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## A: INTRODUCTION

The Centre for Applied Legal Studies (CALs) has prepared the enclosed comments in response to the call for written submissions by the Committee on Elimination of Discrimination against Women (the Committee) in the context of its elaboration of a new "General Recommendation on Rural Women", pursuant to Article 21(1) of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention).<sup>1</sup> This submission acknowledges the Committee's Concept Note prepared in anticipation of the Day of General Discussion held on 7 October 2013 and in particular, the guidance provided therein regarding the major challenges faced by women living in rural communities.<sup>2</sup> Through this submission, CALs proposes recommendations in response to some of these challenges and also highlights additional issues that are critical for the exercise and enjoyment of fundamental human rights by women living in rural communities.

The South African government ratified the Convention on 15 December 1995 without reservation and the Optional Protocol to the Convention on 18 October 2005.<sup>3</sup> The Committee considered South Africa's combined second, third and fourth periodic report during the course of its 48th session held in Geneva.<sup>4</sup> In its concluding observations the Committee expressed concern at 'the disadvantaged position of women in rural and remote areas who constitute the majority of women in South Africa, which is characterized by poverty, difficulties in access to health and social services, and a lack of participation in decision-making processes at the community level'.<sup>5</sup> In terms of recommendations, the Committee urged the South African government to:

***'take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans, and to pay special attention to the needs of rural women, in particular women heads of household, by ensuring that they participate in decision-making processes and have improved access to health, education, clean water and sanitation services, fertile land and income-generation projects'.<sup>6</sup>***

In addition to the concerns expressed by the Committee in its concluding observations, we would like to emphasize that while women make up 52% of the population and approximately 59% of those residing in "deep rural" areas, their concerns are still not taken into account, alternatively not adequately addressed in government policies generally and specifically those dealing with land reform.<sup>7</sup> South African women living in rural areas continue to be disproportionately affected by

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<sup>1</sup> Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force Sept. 3, 1981. Article 21(1) provides: The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

<sup>2</sup> CEDAW Committee Concept Note available at: <<http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/RuralWomen.aspx>>

<sup>3</sup> Status of ratification available at: <<http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>>

<sup>4</sup> State Party report CEDAW/C/ZAF/CO/4 available at:

<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fZAF%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fZAF%2fCO%2f4&Lang=en)>

<sup>5</sup> CEDAW Committee Concluding Observations CEDAW/C/ZAF/CO/4

<sup>6</sup> Ibid para 38

<sup>7</sup> See for instance Sanja Bornman, Debbie Budlender, Yaliwe Clarke, Stacey-Leigh Manoek, Christi van der Westhuizen, and Joy Watson with Sara Antunes and Nabihah Iqbal "The State of the Nation, Government Priorities and Women in South Africa" Women's Legal Centre 2013

extreme poverty; inequality and unemployment and infrastructure development has not necessarily resulted in the creation of employment opportunities or decent jobs for women.<sup>8</sup>

Recognizing the significance of the forthcoming general recommendation, specifically for the South Africa context, we wish to draw the attention of the Committee to existing human rights standards and commitments made by Governments in this thematic area as well as standards that have emerged through intergovernmental processes. The recommendations proposed by CALS are not only responsive to the South Africa context but have been deliberately broadly formulated to facilitate general application in countries and regions confronted with similar challenges.

This submission proposes recommendations for the Committee to make to States parties in the following thematic areas:

1. The right to participate in the elaboration and implementation of development planning;
2. Rural women's access to agricultural credit loans;
3. Education and Training for women and girls (specific focus on sexual violence in rural schools);
4. Right to an adequate standard of living - housing, sanitation and water supply; and
5. Monitoring and implementation

In its general recommendation No. 28<sup>9</sup>, the Committee requested States parties to recognize intersecting forms of discrimination and their compounded negative impact on women - emphasizing the importance of adopting and implementing policies and programmes designed to respond thereto. It is critical to note that rural women are not a homogenous group and that the discrimination they suffer on the basis of sex and gender is often linked to other factors such as race, class, age, marital status, ethnic origin, religion, sexual orientation and gender identity. On this basis, we urge the Committee, in its elaboration of this new general recommendation, to provide guidance to States parties on the measures that must be adopted to address the multiple and intersecting forms of discrimination experienced by women living in rural areas.

CALS is aware that the Committee is in the process of elaborating guidance for States parties in the context of women's access to justice, which we anticipate will address the need for legal and other services for women survivors of violence generally. However, for this purposes of the proposed general recommendation on rural women, we request that the Committee carefully consider the fact that rural women survivors of domestic and sexual are routinely confronted with not only lack of legal services but additionally the absence of shelters or safe houses which should ideally be provided by States Parties in accordance with their Convention obligations.

