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

# Achievements of the Mandate, May 2011-January 2019

# Introduction

1. Recognizing that discrimination against women persists despite progress made in integrating women’s human rights fully into domestic law in many countries over the years, in October 2010 the United Nations Human Rights Council established the mandate of the Working Group on the issue of Discrimination against Women in Law and in Practice (WGDAW). This represented a milestone on the long road towards women’s equality with men.
2. Since becoming operational in May 2011, the WGDAW has made full use of the range of tools available to it as a special procedure mandate. Its first communication was sent to Tunisia in August 2011, in the context of the drafting of the new constitution with a view to ensuring the inclusion of an equality provision. To date it has sent over 300 communications. The WGDAW has conducted 16 country visits covering all regions of the world including to a country which is not State Party to the Convention on the Elimination of All forms of Discrimination against Women (CEDAW). The WGDAW’s annual thematic reports to the Human Rights Council have focused on four broad areas of women’s life, that is, political and public life, economic and social life, family and culture, health and safety, allowing the WGDAW to address all areas affecting women’s lives and give a broad overview of the persistent discrimination against women. Furthermore, a compendium of good and promising practices for the elimination of discrimination against women in law and in practice and for women’s empowerment and a stocktaking report reasserting women’s fundamental right to substantive equality and calling for concerted efforts to counter rollbacks and the increasing attacks against the universality of women’s human rights were submitted in 2017 and 2018 respectively.
3. The WGDAW has sought to contribute to human rights conversations at the global and national levels through raising its expert voice by issuing public statements and position papers and submitting amicus briefs on issues affecting women’s enjoyment of human rights.
4. Through these undertakings, the WGDAW has been able to support Governments and civil society organizations in their efforts to eliminate discrimination against women and contribute to positive changes, as demonstrated in examples below. In July 2017 the WGDAW developed a [questionnaire aimed at soliciting views from Governments and civil society organisations with a view to gathering lessons learned and assessing the impact of its work](https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/ReassertingEqualityCounteringRollbacks.aspx). Some of the replies to the questionnaire are also reflected below.

# Impact of the annual thematic reports

1. The findings and recommendations of the WGDAW’s thematic reports have in some instances influenced policy dialogues and the elaboration of laws and policies at the national level. The reports of the WGDAW were used as reference in the process of drafting the Moldovan National Plan of Action on Human Rights and during public debates. The WGDAW’s reports were one of the references used in developing and amending laws and developing policies in Lebanon. The Spanish Parliament referred to the work of the experts in the framework of its legislative initiatives. The conclusions and recommendations of the thematic reports have been systematically shared with the competent authorities in Mexico for them to take into account international standards in the design and implementation of public policies.
2. The WGDAW’s 2015 thematic report on eliminating discrimination against women in cultural and family life, with a focus on the family as a cultural space (A/HRC/29/40) inspired the national human rights institution in Qatar in making recommendations focusing on discrimination in cultural and family life. In several reports and claims submitted to the Government, the national human rights institution used the report’s recommendations, including to repeal all discriminatory laws or practices restricting the rights and opportunities of widowed and divorced women to remarry and work, and on issues related to guardianship or custody of their children, the home of the family and ownership of properties.
3. At the global policy level, the WGDAW’s thematic reports have influenced the content of the Human Rights Council annual resolutions on the elimination of discrimination against women. For instance, [the resolution adopted by the Human Rights Council on 22 June 2017 on the elimination of discrimination against women and girls (A/HRC/RES/35/18)](http://ap.ohchr.org/documents/dpage_e.aspx?m=188) took into account key issues raised by the WGDAW in its previous thematic reports, including with regard to women’s right to bodily autonomy, naming of patriarchal norms, the right to be free from discrimination on the basis of gender, recognizing that progressive laws alone are insufficient to bring about gender equality and that gender-biased environments impede the implementation of laws to eliminate discrimination against women, the existence of a democratic deficit due to barriers to women’s political participation and recognition of the important role of feminists and women human rights defenders.
4. In addition, the resolution boldly calls upon States to: repeal all laws that exclusively or disproportionately criminalize actions or behaviours of women and girls, and laws that discriminate against them, based on any grounds, including any custom, tradition or cultural or religious consideration contrary to the obligation to eliminate discrimination against women and girls; to implement comprehensive sexuality education; to promote, protect and fulfil the right of all women to have full control over and decide freely and responsibly on matters related to their sexuality and sexual and reproductive health, free from discrimination, coercion and violence, including through the removal of legal barriers and the development and enforcement of policies, good practices and legal frameworks that respect the right to decide autonomously in matters regarding their own lives and health, including their bodies.

