam (LTTE) two rounds of negotiations had been concluded between the GOSL and the LTTE with the facilitation of the Government of Norway by early October 2002. Concerned that the needs of the people most affected by conflict which is often women and children, should be the subject of the peace negotiations, a number of women’s organisations in Sri Lanka, coordinated by the Women and Media Collective, facilitated an international women’s mission to the north east of Sri Lanka. Shanthi Dairiam was a member of this mission⁶, which had the following objectives:

- To promote a gendered and rights-based approach to the peace process, so that all agreements and accords resulting from the process will be based on a framework guaranteeing the protection of fundamental human rights for all, including the rights of women.
- To promote the values of pluralism, democracy and equality as being fundamental to a rights-based approach.
- To highlight the importance of bringing a women’s perspective to bear on all aspects of peace making, peace building, rehabilitation and reconstruction.
- To assist in identifying women’s concerns, needs and interests so that they can be integrated into the peace agenda, influencing the formulation of policy and administrative and legal reform in this transitional period.

⁶ The Mission comprised Dr. Elizabeth Nissan (UK), Ms. Shanthi Dairiam (Malaysia), Ms. Florence Oduor (Uganda), Ms. Liza Kois (USA), Ms. Sonia Jabbar (India) and from Sri Lanka M/s. Kumudini Samuel, Prof. Sitralega Maunaguru, Anberiya Hanifa, Dulcy de Silva, Saroja Sivachandran, Ksharma Ranawana, Zulfica Ismail, Yumuna Ibrahim, Kamalini Kathirvelaithapillai, Viji Murgaiyah, Amara Hapuarachchi, Chandani Herath, Annie Kurian & Sumangalee Athulugama.

- To highlight the need to ensure that human rights are fully protected at every stage of the peace process, thereby building a rights-based peace and reconstruction agenda which is sensitive to gender issues.

The various teams constituting the international mission visited the following areas of the north-east: Jaffna and Kytes, Kilinochchi, Vavuniya, Trincomalee, Batticaloa, Puttalam, Mannar and border villages⁷ in Polonnaruwa District. Members of the mission talked to a wide range of women and men from different communities and different walks of life in these areas.

The recommendations entitled “Women’s Concerns and the Peace Process” are divided into two main sections. The first is addressed to the two parties to the peace talks: the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam, and addresses issues pertaining to the Memorandum of Understanding and the formal peace process itself.

The second section addresses all those involved in policy formulation and implementation relating to rehabilitation, resettlement and reconstruction.

This document does not attempt to report on the mission’s findings in full. Instead, it concentrates on the recommendations for both the peace process and for policy formulation that flowed from these findings. It is intended as a first step towards highlighting the need for a gendered and rights-based approach to peace making, rehabilitation and reconstruction.

Briefing of Diplomats (23 November 2002)

As a follow up to the Peace Mission, a one-day briefing of diplomats in Sri Lanka was conducted to appraise them of the findings of the mission. Shanthi Dairiam was also one of the members of the briefing team

Accomplishments

As a result of the mission, it has been decided by the Peace Negotiating Mission to include the representation of women on the side of GOSL and the LTTE.

⁷ The term “border villages” is used to refer to those villages, both historic and new settlements, situated in the de facto border region between the territories controlled by the Government and by the LTTE. This stretch of land historically was and continues to be a mosaic of cultural, linguistic, and religious diversity and intermixing. Geographically, the border villages extend, along the demarcation of the north eastern province from Mannar to Vavuniya to Trincomalee and down the Eastern Coast.

Objective 2:

To contribute to the strengthening of the implementation of the Convention and the Beijing Platform for Action through the following

2.1 The Facilitating Project

2.1.1 Background 1997-2001

Facilitating the Fulfilment of State Obligation to Women's Equality (Facilitating Project) began in Southeast Asia in 1997 and in South Asia in 1998. It involves 12 countries in the region—Bangladesh, India, Indonesia, Lao PDR, Malaysia, Mongolia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam.

The long-term objective of this project is to develop a model (Monitoring Framework) for data gathering and monitoring the status of women within the standards set by the Convention so as to facilitate its implementation. The method of implementation involves the setting up of core groups in each country to act as monitors and focal points at the national level. They would take responsibility for the first activity which is the research and writing of a baseline report that would identify the status of women, contributory causes of discrimination, detect gaps in implementation and determine recommendations concerning the issue chosen. Core groups are expected to form issue networks within other women's groups and civil society in general to launch a strong advocacy with the government. In-country consultations and meetings will be held to bring about collaborative Government and NGO partnerships. The project envisions that the baseline report will be used for large-scale advocacy to be followed by continuous monitoring and research and further advocacy. IRAW Asia Pacific intends to publish the baseline reports for South Asia and Southeast Asia in 2003 and 2004 respectively.

Core groups have produced their respective base line reports⁸ and many of them have progressed to carrying out advocacy based on the findings of the reports at national levels

⁸ The core groups have produced base line reports on the following themes:

South East Asia

- Indonesia: Violence Against Women
- Laos: Rural Women and Economic Opportunities
- Malaysia: Rights of Women in Marriage
- Mongolia: Women in Employment
- Philippines: Women and Violence Against Women and Political Participation
- Thailand: Trafficking in Women
- Vietnam: Employment of Women in the Market Economy
- South Asia
- India: Political Participation/Governance
Women in Armed Conflict
Rights in the Family/ Marriage
- Bangladesh: Violence against Women
- Nepal: Unequal Inheritance Rights
- Pakistan: Political Participation
- Sri Lanka: Violence against Women

and in some instances at the international levels.

This project is complex multi year project and has many facets. Since 1997 it has had many donors.⁹ In 2002, UNDP APGEN (Asia Pacific Gender Equality Programme) funded activities in Laos, Malaysia and Sri Lanka as well as the final regional evaluation meeting. Activities in India, Nepal and Pakistan were funded by Danida.

For 2002, the following activities have been undertaken in relation to the Facilitating Project:

2.1.2 Country Activity Reports

a) PAKISTAN

Background

IWRAW Asia Pacific works with Aurat Foundation, its core group, in Pakistan. Aurat Foundation prepared a baseline report on women's political participation. This report was published in 2000 and was very useful in Aurat Foundation and its networks' success in its campaign for a law mandating 33% allocation of seats for women. Aurat Foundation's advocacy continued after the grant of 33% reserved seats through the 2000 Local Government Plan. It mobilised support for women candidates in the 2000-2001 local government elections, which resulted in an impressive number of 36,105 women being elected in local government institutions.

2002

The core group in Pakistan is now updating the baseline report to aid it in its continuing advocacy on women's political participation.

Consolidating the Impact of the Baseline Report

To update and improve upon the baseline report as well as to ensure the effective participation of women councillors in local governance, on May 30-31, 2002, a national consultation was held in Lahore with women's councillors on Problems of Participation in Local Government. Specifically, the objectives of the consultation were: (1) to explore, identify, understand and debate the nature of the problems women councillors are facing and offer alternatives; (2) to develop recommendations for a uniform policy for women councillors effective participation in decision-making process; (3) to strategise on the legal lacunae working against women councillors; and (4) to establish networking among the women councillors at the district, provincial and national level to consolidate their presence in the Local Government. The consultation was attended by 137 participants. It had a tripartite format. There were 76 women councillors from Punjab, Sindh, NWFP and Balochistan. The rest of the participants were from government and civil society organisations. The consultation was divided into the following sessions:

⁹ The donors for this project over a period of time have been Canada SEAGEP, Ford Foundation Delhi, The Ministry of Foreign Affairs Netherlands, DANIDA, UNIFEM South Asia, UNDP APGEN.

Session 1: Problems relating to lack of knowledge of laws/systems and lack of cooperation by male colleagues

Session 2: Problems relating to development planning and financial discrimination against women councillors

Session 3: Problems relating to lacunae in law and lack of application of laws/rules

Session 4: Response from Government

Outcomes of the consultation include the sharing by women councillors of their problems and experiences at the national level since the new system was put in place. The consultation enabled the women to have a frank dialogue with concerned government officials and representatives of civil society on their problems and on issues of common concern. While it enhanced the knowledge of women councillors on the local government system and their roles, responsibilities and potentials within it, it also provided government officials first hand information and update on the problems women councillors are facing. Recommendations were drafted. The message sent by women councillors about the problems they are facing and the need to resolve them was clear.

As future strategies, the following points were identified: (1) efforts will be made to provide copies of Ordinance and Rules of Business in Urdu and regional languages to assist in the interpretation of laws; (2) Aurat Foundation will be starting on District Resource Centres in 10 districts and eventually will cover all districts. These centres will provide information to the women councillors; (3) Frequently Asked Questions by the councillors will be answered by the special Mail Answering Desk to be set up in Provincial Resource Centres; (4) Resource Centres will be formed with close coordination with Citizen Action Committees (CACs) to sensitise women in different areas, to enable women to raise their voices and solve their problems at *Zillah*, *tehsil* and union level; (5) Networking will be strengthened at all levels for experience sharing among women councillors and to improve the efficiency of work in their respective areas; (6) Councillors, at the local level, will be given training to perform their duties effectively; (7) Women forums made by women councillors at different levels will be involve in CACs' work to create a link between CAC and these forums; (8) A monthly interactive newsletter will bring out the activities and experiences of these women; (9) A committees will be established at *tehsil* and union level on violence against women. Their focus will be repeal of *Hudood* laws and legislation to eliminate "honour killings"; and (10) Exposure visits will be arranged for women councillors of different districts at provincial and national levels.

Campaign on Arts. 5 and 16

As a parallel activity, the core group also undertook a campaign on the removal of reservations to Arts. 5 and 16 through the holding of a workshop and the production and distribution of advocacy materials. This campaign is an advocacy derived from the baseline report which showed that Pakistan's reservation to CEDAW, i.e. that its obligation under CEDAW is subject to the provisions of its Constitution, provides an obstacle in the fulfilment of State obligation, including women's political participation.

b) NEPAL

Background

The baseline report which focused on inheritance rights was first published in 2000. The core group in Nepal, Forum on Women, Law and Development (FWLD), is also updating its the baseline report as well as translating it to the local language. A direct consequence of the baseline report was the conduct of another baseline study on discriminatory laws in Nepal and their Impact on Women. FWLD launched an advocacy campaign around these two baseline reports alongside with a Supreme Court Directive Order for a review of discriminatory laws and garnered a huge constituency demanding reform of discriminatory laws.

2002

Consolidating the Impact of the Baseline Report

In February 12, 2002, in culmination of its various advocacy efforts, FWLD with a number of partners including IRAW Asia Pacific and funders, convened a national conference and rally to present before 120 Members of Parliament evidence of discrimination in the laws, including inheritance laws. The main call was for the passage of the Country Code (Eleventh Amendment) bill, which would change discriminatory laws. About 2,000 people from the rural areas joined Members of Parliament in the rally in Kathmandu. “Victim hearings” were held based on the case studies done. This conference was crucial in the passage of the bill by Parliament in March 12, 2002 and the subsequent grant of royal assent in October 2002.

The reforms incorporated in the new law include: (1) The law now accepts daughters as ancestral heirs. Previously, only unmarried daughters above 35 can inherit. (2) A widow now has full right to inherit even in cases of remarriage. (3) The law removed the condition that women must attain the age of 35 and must be married for 15 years before she can live separately and take a share from her husband’s property. (4) Previously, only sons have the right to upbringing. The law now grants daughters the right to food, clothing, appropriate education and health treatment as is provided for sons. (5) Inheritance rights were given to divorced women. (6) The law gives a wife, separated from her husband, the right to adopt a child. (7) The right to divorce on grounds of sexual infidelity was extended to wives. (8) The provision which prohibits giving a child up for adoption where there is only one child has been extended to apply to a daughter. (9) The law provides that a woman may procure an abortion up to 12 weeks of pregnancy upon her voluntary consent. In cases of rape or incest, the period is extended to 18 weeks of pregnancy. Abortion may be resorted to anytime if the pregnancy poses a danger to the life of the woman or to her physical and mental health or if the pregnancy will lead to the birth of a child with disabilities. (10) The law prohibits the conduct of amniocentesis test to perform abortion on the basis of sex. (11) The law equalised the age of marriage at 18 years of age (with parental consent and 20 (without parental consent).

Campaign on Arts. 5 and 16

As an offshoot of the baseline report, advocacy on Arts. 5 and 16 is also being undertaken in Nepal through the production of advocacy leaflets and posters. The campaign intends to highlight discrimination against women under these articles. This was originally planned for 2002, however, activities have been postponed to early part of 2003.

c) SRI LANKA

2002

Completing the Baseline Report

Centre for Women's Research (CENWOR), the Sri Lankan core group, completed its baseline report on domestic violence on October 24, 2002. CENWOR has also initiated a study on incest after having discovered the lack of information on the issue while working on the baseline report on domestic violence. This is a supplementary document to the baseline report and was completed on November 25, 2002.

Utilising the Findings of the Baseline Report

The findings of the baseline report was used by the core group in drafting the shadow report to the Government's report to the CEDAW Committee, which was reviewed in January 2002. IRAW Asia Pacific, through its Global to Local project, was on hand to facilitate the team from Sri Lanka, which include the core group, in observing and monitoring the review process of the Government report and in lobbying CEDAW Committee members on critical issues identified in their shadow report.

