

Draft General Recommendation No. 19 (1992): accelerating elimination of gender-based violence against women

Introduction:

Para. 2 “The Committee acknowledges that civil society, especially women’s non-governmental organizations, have prioritized the elimination of gender-based violence against women and their activities have had a profound social and political impact, contributing to the recognition of this violence as a human rights concern and the adoption of laws and policies to address it.”

Comment: Highlight the crucial role of CSOs particularly Women NGOs in eradicating GBV and stress the need of greater cooperation between the State and NGOs in that matter.

Para. 4 “Despite these advances, gender-based violence against women, whether committed by State or non-state actors, including armed groups”

Comment: Non-state actors need to be identified clearly and include actors other than the armed groups. Include war and conflicts to the context, in addition to trends where SVAW is used as a tool of war. The existence of discriminatory laws and policies, shrinking public spaces, lack of political will, violence experienced by WHRDs, etc.

Para. 4 “ In the contemporary globalised world, this violence has taken on new manifestations and occurs in new contexts, including through information and communications technologies (ICTs) and the cyberspace”

Comment: The political economic context needs greater elaboration to include conflict, post conflict, and migration phenomena which contribute to the increase of GBV in specific regions.

Para. 4 “In addition, in some States parties there has been erosion of legal and policy frameworks to address equality of women with men and non-discrimination on the basis of sex and gender, sometimes as a result of a reduction in public spending or justified in the name of tradition, religion or fundamentalist ideologies.”

Comment: Add also the existence of discriminatory laws and policies, the lack of political will to address GBVAW, and the shrinking of democratic spaces which perpetuates a culture of impunity surrounding VAW.

Scope

Para.7 "Aspects of the content of these obligations in relation to gender-based violence against women in particular contexts are addressed in General Recommendation No. 28 and other General Recommendations, including General Recommendations No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations;"

Comment: Make a reference to the Agreed Conclusions of the CSW 57th session "Elimination and prevention of all forms of violence against women and girls" which includes a comprehensive blueprint of actions to prevent and eliminate all forms of violence against women and girls.

Para. 8 "The Committee also points out that States parties' action to confront gender-based violence against women is affected by reservations they maintain to the Convention. It further notes that as a human rights treaty body, the Committee may assess the permissibility of reservations formulated by States parties"

Comment: The language of the sentence need to be more assertive and strongly articulate the illegitimacy of the states to keep holding reservations under Art 2 and 16 which restrain state's obligation to address gender-based violence against women.

Para 9 "This violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty"

Comments: Forms of GBV need to be articulated more inclusively; economic violence, physical violence, sexual violence, psychological violence. And it will be useful to name specific examples of emerging trends of GBVAW particularly sexual VAW within different contexts- that are still not recognized as crimes- ; private sphere, public sphere, and in the context of conflict and post conflict situations.

Para 10 "The Committee considers that gender-based violence against women is the fundamental social, political and economic mechanism by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated..... The Committee regards it to be rooted in gender-related factors such as ideas of men's entitlement over women, the need to assert male control or power, enforce gender roles, or prevent, discourage or punish what is considered to be unacceptable female behaviour."

Comment: The paragraph needs to be rephrased because stating that GBV is “the fundamental...mechanism” that maintains women subordination is overlooking or underestimating the deeper rooted causes of discrimination against women.

Para. 10 “Throughout its work, the Committee has made clear that this violence is a critical obstacle to achieving equality between women and men in the enjoyment of human rights according to the Convention.”

Comment: Add a sentence stating the impact of GBVAW in hindering the achievement of the SDGs.

General obligations of States parties under the Convention relating to gender based violence against women

Para. 13 (b) ii. “The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women when its authorities know or should know of the danger of violence, or a failure to investigate and punish, and provide reparation to victims/survivors of such acts, provides tacit permission or encouragement to non-State actors and allows them to commit acts of gender-based violence against women, often with impunity”

Comment: Add the provision of referral and rehabilitation systems to survivors instead of “reparation”.

Para. 14 a) At the legislative level, “States are required to adopt legislation prohibiting all forms of gender-based violence against women.”

Comment: The states should acknowledge the supremacy of the International conventions and embed their articles in national laws, to be part of their constitutions; ensuring their supremacy on domestic laws.

Para. 14 b) At the executive level, “States parties should provide accessible, affordable and adequate services to protect women from gender-based violence and provide reparation to all its victims/survivors.”

Comment: Specify the referral system as part of the services and highlight the importance of cooperation of the state’s parties with the NGOs in that matter.

Para. 14 b) At the executive level, “States parties must also eliminate institutional practices and the conduct and behaviour of individual public officials that constitute

gender-based violence against women or tolerate such violence and provide a context for lack of or negligent response”

Comment: And create a legal system to ensure accountability of violations perpetrated specially by state actors.

Recommendations

Para. 15 Prevention b) “Develop and implement effective measures, with the active participation of all relevant stakeholders, such as women’s organisations, to address the stereotypes, prejudices, customs and practices that condone or promote such violence and underpin structural inequality of women with men, as described in article 5”

Comment: Respect the role of NGOs and WHRDs in working against GBV and allow the space for them to function in collaboration with both national and international institutions.

Additional General Recommendations for the States parties:

In regards to the Constitutions:

- Cancelling the article that states that religion is a legislative reference: “In the context of Arab region”
- The ratification and enforcement of the international treaties and agreements for the countries that did not ratify yet.
- Acknowledging the supremacy of the International conventions and embedding their articles in national laws, to be part of the constitution; ensuring their supremacy on domestic laws particularly in regards to rights and freedoms, in addition to having the Constitutional Court protect these rights, especially in the case of war.
- Create independent national bodies to protect women from violence especially in the case of war.
- Include an article in the constitution related to putting a law specialized in combating violence against women

In regards to Legislative Reform and Laws:

- Put in place a law related to combating violence against women which includes measures of prevention, protection, assistance, criminalization and accountability, in addition to rehabilitation of survivors, definition of violence and all its forms,

violence against minor girls, international treaties' reference and a human rights approach.

- Create a section in the law related to combating violence in conflict that includes trends of sexual violence, such as systemic rape and its use as a tool of war and trafficking of women and girls.
- Limit the authority of religion, religious leaders and power of tribes by sovereignty of law.

In regards to Policies

- Design national strategies to combat violence against women and follow up on the implementation of the strategies that have already been designed in some countries, through the formation of a monitoring committee which includes representatives of civil society and feminist organizations.
- Design national strategies to implement Resolution 1325 and those subsequent to it.
- Allocate a portion of the state budget as gender budgeting particularly with regard to sexual violence during conflicts, based on para. (i) of the agreed conclusions of the CSW 57th session, which emphasize on integrating a gender perspective into all policies, legislation, and programs and allocate the necessary financial and human resources.
- Design an emergency plan where criminal procedures and investigations are conducted to ensure accountability especially in conflict and incidents of war, based on para. (c), (n) of the agreed conclusions of the CSW 57th session.
- Push towards the ratification of all international agreements and lift all reservations for countries that have not yet ratified or lift reservations.