# Impact of country visits

1. The responses to the WGDAW’s questionnaire as well as statements made at the interactive dialogues in the Human Rights Council indicate that the country visits conducted by the WGDAW are often considered to be useful and having an impact on national laws and policies.
2. Following the WGDAW’s official visit to **Moldova** in 2012, the Government approved a series of amendments in 2014 to the legislation on gender equality. One of the proposals adopted included a minimum of 40 percent quotas of both sexes in governmental positions and 40 percent of either sexes in political parties’ electoral lists, in consistence with the recommendations made by the WGDAG. The country visit report was considered useful to lobby/advocate for the amendment to the legislation related to gender equality and non-discrimination issues, focusing on the institutional mechanism – the establishment of the Non-Discrimination Council and Center for Human Rights (Ombudsman).
3. Following the WGDAW’s country visit to **Tunisia** in 2013 and a subsequent communication with recommendations for stronger constitutional provisions on gender equality and non-discrimination particularly during the drafting of new legislation, the Government of Tunisia promulgated its new Constitution on 27 January 2014, containing ground-breaking provisions which guarantee, protect and strengthen women’s human rights. It also lifted some of its reservations to CEDAW.
4. Further to the WGDAW’s official visit to **Peru** in September 2014 and its recommendation on ensuring distribution of free emergency contraception and free and systematic access to contraceptives, emergency contraception became again available in the country in August 2016.
5. The WGDAW’s thorough report following its visit to **Spain** in December 2014 was regarded as a useful tool which offered a multidisciplinary and transversal perspective of the issue of gender equality and contributed to raising awareness. Since the visit, Spain has raised the paternity leave from two to four weeks, criminalised stalking and forced marriages and has reinforced the protection of women victims of violence (Law 4/2015), increased protection of children in situation of domestic violence (law 8/2015 and 26/2015) and of women victims of trafficking, which addressed some of the issues raised by the WGDAW.
6. Following the WGDAW’s visit to **Senegal** in April 2015, the Government set up a committee the same year to review and revise discriminatory provisions in the Family Code.
7. Further to the WGDAW’s visit to **Kuwait** in December 2016, where the experts had noted that the issue of violence against women was silenced and recommended the Government to enact a comprehensive law on combatting gender based violence, a bill in this regard was presented to the Parliament for the first time.
8. Following the country visit to **Samoa** in August 2017 where the Working Group raised concerns about the reported plans of the Government to re-introduce corporal punishment in schools, allowing teachers to exercise “reasonable force” in extreme circumstances, the Government has reportedly dropped the plan.
9. Further to the country visit to **Chad** in December 2017, the Government has established regulations on gender parity in elective posts in February 2018, as per the experts’ recommendations.
10. During the country visit to **Greece** in April 2019, the Working Group had expressed their concern about proposed amendments to provisions in the Criminal Code relating to rape. Those amendments appeared to be inconsistent with the international legal obligations of Greece under the Istanbul Convention, because they failed to introduce a consent-based definition and restricted further the circumstances in which the crime of rape could be established. In June 2019, the Government of Greece amended the Criminal Code to recognize in law that sex without consent is rape, which was hailed by civil society nationally and internationally as a victory for women.