As an immediate follow up activity, a national conference on CEDAW's Concluding Comments was held on May 30, 2002 in Colombo bringing together Government and NGOs. The objectives of the conference were: (1) to share the recommendations of the CEDAW Committee with a broader constituency; (2) to enable a discussion on the issues highlighted with State and non-State stakeholders; and (3) to identify possible follow up action and responsible agencies to implement them.

Each paragraph of the Concluding Comments was presented by the facilitator. The Secretary of the Ministry of Women's Affairs, who was also the head of the State delegation during the CEDAW session, gave her responses to each issue/paragraph. A discussion followed whereby participants informed the government of action already taken in certain areas and the need for follow up action in others.

The outcome of the conference was the identification of follow up action under each identified issue and the determination of a group of persons, which would provide a resource base for further action. The State undertook to incorporate some of the suggestions made, particularly with regard to the Optional Protocol to CEDAW, inheritance under the Land development Ordinance and citizenship, among others. The NGOs volunteered their resources to the State in their different levels of expertise. CENWOR hopes to convene a follow up meeting to review the progress of the conference.

The core group also used the baseline report in providing input in the drafting of the Domestic Violence Bill, especially by providing data and documentation on cases of domestic violence. For further awareness raising, in March 6, 2002, CENWOR discussed violence against women, especially domestic violence in a meeting organised by the Director of Health Municipal Council which also involved the Public Health department, Social Services Department, paediatricians, psychiatrists, among others. Media related activities were also continued.

Inspired by the activities of the core group, in May 2002, twelve sensitisation workshops on domestic violence were conducted by the Vehilihini Development Centre (VDC) for CENWOR. The workshop focused on domestic violence and was aimed at officials and rural women leaders. A total of 666 women and 38 men participated in these workshops. The workshops sessions include: (1) What is violence and how it build up in Society?; (2) Gender and Violence; (3) The Nature and Causes of Domestic Violence; (4) Efforts Taken to Address Domestic Violence; (5) Future Actions to Ensure Benefits to Rural Women in relation to Legislative Reform in this Context.

d) MALAYSIA

Background

The core group, Women's Aid Organisation, Women's Crisis Centre, University of Malaya and Sisters in Islam, completed its first draft of its baseline report on women's rights in marriage and divorce in November 1999. It has continuously updated and improved upon its research. IRAW Asia Pacific has continually provided feedback on their report. Presently, the report covers 12 different issues related to stereotyping of, and discrimination against, girls and women throughout their lives.

2002

Utilising the Findings of the Baseline Report

The core group used the baseline report in a number of advocacy activities. On March 14, 2002 a meeting was held between the Malaysian core group and the National Advisory Council for Women (NACIWID). In addition to a discussion on CEDAW and obligations of the State was made, the core group discussed with NACIWID a recommendation in the baseline report, i.e. proposals to improve responses to domestic violence survivors.

On September 24, 2002 the core group met with Dato Ranita Mohd. Hussein, the Commissioner in charge of Treaties and International Instruments Working Group of the Malaysian Human Rights Commission (SUHAKAM). As one of the results of this meeting, an activity entitled Introduction to Gender for SUHAKAM officers and clerical staff was held on October 25, 2003. On November 9, 2002, it met with Prof. Chiam Heng Keng, another Commissioner of SUHAKAM. She was in charge of the Education Working Group. The core group provided suggestions on the human rights curriculum preparation being done by SUHAKAM.

The baseline report's findings are used in the core group's awareness campaigns on domestic violence, especially through the media (newspaper, radio and television). As it

also highlighted the importance of the CEDAW Convention, the core group is presently finalising a brochure on the principles of CEDAW and its relevance to the Malaysian context. The brochure will be in English, Tamil, Chinese and Bahasa Malaysia.

Exploring other Uses of the Baseline Report

An NGO consultation with Women's Agenda for Change (WAC) members was held on November 14, 2002. The meeting deliberated on the drafting of a shadow/alternative report to CEDAW. IRAW Asia Pacific through Shanthi Dairiam and Bandana Shrestha provided information on NGO reporting process to the CEDAW Committee. The baseline report forms a model for analysis for other NGOs. It also provides ready, on-hand information on the issue of marriage and divorce.

e) LAO PDR

2002

Completing the Baseline Report

The draft of the Lao baseline report on Rural Women and their Livelihood was completed in August 2002. To ensure its timely completion of the baseline report, a consultant visited Vientiane on September 17-19 2002 to obtain final comments, gather supplemental information and finalise the report.

f) INDIA

Background

Three baselines reports (political participation, women in armed conflict, and rights in relation to marriage) have been redrafted by the core group in India and are now on the stages of final editing. The Gender Studies Unit of the National Institute of Advanced Studies (NIAS) and Women's Voice and Initiatives-Women in Development prepared the baseline report on political participation of women. The baseline report on Women in Armed Conflict was prepared by Northeast Network (NEN). The research and writing of the baseline report of rights of women in marriage was coordinated by Association for Advocacy and Legal Initiatives (AALI).

New baseline report

A spin off from advocacy on the draft baseline report was a research on customary laws and practices affecting the rights of women in the Northeast (Arunachal Pradesh, Nagaland, Meghalaya, Mizoram, Assam, Tripura and Manipur). In a North East Workshop on Tribal Customary Laws and Practices on Women's Rights in Marriage in Umiam, Meghalaya in April 2-7, 2001, it was agreed that participants present will take responsibility to gather data from their respective States. Grace Shatsang of the Naga Women's Union was chosen as the regional coordinator. To initiate the process, it was agreed that activities begin in Manipur. A state level and four district level meetings (Ukhrul, Temanglong, Senapati and Chandel) were conducted to obtain inputs for the

research. Meetings with widows, lawyers and practitioners were also held for their contributions and recommendations.

2002: Postponed Activities

Disseminating Findings of the Baseline Reports

To disseminate and discuss the findings of the baseline reports; to build and expand a constituency on its issues and to strategise on future steps, the following activities were planned for 2002 but carried out in early 2003:

i) Political participation

On political participation: NIAS scheduled a one-day workshop in December 2002 with members of the State legislature in Karnataka, India. This workshop was postponed and finally held in January 6, 2003.

ii) Women in armed conflict

On women in armed conflict: A workshop to discuss the findings of the baseline report was scheduled to be convened by NEN in 2002. It was however held in March 19, 2003 in Guwahati, Assam.

iii) Rights of women in marriage

On rights of women in marriage: The research conducted by AALI focused geographically on Uttar Pradesh and Bihar and on the following themes in relation to marriage: early and forced marriages, domestic violence, divorce and widowhood. The findings of this research in relation to early and forced marriages was meant to be presented at a national consultation on the right to decide if, when and whom to marry, an activity that was also to launch discussions on the reservations to Articles 5 and 16 of CEDAW. The activity was originally scheduled for 2002. However, it took place only in March 22-24, 2003.

iv) A national consultation on CEDAW Committee's Concluding Comments on India

This consultation was also initially planned for 2002 By NAWO. It aims to review and follow up the governments compliance with the Concluding Comments. It also seeks to disseminate the findings of the baseline report, especially in the light drafting a shadow/alternative report to the CEDAW Committee. The consultation was later held in Delhi on February 25-27, 2003.

v) Campaign on Articles 5 and 16

The baseline reports highlighted the need to campaign on the removal of reservations to Articles 5 and 16 as crucial in holding the State accountable for its obligations under the CEDAW Convention. Because of this, a campaign on Articles 5 and 16 is now being undertaken by NAWO and AALI. Activities under this campaign have been carried over to 2003. NAWO plans to prepare advocacy materials, commission a paper on the validity of India's reservations to these articles and hold a consultation to look into strategies for its removal. AALI, on the other hand, focuses its campaign on the holding of a national consultation on the right to decide if, when and whom to marry and the distribution of

advocacy leaflets. Discussions in both NAWO's consultation and AALI's workshop will be important in identifying strategies to address violations of Arts. 5 and 16 and in strengthening a constituency who will undertake the implementation of the strategies agreed upon.

g) BANGLADESH

Completing the Baseline Report

The core groups, Naripokkho and Mahila Parishad, have sent the second draft of their baseline report on Violence Against Women in September 2002.

2.1.3 Planning, Management And Evaluation Activities

UNDP is one of our funders for 2001 and 2002 through their APGEN (Phase 1) project. IRAW implements Component 4 of APGEN Phase 1 "Facilitating CEDAW Implementation" through the Facilitating Project activities in Lao PDR, Malaysia and Sri Lanka. UNDP APGEN which funded Laos PDR, Malaysia and Sri Lanka had set-up a regional steering committee for planning and evaluation. The CEDAW related activities implemented by IRAW Asia Pacific and its partners was one component of a four pronged strategy for the region funded by UNDP APGEN. The other components were Accounting For Unpaid Work Of Women, Women's Political Participation And Women In Science And Technology. The steering committee had an over sight function for all four components.

a) Meeting with UNDP APGEN (18-19 March 2002)

On March 18-19, 2002, Ms. Shanthi Dairiam attended a UNDP APGEN meeting in Manila to discuss IRAW Asia Pacific's role in APGEN Phase II. Phase I was concluding in 2002.

IRAW Asia Pacific reiterated its position that CEDAW must be the overarching framework in APGEN Phase II. Some of the discussions resulted in a draft looking at APGEN Phase Phase II, using the CEDAW framework, in (1) building regional capacity to support national governments in effectively implementing the UN CEDAW Committee's Concluding Comments and to set in place an effective monitoring mechanism; (2) building regional capacity to analyse macroeconomic policies as to their differential impact on women and men in both their paid and unpaid work and to integrate gender and rights objectives into policy making and budgeting; (3) strengthening networks of women leaders in parliament, local government units, civil society and media practicing transformative leadership and gender-responsive governance and championing women's economic and political rights. Furthermore, the draft identified IRAW Asia Pacific as an implementing partner for APGEN Phase II.

b) Regional Evaluation Meeting (9-12 May 2002)

On May 9-12, 2002, IWRAW Asia Pacific organised the Regional Project Evaluation/Planning Workshop in Kuala Lumpur. The objective of this meeting was to consider the gains and lessons learnt through the APGEN funded phase. The meeting was convened to evaluate the progress of the Facilitating Project in six countries and to plan future activities under the Project. This is timely especially as the UNDP APGEN Phase I project was ending.

The workshop involved six countries: Lao PDR, Malaysia and Sri Lanka, which are being funded by UNDP APGEN, and Vietnam, Nepal and India, which are in similar levels of implementation as the UNDP APGEN countries. In particular, the six core groups discussed the status of the project in their countries, how they have utilised data and information from their research/baseline report as well as the monitoring framework, achievements and successes that took place, lessons learnt and recommendations, and plans for future activities.

A summary of selected points made in the workshop are as follows:

Gains of the Facilitating Project. The core groups felt that they have a better understanding of the issue selected for research. They learned to carry out activities to change opinion particularly by focusing on the effect of the discrimination. Networks of organisations have been established at both national and grassroots level around the issue of advocacy. Law and policy changes resulted. Capacity of women's organisations to understand CEDAW has been built and enhanced.

Lessons learnt. The core groups emphasised the following lessons: Advocacy with evidence and with awareness-raising on the impact of the denial of rights is effective. It is important to use every opportunity to use the findings of the research for advocacy. Advocacy must be mediated or facilitated for many stakeholders. Mobilisation at all levels is critical. Long term relationships and sustained advocacy must be part of a continuous and targeted strategy.

Future plans. Putting together and expanding on the proposals of the core groups and IWRAW Asia Pacific's thrusts, future activities identified consisted of: (1) training of trainers at the national level, (2) production of advocacy materials based on baseline findings, (3) regional thematic campaigns such as on culture and tradition and rights women in marriage and the family, (i.e. Art. 5 and 16), women's political participation, women and armed conflict etc (4) creation of more structured networks, especially with regard to sharing of resources and experiences, (5) creation of a list serve to link core groups together, (6) regional level advocacy on common issues such as labour, globalisation and its impact on women, trafficking in women and girls, (7) capacity building focusing on training of trainers, exchange fellowships to learn successful strategies, and building a pool of resource persons to provide technical assistance to governments and groups, and (8) advocacy on the Optional Protocol to CEDAW.

c) UNDP Tripartite Meeting (23-25 May 2002)

On May 23-25, 2002 the APGEN Partners' Conference (Third Tripartite Review) was held in Kuala Lumpur, Malaysia. This meeting was convened as UNDP-APGEN (Asia Pacific Gender Equality Network) was formally ending Phase I of its programme. The meeting sought to sum up and share the results, outputs and lessons of APGEN Phase I and formulate recommendations for Phase II, especially with regard to strategic direction, priority issues and partnerships for 2002-2005.

Shanthi Dairiam made two presentations in the conference. The first presentation was on APGEN Phase I Outputs and Results. This presentation drew on the findings of the Regional Evaluation Meeting (9-12 May 2002) described in item b above. Representatives from the core groups' from Lao PDR, Malaysia and Sri Lanka, namely: Lao Women's Union, Women's Aid Organisation and Centre for Women's Research also made presentations on their experiences in implementing the project.