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<sup>8</sup> South Africa's National Development Plan – Vision for 2030 available at: <  
<http://www.npconline.co.za/medialib/downloads/home/NPC%20National%20Development%20Plan%20Vision%202030%20-lo-res.pdf>>  
<sup>9</sup> CEDAW/C/GC/28

## **B: RELEVANT INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS**

In addition to the expansive provisions of Article 14 of the Convention setting out the legal obligations of States parties, there are a range of regional and international human rights standards as well as commitments made by Heads of State and Government in this regard.

1. The **Convention on the Rights of Persons with Disabilities** not only calls on States parties to adopt appropriate measures designed to identify and eliminate obstacles and barriers to accessibility for persons living with disabilities, but also urges States parties to ensure that persons living with disabilities in rural areas enjoy access to a range of services including transportation, facilities and services information and communications.<sup>10</sup> In particular, Article 9 outlines specific measures which are essential for the empowerment of women living with disabilities in rural communities. Additionally, Article 26(1)(b) contains specific reference to the rights of people living in rural communities, placing an obligation on States parties to ‘organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services’ in rural communities.<sup>11</sup>
  
2. The General Assembly in its resolution on the **Improvement of the Situation of Women in Rural Areas**, noted the critical contributions of rural women in enhancing agricultural and rural development, improving food security and eradicating rural poverty and the specific contributions of older rural women to the family and the community.<sup>12</sup> We wish to draw the Committee’s attention to the specific recommendations made by the General Assembly to Member States in relation to improving the situation of rural women in their national, regional and global development strategies and request their inclusion in the proposed general recommendation:
  - Pursue the political and socio-economic empowerment of rural women and support their full and equal participation in decision-making at all levels, including through affirmative action, where appropriate;<sup>13</sup>
  - Integrate a gender perspective into the design, implementation, follow-up and evaluation of development policies and programmes, including budget policies, with a view to ensuring that the disproportionate number of rural women living in poverty is reduced;<sup>14</sup>
  - Ensure that the rights of older women in rural areas are taken into account with regard to their equal access to basic social services, appropriate social protection / social security measures, equal access to and control of economic resources, and empowerment through access to financial services;<sup>15</sup>

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<sup>10</sup> Convention on the Rights of Persons with Disabilities A/RES/61/06

<sup>11</sup> Ibid Article 26 on Habilitation and Rehabilitation

<sup>12</sup> A/res/62/136

<sup>13</sup> Ibid para 2(b)

<sup>14</sup> Ibid para 2(e)

<sup>15</sup> Ibid para 2(i)

- Develop specific assistance programmes and advisory services to promote economic skills of rural women and provide microcredit and other financial and business services to female headed households in rural communities for their economic empowerment;<sup>16</sup>
- Address the lack of timely, reliable and sex-disaggregated data, including by intensifying efforts to include rural women’s unpaid work in official statistics, and ensure that rural women’s experiences inform policy and programme decisions.<sup>17</sup>

To contribute to the Committee’s efforts aimed at providing the most appropriate guidance regarding measures to improve the situation of women in rural areas living in extreme poverty, we urge the Committee to consider integrating the relevant aspects of the **Guiding Principles on Extreme Poverty and Human Rights** adopted by consensus by the Human Rights Council in September 2012.<sup>18</sup> Significantly, the Guiding Principles provide global policy guidelines on the human rights of people living in extreme poverty and require States to adopt and implement comprehensive national strategies and plans of action which are ‘devised and periodically reviewed through a transparent, inclusive, participatory and gender-sensitive process’ in order to eliminate extreme poverty.<sup>19</sup> In this regard, the provisions of Article 7(b) enshrining the rights of women to participate in the formulation and implementation of government policy as well as the Committee’s existing guidance in general recommendation No. 23 are especially relevant and could ideally be utilized to address this issue.<sup>20</sup>

As the Committee has noted in its Concept Note, careful consideration of the twelve Critical Areas of Concern and related Strategic Objectives of the **Beijing Declaration and Programme of Action (BPfA)** is essential in the elaboration of appropriate guidance for States parties in this context.<sup>21</sup> Having recognized the disproportionate number of women living in poverty, specifically the feminization of poverty in most countries and the low levels of participation by women living in rural communities in policy formulation and decision-making specifically in natural resource and environmental management, in terms of the BPfA, Governments committed to:

- Enhancing the access of disadvantaged women in rural areas to financial services and to credit through various means;<sup>22</sup>
- Actively involving women in environmental decision-making at all levels through, *inter alia*, taking measures to integrate a gender perspective in the design and implementation of sustainable resource management mechanisms, production techniques and infrastructural development.<sup>23</sup>

At the regional level, African Heads of State and Government have made specific commitments relevant to the empowerment of women living in rural communities. States parties to the Optional

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<sup>16</sup> Ibid para 2(j)

<sup>17</sup> Ibid para 2(p)

<sup>18</sup> A/HRC/21/39 Guiding Principles on Extreme Poverty and Human Rights submitted by Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepulveda Carmona and adopted by the Human Rights Council in September 2012.

