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\* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations



definition of the girl child used in this paper will be 0-18 years, the general standard contained in the Convention on the Rights of the Child (CRC).

3. International standards on elimination of discrimination and violence against girl children, derived from treaties and policy documents, can make a contribution in responding to the issue of discrimination and violence against the girl child. It is important to consider whether the existing standards in the global agenda on children adequately address the specific situation of girl children. This section will examine the main international human rights instruments and policy

Declaration of the World Summit for Children (1990), the Beijing Platform for Action of the Fourth World Conference on Women (1995) and the Millennium Declaration leading to the Millennium Development Goals (MDGs) (2000), although not legally binding, have thus acquired increasing importance in setting global norms and standards for Member States.

5. An examination of major international and regional human rights instruments reveals that discrimination and acts of violence against girl children are not addressed specifically; girl children are addressed within the generic category of “children”, “women” or “disadvantaged groups” who suffer discrimination.<sup>1</sup> Standards in the instruments that specifically refer to children are gender-neutral and assumed to cover both boys and girls. Even the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) refers to “children” rather than girls in its provision on the illegality of underage betrothal and marriage.<sup>2</sup> Article 2 of the 1989 Convention on the Rights of the Child (CRC) sets the standard of all rights for all children “without discrimination of any kind,” including discrimination on the ground of the sex of the child or the child’s parents or legal guardians, within a wide range of other forms of discrimination. The provision thus links discrimination against children, both boys and girls, to discrimination against the parent or guardian rather than focusing on discrimination against women and the girl child. The provisions on violence and discrimination in the CRC do not specifically refer to the situation of the girl child. Articles in the CRC rather use the words “he or she,” thus reinforcing the gender neutrality of these norms.

6. This approach in normative standards contrasts with the one used in global policy agreements reached by the international community in the 1990s and 2000s

which link non-discrimination against the girl child and adult women in a “life cycle” approach to the elimination of discrimination on the ground of sex.<sup>3</sup> The World Summit for Children (1990) reflected CRC’s emphasis on realizing the rights of all children and giving priority to them in the development agenda. The World Summit Declaration and Plan of Action focused on achieving equality for women as an intrinsic dimension of both development and improving the situation of children. The Vienna Declaration and Programme of Action of the World Conference on Human Rights (1993) stated that the human rights of women and of the girl child are an “inalienable, integral and indivisible part of universal human rights.”<sup>4</sup> The Beijing Platform for Action (1995), which is used in many countries’ action plans on development, adopted a life cycle approach, linking the elimination of discrimination against women and the situation of the girl child. The Beijing Platform for Action specifically focused on the situation of the girl child as a distinct “critical area of concern” for action. This area of concern (see paragraphs 259 to 285 of the document) contains a comprehensive range of proposals and recommendations for law reform, policies, programmes and advocacy.<sup>5</sup>

7. The Commission on the Status of Women, which is the inter-governmental body in charge of monitoring implementation of the Beijing Platform for Action, has kept the theme of the girl child alive on its agenda in the post-Beijing period. The outcome of the 2005 World Summit and resolutions of the General Assembly have reinforced the importance of considering elimination of discrimination against girls and violence as a critical issue of concern.<sup>6</sup>

(b) Work of treaty bodies, international and regional organizations, governments, and non-governmental organizations

8. The Committee on the Elimination of

child, its concluding observations adopt a gender neutral

film “Meena” focused on advocacy for the elimination of discrimination against girls in South Asia.<sup>13</sup> Girl specific programmes were also carried out in other



Many publications of international discussions on children's rights adopt a gender neutral approach and carry few, if any, references to girl children even in comments on data and monitoring indicators.<sup>18</sup>