The second presentation was an Orientation the Principle of Equality within the Framework of CEDAW: Women's Human Rights. The purpose of the presentation was to orient APGEN Phase II programme partners and stakeholders on the need for a rights based approach to development within the framework of CEDAW as the underpinning principle for Phase II. She also participated in the formulation of recommendations for APGEN Phase II (2002-2005)

2.2 "Our Rights Are Not Optional" Campaign

Following our participation in the drafting and negotiation processes leading to the adoption of the Optional Protocol to CEDAW (OP-CEDAW) in 1999, IWRAP Asia Pacific launched a global campaign called "Our Rights Are Not Optional!" in June 2002. The campaign seeks to develop strategies that will encourage States parties to ratify this Optional Protocol, particularly those who have already ratified the CEDAW Convention. It also seeks to promote and build the capacity of women's groups to effectively use and access the OP-CEDAW. In so doing, this will:

- Promote awareness of the standards set in the CEDAW Convention and other international human rights treaties;
- Build the capacity of women's groups to use international human rights instruments to strengthen legal initiatives and advocacy at the local and national level;
- Contribute to the progressive interpretation of discrimination standards at the global level; and
- Establish a pool of resources and experts who will provide technical assistance and transfer relevant skills to women in every region.

Key in this process is the creation of a network of national campaigns linked by regional focal points and serviced by the campaign Secretariat i.e. IWRAP Asia Pacific. An international Steering Committee has also been set-up to give direction to this project.

National Consultation on the Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Exploring Advocacy and Legal Strategies for the Realisation of the Human Rights of Women (February 5th and 6th)

Bangladesh was the first country in Asia to ratify the Optional Protocol to CEDAW. The Bangladesh Women Lawyer's Association has been undertaking important legal advocacy and litigation efforts and requested the assistance of the Global Campaign for Ratification and Use of the Optional Protocol to CEDAW and INTERIGHTS to organise the first national consultation/orientation on the Optional Protocol.

Maria Herminia Graterol- IWRAW Asia Pacific, Tulika Srivastava –OP Campaign Steering Committee member, Salma Ali- Bangladesh Women's lawyers Association, Faustina Pereira-ASK and Sara Hossain-INTERIGHTS facilitated the consultation. More than twenty-five practising lawyers attended the two-day consultation held in Dhaka.

The consultation included:

1. an orientation to the Global Campaign for the Ratification and Use of the Optional Protocol to CEDAW.
2. an overview of the rights contained in the CEDAW Convention and the procedures contained in the OP.
3. discussions around a general advocacy strategy for the promotion of CEDAW and the OP-CEDAW at the national level. Including, using CEDAW in domestic litigation; identifying potential cases for international litigation; identifying cases to bring under the OP-CEDAW (and under which procedure) and mapping out a coordination/mobilisation strategy.

The Bangladesh Women's Lawyers Association undertook follow up activities. Until now, no specific cases are being considered for international litigation. However, this national consultation provided a good opportunity to identify specific needs of groups wishing to integrate CEDAW in legal initiatives and litigation at the national level. It was evident from this consultation that before embarking on promoting litigation under the Optional Protocol to CEDAW, much effort has to be directed to building the capacity of national level advocates to use CEDAW in litigation at the national level. This would help strengthen advocacy around the Optional Protocol to CEDAW and eventually bring good cases to the CEDAW Committee and strengthen the impact of the recommendations/views by the CEDAW Committee.

2.3 Information and Dissemination Application Strategy

IWRAW Asia Pacific first formulated the Information Dissemination and Application Strategy (IDAS) to initiate and strengthen new levels of NGO activism; one that is more knowledge- and rights-based, as well as sharper in surfacing the different layers of discrimination. Such a need became apparent in the course of our work with South Asian national-level groups in the Facilitating Project where more complex dimensions in the implementation of human rights standards were surfaced. It became clear then that there

was a need to systematise efforts to collect the right kinds of information and generate the right kinds of understanding that adds value to existing advocacy.

Specifically, the IDAS systematises information so that there is a flow in terms of the: (i) generation of new knowledge and provision of other types of relevant information; (ii) enhancement of accessibility and utilisation of existing and new knowledge; and (iii) creation of conditions to challenge and advance local and international human rights standards so that these address the issue of women's equality more effectively.

The IDAS overarches and supports the advocacy work of IRAW Asia Pacific at all levels (i.e. training, "From Global to Local", and the campaign on the Optional Protocol to the CEDAW Convention). Target groups include women's organisations, NGOs, human rights bodies, lawyers, judges, legislators, national machineries, bureaucracy, and research and academic institutions. Through IDAS we hope to facilitate a two-way channel for information to flow between the different levels of activism (national, regional, international), the different kinds of activism (women's groups, academics, lawyers), and the different experiences of each country and region, all working towards universalising the domestic application of international human rights standards.

There are two main components of IDAS, the IRAW Asia Pacific Regional Resource Centre, and capacity-building activities for national-level partners towards the setting up of replica Resources Centres. The IRAW Asia Pacific Regional Resource Centre¹⁰ is a "living" repository. It does not aim simply to store materials and documents but rather, places an emphasis on dissemination and utilisation. While the Regional Resource Centre is already up and functioning, the establishment of the national-level centres is pending receipt of funds.

In 2002, the following activities were conducted under IDAS:

a) Acquisition and processing of materials for the IRAW Asia Pacific Regional Resource Centre

The IRAW Asia Pacific Regional Resource Centre has a library that houses an extensive base of information related to the CEDAW Convention and other international treaties. Apart from official UN materials, it also stores baseline reports on selected issues of discrimination against women; human rights and feminist jurisprudence; international and domestic laws; background training materials, conference/workshop packages; and select bibliographies (print and web).

In 2002, to keep up with the various requests for information, both internal and external, we:

- Continued to build on our core collection of materials on the CEDAW Convention (State party reports, Concluding Comments, UN Press Releases, General Recommendations, NGO Shadow/Alternative Reports) and related human rights treaties (ICESCR and ICCPR); and

¹⁰ This Resource Centre has been in existence in a small way since the inception of IRAW Asia Pacific.

- Maintained current and sourced new avenues of information exchange with international resource centres that serve as repositories of UN documents.

b) Website <www.iwraw-ap.org>

The IWRAW Asia Pacific website was set-up in late 2001 as a means to facilitate better understanding and more effective utilisation of the CEDAW Convention through a process of information collection and dissemination. It contains official as well as practical information on the CEDAW Convention, the CEDAW Committee, the role of NGOs in the treaty process, calls to action, as well as useful links and resources. Based on materials and contributions from other IWRAW Asia Pacific staff, the Information and Communications Officer is responsible for ensuring that the website remains updated on a regular basis. This has meant posting all the latest developments and news in relation to CEDAW activities (e.g. dates of CEDAW sessions and reporting countries, concluding comments, the election process of the CEDAW Committee, the general recommendation on affirmative action, etc.). There has also been an attempt to start including information related to women's rights and other treaty bodies.

To enhance the accessibility of users to the IWRAW Asia Pacific website, two main strategies have been taken. One, by requesting other women's rights and human rights websites to include us in their online directories or attaching a link to our website under their "Useful Links" or "Resources" pages. And two, by getting the IWRAW Asia Pacific URL to be included in several major search engines, including Google. As a result of these efforts, the number of users who visit our website has grown exponentially. This is evident in the results of our monthly usage statistics. For example, the number of hits coming from "Total Unique Sites" (i.e. first time users) rose from 57 in May 2002 to 1009 in October 2002. For the same period, the visitors who found our website through links on other websites rose from 81 to 121, and those who came to us via search engines rose from 35 to 137.

While this is a positive trend, still more can be done to ensure the effective dissemination and utilisation of CEDAW-related material. Making available what other human rights treaty bodies are saying about women's rights is also important. All this will contribute towards the organisational objective of sharpening conceptual clarity and generating new knowledge pertaining to women's rights and equality. Towards this end, we commenced efforts in late 2002 to further improve our website by reorganising the existing categories of information and architecture, as well as add to the content we disseminate and share.

c) The "cedaw4change" and "global2local" listservs

In September 2002, IWRAW Asia Pacific set-up an electronic discussion list "cedaw4change" for members to brainstorm, share experiences, seek clarification and contemplate possibilities for further action in relation to how CEDAW and other human rights treaties impact on women. Specifically, this listserv was conceived to (i) give conceptual explanations; (ii) give information not otherwise known (e.g. pointing members to contents of the general recommendations, concluding comments, and press

releases of CEDAW; academic articles, etc.); and (iii) facilitate exchange of information on practices that have or have not worked in relation to international human rights treaties. All discussions have been moderated to ensure effective conclusions and future action. Based on the information collated and posted, the moderator also prepares a summary that is compiled and distributed (in English and Spanish) at the end of each topic, drawing conclusions from the contributions and indicating any recommendations generated. There are plans to include these summaries in our website too as part of the expansion of categories of information provided. There are currently almost 600 subscribers to this service and new users were initially enlisting to join every week. Unfortunately, due to a lack of funds, we were unable to maintain the services of a moderator and this greatly affected the running of the listserv. Nevertheless, plans are already underway to revive this discussion forum and we hope to have this situation rectified in the near future.

A second discussion list “global2local” was started in October 2002. Unlike cedaw4change, this list not moderated and more importantly, is private and open only to those who have previously been involved in the “From Global to Local” programme. It was introduced so that there would be a private and confidential means for these participants to continue to exchange information and share ideas/experiences resulting from their involvement in the programme (e.g. advocacy efforts around CEDAW after leaving a review session in New York) There are 195 subscribers on this list.

d) Requests For Information (CEDAW And Non-CEDAW)

In 2002, IWRAW Asia Pacific continued to receive an increasing amount of direct requests for information via e-mail enquiries. These have come from a range of sources including NGOs, governments, academics, lawyers, funding agencies, and international organisations, as well as different geographical regions. Broadly, the requests we received can be divided into two categories as shown below. *(Note: The number of enquiries received are denoted in brackets. However these figures do not necessarily reflect the number of emails that were communicated to address a particular request. For example, IWRAW Asia Pacific’s involvement in the production of the ARROWs for Change newsletter saw over 30 emails being exchanged).*

a) CEDAW (36 requests)

- CEDAW processes/Committee/materials (25)
- Writing papers/reports/reviews (These include “CEDAW and Trafficking” for UN ESCAP; “Report on the Compliance of the Law of the Republic of Tajikistan with the UN CEDAW” for OSCE-Tajikistan, “The Areas of Common Grounds Among Various UN Guiding Instruments” for UN ESCAP, and an article for “Making Connections” newsletter of Banulacht an Irish women’s group. We also provided technical assistance for one issue of “Arrows for Change”, wrote the editorial piece “Applying the CEDAW Convention for the Recognition of Women’s Rights”, and facilitated a linkage between our core group partners and ARROW.) (11)

b) General Enquiries (75)

- Referrals (35)

- Request for materials (books, leaflets, publications, etc.) (20)
- Funding/financial assistance (3)
- Listservs (e.g. ESCR-net, end-violence, etc.) (4)
- Responding to detailed requests (e.g. in August we participated in an AWID research on funding for women's rights organisations by providing detailed information on our experiences) (5)
- About IRAW Asia Pacific (8)

Objective 3:

To contribute to the enhancement of CEDAW's effectiveness and to engage in international advocacy for drawing accountability for governments to implement the CEDAW Convention at the national level through the following.

3.1 From Global to Local

3.1.1 Introduction

The project From Global to Local aims to facilitate women's advocacy at the international level. It does this by enabling women from countries that are reporting to the CEDAW Committee, to observe the review process and to provide the Committee with alternative information that the Committee can use to evaluate the states parties reports. This is a global project that is implemented annually since 1997 in collaboration with UNIFEM, New York.

The following sessions of the CEDAW¹¹ review of state parties' reports in compliance with their obligations under the Convention on the Elimination of All Forms of Discrimination against Women (the CEDAW Convention) were held in 2002 at the United Nations in New York:

- 26th session from 14th January - 1st February
- 27th session from 3rd - 21st June
- Exceptional session from 5th - 23rd August

On the occasion of these CEDAW sessions, IRAW Asia Pacific and UNIFEM collaborated to bring women from selected reporting countries to participate in the review. A total of 54 women participated in this programme:

- 17 women participated in the programme in January;
- 15 women participated in the programme in June, which brought together women whose government's were reporting that June and the following January for training and mentoring to participate effectively in the CEDAW review. The 6 women whose governments had been scheduled to report in January would then return in January separately for the review of their government's report.

¹¹ CEDAW refers to the UN committee that monitors the implementation of the Convention on the Elimination of all Forms of Discrimination against Women. States parties to this Convention submit initial and periodic reports to this committee for review. The committee conducts this review twice a year, once in January and the other in June/July.

- 21 women participated in the programme in August.

3.1.2 Rationale for the project

The strength of the CEDAW Convention rests on the international consensus (170 ratifications/accessions) of support for the mandate of equality between women and men. This internationally supported mandate is a strong counter to claims that equality is contrary to culture and tradition. At the ground level, the advocacy for the application of the norms of the Convention has to be linked to this international mandate. This linkage also requires the establishment of a relationship between women's groups and CEDAW. This will have the synergistic effect of strengthening women's capacity to claim their rights while enhancing CEDAW's ability to monitor state compliance and interpretation of the Convention. This will be of tremendous benefit to both sides. The women in particular will be able to be more strategic in their own activism when they return as they would have first hand knowledge of CEDAW's recommendations to their government. This is the only project that attempts to facilitate the participation of women in the reporting process in a structured and purposeful manner.

The reporting process is an important monitoring mechanism set up by the United Nations. The participation of women indirectly observing state party performance in reporting to the CEDAW and in interacting with CEDAW members to raise their awareness about issues critical to the women in their country is a strategic method to enhance the effectiveness of this monitoring mechanism.