<sup>19</sup> Ibid para 103 – 107 Monitoring and Implementation

<sup>20</sup> General Recommendation No. 23 available at: <

<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23>>

<sup>21</sup> Beijing Declaration and Platform for Action Adopted at the 16th plenary meeting, on 15 September 1995 available at:

<<http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>>

<sup>22</sup> Women and Poverty – Strategic Objective A.3

<sup>23</sup> Women and the Environment – Strategic Objective K1

Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa<sup>24</sup>, have in terms of Article 19 on the Right to Sustainable Development, the provision most relevant to women living in rural communities, assumed legal obligations to:

- Introduce gender perspectives in all national development planning processes;
- Promote women's access to and control over productive resources such as land and guarantee their right to property;
- Ensure that the negative effects of globalization and any adverse effects on the implementation of economic policies and programmes are reduced for women.

Finally, Member States of the Southern African Development Community, through the Declaration on Gender and Development, committed to 'promoting women's access to and control over productive resources such as land, livestock, markets, credit, modern technology, formal employment and a good quality of life in order to reduce the level of poverty among women'.<sup>25</sup>

Our intention in highlighting the above-mentioned human rights standards is to draw the Committee's attention to existing commitments made by Heads of State and Government in order to demonstrate that many of these commitments are potentially in accordance with the provisions of Article 14 of the Convention and should be augmented in the proposed general recommendation. This would enable the Committee to monitor the implementation these commitments in accordance with Article 18 of the Convention.<sup>26</sup>

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<sup>24</sup> Adopted by the 2<sup>nd</sup> Ordinary Session of the Assembly of the Union in Maputo on 11 July 2003 available at: <[http://www.achpr.org/files/instruments/women-protocol/achpr\\_instr\\_proto\\_women\\_eng.pdf](http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf)>

<sup>25</sup> Adopted in Blantyre on 8 September 1997 available at: <[http://www.sadc.int/files/7613/5292/8380/Declaration\\_on\\_Gender\\_Development\\_1997.pdf](http://www.sadc.int/files/7613/5292/8380/Declaration_on_Gender_Development_1997.pdf)>

<sup>26</sup> Article 18 provides: 1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect: (a) Within one year after the entry into force for the State concerned; (b) Thereafter at least every four years and further whenever the Committee so requests. 2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

## C: SPECIFIC THEMATIC AREAS OF CONCERN

### Right to participate in the elaboration and implementation of development planning at all levels

#### Barriers to participation in development planning encountered by women living in rural areas

1. Rural women generally participate in the wage labour market from a weaker bargaining position than their male counterparts

Lesser access to and/or control of key resources, including capital, education, technology and land title<sup>27</sup>, bolstering one's bargaining position in the economy constitute a crippling barrier. Consider for example that government decides on a mining-driven development model for a particular region. In addition to mining jobs, it is envisaged that the operational needs of mines and the personal needs of employees will enable the growth of local suppliers and an expanding retail and services sector. Assume that this policy decision, and the licensing and planning of mining projects takes place without taking into account differences in resources and the means of realising capabilities,<sup>28</sup> and in the absence of a legislative framework to empower women in the workplace. In this scenario, those with greater access to resources and opportunities will have more to trade and will thus be able to secure better jobs, be able to conclude more favourable commercial contracts and will have easier access to credit. Given that in the majority of cases men enjoy greater access to these resources<sup>29</sup> development schemes that fail to take women into account result in the exacerbation of the prior disadvantage experienced by women, particularly in the extractive industries.

2. Gendered economic roles rendered more burdensome through the impact of developments on the environment

Women living in rural areas often have an ascribed role in land-based activities (including growing produce, gathering food, water and firewood). The loss of land due to developments may therefore sever women from a breadwinner role which is (relatively) esteemed.<sup>30</sup> In other cases, women may still be expected to play the role of gathering food, which may impose a far greater burden with regard to time and energy. Relocations to allow developments may significantly increase the distance and difficulty of accessing food, water and other resources.