16. The outcome of the 2005 World Summit, in its first section on “Values and Principles”, reaffirms the link between development and human rights and the importance of a human rights-based approach. It provides an opportunity to move beyond the goals and targets on girls’ education and women’s employment incorporated in MDG Goal 3. It recognizes that “gender equality and the promotion and protection of the full enjoyment of all human rights and fundamental freedoms for all are essential to advance development and peace and security.” It also reaffirms the “universality, indivisibility, interdependence and inter-relatedness of all human rights” as well as the commitment to “create a world fit for future generations, which takes into account the best interests of the child.” An important paragraph recognizes the need to “bring a gender and child protection perspective into the human rights agenda.”<sup>19</sup> The paragraphs on education recognize the need to go beyond the goal of achieving universal primary education and to focus in a gender sensitive manner on “expanding secondary and higher education, vocational and technical education especially for girls and women.”<sup>20</sup>

outcome document can be used to give the situation of the gi

Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women.

19. There is significant evidence of the linkage between discrimination and violence against women and girl children. Harmful traditional practices such as food taboos that discourage or prevent girls from being given nutritious items in their diet or ensure that only boys get foods, son preference and female infanticide manifest themselves in health indicators which consistently show that girls in Asia and Africa fare worse than boys. Stereotypical attitudes towards women and girls in the family and community, including their non-recognition as heirs to family titles and lands and as household heads, reinforce the perception of their lower status. These perceptions often manifest themselves in domestic and intra-family violence, as well as acts of sexual violence and exploitation in the community. Women and girls constitute a majority of those exploited in prostitution and trafficking. In developed countries, adult women and girls may lack choices in education, especially in the technological and vocational fields, due to gender bias. In developing countries, the failure to provide access to education is often linked to gender bias. Girls drop out of school and are forced to marry very young or enter the child labour market because of family and community perceptions on their

communities and nations that endorse discrimination and violence against girls perpetuate discrimination and violence against women.

20. It is a core reality that inequality and discrimination against women in gender relations in all societies impact on the status and rights of both women and girls. Neither children's rights nor the rights of women can be realized in an environment of structural discrimination. It is possible that realizing an agenda of women's rights, in a given context or in a particular country situation, may conflict with the rights of the child. That such conflicts may arise cannot take away from the need to strive to balance conflicting interests.<sup>22</sup>

21. Both the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, as well as State parties to the two conventions, interpret the CRC and CEDAW conventions as instruments which help families and communities to evolve as democratic groups that nurture the maximum human potential of girls and women and contribute at the same time to the well being of the family and the community. Progress on an agenda of women's rights and the rights of the gi

and girl children activists. In this regard, efforts should be made to persuade gender activists to link women's rights and girl children's rights without undermining the work on adult women's rights. Similarly, child rights activists and those working on children's issues must be persuaded to respond to the equally challenging task of integrating a gender equality perspective into their work as a substantive and critical dimension of child rights.

23. The universality of human rights was emphasized in the Declaration of the Vienna World Conference on Human Rights, and is now considered a core concept in international law. It is reflected in CEDAW and CRC, as well as the United Nations Declaration on Violence against Women. Specific provisions in both CEDAW and CRC<sup>24</sup> have been interpreted by the treaty bodies monitoring their implementation in a manner that recognizes and promotes their universality. The concluding observations of the Committee on the Rights of the Child refer in a gender neutral way to the need to prevent harmful traditional practices and have not interpreted Article 24 (3) which deals with the subject. However, the concluding comments as well as general recommendations of the Committee on the Elimination of Discrimination against Women have emphasized that culture and tradition do not justify a State party's failure to intervene to prevent traditional practices that foster discrimination and violence against women and girls.



25. Despite those developments, there is a continuing difference of opinion among women's groups in the West and women's movements in developing countries, as well as among United Nations agencies and other stakeholders, on the issue of universalism vs. cultural relativism. The perceived need for "cultural sensitivity" has led at times to failure to forge a consensus, thereby strengthening the hand of fundamentalist and conservative lobbies in countries opposed to women's and girl children's rights. Cultural relativist approaches dilute women's and girls' rights as citizens under the mantle of protecting them, rather than protecting their human rights against discrimination and violence.