Women's interaction with CEDAW can help integrate perspectives into the interpretation of the Convention's articles. This in turn will increase the Convention's scope for domestic application while contributing to the development of women's rights jurisprudence within the United Nations system. Women can thus transform the Convention into a truly living instrument.

The project Global to Local, focuses on the participation of women in two inter related aspects. One is in the setting of norms and standards for human rights practice and the other is to challenge non-compliance of their governments with the standards to which they have committed themselves internationally. This process will help facilitate the application of international human rights norms at the domestic level.

3.1.3 Aim of the Project

The project aims to enhance the dynamism of the UN Convention on the Elimination of All Forms of Discrimination against Women by enabling women to link their local level advocacy with the international official processes for monitoring the implementation of the Convention at the UN level.

Specific Objectives of the Project

1. To raise women's awareness of the significance of the Convention

2. To familiarise women with the mechanisms set up by the UN for the monitoring of the implementation of the Convention, in particular; the dynamics of the reporting process and the mechanics of the CEDAW meetings, and the role NGOs can play within those proceedings
3. To enable women to monitor the state party performance during the review of State party reports by CEDAW and to interact with CEDAW members in order to raise pertinent issues with CEDAW relevant to the position of women in the countries whose reports will be heard and to have a positive influence on the review
4. To make plans for monitoring State party compliance with CEDAW recommendations and fulfillment of state obligation to implement the Convention in their countries on their return.

3.1.4 Participants

In 2002 a total of 53 women participated in this project as follows:

- (i) 17 women's rights activists from 7 countries participated in January 2002.
Countries reporting in January 2002
 - Estonia (initial, 2nd & 3rd)
 - Fiji (initial)
 - Portugal (4th & 5th)
 - Russian Federation (5th)
 - Sri Lanka (3rd & 4th)
 - Trinidad & Tobago (initial, 2nd & 3rd)
 - Uruguay (2nd & 3rd)
- (ii) 15 women's rights activists from 9 countries participated in June 2002.
Countries reporting in June 2002
 - St Kitts & Nevis (initial, 2nd, 3rd & 4th)
 - Suriname (initial & 2nd)
 - Tunisia (3rd & 4th)
 - Ukraine (4th & 5th)
 - Zambia (3rd & 4th)*Countries reporting in January 2003*
 - Costa Rica
 - El Salvador
 - Japan
 - Kenya
- (iii) 21 women's rights activists from 10 countries participated in August 2002 programme. The countries were:
Countries reporting in August 2002
 - Argentina (4th & 5th)
 - Armenia (2nd)
 - Barbados (4th)

- Czech Republic (2nd)
- Greece (4th and 5th report)¹²
- Guatemala (3rd, 4th & 5th)
- Hungary (4th & 5th)
- Mexico (5th)
- Peru (5th)
- Uganda (3rd)

3.1.5 Project implementation

A core global resource team of five persons planned and managed the project. This Project Management Team was assisted by other resource persons as and when necessary.

Description of project activities

- (a) The June programme, being the main activity involving women from countries reporting in June and also those whose governments are scheduled to report in January the following year¹³, consists of an intensive training and mentoring programme held over 10-14 days. Participants get the opportunity to observe how the review is conducted by CEDAW and learn many valuable lessons. Participants, whose governments are reporting in January, are then facilitated to come again in January when their countries are reporting to play an advocacy role with CEDAW.
- (b) The January and August sessions were smaller programmes facilitating the participation of women during the review of their government's report.

a) June 2002 Training Programme

Three-day Training cum Orientation

The project brought together the above-mentioned 15 participants in New York between 3rd - 21st June 2002 when CEDAW held its 27th session to review state party reports. They were given an intensive three-day training cum orientation (30th May - 1st June 2002) prior to the CEDAW sessions. This training cum orientation gave them an understanding of the CEDAW Convention and the CEDAW's working methods. Some skills were developed for the application of the CEDAW Convention in local contexts. The women had brought alternative information and during the orientation, they were guided on preparing a precise commentary/executive summaries that could be used by CEDAW members as a starting point for constructive dialogue with the government representatives. Participants whose countries were reporting in January 2003 discussed the process of constructing shadow reports and its usefulness.

Observation of the Review Process and Advocacy with CEDAW

The next step was for women to observe the reporting process at the UN. Observation of the review of the government of Zambia, St Kitts and Nevis, Ukraine and Suriname were used

¹² Self-funded participants.

¹³ Prior to 2002, this phase of the programme took place in January, therefore involving women whose governments were reporting in January and June sessions of the same year. As of 2002, the main programme has been shifted to June, bringing in women whose governments are reporting in June and the following January.

to mentor the participants on how the review takes place. During this time they interacted with CEDAW members to give them alternate information or explanations to the information given by their government representatives.

Daily Debriefing of the Review Process

As the observation of the review proceeded, daily debriefing meetings were held in the evening with participants to monitor their level of participation and to share their experiences and thoughts of the observation of the reporting process and lessons learnt. They were asked to comment on whether they had been effective in raising the awareness of the CEDAW on the issues pertaining to discrimination from the perspective of the women and whether this was reflected in the questions posed by CEDAW to the government concerned.

Final Debriefing of the overall experience

A one-day debriefing exercise was held on 10th June 2002 to plan follow up activities. Participants made plans to hold meetings with women's organisations to share their experiences and observation of State CEDAW interaction and to give wide publicity to the concluding comments. Shanthi Dairiam and Tashia Peterson (IWRAP Asia Pacific) coordinated the June session.

b) January and August 2002 programme

As this was the first year the Global to Local training programme was shifted to June, participants attending the January 2002 session had not had the benefit of attending the training/mentoring programme. Similarly, participants for the August 2002 session, could not be brought into the June training due to time and financial constraints.

To facilitate the effective participation of women attending the January and August sessions, and to ensure participants fully understood and appreciated their role in this review process, IWRAP Asia Pacific scheduled at least one representative from the project management team/ from IWRAP Asia Pacific's office to attend the January and August CEDAW session to give assistance and guidance.

Observation of the Review Process and Advocacy with CEDAW

In January, 19 women activists participated in the review of their government's report in January 2002. Shanthi Dairiam, IWRAP Asia Pacific's director attended the session providing participants with information and guidance as well as mentoring them in their efforts to lobby the CEDAW Committee on critical issues affecting women in their respective countries. Participants were briefed on the review process and how to utilise their alternative information when interacting with the CEDAW members. For the Exceptional Session in August, Maria Herminia Graterol, programme officer with IWRAP Asia Pacific and Shanthi Dairiam, Executive Director, attended and performed similar functions. As four of the countries were from Latin America, Maria Herminia's assistance was critical as she was able to assist them in Spanish. The mentoring/orientation process was similar to the January 2002 programme. Since a large number of countries were reviewed during the exceptional session, Lee Waldorf, (UNIFEM) Alice Miller, (USA) Alda Facio, (Costa Rica)

María Herminia Graterol and Shanthi Dairiam (IWRAP Asia Pacific) shared responsibilities providing one-on-one mentoring and orientation for participants.

c) Evaluation

The project has identified certain desired outputs that facilitate evaluation. These are that participants should have:

- Identified the priority issues for women in their countries and obstacles to the implementation of the Convention in their countries.
- Gained a sharper awareness of the relevance of the Convention and would have developed some skills in utilising it as a tool for advocacy.
- Gained knowledge of the dynamics of the reporting process and how to exploit it for advocacy.
- Gained knowledge of their government's seriousness towards implementing the Convention which can be used for advocacy at home.
- Contributed to the efficacy of CEDAW's role in monitoring state party performance.
- Made plans for monitoring state party compliance with their obligations under the Convention.
- Followed up and or facilitated the implementation of the Concluding Comments of CEDAW.

There were written and oral evaluations at the end. Daily debriefings during the first week were conducted to assess accomplishments of expected outputs. Verbal feedback is also obtained from CEDAW on the usefulness of the information given to them by the women. A comparison is made between the issues the women have raised with the Concluding Comments on each of the countries written by CEDAW to assess effectiveness of the women's advocacy with CEDAW.

Lastly, attempts are made to keep track of women's activism at the national level on their return to ensure State compliance with the Concluding Comments.

d) Accomplishments

General:

An assessment of the programme shows that most of the expected outputs were achieved. For the participating women the training they received, gave them a clearer understanding of the concepts and philosophy of the CEDAW Convention and the possibilities of its application to advance the human rights of women. They felt that it helped them better understand and appreciate the review process and advance their organisational agenda at the CEDAW session. It also raised their awareness of the need to have priority goals, to have a sharper focus in their efforts and of the need to apply the framework of the CEDAW Convention into all work relating to women.

Comments by participants:

“This programme is very critical to forming an “arm” of activists all over different countries, continents in order to bring de facto equality in the world. It is necessary as women that we be watch dogs of the actions of governments in term of fulfilling their international obligations but we can only do so if we are knowledgeable of the processes of these international instruments which this programme has been able to do.”

“The orientation provided a much needed insight into the operations of the UN in general and the CEDAW Committee in particular. It also provided information about the individual members of the committee and the process of reporting which were not very well understood. It also provided an understanding of CEDAW as a working document for both government and NGO work.”

“At the national level, the programme gave life to the way CEDAW can be used as a living document to bring about change. At regional/ sub-regional level, the programme is very important to my region because it came at a time when East African countries are coming together for economic and social strength and I believe this is a good time for NGOs in the region to put implementation of CEDAW into the regional agenda.”

“CEDAW in my country has been seen mostly as a treaty that my country reports on, but does not guide the day to day issues that affect women. Programme showed me how it can be utilised.”

Status of the NGOs and Relationship with their Governments

The presence of women from reporting countries at the review of the governments’ reports enabled transparency and facilitated a process by which governments were forced to accept the legitimacy of the NGO women to contribute to the review process. Governments had greater respect for the women when they realised that the women were not there as individuals but as part of an international lobby presence. In this respect, they were made to feel that their accountability to live up to their international commitments was not to the women of their county alone but to all women.

Greater Understanding of the Review Process and its Purpose

For most of the women this was their first experience with the CEDAW sessions and the biggest achievement was the de mystification of the whole process.

Comments by participants:

“I have now more insight into what should go in the [shadow] report, its value, and the preparation that is necessary.”

“Definitely the workshop gave me a clearer view on what particular aspects must be worked on. It also helped me to prepare for the January session, specially the lobbying skills.”

“We were able to give vital information to the CEDAW Committee and also had the opportunity to actually address the Committee as opposed to just giving them a shadow report.”

“The programme creates awareness on how the CEDAW is an instrument that we can use in our everyday work and activism. It also helped to see how what national NGOs have to say will be heard, analysed and used by Committee experts.”

The knowledge that the women gained in seeing and hearing the government’s views on equality has given the women an understanding of what they need to do to bring about change in government. Further, the direct exposure to what the government has stated it has done and will do to bring about equality has the potential of enabling the women to hold the government accountable to its promise.

Comparison of Issues raised by NGOs and its reflection in the Concluding Comments

Much was also accomplished by providing alternative information to the CEDAW Committee to assist in their constructive dialogue with the governments and then in writing the concluding comments. These inputs by the NGOs were very effective. And its effectiveness as reflected in the concluding comments by the CEDAW Committee. for their governments.

e) Follow-Up

Although the programme has found it difficult to keep track of the implementation of the Concluding Comments in a systematic manner, the participants have informed us that:

- They have held public fora and workshops that focus on sharing the general recommendations made by the Committee. For example: In Uruguay, various meetings in universities at the national level were held; in Peru a public hearing with parliament; in Argentina, more than 30 NGOs and civil society groups across the country “signed-on” to the shadow report and pledged to follow up implementation of the concluding comments.
- They have used the experiences and skills gained to integrate CEDAW and the concluding comments to future areas of work. Positive feedback in this regard was received from Uganda, Sri Lanka, Armenia and Trinidad and Tobago.
- They are now interested in preparing shadow reports and participating in the sessions of other human rights treaty bodies in order to monitor their government's performance “in all fronts”. CLADEM and OMCT are currently assisting their member organisations in this regard.
- They have translated concluding comments and published booklets that contain the shadow reports, concluding comments, commentaries by NGOs for wide dissemination.

In November 2002, IRAW Asia Pacific set up a private discussion list for former Global to Local participants and the results have been very positive. Various strategies for creating awareness and follow-up activities around CEDAW have been discussed.

3.2 Contributing to the formulation by CEDAW of a General Recommendation on Article 4 of the CEDAW Convention: Workshop on Temporary Special Measures (August 17th, 2002)

Over the last two years, the CEDAW Committee has undertaken the process of drafting a general recommendation on temporary special measures (Article 4.1 of the CEDAW Convention). Article 4.1 reads:

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

On August 17th, 2002 IWRAW Asia Pacific in collaboration with UN Division for the Advancement of Women (DAW) held a workshop on temporary special measures under the CEDAW Convention. Fifteen CEDAW Committee members and more than ten academics and NGO activists discussed and analysed various aspects related to the effective implementation of Article 4.1 of CEDAW. The discussions that took place aimed to outline the main elements of the general recommendation on Article 4.1.