3. Women bear a disproportionate share of unpaid work<sup>31</sup>

This work encompasses childcare, house work, gathering food and water and unpaid work for businesses (i.e. family businesses).<sup>32</sup> This can significantly reduce the time women have to find and

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<sup>27</sup> Food and Agricultural Organisation of the United Nations, International Fund for Agricultural Development & the International Labour Office 'Gender dimensions of agricultural and rural employment: differentiated pathways out of poverty' at 54.

<sup>28</sup> This terminology does not denote essential abilities but refers to the concept used capabilities approach to equality and development associated with Amartya Sen and Martha Nussbaum, namely of access to the means of realizing one's abilities and achieving desired outcomes.

<sup>29</sup> Though the respects in which males are advantaged and the extent of this advantage will vary across differing contexts.

<sup>30</sup> K Bhanumathi 'Status of women Affected by Mining in India' at 2. Accessed at <http://www.samataindia.org.in/documents/>

<sup>31</sup> Food and Agricultural Organisation of the United Nations et al (op cit) at 3.

<sup>32</sup> Ibid.

devote to paid work. The result is frequently the over-representation of women in casual work or in the informal sector with lower status, limited security and workplace rights.<sup>33</sup>

#### 4. Gender disparities in access to work opportunities

While the extent to which gender difference is taken into account in particular economic activities (e.g. mining) varies according to the particular context, in most cases formal jobs resulting from the new industry that drive the development of rural areas are more easily accessed by men in the community. In fact the trend is still for women to be more highly represented in the agricultural sector, even when the sector is no longer economically dominant or viable.<sup>34</sup> There is thus the risk that development schemes designed without taking into account the gendered dynamics in the local economy will result in the loss of livelihood for women without a commensurate increase in access to secure jobs in the wage economy.

#### 5. Traditional authorities exercise significant powers in rural communities

In most rural communities, traditional leadership structures are dominated by men, often with essentialised and patriarchal conceptions of the role of women. By engaging with traditional leadership structures as if they represent the interests and opinions of the entire community, including the specific needs of women, States parties run the risk of exacerbating the oppression and marginalisation of women and girls living in rural communities.

#### *Suggestions for legislative, structural and policy measures to be implemented by state parties to overcome these barriers*

We respectfully request the Committee to urge States parties, in accordance with obligations under Article 14 and other provisions as relevant, to:

- a) As a matter of government policy, acknowledge and address the norms and practices that exclude women from development processes and programmes.

To ensure that the interests and concerns of women are accorded equal representation in decisions pertaining to development likely to cause significant harm and/or benefits to them, government decision makers need to anticipate, and take into account, norms and practices at a community, State and private sector level which serve to silence the voices of women. Where local women do not attend community engagement meetings or are not vocal, their acquiescence or lack of interest should not be assumed. This might require, inter alia

- Measures such as the provision of training in how to respond to gender and other forms of difference.

- b) Structural interventions to ensure women have an equal voice in consultation and decision-making processes

Legislation should require decision makers and developers to take reasonable measures to level the playing field in order to enhance the bargaining position of women in the processes of formulating

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<sup>33</sup> Ibid at 11

<sup>34</sup> Ibid at 6



local development plans and in deciding whether to authorise and undertake specific developments. It is crucial that no development plans or decisions, whether by government or the private sector, are concluded without taking into account the specific and interests of local women and in the absence of their meaningful engagement. Such primary legislation and regulations must provide a clear framework of structures and standards with which government and private sector developments must comply. Some of the structures and processes might include:

- The creation of safe spaces for women articulate their experiences, needs, problems and opinions without fear of reprisals from male members of the community
  - Offering financial, logistical and other to local women's associations and non-governmental organizations.
- c) States parties should play a proactive role in forging partnerships with gender experts, women living in rural communities and developers to enable inclusive, gender sensitive decision-making

Partnerships between gender experts (academics, NGOs, legal professionals), rural women, developers and government decision-makers must be forged to ensure that economic planning and decision-making is responsive to the needs of women and is compatible with gender equality. It is also crucial that male role players in the development process are engaged on issues of gender equality.