26. The universalist approach is often promoted by activists and women's groups in countries in Asia and Africa, which recognize that custom and tradition are dynamic rather than static. Studies challenge the theory of "immutable" or "unchanging" customs. They have shown how law and policy measures introduced by successive colonial administrations often undermined positive values and reinforced patriarchy. Conservative post-colonial governments in developing countries sometimes lacked the political will to initiate dramatic changes and to create a new culture or value system that is positive to women and girls.<sup>29</sup>

27. It is clear that effective advocacy campaigns in developing countries on practices such as on FGM, discriminatory nutrition practices, forced marriage and many forms of socially legitimized violence, such as honour crimes, have gained community support for law reform and policy measures. Macro level initiatives



traditional practices that discriminate and perpetuate violence abuse and torture of women and girls. Identifying those practices as gross forms of violence, and “undermining” their legitimacy through the link to violence and infringement of the right to bodily security, have been an important part of the strategy. Several national constitutions have incorporated clauses or general articles on gender equality and children’s rights, in efforts to incorporate international law and domesticate these values.<sup>30</sup> Regional human rights instruments in Africa contain provisions that reinforce universalism and CEDAW/CRC standards. The most recent instrument, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, reflects the perception of the transformative power of culture and its potential for impacting positively on women’s lives. This instrument provides that “women have a right to live in a positive cultural context and participate in the formulation of cultural policies at all levels.”<sup>31</sup> Constitutional standards and regional instruments are particularly important since they provide an opportunity for appellate courts to integrate CEDAW and CRC standards into domestic jurisprudence.<sup>32</sup>

28. Universality becomes more difficult to achieve in a context where reservations are entered by States parties on the ground that CEDAW or CRC conflict with the tenets of religion such as Islam. The right to freedom of conscience and religion as a human right might then compete with the norm of gender equality and freedom from violence. However, women’s groups have lobbied for change in Islamic laws through a feminist deconstruction of their own religious tradition. They have demonstrated how stereotypical attitudes and customs rather than religious doctrine have influenced negative interpretations, denying women and girls their human rights in the family and community. Some



that “equity” and “fairness” can be achieved for women through customary or religious tradition, without conforming to standards of universal human rights. These groups also claim that human rights have been negotiated by the Western countries as a dominant group, and do not reflect the views of non-Western nations.

30. Cultural relativist approaches to the concept of human rights must be distinguished from the need to apply universal standards in a way that is meaningful within a local context. Respect for pluralism, diversity and ethnic and

diversity and pluralism will only entrench differences in the enjoyment of human rights by girl children living in different countries of the world. Progress on the women's and girl children's agenda requires a dialogue between cultures so that there can be a confluence, rather than a conflict, of ideas to promote a human rights-based approach regarding the girl child. Universalist rather than relativist interpretations of the CEDAW and CRC norms provide the space for partnerships and solidarity in achieving progress with regard to the respect, promotion, protection and fulfillment of the human rights of girl children.

32. The global campaign on violence against women more than any other area of gender equality has developed strong links within the women's rights movement from different regions. This has created greater understanding of the need to move beyond cultural relativism towards a recognition of a human rights-based approach, emphasizing every woman's and girl's right to be assured of bodily security and life chances. The campaign has highlighted that eliminating discrimination and violence is relevant to both developing and developed countries.