The workshop covered three broad topics:

- The conceptual framework of temporary special measures
- Issues around the implementation of temporary special measures
- Issues around the monitoring of the implementation of temporary special measures

IWRAW Asia Pacific coordinated NGO participation and gathered and compiled inputs and discussions. The report of the meeting was a contribution to the drafting process currently being undertaken by the CEDAW Committee. In this connection, IWRAW Asia Pacific will continue to exchange information with CEDAW Committee members and NGOs as the elements general recommendation are being finalised. Furthermore, once the general recommendation is adopted, IWRAW Asia Pacific will work in the promotion and practical application of the general recommendation.

It is important to note that IWRAW Asia Pacific and Columbia University’s Human Rights Institute have made other significant contributions to the preparation of the general recommendation on Article 4.1. Two background papers were shared with the CEDAW Committee in 2001 and 2002.¹⁴ These background papers and the executive

¹⁴ *Background paper: Towards the Progressive Interpretation of Temporary Special Measures Under the CEDAW Convention* (2002); *Working Paper “The Intersection Of Race, Ethnicity And Gender In The Context Of Temporary Special Measures”*(2001) Prepared by the Human Rights Institute (Columbia University Law School), International Women's Rights Action Watch -Asia Pacific and the Race, Ethnicity and Gender Justice Project in the Americas (American University) with comments from Women's Human Rights Caucus to the UN World Conference Against Racism.

summary of the final report on the workshop on Art 4.1. is available in our website www.iwraw-ap.org. Please refer Annexure A and B for the executive summary of the workshop and background paper on the proposed general recommendation.

3.3 Day of General Discussion on Article 3 of the International Covenant on Economic, Social and Cultural Rights (13 May 2002)

During its 28th session, the Committee on Economic, Social and Cultural Rights (hereinafter “the Committee”) held a day of general discussion on Article 3 of the International Covenant on Economic, Social and Cultural Rights (CESCR).¹⁵ The day of Discussion was held on 13th May 2002 in Palais Wilson, Geneva. The issues raised and discussed sought to contribute to the Committee’s internal process of drafting a general comment on gender equality or, quoting the language of the Covenant itself: “the equal right of men and women to the enjoyment of all economic, social and cultural rights.” Although the general comment on Article was originally planned for November 2002, the Committee has decided to extend the drafting/internal discussion period until November 2003.

María Herminia Graterol represented IWRAW-Asia Pacific. Her participation was made possible through the support of UNDP-APGEN. IWRAW Asia Pacific raised the need to incorporate substantive equality and non-discrimination as standards that should be central to all human rights treaty bodies. The importance of considering the ways the effects of multiple forms of discrimination place additional barriers to women’s access to the realisation of their economic, social and cultural rights was also emphasised. Recommendations regarding the need to craft temporary special measures, ensuring that enabling conditions for women are in place and the development qualitative indicators were also made.

During the discussions, it was clear that the members of the Committee have different understandings of the notion of equality. For some, a standard that differs from formal equality results in a creation of a “special” category of rights for women that could potentially trigger reverse discrimination against men. For this reason, all of the “guest” speakers that participated in the day of discussion, regardless of their affiliations or status, made a constant reference to the need to include substantive equality and non-discrimination as an essential element of the general comment. In this regard, it is also important to note that at the end of the day of discussion some Committee members still considered that the obligations set forth in Article 3 are limited to ensuring “formal equality” among men and women. According to their point of view, a re-interpretation of Article 3 in ways that encompass the standard of substantive equality would be inappropriate.

The discussion was significant because it provided a space for discussing the various understandings of gender, women’s rights and substantive equality within the Committee.

¹⁵ Article 3 reads: “The States parties of the present Covenant undertake to ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”

Furthermore, the dialogue provided an opportunity for NGOs and members of the Committee on the Elimination of Discrimination Against Women (CEDAW) to suggest possible approaches to a progressive interpretation of women's economic, social and cultural rights.

3.4 Montreal Principles Meeting (7-10 December 2002)

On the occasion of the 21st anniversary of the entering into force of the Convention on the Elimination of All Forms of discrimination against Women and the 26th anniversary of the entering into force of the International Covenant on Economic, Social and Cultural rights, a group of 19 women from various parts of the world met in Montreal, Canada from 7-10 December 2002 at the invitation of the Women's Working Group of the International Network on Economic Social and Cultural Rights (ESCR-Net). This International Network is a new collaborative initiative between groups from around the world working to secure economic and social justice. Shanthi Dairiam was among the participants at the Montreal meeting.

The objectives of the Montreal meeting was to produce a document called the Montreal Principles that would set out broad principles to guide the interpretations and implementation of the rights found in the International Covenant on Economic, Social and Cultural Rights so that women can enjoy them fully and equally.

Prior to the meeting, the draft of the Montreal Principles was circulated and then discussed at the meeting.

The draft touched on the following:

- The international human rights law context
- Principles of non discrimination and equality
- Addressing impediments to women's equal enjoyment of the covenant's rights
 - * Social norms and traditions that legitimise women's inequality
 - * Failure to take account of women's disadvantage or their distinct experiences
 - * Women's under representation in public decision-making
 - * Women's unequal status in the family
 - * The gender differentiated effects of economic globalisation
- Legal obligations under the Covenant
- Violations
- Obligations of third party actors

3.5 Regional Policy Dialogues: South Asia Intergovernmental Meeting (12-14 September 2002)

UNIFEM South Asia Regional office in collaboration with the Ministry of Women's Affairs, Government of Sri Lanka organised a regional consultation on 12-14 September 2002 in Kalutara, Sri Lanka to facilitate the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Participants included relevant government officials from Bangladesh, Bhutan, India, Maldives, Nepal,

Pakistan and Sri Lanka along with NGO representatives. The meeting was inaugurated by H.E. Ms. Amara Piyaseeli Ratnayake, the Honourable Minister of Women's Affairs, Government of Sri Lanka. IRAW Asia Pacific provided technical support by developing the substantive part of the programme identifying and coordinating the participation of four CEDAW Committee members, facilitating the three day meeting, presenting a paper and compiling back ground papers.

This workshop aimed towards creating a learning opportunity, both for governments as well as NGOs on how to use the women's convention and its reporting mechanisms, strategies to implement interventions as indicated in the Concluding Comments of the CEDAW Committee, the Optional Protocol including the system of alternative NGO reports, towards securing gender equality and women's empowerment.

Four CEDAW Committee members -Prof. Savitri Goonesekere from Sri Lanka, Prof. Frances Livingstone Raday from Israel, Ms. Heisso Shin from Korea and Ms. Salma Khan from Bangladesh. shared their expertise about the CEDAW review and input process.

Senior officials from eight Governments -Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, representing the Ministries of Women's Affairs, Ministry of Law & Justice, Ministry of Foreign Affairs, Planning Commission and the National Commission for Women participated in the consultation. In addition NGOs and women's groups (research & academic institutions, NGO networks, grassroots activists) from the region working on the issue attended the meeting.

The need for holding such a conference meeting was motivated by the following:

All South Asian countries have ratified/ acceded to the Convention and Bangladesh, India, Nepal, Maldives and Sri Lanka have presented reports to the CEDAW Committee over the past few years. All governments are obligated to implement the Concluding Comments issued by the CEDAW Committee and the regional meeting would provide a forum for governments to exchange strategies, methodologies, data requirements and experiences in implementing the Convention in general and the Concluding Comments in particular. An Optional Protocol to the Convention has come into force. Bangladesh has ratified it and Nepal has signed it. The meeting provided an opportunity to exchange views on rationale for ratification, concerns relating to the Optional Protocol, and to obtain information on the provisions of the protocol and their implications etc. The presence of NGOs helped facilitate a clearer understanding of how discrimination against women manifests itself as they have collected such information through their research and their work to promote women's rights.

The specific objectives of the Conference were to:

- Raise awareness of the benefit and importance of international human rights standards for advancement of the *de facto* human rights of women;
- Create clarity on key concepts and principles pertaining to women's rights advocated by the Convention: equality, non discrimination and State obligation;

- Discuss and share experiences on- the reporting process including the system of alternative NGO-reports, strategies to implement the Concluding Comments of the CEDAW Committee, the significance of the Optional Protocol; and
- Discuss steps that need to be taken for the effective implementation of the Convention and the Concluding Comments, for state NGO collaboration and to identify areas for further technical assistance.

The following were the topics of discussion:

- Session 1: The importance of international human rights standards for the promotion of women's rights: Presentation by Francis Raday (CEDAW Committee member) and discussion
- Session 2: Introduction to the CEDAW Convention: its key features by Heisoo Shin, CEDAW Committee member
- Session 3: Key concepts and principles of the CEDAW Convention – Substantive Equality, Non- discrimination and Principle of State Obligation and the binding nature of treaty obligation by Shanthi Dairiam, IWRAW Asia Pacific
- Session 4: The role of NGOs : The need for state /civil society partnerships to implement the Convention by Ruth Manorama, President, the National Alliance of Women, India
- Session 5: The Reporting Process and its purpose and expectations of the CEDAW Committee (Panel presentation on the experiences of the governments of on their reporting: (writing the report and in being reviewed by the Committee and lessons learnt)
- Session 6: The Optional Protocol to the Convention : What is the Optional Protocol and rationale for ratification, what it can achieve to realise women's rights and rationale for ratification, concerns and issues by Shanthi Dairiam, IWRAW Asia Pacific
- Session 7: Implementation of the Concluding Comments - Common themes in South Asia in the Concluding Comments, Exchange of information by governments on the status of implementation of the Concluding Comments and the Convention in general: methodology used, good practices, problems and Issues, NGO exchange of experiences on the implementation of the Concluding Comments by Salma Khan, CEDAW Committee member
- Session 8: Planning for the implementation of the Concluding Comments (group work country wise to identify - Steps to be taken for implementing the Concluding comments as well as for reporting, areas for collaboration with NGOs, SAARC identification of needs for technical assistance, issues to be raised with on the implementation of the Convention.

Commitments made

The government representatives agreed to take their plans back and hold further discussions with their colleagues to finalise the plan. They also agreed that they would give feed back to UNIFEM by November on the finalised plans

Concluding Comments were made by Shanthi Dairiam and Chandini Joshi, Regional Programme Director UNIFEM

Shanthi Dairiam: IWRAW Asia Pacific

- Try not to neglect areas not mentioned in the Concluding comments – the focus should be to look at the treaty in its entirety;
- Look into the possibility of a statutory provision on discrimination based on sex to regulate the private sector;
- SAARC can commission a study to review various legal framework models across the world to implement CEDAW;
- Link CEDAW reporting with Beijing and Beijing Plus Five measures;
- For monitoring of state actions – look at traditional and non-traditional indicators. The latter would include process indicators such as indicators of state action to show effectiveness of their interventions to bring about equality. In other words, we need indicators of the failure of the State;
- Review actions on withdrawing reservations - identify obstacles, facilitate legal expertise to review the validity of reservations;
- Institutionalize and strengthen report writing mechanisms and link it to a institutional mechanism that has hierarchy – use a consistent database and indicators; and
- Review the role of other line ministries, especially the Foreign Ministries, they must be continuously informed and updated and kept in the information loop.

Chandni Joshi, Regional Programme Director, UNIFEM South Asia

- Countries seem to have commitments and we hope by end of November 2002 these commitments can be submitted to the CEDAW Committee. There will be a meeting of Heads of INGOs in Mumbai soon where this message about the implementation of CEDAW will be taken. Other UN organisations will be approached for country level implementation.
- Indicators will have to be reviewed and Savithri Goonesekera has been requested to develop a set of indicators together with CENWOR before the next meeting.
- The commitment of the participants which was reflected in the presentations, in the discussions over these past few days was appreciated. Sessions were informative. Afghanistan has attended a regional forum such as this, after many years; they have collated all the information possible and hopefully will make a presentation at the next meeting.

(A full report is available)

Objective 4:

To promote the development of region-specific gender-sensitive human rights scholarship, strategies and implementing tool

4.1 CEDAW and Trafficking

A paper was prepared by Shanthi Dairiam, for ESCAP showing the applicability of CEDAW to trafficking. The paper demonstrates a methodology for the application and use of CEDAW to address the problem of trafficking in women. The approach suggested is not to look for answers in individual articles but to address the problem as an issue of discrimination, drawing on the work of the CEDAW Committee. The individual complaints mechanisms recently introduced through the adoption of the Optional Protocol to CEDAW present survivors and advocates with an effective tool to address the wider issue of discrimination and is therefore explained in detail in this chapter.

(This paper is available)

4.2 Discussion Paper on Effective Legal Strategies

This paper was prepared by Shanthi Dairiam for “The Seminar On Promoting Gender Equality To Combat Trafficking In Women And Children” (7-9 October 2002 Bangkok, Thailand) The meeting was organised by UNIFEM Bangkok and ASEM.

(This paper is available)

4.3 Meeting on the Rights-Based Approach to Programmes on Sexual and Reproductive Rights (8-11 October 2002)**Background**

Several Ford Foundation (India) partners are currently working to advance sexual and reproductive health using a rights based approach. From May to July 2002, a consultant visited 15 Ford Foundation partners working in the field of reproductive health and sexuality to understand how the rights based approach is being applied at the programmatic level. The consultancy aimed to identify diverse perspectives on rights, and document various strategies and methodologies to advance sexual and reproductive health and rights.

The consultancy findings showed the absence of a common understanding of the rights based approach among organisations working in the field of reproductive health and sexuality. Some organisations use this approach in a conscious, structured way, others use the rights based approach without being aware of it, and some organisations need to strengthen their understanding of this approach. A few organisations find the rights based approach of limited relevance to their work.