- d) States parties must ensure access to services and support necessary to strengthen women's bargaining position in the market

Legislation and policy should ensure women have access to the services and resources necessary for their meaningful participation in the economic sectors stimulated by development initiatives on the basis of equality with men. For instance, States parties must be required to address the following concerns:

- Disparities in access to education in rural areas
  - Adequate child support services should be extended to rural areas to allow women more time to participate in the economy to reduce economic dependence
  - Support must be offered to small-scale female entrepreneurs
- e) The role of traditional leadership in local economic development should not be enhanced if this will exacerbate gender inequality

Any decisions by government on the role of traditional leadership in local economic development and in a particular development scheme (for example as administrators of a community ownership scheme) must be mindful of and attach significant weight to the impact that this may have on women's human rights and gender equality. Thus:

- Where possible greater responsibilities should be conferred on and closer partnerships forged with community based organizations and democratically elected local government representatives;

- In the event that traditional structures and/or traditional authorities play a critical role in local economic development, States parties must be required to establish legislative frameworks, mechanisms and structures to offset any gender disparities. These could include for instance, measures to improve literacy, including legal literacy for women; the creation of safe deliberative spaces for rural women where discussions can take place away from the scrutiny of male holders of power; and the development of customary law and practices in accordance with the principles of the Convention.

f) States parties must adopt and promote a gender sensitive understanding of development

There needs to be a shift towards a gender-responsive conception of development in public discourse, policies and law. Essentially the desired form of economic development should lead to improvements in the quality of life for all, without discrimination on the basis of sex and gender and reduce rather than deepen gender inequality. The acceptance, entrenchment and implementation of this conception will help illuminate the often obscured gendered impacts of developments and will promote the integration of gendered impacts into planning and decision-making. Further the links between addressing the challenges of rural women identified in CEDAW's concept note (including truncated access to and control over land, malnutrition and food insecurity, and lesser access to social services including health care and education) and improved living conditions of all (including males) need to be recognized and accepted by the general public. This would involve effectively communicating how the creation of an enabling environment for women living in rural areas leads to the unlocking of women's potential which, in turn leads to the achievement of a more productive and prosperous society.

### **Access to agricultural credit and loans**

The Committee's Concept Note recognizes that there are "[p]articular constraints to women's access to financial services [which] include policy and legal barriers as well as cultural "norms" that prevent women from keeping bank accounts or entering into contracts without their husbands or another man." CALS supports the need to address these impediments in accordance with the provisions of Article 15(2) of the Convention<sup>35</sup>, and raises additional issues for consideration by the Committee.

Access to credit and credit facilities is an important aspect of ensuring that rural households are able to develop and grow their income base. This is particularly relevant for agricultural households who often need to access credit to purchase necessary inputs, such as fertilizer, new seed, agricultural implements and livestock. However, accessing credit for rural households is currently a challenge for many farmers, particularly smallholder farmers, who face a number of barriers in obtaining loans for their development. One of the most important elements of accessing financial services is ensuring that there is sufficient access to information for those people who may be eligible to access credit. This is a particular challenge in rural communities as there is often poor dissemination of information by credit providers. Farmers who would benefit from additional finance or loans may not be able to access such assistance due to the fact that they are unable to source any information

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<sup>35</sup> Article 15(2) provides: 2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

on how to obtain credit. This challenge is compounded by low functional literacy rates in rural households. This is an acute problem for women specifically who are frequently the last members of a community to receive education and skills development. The ability to access education is a critical prerequisite for communities to access finance. Without a basic understanding of how finance operates and the requirements in repaying loans is a significant barrier for many women in accessing credit.

In addition to these challenges, rural households are also constrained by the criteria of financial institutions before credit can be provided. Rural households are disadvantaged in this regard because credit providers will generally require some form of security before providing finance. This is generally not a problem if a farmer has ownership of his or her land through title, however, the vast majority of smallholder farmers in rural areas do not own the land on which they reside.

We respectfully request the Committee to make the following recommendations to States parties:

- Ensure that there is adequate dissemination of information on credit facilities which is easily accessible to women living in rural areas
- Ensure that people living in rural areas are able to access education and improve their literacy skills, particularly in the area of finance and accessing credit.
- Work with private financial institutions and ensure that state financial institutions make provision for the particular challenges faced by rural households in providing security for loans. Reformation of criteria to make allowances for the untenured nature of smallholder farmers is important for their ability to access credit. In addition, the repayment of credit should be tailored towards the market in which smallholder farmers operate. In this regard, repayments of loans should allow for a degree of flexibility that takes into account the informal nature of the trade.
- Ensure that credit is tailored to the particular challenges faced by women in controlling the finances of their households, that credit is not withheld from women who approach financial institutions without their husbands present, in compliance with the provisions of Article 2 of the Convention