33. Child rights activism in the last decade in the West has used a gender-neutral approach with an emphasis on civil rights. This approach to issues such as violence against children has failed to acknowledge the important interface between gender-based discrimination and violence against girls. It has promoted cultural relativist attitudes to violence against girls, legitimizing discrimination and abuse. It has also contributed to a failure to give adequate attention to commitments of State parties to fulfill socio-economic rights that have been prioritized by both the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women. Linkages between the findings of the United





Inadequate social policies and the failure to effectively support awareness-raising

foeticide contribute to adverse male/female ratios in some regions such as South Asia. Despite initiatives in India to ban sex selective abortions and introduce legal controls that were strengthened in 2002, the practice continues even in the capital city. Sixty million girls are described as “missing” in South Asia due to mistreatment, foeticide or infanticide. Girls face more significant exploitation and abuse in particularly hazardous forms of employment, and especially in domestic work. A disproportionate work load, in situations of poverty and domestic service, impacts negatively on their development. Denied access to education and health care including reproductive health they are exposed to conditions such as obstetric fistula and HIV/AIDS. Early and forced marriage is a major reason for poor participation rates in education among girls. Teenage pregnancy and inadequate access to reproductive health information and counseling also contributes to high school drop out rates for girls in some countries. Gender parity in access to health care, education, nutrition, and protection of personal security and participation rights still remains a distant goal. The overall negative impact on development and economic growth is also recognized, in comparisons of human resource investment in health and education in East Asia, South Asia and Sub Sahara Africa.<sup>38</sup> There is an urgent need to link empowerment strategies, based on development and participation rights of girls, as an integrated dimension of responses to issues of protection. This approach is also relevant in developed countries among poor and migrant communities where girls can face violence and limited access to basic needs.<sup>39</sup>



(b) Law reform

39. Experience in developing countries across the board indicates that law reform has focused on child

(c) Policy formulation

40. Social policies, including affirmative action policies to give girls access to health and education, can contribute to strengthening the implementation of laws. Devolved political power and resource allocation is critically important to support the effective implementation of laws prohibiting discrimination and violence. Supporting law enforcement through the establishment of facilities for registration of birth and marriage, shelters and “One Stop Centres” for girls and women affected by violence has become an essential component in the response to violence. Broad based awareness-raising in the community on the content of new laws and value systems on violence and discrimination should become an integral part of legislative or constitutional reform.

41. Countries that have supported law reform on child marriage and child labour coupled with social policies that provide access to health and education, and broad based community awareness, have achieved a higher degree of progress than those that have simply put “child protection” legislation in place. Education is known to have a multidimensional impact, strengthening protection in areas such as health including HIV/AIDS, and coping with conflict. Education can increase the capacity for choice and for realizing girls’ potential to contribute to their own and their family’s and community’s well being. Preferential access to primary and tertiary education for girls, and the increase in the number of female teachers have increased school participation rates, and addressed the problem of girls dropping out of school in the early years. Some countries have tried to introduce the idea of “reserved seats” for girls in professional tertiary education institutions. This is a controversial issue since it is argued that if there is equal access and a level playing



traditionally focused on aspects of “vulnerability”, “protection” and “delivery of humanitarian assistance” and have adopted gender-neutral approaches, thus failing to adequately address the specific needs of girl children. Community-based initiatives that draw on the human resources and capacity of both women and girls in responding to crisis should be developed in helping to empower both groups. Empowered women in conflict situations can help to improve the situation of girl children. Security Council Resolution 1325 on women, peace and security should be implemented in a manner that is sensitive to the needs, priorities and contributions of the girl child in conflict situations. Rather than treating girl children as mere “victims” in need of “protection,” policies and programmes should be formulated in a way to create conditions that ensure the empowerment of girl children.

44. The Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict and the provisions of the Rome Statute of the International Criminal Court, as well as the jurisprudence of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, have strengthened the international norms on criminal justice and reparation for women and girls and are an important response to violence and discrimination. Creating accountability for violating these international standards and investigating and prosecuting offenders during conflict is essential for both women and girls. Impunity gives powerful negative messages and legitimizes violence and discrimination. Girls who have survived rape and other acts of violence require special attention. The CEDAW Committee has, in reviewing country reports, commented on the need to review and amend domestic legislation that gives impunity to armed forces, and the importance of the administration of criminal justice through proper investigation and prosecution of

rape and acts of violence. There must

comments and observations, referred to duplication of institutions and complex administrative arrangements that undermine efficiency and contribute to the failure to implement plans and legislative reform. A co-ordinated response and networking among relevant institutions is important.