The findings also established the need to build inter-sectoral and micro-macro linkages across issues and stronger alliances among organisations to enable a more dynamic use of the rights based approach.

Ford Foundation-Delhi approached IRAW-Asia Pacific to design and facilitate a three day consultation aimed at achieving: a) Consistency in the understanding of the rights based approach; b) Recognition of the value of the rights based approach; c) The development of a framework for a conscious restructuring of programmes incorporating a rights based approach

The Consultation

Facilitated by IRAW Asia Pacific, the meeting was devised as a four-day intensive brainstorming using participatory methods and techniques. While the team of facilitators provided a framework for understanding human rights, participants filled in this framework from their own contexts, perspectives and programmatic experiences. The consultation used small group exercises, intensive discussions, collective brainstorming, and guiding presentations to meet its objectives.

Shanthi Dairiam, Maria Herminia Graterol, Tulika Srivastava and Brenda Campbell represented IRAW Asia Pacific. 25 participants from more than 15 groups in India and Nepal took part. The consultation was held in Naukachiyatal from 8-11 October 2002.

Beginning with an exercise to establish a common understanding of the concept of rights, the consultation took 34 participants on a four-day journey in which the discussions of each day emerged from and built on those of the previous day in the following manner:

Day 1: Concepts

What are rights? What are the principles underlying rights?
How can rights be enjoyed?

Day 2: Content

What is the content of reproductive and sexual rights in differing contexts?
What is the web of relationships through which rights are claimed?
What are the international standards for promoting rights?

Day 3: Practice

What are the principles of state obligation?
What are the elements of and obstacles to a rights based approach?

Day 4: Programmes

How do participants' own programmes use the rights based approach?
How much of this approach is used? How can this be strengthened?

IRAW Asia Pacific would continue to facilitate any follow up consultations with the same participants. The training provided an opportunity for applying our understanding of CEDAW in the context of the right to health.

Objective 5:**To strengthen international and regional linkages (Networking)****5.1 WHRnet Meeting – Asian Regional ICT/Human Rights Capacity Building Consultation (4-6 February 2002)**

Sponsored by WHRnet and hosted by Asian Center for Women's Human Rights (ASCENT). Manila, Philippines. Beng Hui attended this consultation which was the first in a series of regional meetings for WHRnet to identify and support uses and applications of ICT that can assist ongoing work towards strengthening women's human rights advocacy. The sessions were a mix of discussions and hands-on exercises to introduce and familiarise participants with both the debates and technical aspects around utilisation of ICT.

5.2 The Amendment to Article 8.2 of the Malaysian Constitution: Prospects for the Promotion of Women's Rights in Malaysia (7 February 2002)

This was the title of a paper presented by Shanthi Dairiam to the Kuala Lumpur Bar Council on 8 February 2002. The occasion was a forum organised by the Bar Council to discuss the implications of the constitutional amendment made in July 2001 to include "gender" as prohibited grounds for discrimination.

(This paper is available)

5.3 Stakeholders Meeting on Phase II of the SEAGEP (16-18 February 2002)**Background**

UNIFEM's CEDAW Implementation Project aims to build capacity and support initiatives that will strengthen cooperation and exchanges among NGOs and governments regarding the realisation of the principles set forth in CEDAW at the national level. It will be implemented by UNIFEM-Bangkok starting 2003 and will be funded by CIDA in: Cambodia, East Timor, Indonesia, Laos, Malaysia, the Philippines, Thailand and Vietnam.

The specific objectives of the project are: 1) to build the capacity of governments to understand their obligations under CEDAW, determine what steps need to be taken to implement the convention, and enhance their ability to report in a timely and appropriate fashion to the Committee; 2) to build the capacity of NGOs to understand and make use of the Convention in their advocacy work, and to advocate for and monitor implementation of the Convention; 3) to facilitate constructive and meaningful dialogue between governments and civil society; 4) to create a regional knowledge network consisting of governments, NGOs and independent experts working in this area in order to facilitate the exchange of lessons learned, best practices and expertise.

The Meeting

UNIFEM organised a consultation for “stakeholders” representing governments and NGOs from South East Asia that may be collaborating in a 4-year project designated to support and further CEDAW implementation in the region. The consultation was held in Bangkok and Maria Herminia and Shanthi Dairiam represented IRAW Asia Pacific.

Other partners that participated in the consultation were: Ivy Josiah (Women’s Aid Organisation-Malaysia), Nursyahbani Katjasungkana (Women’s Association for Justice-LBH APIK-Indonesia), Khempet Pholsena (Lao Women’s Union), Jan Boontinand (Action Aid- Thailand), Tran Han Giang (Centre for Family and Women’s Studies-Vietnam), Maria Rosalyn Mesina (Women’s Legal Bureau-Philippines) and Eleanor Conda. The meeting was a consultation among NGOs and governments from SEA to discuss elements and priorities for a four year programme. As a result of this, IRAW Asia Pacific may partner with SEAGEP in facilitating some of the components of this project

5.4 Videoconferencing with Women in Luton, UK (10 March 2002)

Organised by the Luton All Women Centre in conjunction with International Women’s Day. Shanthi, Maria Herminia and Beng Hui participated in this event and shared with women in Luton on the CEDAW Convention and its relevance in work carried out at the local level.

5.5 Regional Training on Advancing Economic, Social and Cultural Rights (29 July-4 August 2002)

Organised by Forum-Asia, ERA Consumer, and SUARAM. Beng Hui represented IRAW Asia Pacific at this training workshop which sought to strengthen knowledge, skills and tools required for advancing economic, social and cultural rights in the region.

5.6 South Asian Research Network on Gender, Law and Governance (SARN) Inaugural Conference (25-29 August 2002)

Shanthi Dairiam attended the conference. It was organised by the South Asian Research Network. Warwick University. UK.

The aim of SARN is to be a catalyst for developing and pursuing creative and challenging regional agenda for cross border research in South Asia. Partner organisations that will be collaborating with SARN are:

- Ain-o-Salish Kendra, Bangladesh
- Centre for Women’s Development Studies, (CWDS), India
- West Bengal National University of Juridical Sciences, India
- The Forum for women, Law and Development, Nepal
- Sancharika Samuha Nepal (Women’s media Forum), Nepal
- Intermediate Technology Development Group, Sri Lanka

- University of Peshawar, Pakistan
- Hamdard Law University, Pakistan

Shanthi Dairiam made a presentation on the work of the CEDAW Committee and the work of IWRAW Asia Pacific

5.7 Women's Rights Watch Project, Utrecht, The Netherlands (25-29 November 2002)

The Women's Rights Watch project of the Humanist Committee on Human Rights (HOM) explores the possibilities of using the United Nations Convention Against all forms of Discrimination Against Women (CEDAW) in development relations. The eventual output of the three exchange weeks organised by the Women's Rights Watch Project (HOM) is to develop a tool for impact assessment of the human rights of women in development co-operation. Women's right to health is chosen as a pilot theme to make the discussion more concrete. The Women's Rights Watch project runs from May 2002 to April 2004 and is funded by the Dutch development organisations NCDO and Hivos.

Exchange of ideas with representatives from the South forms an important aspect of the project. From 25 to 30 November 2002, HOM invited four Southern specialists on women's rights and health to discuss the above CEDAW in the context of development cooperation with representatives of Dutch NGO's and the Dutch Government. HOM invited four guests from organisations in the South which are active in the field of human rights of women, women's health and CEDAW:

- María Herminia Graterol, working for International Women's Rights Action Watch Asia-Pacific
- Shireen Huq, of Naripokkho in Bangladesh.
- Enid Muthoni Ndiga, of the Federation of Women Lawyers Kenya (FIDA),
- Ana María Pizarro, of Servicio Integral para la Mujer (S.I. Mujer)

The objectives of the week were:

1. To exchange information on CEDAW and its implementations
2. To develop ideas on how to use CEDAW to strengthen women's rights in development cooperation
3. To connect CEDAW to impact assessment at policy level, more specifically gender impact assessment

<i>Meetings organised by HOM during the exchange week</i>
25/11/02: CEDAW and Women's Health
26/11/02: CEDAW beyond borders: Women's rights in international relations
26/11/02: To measure or to be measured: interests in impact assessment
27 /11/02: Prevention is better than cure: introducing gender analysis in the early stages of policy development
27/11/02: Stones are for building
29 /11/02: The impact of Dutch development policy on women's health rights

The conclusions of the exchange week feed into the further development of the Women's Rights Watch project. The report of the first exchange week was published by HOM.

Some of the conclusions were:

- The level of *organisations*: CEDAW provides a list of issues, standards and a host of information, both of which can help in policy design and implementation.
- The *national* level: CEDAW serves as a tool for monitoring women's rights at this level, involving government and civil society.
- The *international* level, in dialogue between North and South: CEDAW can be used as a standard for developing indicators and the reporting process to CEDAW should be considered as an opportunity for monitoring the impact of development cooperation.

The relation between CEDAW and gender/human rights impact assessment for development policy is a new area. The participating organisations, Naripokkho, IRAW Asia Pacific, FIDA-Kenya, S.I. Mujer and HOM see sufficient potential to further explore this area. They plan to continue their co-operation to work towards instruments for implementation. In the process, it is important to take into account the experiences with already existing instruments for impact assessment.

5.8 ESCAP Expert Group Meeting on Regional Implementation and Monitoring of the Beijing Platform for Action and the Outcome of the 23rd Special Session of the UN General Assembly Relating to Women (2-4 December 2002)

Shanthi Dairiam was one of the experts and chaired the meeting in Bangkok. In addition, she presented a paper on 'The Areas of Common Grounds Among Various UN Guiding Instruments, CEDAW, Beijing Platform for Action and the Outcomes'.

5.9 "Fifth Asian and Pacific Population Conference". ESCAP Meeting on ICPD (10-17 December 2002)

IRAW Asia Pacific through Rea Chiongson of IRAW Asia Pacific attended the Fifth Asian and Pacific on December 11-17, 2002 in Bangkok, both the Senior Officials and Ministerial Segment. The conference was an intergovernmental meeting organised by Economic and Social Commission for Asia and the Pacific (ESCAP) and United Nations Population Fund (UNFPA) to review the progress made in implementation of the recommendations contained in the reports of the Bali Declaration on Population and Sustainable Development (1992) and Programme of Action adopted in the International Conference on Population and Development (ICPD), Cairo (1994).

An intervention was made by IRAW Asia Pacific on Agenda Item 7: Migration, Urbanisation and Poverty during the Senior Official Segment. The intervention focused on the feminisation of international labour migration and the multiple levels of discrimination experienced by women migrant workers.

The urgency for participation in the meeting was the bracketing in the draft plan of action for the meeting of all references to reproductive rights and unsafe abortions, the deletion of the term sexual and reproductive rights and sexual health, and recommendation that no reference to sex education should be made. All these going against the language of the Cairo Programme of Action. IRAW Asia Pacific was part of the lobby for the reaffirmation of the Cairo Programme of Action. It was part of the Asia group led by ARROW. It was also a member of the Caucus for ICPD composed of 40 NGOs negotiating for the reaffirmation of the Cairo Programme of Action. It also participated in the parallel meeting of NGOs, the NGO Forum, held on December 12-13, 2002 which consists of 73 NGOs. The Forum in its “NGO call for Action” identified areas of concern and priorities for governments.

The meeting ended with the conference document reaffirming the principles and language of the Cairo Programme of Action, with the US taking a reservation on specific sections, particularly on reproductive health and adolescent reproductive health.

Objective 6:

To strengthen IRAW Asia Pacific’s institutional capability

6.1 Fund-raising

a) Total grants expended and list of funders

For 2002, IRAW Asia Pacific has expended a total of USD434,595 from various donors as follows:

- UNIFEM New York
- Danida
- UNDP APGEN
- UNIFEM South Asia
- Global Fund for Women
- ICHRDD

IRAW Asia Pacific also earned other income from various consultancies funded by:

- OSCE Tajikistan
- UNDP Mongolia
- UNICEF Maldives
- Ford Foundation India
- Unifem Bangkok, Thailand
- ARROW and Federation of Family Planning, Malaysia

The total funds received were used to finance the projects and institutional expenditures of the organisation.

6.2 Staffing

IWRAW Asia Pacific has a full time staff of eight persons comprising an executive director; three programme officers, one information and communication officer and three admin and finance personnel. (For details refer to Part I item 7.3) IWRAW Asia Pacific also benefited from the services of eight resource persons who assisted in the training workshops. These resource persons form a core resource team. They have been trained by IWRAW Asia Pacific and follow the methodologies and framework developed by IWRAW Asia Pacific.

6.3 Interns

Two interns served with IWRAW Asia Pacific in 2002

- **Brenda Campbell**

A qualified Barrister and graduate of Queen's University, Belfast and the Inns of Court School of Law, London, Brenda interned with IWRAW Asia Pacific between June and October 2003. During her internship Brenda established and moderated the online discussion listserv, 'cedaw4change'. She assisted in planning and organising the *Rights-Based Approach* workshop in India, for which she compiled a paper detailing the application of the CEDAW Convention to women's sexual and reproductive health. In addition, Brenda assisted with projects assessing the status of women's human rights law and policy, including: an assessment of the gender sensitivity of Indonesia's proposed laws relating to political participation and general elections; an assessment of the legal system of Tajikistan and its compliance with the CEDAW Convention; and preparation for a workshop on Affirmative Action and Article 4(1) of the CEDAW Convention. Since her internship, Brenda has continued to work with us, most recently assisting with the CEDAW Optional Protocol website.