## **Education and training for women and girls**

### *Barriers to obtaining training and education encountered by women and girls living in rural areas*

1. Rural Girl Learners Are Vulnerable to Sexual Violence in Schools.

Sexual violence is a serious public health and human rights concern with both short and long-term consequences on women's physical, mental, and sexual and reproductive health. Whether sexual violence occurs in the context of an intimate partnership, within the larger family or community

structure, or during times of conflict, it is a deeply violating and painful experience for the survivor.<sup>36</sup> The consequences of sexual violence are exacerbated when experienced by rural girl learners in South Africa. A 2012 study of violence in schools highlighted the increase in sexual assault at schools between 2008 and 2012.<sup>37</sup> The report indicated a significant increase in sexual assault in all nine provinces of South Africa with the greatest increases occurring in the Free-State from 2.2% in 2008 to 9.2% in 2012, in Mpumalanga from 4.4% to 7.3%, in Northern Cape from 2.0% to 11.2% and in the Western Cape from 2.7% to 9.2%.<sup>38</sup> These four provinces of South Africa have significant rural communities. Sexual assault of female learners occurs at the hands of their educators and male learners alike.<sup>39</sup> In 2010, Mpumalanga's Education Department dismissed 60 teachers for sexually abusing pupils over the past five years.<sup>40</sup>

As the largest sub-population living in poverty within South Africa, rural women and girls are particularly susceptible to exploitation and sexual abuse.<sup>41</sup> Often, educators groom rural girl learners by offering them monetary items for sex and if reported, bribe the girls' families with monetary payments to withdraw criminal charges laid against them. Poverty thus significantly increases the likelihood of girl learners being victimised by sexual violence in the school environment.

## 2. Implementation Gaps in Protecting Rural Girls from Sexual Violence in Schools and Holding Educators Accountable.

South Africa has an extensive legislative and policy framework to protect women and girls against sexual violence.<sup>42</sup> However, the challenge lies in the poor application and lack of implementation of the law, resulting in perpetrators enjoying widespread impunity. The Department of Basic Education (DBE) and the South African Council of Educators (SACE), the statutory body regulating the conduct of educators, are governed by a host of policies and protocols to deal with educator misconduct in schools. The Department issued the Guidelines for the Prevention and Management of Sexual Violence and Harassment in 2008. It also produced a handbook for learners called Speak Out which advises Department officials on how to deal with sexual violence in schools. Further, complaints about educator misconduct can be lodged based on the Employment of Educators Act as well as the SACE Code of Professional Ethics.

In practice, however, these policies and protocols do not easily filter down to rural communities, where complaints are often unattended to for long periods of time or withdrawn due to pressure, monetary or otherwise, exerted by educators on poor families of female learners. Accountability processes, where they are triggered, often are duplicative and effectively serve to repeatedly re-traumatise girl survivors of sexual violence.

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<sup>36</sup> WHO Sexual violence available at: <[www.who.int/reproductivehealth/topics/violence/sexual\\_violence/en/](http://www.who.int/reproductivehealth/topics/violence/sexual_violence/en/)>

<sup>37</sup> Burton P and Leoschut, L "Results of the 2012 National School Violence Study" Centre for Justice and Crime Prevention, Monograph series No 12, Cape Town 2013.

<sup>38</sup> Ibid at 23

<sup>39</sup> Sheryl Goodenough, Perspectives on KwaZulu Natal volume 1 no 2, April 2001. See also Sakkie Prinsloo, Sexual Harassment and Violence in South African Schools, South African Journal of Education, Volume 26 No 2 2006.

<sup>40</sup> Sexual abuse rampant at rural schools. News. Mail & Guardian. Accessed at [mg.co.za/article/2010-10-15-abuse-rampant-at-rural-schools](http://mg.co.za/article/2010-10-15-abuse-rampant-at-rural-schools).

<sup>41</sup> South African NGO Shadow Report, submitted to the CEDAW Committee at the 48th session, 17 January- 4 February 2011.

<sup>42</sup> Including, but not limited to, the Sexual Offences Amendment Act 32 of 2007, The Domestic Violence Act 116 of 1998, The Protection from Harassment Act 17 of 2011, The Prevention and Combatting of Trafficking in Persons Bill 7B of 2010, The Children's Act 38 of 2005, The Child Justice Act 75 of 2008, The Employment of Educators Act 76 of 1998, The Criminal Procedure Act, The South Africa Police Services Act 68 of 1995, the Service Charter for Victims of Crime, and the Education Laws Amendment Act 53 of 2000

### 3. Sexual Violence in Schools Implicates Multiple Rights Violations.

The scourge of sexual violence in rural schools is exacerbated by the deep socio-economic structural realities of rural girls, specifically, and has far-reaching consequences. Often, female learners who are victimised by sexual violence in schools become pregnant and/or contract sexually transmitted diseases, including HIV. Some learners are even murdered to cover up educator misconduct. The evidence clearly reveals that female learners who become pregnant during their school years often discontinue with their education, at least temporarily, although they are more likely not to return to school at all following their pregnancies. Those learners who do not fall pregnant often fear continued advances by the perpetrator of the sexual violence, and thus often stay away from school to avoid all contact. By discontinuing their education due to harassment and sexual violence, young women are caught in an endless cycle of poverty. They are less likely to secure employment and therefore unable to assist their families financially.