48. It is necessary to consider the type of institutions focusing on child rights needed to provide leadership in eliminating discrimination and violence against the girl child at the national level, as well as the agencies and bodies that should collaborate and support their work. It is also important to explore whether the nodal agency should be purely governmental or be an independent body that consists of representatives from government and non-governmental organizations and key non-State actors such as professionals, the private sector, and the media. In many developing countries, the model of independent commissions has been used to foster policy and legislative reform. National child protection authorities which combine governmental and civil society representation have been established. In some countries, women and children's ministries are purely governmental bodies which are often marginalized in the planning and budgetary process. The following resources outline the model

50. It is essential to raise the interest of legislative bodies and the bureaucracy at the central government, provincial and local level in the girl child agenda. Networking with local authorities and devolving power and resources prevents over-centralized governance. Decentralized administration can be critical for bringing to the fore and addressing regional disparities in regard to the girl child. Increasing women's representation in parliament and local bodies is one strategy for ensuring progress on the rights of girl children. Parliamentary select committees are potential forums for raising the visibility on the girl child, and for addressing controversies constructively prior to legislative reform or the allocation of budgetary resources. The concept of incorporating budgetary resources at the time when legislation is enacted - as is the case in South Africa - is a useful strategy for strengthening Parliament's accountability in law making. Obtaining the commitment of the administration through the recruitment of more women, in-service training in respect of the girl child, and institutional arrangements that ensure continuous focus on the girl child in different agencies within government, is very important.

51. The training of judicial officers and the police on women's and girl children's rights is important to ensure that court procedures and practices become "sensitive" and provide access to justice for women and girls. The creation of Women and Children's Police Desks in Asian countries has proved to be useful in responding to the need for effective investigation, and law enforcement. Constitutional norms and procedures of recruitment that foster the independence of the judiciary and the police are equally important. "One Stop Centres" and women and children's "Police Desks" facilitate gender sensitive support to victims of violence. When alternative forms of dispute settlement exist at local level such as

mediation boards and tribal councils, gender sensitization programmes to create understanding of the issues of discrimination and violence against the girl child must be incorporated. Effective remedies and complaints mechanisms are a critical dimension in providing access to justice. Alternate complaints systems such as ombudspersons, human rights commissions and complaints committees should be established, and ways and means sought to enable girls' easy access to them. They can offer a choice of effective dispute resolution and relief without litigation procedures in courts. However, court procedures must be mandatory in the area of criminal justice since alternative complaints systems, mediation and conciliation can encourage an attitude of lenience and of condoning gender based violence.

52. The development of networks and partnerships to ensure cooperation between government and civil society as well as between



collectives in promoting select social issues should be expanded and used to forge partnerships that support the rights of girls and promote a culture of zero tolerance for violence and discrimination. Professional networks can be co-opted to support standard setting and encourage positive community responses in their own organizations, in areas such as medicine, law, advertising and employment. Inter-agency cooperation in the United Nations, through the United Nations Development Assistance Framework (UNDAF) process, as well as regional co-operation, can facilitate the sharing of experiences. Programmes on women's and children's rights by the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC) are often supported by international agencies. Expanding the focus on the girl child should also be their priority. Closer co-operation with and between the CEDAW Committee and the CRC Committee should also be provided in order to strengthen the common voice on the human rights of girls.

54. Allocation of resources is a key dimension of effective institution building. Women and children's ministries are often the most under-resourced. Children's ministries operate with a gender-neutral budget that deprives girl-specific programmes of adequate resources. Incorporating women's issues under the agendas of ministries for the family or other ministries likewise diverts resources from women-specific programmes. Transparent budget scrutinies, gender audits, as well as gender and child rights budgeting and costing exercises by think tanks in the non-governmental sector have been undertaken in several countries. Costing of social policies as well as law enforcement is necessary to ensure that policy objectives are linked to resources. However, those exercises do not have a specific focus on girl children as issues of discrimination and violence against them are not always made part of central analysis.