- **Catherine Elena Corbett**

A graduate from Manchester Metropolitan University in Historical Studies. She did her internship from November 1, 2002 to May 30, 2003. She has been assigned to assist in projects related to International Advocacy and to be involved in Information Dissemination and Application Strategy (IDAS) programme. She was responsible to support IWRAW Asia Pacific's resource centre by cataloguing materials and developed the resource centre database for better access of information in the resource centre. She assisted in the research for the possibility of filing the report to the CEDAW on exceptional basis and compiled background materials for the Right to Marry workshop. She assisted in the research for the concluding comments on Article 16 of the CEDAW and researched on Culture & Stereotyping and the Impact on Women Economics, Social and Cultural Rights.

EXECUTIVE SUMMARY OF WORKSHOP ON CEDAW ARTICLE 4.1

Article 4.1 of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Convention) permits States Parties to the Convention to implement special temporary provisions aimed at accelerating de facto equality among men and women.¹⁶ On August 17th 2002, IRAW Asia Pacific in collaboration with UN Division for the Advancement of Women held a workshop on temporary special measures under the CEDAW Convention. Fifteen CEDAW Committee members and more than ten academics and NGO activists discussed and analyzed various aspects related to the effective implementation of Article 4.1 of CEDAW. The discussions that took place aimed to facilitate a focused discussion on the possible elements of the general recommendation on Article 4.1. A summary of the main presentations and key points of the group discussions are provided below.

PART I: SUMMARY PRESENTATIONS

THE CONCEPTUAL FRAMEWORK OF TEMPORARY SPECIAL MEASURES

- (1) *Dr. Hanna Beate Schoepp-Schilling, CEDAW Committee member. “Critical issues emerging from the formulation of a general recommendation on Art 4.1 of the CEDAW Convention”*

Dr. Schoepp-Schilling’s presentation was based on the background paper for a general recommendation for a general recommendation on Article 4.1 [CEDAW/C/2001/I/WP]. The Committee has agreed that this general recommendation will provide an opportunity to contribute to developing conceptual clarity regarding the formal approach vs. substantive approach to equality. She explained the challenges that have emerged during the drafting process of the general recommendation and provided information on points that need clarification in order for the Committee to arrive at a consensus.

- (2) *Prof. Martha Morgan, University of Alabama. “Challenges and Objections to Temporary Special measures*

Professor Morgan began her presentation by stating that her analysis regarding challenges and objections to temporary special measures was mainly drawn from her experience and knowledge of Constitutional Law in the USA. In her view, the main objections to temporary special measures can be grouped in the following categories: (1) Formality; (2) Fairness; (3) Fitness; (4) Fanaticism; (5) Fragmentation; and (6) Formulation.

¹⁶ CEDAW Article 4.1 reads: “Adoption of States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objective of equality of opportunity and treatment have been achieved.”

In the process of finalizing the general recommendation, the Committee could take note of: a) the difficulty of writing a general recommendation of special measures that won't conflict with the existing domestic, regional and international courts rulings on the matter. If there is conflict between domestic Court rulings then how is the Committee going to address this?; b) difficulty in elaborating or reconciling the imperative of temporary special measures with other conflicting human interests and c) the difficulty of addressing multiple forms of discrimination as well as de facto equality in the public and in the private spheres in the context of temporary special measures.

(3) *Prof. Savitri Goonesekere, CEDAW Committee member, "Synthesis: Framing a Practical discussion on temporary special measures"*

Professor Goonesekere began her commentary/synthesis by emphasizing the need to use concepts, language and terminology consistently. The rationale of temporary special measures encompasses gender equality as justification of the legitimate differentiation of women and men as means to eliminate discriminatory treatment of women and accelerate de facto equality. Corrective measures are needed to remove obstacles that result in the denial of access to rights by women.

LAW AND POLICY ISSUES AROUND THE IMPLEMENTATION OF TEMPORARY SPECIAL MEASURES

(1) *Frances Livingstone Raday, CEDAW Committee member, "Systematizing the Application of Different Types of Temporary Special Measures"*

Professor Livingstone Raday explored a framework for systematizing different types of temporary special measures under Article 4.1. In this connection, although Article 4.1 refers to temporary special measures generically, it is possible to group types of temporary special measures according to four theories of social justice: (1) distributive justice; (2) compensatory justice; (3) social and economic utilitarianism; and (4) liberalism and economic efficiency.

The benefits of this approach is that it can address the challenges and objections to temporary special measures while also developing a better understanding of the kind of specific measures that can be adopted under the Convention. The language of 4.1 does not limit the kinds of temporary special measures to be employed and would allow application of such measures under different fields of activity. Appropriate systematization of the application of temporary special measures may help reduce the threat of controversy of constitutionality.

(2) *Aida Gonzalez Martínez, CEDAW Committee member, "The Latin American Experience: Advances Made in the Progressive Interpretation of Temporary Special Measures"*

Ms Gonzalez Martínez stated that, in her opinion, states parties do not have a comprehensive understanding of the meaning and extent of temporary special measures

and thus, the general recommendation will be a useful tool for governments committed to the implementing CEDAW. In Latin America and the Caribbean, special measures have been implemented in regard to political participation. More specifically, in the form of quotas in election processes.

She provided examples from Argentina, Cuba, Mexico and Peru in order to illustrate ways various states parties to the Convention are approaching temporary special measures. She concluded her presentation by stating that based in the experience of Latin America and the Caribbean, there is a need to identify and define what temporary special measures are.

ISSUES AROUND MONITORING THE EFFECTIVE IMPLEMENTATION OF TEMPORARY SPECIAL MEASURES

(1) Shanthi Dairiam, Executive Director of IRAW Asia Pacific, “The Need to Monitor the Implementation of Temporary Special Measures.”

Ms Dairiam stressed that the need for States parties to monitor effective implementation of temporary special measures arises from the fact that they have an obligation to ensure de facto equality. In this regard, temporary special measures are necessary to correct discrimination against women. It is important to ensure that women that face multiple forms of discrimination on the basis of class, race, ethnicity and other forms of minority benefit from temporary special measures.

The CEDAW Committee needs to consider the obstacles faced by women that face multiple forms of discrimination when trying to access temporary special measures. For this reason, it will be necessary to apply consistent and effective monitoring.

(2) Shantha Mohan, National Institute for Advanced Studies, “Case Study: Indian Women’s Groups Experiences Monitoring Temporary Special Measures at the Local Level”

Prof. Mohan’s presentation was based on the findings of a study on the impact of temporary special measures adopted to improve women’s political participation in India. She focused on constitutional amendments providing for reservations of 1/3 number of total seats in the three tier institutions of decentralised governance (district, block and village) for women. Prof. Mohan also mentioned that there are also reservations on the basis of dalit status and gender.

She concluded by stating that temporary special measures need to create a conducive environment to enable women to claim their rights. In this regard, it is important for the Committee to provide tools to government officials and institutions that may be able to advocate for effective temporary special measures from “within” the State. In her view, it is also necessary to acknowledge that civil society will continue to play an important role in promoting accountability of the State.

PART II: PRACTICAL SUGGESTIONS

The workshop did not attempt to arrive to a general consensus among participants, rather, it aimed to create a space for discussion that allowed various issues, dilemmas and concrete examples to be raised. that can be used by the CEDAW Committee in the process of finalizing the general recommendation. In this connection, below is an outline of the points that were raised that and could be taken up by CEDAW Committee members in further discussions.

i) Questions related to Conceptual Framework and rationale:

1. WHY IS THERE A NEED FOR TEMPORARY SPECIAL MEASURES?

1.1 Objections to temporary special measures

- There was consensus on the need to address objections to temporary special measures explicitly in the general recommendation.
- The general recommendation should be a “tool” for indicating what the adequate legal foundations for temporary special measures should be.

1.2. Justifications for temporary special measures

- It was agreed to explore the theories of justice and the notion of gender justice. However, approaches varied: implicitly- by countering objections or explicitly-listing.

2. WHAT ARE TEMPORARY SPECIAL MEASURES?

2.1 Definition of Temporary Special Measures

- There was agreement on the general elements of the definition. However, there were various points of view and differences regarding the terminology/definition to be used. For example, to what extent should “affirmative action” be explored? Should parity be incorporated to the definition?
- All agreed that “illustrating” temporary special measures by providing specific examples, is a good way to explain what it means.

2.2. Exploring the Notion of Parity

- Some elements of “parity” were outlined and need to be further considered.

3. WHO IS RESPONSIBLE FOR IMPLEMENTING TEMPORARY SPECIAL MEASURES?

Although all participants agreed *that states parties are mainly responsible*. There were concerns regarding decentralisation and privatization as global trends. Some considered it would be very useful for the Committee to address these issues in the general recommendation.

4. *WHAT ARE THE MAIN CHARACTERISTICS OF TEMPORARY SPECIAL MEASURES?*

4.1. Temporary or Permanent?

- Although all agreed that measures are temporary. No consensus was reached regarding “how long?”
- Special measures interplay with permanent measures but how should the Committee clarify this point without causing confusion?
- How should the Committee differentiate achievement of results v. need to monitor results?

4.2. Temporary Special Measures, Permitted or Mandatory or Necessary?

- All participants agreed that temporary special measures are both needed (necessary) and justified (permitted) .
- There was also agreement on the need for laws to be changed to permit temporary special measures.
- No agreement regarding: mandatory

5. *ARE THERE TYPES OF TEMPORARY SPECIAL MEASURES?*

Some provided suggestions for categories of temporary special measures. Others felt examples should be used to illustrate types of temporary special measures.

6. *CONSTITUTIONAL BASIS OF TEMPORARY SPECIAL MEASURES*

Participants agreed on the need to justify temporary special measures by developing arguments for their promotion in domestic constitutional law. Some challenges raised:

- How to write general recommendation so as to not conflict with State rulings?
- What happens if the views of the committee conflict with the views of other international and regional human rights mechanisms?
- How should the Committee refer to the domestic incorporation of Article 4.1. through constitutional amendments and judicial review?

7. *INTER-RELATEDNESS OF ARTICLE 4.1 WITH:*

7.1. Art 4.2- agreement on maternity leave being permanent

7.2 Art 5- agreement on the need to incorporate stereotypes. It was suggested to include other negative aspects that affect women in this analysis.

7.3 Art. 11 and 14 as well as CEDAW Convention: examples need to be used to be able to “contextualise” temporary special measures.

7.4 There were difficulties regarding specific examples relating to temporary special measures regarding issues such as health and citizenship

8. ADDRESSING DIFFERENT GROUPS OF WOMEN

It was agreed that the general recommendation must address *diversity* of Women's experiences and multiple forms of discrimination. The general recommendation should note that temporary special measures aren't limited to gender discrimination but as means to address all forms of discrimination faced by women

(ii) Questions that relate to application of CEDAW Article 4.1:

9. MONITORING/IMPLEMENTATION

9.1. *Indicators*

- No consensus on qualitative and quantitative indicators to be used.

9.2 *Monitoring*

- Various participants made suggestions. The main consensus being that monitoring should be both, flexible and on-going. Obstacles to implementation need to be identified and systematized.

9.3 There is a need to Identify and deal with *Obstacles* to implementation
(consensus)

9.4 There is a need for mechanisms *Feedback* from women as to success
(consensus)

9.5 *Phase out process* (no consensus)

10. OTHER LAW AND POLICY ISSUES

10.1 *Sanctions or Incentives*

- Participants agreed on the notion of incentives to promote temporary special measures.
- There was no consensus in regard to sanctions. Some felt sanctions cause backlash and are "protectionist"

10.2 *Adequate allocation of resources*

- It is necessary to acknowledge that certain types of temporary special measures will require allocation of resources
- Allocation of resources as a type of temporary special measure? (no agreement)
- How to establish "adequate" allocation of resources while contextualising the actual differences between the developed and the developing world?

10.3 *Enabling conditions and support measures*

- Agreement on concept but not on approaches.

EXECUTIVE SUMMARY OF BACKGROUND PAPER ON THE PROPOSED GENERAL RECOMMENDATION ON ARTICLE 4.1 OF THE CEDAW CONVENTION

TOWARDS THE PROGRESSIVE INTERPRETATION OF TEMPORARY SPECIAL MEASURES UNDER THE UN CONVENTION ON ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

By IRAW Asia Pacific and the Human Rights Clinic-Columbia Law School

This Executive Summary summarizes a background paper seeking to support the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) as it formulates a general recommendation on the subject of temporary special measures (Article 4.1 of the CEDAW Convention).¹⁷ Part I of the background paper provides rationales for temporary special measures. Part II discusses the need for temporary special measures to target women who face multiple barriers. Part III offers strategies for implementation of temporary special measures.¹⁸

Introduction

1. Temporary special measures are programs, policies and laws that place women in a situation of comparative advantage to men for a limited period, with the aim of achieving de facto equality between men and women in the long term.¹⁹ Defined as (a) positive steps (b) directly undertaken, or sponsored by the State (c) in favor of women or subgroups of women, and which are aimed at accelerating and attaining substantive equality. These measures may target the civil, political, economic, cultural and social fields and may extend to the public and private spheres.²⁰

2. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) clearly endorses the implementation by States Parties of “temporary special measures” for women.²¹ Defined in article 4.1 as “measures aimed at accelerating de

¹⁷ International Women’s Rights Action Watch Asia Pacific (IRAW-Asia Pacific) and Human Rights Clinic-Columbia Law School, *Towards the Progressive Interpretation of Temporary Special Measures Under the CEDAW Convention*, Background paper on the proposed General Recommendation on Article 4.1 (2002).