#### Suggestions for structural and policy measures to be implemented by States parties to overcome these barriers

Based on the aforesaid, CALS respectfully requests the Committee to make the following recommendations to States parties:

- Provide adequate support for the establishment of legal literacy programmes for learner, families and educators in rural communities in order to share information about sexual violence in schools and reporting mechanisms. Relevant department policies and protocols must be made accessible to rural communities so they understand the step-by-step processes of reporting sexual offences committed against learners.
- Establish accessible and affordable legal mechanisms to hold educators accountable for the sexual abuse of female learners by both the education and criminal justice systems; address gaps and inconsistencies within relevant legislative frameworks and adopt all appropriate measures to ensure that accountability mechanisms are streamlined to the extent possible to minimise the possibility of re-traumatisation.
- Allocate the necessary human and financial resources to relevant Government Departments and deploy investigating officers to rural areas where sexual offences are reported against learners.
- The appropriate government departments responsible for the maintenance of the Sexual Offences Register and Child Protection Registers, in States parties where they exist, should coordinate their registers with the relevant Government Department (Department of Education) to ensure consistency regarding the listing of educator perpetrators of sexual offences in rural schools. This information should be clearly and expeditiously relayed to rural schools.

#### **Right to an adequate standard of living: housing, sanitation and water supply**

### 1. The gendered impact of the lack of sanitation on girl learners

The provision of adequate sanitation facilities at schools ensures girl learners' health, safety and security, privacy and dignity. The failure to implement the norms and standards, through regulations, and, in particular, the lack of sanitation facilities to all schools is not gender neutral in its adverse impact on the learning experiences of girls (and working conditions of women teachers). Deficient sanitation impacts girl learners disproportionately and differently in the following ways:

- The lack of adequate sanitary provisions results in girls avoiding attendance at school during the period of menstruation. This escalates the number of girl learners dropping out of school altogether, as well as the high rates of absenteeism.
- A lack of adequate sanitation facilities available at schools necessitates the use of open facilities, which lack physical privacy and results in girl learners having to effect their ablutions where other learners can see and mock or tease them.
- When girl learners seek to effect their ablutions privately, this often requires them to walk some distance from the school where others cannot see them. This heightens their vulnerability to sexual violence.

In the final analysis, the lack of adequate sanitation results in poorer levels of education among female learners, with devastating consequences for their vocational and overall opportunities to participate fully in social and economic life of the country.

### 2. Gendered division of labour results in heightened burden on women in respect of access to water

While access to water is a prerequisite of survival of all, the denial of this universal human right also intersects with gender structures and rural economies in manners that can be particularly disadvantageous to women. Much of this impact is on account of the particular gendered roles that tend to be assigned to women. In particular, women are expected to grow subsistence crops, cooking, maintain a hygienic home environment and raise children – requiring access to potable water. As a consequence the greater the barriers (whether distance, financial or otherwise) to accessing the water necessary for activities such as growing crops and cooking, the greater the time, resources, and energies expended by women on these activities as opposed to other chosen activities (whether participation in the wage economy, in community organisations, adult education or recreation).

### 3. Meeting of basic needs often trumped by the water needs of developers

Heavy industrial activity places tremendous pressure on water resources. Economic development plans frequently involve industrialisation. The impacts of industry may be divided into two, namely consumption of water for industrial processes and the pollution of water (on account of emissions, waste etc). The result is often that there is less water available for the meeting of basic human needs and for many of the activities which are assigned to women.

### 4. Regression in water supply threatens women's subsistence farming

Subsistence farming may be rendered impossible if there is a dramatic regression in the water supply. Of the ascribed roles, subsistence agriculture might be the most economically empowering

as it can potentially serve as a ladder to participation in the economy as a small scale commercial farmer. A regression in water supply can render subsistence farming or small-scale agriculture impossible.

*Suggestions for legislative, structural and policy measures to be implemented by state parties to overcome these barriers*

- Women's involvement at all stages in inclusive development process

Development planning for rural areas must be inclusive of all stakeholders and must be consistent with the basic water needs (including subsistence and small-scale farming) of the communities that reside in these areas. Local women must be consulted in the planning and allocation processes and the gendered-impact of water use needs to be assessed and factored in.