55. The reporting process to both the CRC and CEDAW Committees demonstrates the paucity of sex-disaggregated data for evidence-based decision making on policies and budgets. Incorporating a focus on girl children as a priority in gender audits and developing an effective sex-disaggregated data base is essential. Statistical data, where it exists, is invariably quantitative. The development of both quantitative and qualitative indicators for monitoring progress is an essential part of the strategy of empowerment. Developing gender analysis focused on the girl child, carrying out audits and developing indicators and statistical data can only be done if the responsible agencies have sufficient capacity in terms of financial and human resources. International cooperation is mandated by CEDAW and CRC. Human resources are available in developing countries even when budgetary resources are lacking. Technical co-operation at the international and regional level carried out in collaboration between government agencies and research institutions can result in developing validated data bases on the girl child. The recent initiative by SAARC of creating a Gender Database: Mapping Progress of Women in the South Asia Region, supported by UNIFEM, is an example of such collaboration.

56. Obtaining the inputs of adolescents is a dimension of “participation rights”

should be shared through intergovernmental and regional processes and international agencies.

57. The Optional Protocol to CEDAW provides for a complaints procedure at the international level when local remedies have been exhausted. Advocacy for a wider ratification of the Protocol and knowledge of the complaints procedure

the norms on non-discrimination and violence against girls and women and zero tolerance of both phenomena must be a key dimension of any strategy to improve

60. The paper notes that, because of the interlinkages of discrimination and violence against women and girl children, eliminating discrimination and violence against the girl child requires a holistic human rights-based approach as well as complementarity of action between child rights activism and the women's rights agenda.

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1 International Covenant on Civil and Political Rights (1966); International Covenant on Economic Social and Cultural Rights (1966); Convention on Elimination of All Forms of Discrimination against Women (1979); Convention on Elimination of All Forms of Racial Discrimination (1966); Convention against Torture (1984); European Convention on Human Rights (1950); African Charter on Human and People's Rights (1981).

2 Convention on the Elimination of All Forms of Discrimination against Women, Article 16 (2).

3 World Declaration on the Survival Protection and Development of Children, World Summit for Children, United Nations New York and Plan of Action for Implementing the World Declaration, 30 September 1990, UNICEF New York p. 2, p. 11.

4 J Mertus and Others, Local Action, Global Change: Learning about the Human Rights of Women and Girls, UNIFEM and Centre for Women's Global Leadership, Rutgers University, USA (1999), paras 18, 21, 48, 49; p vii.

5 Beijing Declaration and Platform for Action, United Nations, New York 1996, pp. 33-34, p.145.

6 E/CN.6/ 1998/12 p.31; A/ RES/S -23/3 para 3 as cited Aide Memoir for EGM Florence, 26/07/2006; 2005 World Summit Outcome, United Nations General Assembly , 60th Session, 20 Sept.2005, A/60/150.

7 Committee members have sometimes pointed out in internal discussions that the Convention on the Elimination of All Forms of Discrimination against Women is a women's convention, and that even its language focuses on women as distinct from children. They have argued that the Committee should be careful in formulating concluding comments that draw too much attention to the situation of the girl child. Personal experience of the writer as CEDAW member 1999 – 2002; for concluding comments referring to Arri4(EF ).6(add)-0.8e cRepclt.5(iRepcl)uatiove arm7(h)-51.



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31 African Charter on Human and People's Rights (1981) Articles 2, 3, 18 (3); African Charter on the Rights and Welfare of the Child (1999), Articles 3, 4, Article 16 based on CRC, and Article 22 with a broad mandate for intervention with traditional customs and practices; Protocol to the African Charter on Human and Peoples' Rights