# Impact of communications

1. The WGDAW’s communications, some of which issued jointly with other special procedure mandates, covered various issues such as concerns about the situation of women human rights defenders. An important number of these communications concerned discriminatory legislation including on nationality, marital status, sexual and reproductive health and rights, and adultery. Some of the communications are believed to have contributed to positive outcomes.
2. Following a communication in 2014, a practice note on Sharia succession rules issued by **the Law Society of England and Wales** was withdrawn. This practice note had advised that “male heirs in most cases receive double the amount inherited by a female heir of the same class”, thus effectively promoting an interpretation of Sharia succession rules that supported the apportionment of estates in a manner that discriminates against women, especially Muslim women, and/or women from minority communities.
3. The WGDAW in a joint communication to **Sudan** in May 2014 expressed concerns at the physical and mental safety of a 27-year-old pregnant woman in prison with her 20 month-old son under harsh conditions; at the existence of legislation that permits flogging; at the restrictions on the right to practice and profess peacefully religious beliefs; and at the right to a fair trial and due process. The communication is believed to have contributed to her release from prison and the drop of charges of apostasy and adultery.
4. **Madagascar** was one of 27 countries around the world which denied women the ability to confer citizenship on their children on an equal basis with men. By sending a communication to the Government in November 2014, the WGDAW contributed to the country’s decision to reform its discriminatory nationality law.
5. In April 2015, the WGDAW sent a communication expressing concern over **abortion laws in Northern Ireland**, where a termination of pregnancy was only legal if a woman’s life or health was at risk, as opposed to the rest of the United Kingdom. The Government replied in July 2015 that the matter was being addressed via consultations by the Northern Ireland Department of Justice as well as recommendations sent to the Northern Ireland executive. In November 2015, the Belfast High Court ruled that legislation in Northern Ireland, excluding abortion in cases of rape, incest or foetal impairment, violates the human rights of all citizens of Northern Ireland under the European Convention on Human Rights. In line with the arguments adduced by the WGDAW in its communication, the High Court mentioned the jurisprudence of the United Nations human rights treaty monitoring bodies which have consistently called on State parties to amend, when possible, legislation criminalising abortion in order to withdraw punitive measures imposed on women who undergo abortion. Furthermore, the Supreme Court of the United Kingdom granted the WGDAW the permission to intervene both in writing and orally in October 2017 in the matter of an application for judicial review by the Northern Ireland Human Rights Commission and in the mater of the law on termination of pregnancy in Northern Ireland.
6. Further to a communication sent to **the United States** in February 2015 on Texas HB2 Bill and the WGDAW’s country visit in December 2015, the Supreme Court decided in June 2016 to strike down the bill which would have limited access to abortion in Texas.
7. Following a communication to **Tanzania** in 2015, the High Court of the country ruled in July 2016 that the Law of Marriages Act must be revised to eliminate inequality between the minimum age of marriages for boys and for girls.
8. In July and August 2015 the WGDAW sent two urgent appeals to the Government of **Sudan** and a press release regarding the arrest and sentencing of female Sudanese students to public flogging and a heavy fine for charges of “indecent dressing”. In early October 2015 the Court of Appeal overturned the sentence of one of the 10 students charged with “indecent dress”. She had been sentenced to a fine of 500 Sudanese pounds and 20 lashes.
9. In April 2015, the WGDAW, jointly with other mandate holders, issued a communication to **Egypt** on a women human rights defender, who faced charges for “illegal gathering” and “participating in an unauthorised protest that harmed public security”, after her voluntary testimony to the Prosecution’s office of a violent dispersal of a peaceful protest. She was acquitted in a final decision on 24 October 2015.
10. Further to a communication sent to **Argentina** in July 2016 regarding the case of Belén accused of illegal abortion and sentenced to eight years in prison, she was released in August 2016.
11. Following a communication sent by the WGDAW and other mandate holders in September 2016, regarding the case of a 13-year-old girl who had been denied access to a safe and legal abortion despite carrying a pregnancy resulting from rape, the Government of **Mexico** took several measures, including the elaboration of protocols and trainings of medical staff.
12. In March 2017, the WGDAW and other mandates sent a joint communication to **the United Arab Emirates** concerning the alleged unfair trial and sentencing to death of a domestic worker from the Philippines with two young children, who had been sentenced to death for murder after allegedly killing her employer who attempted to rape her at knife point. She was acquitted of murder in June 2017.
13. In May 2018, the WGDAW and other mandates in a joint communication to **Sudan** raised concerns about a young woman sentenced to death for killing the man whom she was forced to marry and who had raped her and threatened her life. The Government of Sudan engaged with the mandate holders through written communications, in which it, inter alia, reaffirmed its commitment to human rights and its treaty obligations. In June 2018, the Court of Appeal in Khartoum converted the death sentence to a five-year prison term.
14. In July 2020, the WGDAW together with other mandates sent a joint communication to **Chile** expressing concerns at two criminal complaints filed by the police against the feminist art collective "Las Tesis" (the organisation which created the performance “*un violador en tu camino*”), following performances and videos by the Collective denouncing, among other things, gender-based discrimination and violence against women. The members of the organisation were acquitted in January 2021.
15. In December 2020, the WGDAW and other mandates sent a letter to the Congress of **Argentina** supporting the bill legalising abortion in the first 14 weeks of pregnancy. One of the WG members also intervened at the Senate to present the main elements of this letter. The law was passed on 30 December 2020.