¹⁸ The background paper can be found in IRAW-Asia Pacific’s website www.iwraw-ap.org. For further information please contact iwraw@iwraw-ap.org

¹⁹ CEDAW Secretariat, *Committee’s Approach to Article 4, Paragraph 1 of the Convention*, CEDAW/C/2001/II/5, para. 46 (2001).

²⁰ See IRAW-Asia Pacific, *Temporary Special Measures (Art. 4.1) as a Means for Addressing Intersectional Discrimination under the CEDAW Convention* (April 2002).

²¹ See Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, art. 4.1, 1249 U.N.T.S. 13, 16 [hereinafter CEDAW Convention] Articles 4.1 and 2, 3 and 5 implying an obligation to employ temporary special measures when necessary to end discrimination. Article 4.1 of the CEDAW Convention states: “Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in

facto equality,” temporary special measures may depart from formal equality in order to achieve “substantive equality”²² between men and women.

3. The model of equality set forth by the CEDAW Convention, “substantive equality” is distinct from formal equality in that it (a) requires that states achieve equality of results between men and women; (b) by acknowledging that states may need to treat men and women differently in order to realize this aim; and (c) by recognizing the need for enabling conditions to ameliorate women’s situation. Special measures help to promote substantive equality by redressing the embedded structure of discrimination.

4. To be effective, temporary special measures must consider the situation of women facing multiple barriers to the realization of their human rights and must be accompanied by, or operate in the context of, enabling mechanisms that support the achievement of substantive equality. These mechanisms include: (a) *services*, such as child care; (b) *structural policies*, such as maternity and paternal leave; and (c) *effective institutional remedies to overcome discrimination*. Article 3 of the CEDAW Convention places governments under an affirmative obligation to provide such enabling conditions.

Part I – Making the Case for Temporary Special Measures

5. Support for temporary special measures can be drawn from various international treaty bodies and instruments, some of which specifically authorize temporary special measures and others of which embrace the goal of substantive equality inherent in temporary special measures.²³

6. Structural discrimination is the most persistent obstacle to the achievement of substantive equality and should therefore be the primary focus of temporary special measures. In order to achieve substantive equality, temporary special measures aim to end structural discrimination, social, economic or cultural background conditions which place a particular group in a position of disadvantage relative to other groups in society. These background conditions are created historically through past discrimination embedded in institutions and are also informed by the “public/private” dichotomy that has traditionally failed to recognize and remedy human rights violations occurring in the private sphere, including, for example, domestic violence and the undervaluing of domestic labor. Once embedded, these past practices of discrimination often become masked as part of the neutral baseline of these institutions, when in fact the baseline is not neutral.

7. In light of the CEDAW Convention’s aim to secure substantive equality and end structural discrimination, temporary special measures can be justified to achieve the following goals: (a) compensatory justice; (b) distributive justice; (c) social utility; and

the present 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.”

²² See H.B. Schöpp-Schilling, *Background Paper for a General Recommendation on CEDAW Article 4.1*, para. 27 CEDAW/C/2002/I/WP.1 (2001).

²³ See Background Paper, *supra* note 1 for a comprehensive look at these international instruments.

(d) access to rights.²⁴ *Compensatory justice* seeks “to make up for past harms and disadvantages women suffered as a group or, [can be] based on forward-looking principles, which aim at future equality of opportunity for them as a group.”²⁵ *Distributive justice* is a forward-looking justification, oriented toward correcting current “imbalances between women and men with respect to their access to the elements of a ‘humane life.’”²⁶ The *social utility* justification for temporary special measures emphasizes the positive effects of these measures in terms of mobilizing the economic and social potential of women for the common good of society, and encouraging and facilitating the full social integration of women, thus benefiting the entire community through social transformation and the promotion of diversity.²⁷ A further justification for temporary special measures, *access to rights*, points to the fact that such measures allow women fully to claim equal access to their rights. Since rights are interdependent, the adoption of temporary special measures that facilitate women’s ability to achieve one set of rights will likely help women achieve other fundamental rights.

8. Despite the CEDAW Convention’s commitment to the principle of substantive equality,²⁸ many critics continue to approach discrimination from a formal equality perspective. Assuming that the non-discrimination principle requires facial neutrality, the critics claim that temporary special measures deviating from formal equality constitute discrimination.

9. Temporary special measures have been misunderstood as offering “preferential treatment” to women and thus resulting in “reverse discrimination.” This misconception is based on the myth that the baseline of opportunity is neutral and that temporary special measures provide a preference or privilege that deviates from this foundation of equality. In fact, the baseline is not neutral, but rather contains built-in privileges for men due to past and continuing discrimination. Given the obstacles of social and institutional discrimination faced by women, temporary special measures do not give women “preferences,” but merely ensure “the right to treatment as an equal for the members of marginalized groups.”²⁹ Such measures do not discriminate against non-beneficiaries because “the only costs to non-beneficiaries that result from affirmative policies are the loss of these privileges, privileges that are the results of a lack of fairness and opportunity for others.”³⁰

²⁴ See Schöpp-Schilling, *supra* note 5, at 2 (while Schöpp-Schilling offers the first three rationales, this Executive Summary also discusses the “access to rights” rationale).

²⁵ See H.B. Schöpp-Schilling, *Article 4 of the CEDAW Convention* (presented Jan. 2001) 6.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See CEDAW (defining discrimination as any “distinction, exclusion or restriction . . . which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women . . . of human rights and fundamental freedoms . . .”) (emphasis added). See also Schöpp-Schilling, *supra* note 5, para. 27.

²⁹ See Luke Charles Harris and Uma Narayan, *Affirmative Action as Equalizing Opportunity: Challenging the Myth of “Preferential Treatment,”* in *Practical Ethics, Classical and Contemporary Readings* (Hugh LaFollette ed., 1997).

³⁰ *Id.*

10. Opponents also argue that temporary special measures are harmful to society because such measures depart from “meritocratic” modes of selection. However, conventional methods used to evaluate “merit” often fail accurately to gauge the applicant’s “merit” because they do not account for the fact that members of disadvantaged groups are often not provided with the skills to succeed in conventional evaluative techniques, such as standardized tests. Ideally, temporary special measures that shift reliance away from traditional indicators of merit should be structured to broaden our understanding of how to evaluate merit, while also rectifying continued exclusion and marginalization of women and creating a level playing field for both men and women.³¹

Part II – Temporary Special Measures Must Target Women Who Face Multiple Barriers

11. Women experience multiple barriers when gender discrimination intersects with (a) other forms of discrimination (such as discrimination based on race, ethnicity, etc) as well as (b) other barriers (such as poverty, rural residence, etc.).

12. When gender discrimination intersects with other forms of discrimination, feminist scholars and advocates refer to this as “intersectional” discrimination.³² Rejecting the idea that a combination of forms of discrimination merely has an additive effect, these theorists point out that intersectional discrimination multiplies and amplifies the obstacles women face and thereby thwarts the achievement of substantive equality.

13. The intersection of gender discrimination with other barriers, such as poverty, also has this multiplicative effect. To be effective, then, implementation of temporary special measures must take into account the structure of subordination by especially targeting women who face these multiple barriers.

14. Temporary special measures that neglect the multiple barriers that women face have a limited impact on the condition of women, particularly the most disadvantaged women. Similarly, programs designed to benefit both male and female members of certain disadvantaged groups (eg. minority groups) fall short in their goal when they do not ameliorate the situation of the women concerned. Various treaty bodies and other international sources support the need for temporary special measures to address the multiple barriers women face.³³

Part III – Implementation of Temporary Special Measures

15. Temporary special measures can address various *target sites of discrimination* such as employment, education, and health care, or *other barriers* such as disability, minority

³¹ See Susan Sturm & Lani Guinier, *The Future of Affirmative Action*, in *Who’s Qualified* 3 (2001).

³² See Lisa A. Crooms, *Intersectionality, Human Rights, and De-Marginalizing Black Women*, in *Race, Ethnicity, Gender and Human Rights in the Americas: A New Paradigm for Activism* 77 (Celina Romany ed., 2001); Celina Romany, *Themes for a Conversation on Race and Gender in International Human Rights Law*, in *Global Critical Race Feminism: An International Reader* 58 (Adrien Katherine Wang ed., 2000).

³³ See Background Paper, *supra* note 1 for sources.

status, internal displacement, etc. Thus, satisfying the area-specific mandates of provisions of the CEDAW Convention.

16. Temporary special measures are aimed at designated women, or *target groups*. The target group can be either: (a) the general female population or (b) a particular subset of women who are multiply disadvantaged.

17. Temporary special measures assume three principal forms: (a) *affirmative mobilization*, (b) *affirmative fairness*, and (c) *positive special measures*.³⁴

18. Measures of *affirmative mobilization* seek to achieve substantive equality by supporting, actively involving and building the capacity of members of a particular disadvantaged community, the target group of the measures, to claim rights and opportunities. Such programs “support” individuals by providing skills and training to make them active citizens and competitive candidates for particular positions. Affirmative mobilization programs also raise women’s awareness of their rights and of available opportunities, as well as empower and mobilize them to claim these rights and opportunities.

19. Measures of *affirmative fairness* are governance mechanisms and complaint procedures to perceive and address allegations of discrimination. Once in place, these governance mechanisms play an affirmative role in that their very existence creates a disincentive against future discriminatory action.

20. *Positive special measures* provide comparative advantages to a target group that is disadvantaged in some way, by granting its members priority over equally qualified candidates. Such measures seek to level the playing field ---to create equality of opportunity--- between members of disadvantaged as opposed to dominant social groups by ensuring that the former have access to social resources.

21. If programs of temporary special measures are to promote substantive gender equality, they must, at the minimum, incorporate five core principles of implementation: (a) *consultation methods*; (b) *mechanisms for continuous feedback*; (c) *monitoring strategies*, (d) *enabling conditions*, and (e) *promotion of standards through public education*.³⁵

22. *Consultation Methods* refer to collaboration among (a) national and local governments; (b) international bodies and institutions; (c) nongovernmental organizations; (d) the private sector; and (e) women targeted to benefit from the relevant measures, in the design and implementation of temporary special measures. The interaction among these actors can take place in a variety of configurations, levels and directions. In this regard, in order to accurately assess the need for special measures, data gathered on women’s conditions must

³⁴ See Bossuyt, Special Rapporteur, *Prevention of Discrimination and Protection of Indigenous Peoples and Minorities: The Concept and Practice of Affirmative Action* 23 n.20, E/CN.4/Sub.2/2001/15 (2001) at paras. 46-56. While the Special Rapporteur describes the three categories as affirmative mobilization, affirmative fairness and affirmative preference, the term “positive special measures” is used here in lieu of affirmative preference, in light of the critique of viewing temporary special measures as a preference.

³⁵ See Background Paper, *supra* note 1 for an elaboration of these five core principles.

consider women's actual experiences of discrimination. At another level, there must be transparency throughout the stages of design and operation of a specific measure.

23. *Mechanisms for continuous feedback* encompass a multilateral exchange of information that is on-going, mirroring the process of design and implementation of the temporary special measures. At the first level, women benefiting from the temporary special measures provide feedback on effective implementation and success of the measures. At a second level, national governments should be encouraged to process this information and include it in the periodic reports to the CEDAW Committee. Ultimately, governments should be encouraged to set and achieve positive benchmarks that correspond to the level of women's empowerment and advancement in the context of a particular program and setting.

24. *Monitoring strategies* refer to the need to chart the progress of temporary special measures. Data gathered to map the progress of women's condition in various fields must be disaggregated according to gender, race, ethnicity and other relevant characteristics. In this way, the situation of women facing multiple barriers to the realization of their human rights may be assessed.

25. *Enabling Conditions* create a context in which temporary special measures can effect real change in women's status. Women facing multiple barriers will not be able to access opportunities provided by temporary special measures unless services and support systems are provided. Enabling conditions create a "context" in which temporary special measures can affect real change in women's status. For example, if a temporary special measures establishes a micro-credit program for single mothers in order to enable them to set up businesses, unless child care programs are set to accompany the measures, women may not be provided with actual opportunities to improve their own living conditions.

26. Programs for the *promotion of human rights standards through public education* designed for women facing multiple barriers may enhance access and potential benefits of specific temporary special measures by: (a) raising women's legal awareness of their human rights, entitlements and benefits while providing guidance and training on means of accessing them; (b) contributing to the overcoming cultural and social barriers to women's empowerment in their particular communities; and (c) promoting public awareness of human rights issues from a gender lens so as to combat popular stereotypes and beliefs that place limits on women's advancement.

27. The goal of substantive equality can be successfully advanced by temporary special measures that (a) incorporate these principles; (b) target specific sites of discrimination and (c) address the situation of multiply disadvantaged women. Case studies discussed in the background paper demonstrate that these elements can be incorporated into national programs on temporary special measures aimed at accelerating equality and seeking to promote national application of the human rights standards contained in the CEDAW Convention.³⁶

³⁶ See Background Paper, *supra* note 1 for relevant case studies.