- Participatory structures create through legislation should be subject to gender representivity requirements

Legislation and policy must provide targeted mechanisms for the participation of women in water allocation processes to ensure that the needs of women are not sidelined in favour of the needs of industry. The structures, for example water users associations, set up to facilitate participatory water management must have in-built requirements for gender representivity.

## **Adequate Housing**

Research is usually limited to geographic regions and is not necessarily representative of other communities.<sup>43</sup> This is the case with housing issues affecting women in different rural areas. Often, demographic information including age, ethnicity and cultural background is not included in the research, resulting in generalized findings.<sup>44</sup> This is often seen in comparative research studies of urban and rural areas.<sup>45</sup> In addition, operational definitions of 'rural' and 'urban' often differ widely from community to community and across different regions.<sup>46</sup> Further, structures and components of houses vary according to the culture and traditions of a society, the climate, the terrain and the level of technological achievement.<sup>47</sup>

However, the common characteristics of rural areas include low life population density, geographical distance from metropolitan areas, dense social networks, cultures of self-sufficiency and fewer economic and manpower resources.<sup>48</sup> Small towns and rural communities have the same structural barriers and these include fewer and lower –wage employment, little public transportation and a

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<sup>43</sup> L. Mulder et al The Behavioral Health Care Needs of Rural Women The Rural Women's Work Group of the Rural Task Force of the American Psychological association and the American Psychological Association's Committee on Rural Health pg1-2.

<sup>44</sup> Ibid

<sup>45</sup> Ibid

<sup>46</sup> Ibid

<sup>47</sup> CS Meenakshi & P Ajith Kumar Women's Participation in Rural Housing Schemes: A case study of Kerala, Discussion Paper No 24, 2000

<sup>48</sup> L. Mulder et al The Behavioral Health Care Needs of Rural Women The Rural Women's Work Group of the Rural Task Force of the American Psychological association and the American Psychological Association's Committee on Rural Health pg1-2.

lack of child care options.<sup>49</sup> The availability, affordability and quality of housing in the rural communities is overlooked and in particular, its impact on women.<sup>50</sup>

*In respect of women's rights to enjoy adequate living conditions, particularly in relation to housing, we respectfully the Committee to make the following recommendations to States parties:*

- As a matter of urgency reform laws relating to property ownership rights, which will allow for ownership of land and property by women in their own name. Land titles for women, will secure production opportunities for women, increase their bargaining power, and will provide assets that will help in time of crisis and to reduce poverty.<sup>51</sup>
- Develop structures that allow for the inclusion of women in policy-making bodies, particularly within the community. Women can participate in policy making either directly by putting forward suggestions and requirements on their concerns and /or indirectly as beneficiaries of policies.<sup>52</sup> Due to women's responsibilities and time consuming activities, they are usually not in a position to attend seminars and programmes where they would be equipped or educated on necessary information. Policy makers should make means to convene meetings seminars on housing and relevant issues in ways that ensure the meaningful participation of women living in rural communities.<sup>53</sup>

## **D: MONITORING, IMPLEMENTATION & RATIFICATION**

CALS recognizes that there are States parties that have adopted laws and policies, national action plans as well as long term national development plans specifically designed to respond to the myriad challenges that affect women living in rural communities. While the adoption of such measures is indeed a positive step, we note however the lack of effective implementation and monitoring and respectfully request the Committee to urge States parties to:

- In they have not yet done so, adopt and implement comprehensive national strategies and plans of action, based on human rights norms and standards, which respond to the specific needs and interests of women living in rural communities.
- Routinely collect, analyse and utilize sex-disaggregated data to determine the benefit of laws, policies and programmes designed to empower rural women and specifically provide information in this regard in periodic reports submitted to the Committee under Article 18 of the Convention.
- Ratify the Optional Protocol to the Convention, the International Covenant on Economic, Social and Cultural Rights as well as the Optional Protocol thereto.

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<sup>49</sup> Christine C. Cook et al Meeting Family Housing Needs: Experiences of Rural Women in the Midst of Welfare Reform Journal of Family and Economic issues Vol 23(3), 2002, 286

<sup>50</sup> Ibid

<sup>51</sup> Homi Katrak Rural Housing and Risks for Children's and Women's Health: Estimates for Rajasthan State , India Journal of Infrastructure Development 2012, 19

<sup>52</sup> Supra n44

<sup>53</sup> Supra n44