# Impact of public voice

1. The WGDAW has contributed to advocacy for enhancing respect of international human rights norms through making its expert voice heard by issuing public statements, sometimes jointly with others such as regional human rights mechanisms. Such public voice has proven useful for actors at the national level. For example, statements calling for the provision of access to safe and legal abortion have contributed to national debates in the context of penal code reforms; served as an indicator of the fact that that the international community was closely monitoring the situation with a view to upholding international human rights standards.
2. The WGDAW has contributed directly to legal deliberations at the national level through the submission of amicus briefs, [including a brief to the UK Supreme Court on termination of pregnancy in Northern Ireland in October 2017 and a brief to the Supreme Court in Brazil in November 2016 on the circumstances in which denial of abortion services may constitute torture and / or cruel, inhuman or degrading treatment, including in the context of the Zika epidemic.](https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/AmicusCuriae.aspx)
3. Through the development of publicly available position papers on selected areas affecting the enjoyment of women’s rights, the WGDAW has contributed to conceptual clarity where there may be misunderstanding, misconception, or misperception or underdeveloped interpretation of standards. Such papers include discrimination against women in nationality; adultery as a criminal offence violates women’s human rights; women's land rights; and women’s autonomy and reproductive health.

# Impact of gender mainstreaming

1. The WGDAW raised concerns about the absence of reference to women’s right to equality in the resolutions on the protection of family adopted by the Human Rights Council through letters addressed to the President of the Council in 2014 and 2015 and a joint statement by all special procedures mandate holders. The subsequent resolutions have included a new reference to women’s rights to equality.
2. The WGDAW provided substantive inputs to the standard setting processes by several human rights treaties bodies including, for example, the Human Rights Committee draft general comment 36 on the right to life. In a written submission in October 2017, the WGDAW warned that the current formulation with regard to termination of pregnancy could lead to a regressive interpretation of article 6 of ICCPR setting back the considerable progress made by UN human rights mechanisms in recognizing women’s human rights to dignity, autonomy, highest attainable standard of health and respect for private life on a basis of equality with men, without discrimination. This has contributed to the progressive outcome of the final general comment. Similarly, a substantive written submission was sent to CEDAW on its general recommendation on violence against women in October 2016, contributing to the process of its finalization.
3. The WGDAW has proactively collaborated with other special procedure mandates with a view to gender mainstreaming, for example, with the Working Group on Business for the draft guidance for the development of national action plans for implementing the UN Guiding Principles on Business and Human Rights in 2014.

# Conclusion

1. These examples of the WGDAW’s contributions to positive changes are not exhaustive but intended as work in progress for an illustrative purpose, and much work is required to ensure proper follow-up and continuous support. The WGDAW recognizes that it would not have been able to make such contributions without the close cooperation of other key stakeholders. The results achieved represent a conjunction of efforts from civil society organizations and state authorities. The WGDAW remains firmly committed to working with all stakeholders to make its findings and recommendations useful practical tools for advancing the women’s rights agenda.