



*Everywoman
Everywhere*

Recommendations for

a Global Treaty on Violence Against Girls and
Women of All Ages

**By the Expert Special Committee on Governing
Bodies**

January 2017

1. Introduction

A. *Committee Members and Mandate*¹

The Governing Bodies Committee (GBC) is composed of the following independent experts: Francisco Rivera Juaristi (Chair – Puerto Rico); Ronagh McQuigg (Ireland); Denise Scotto (USA); Eleanor Solo (USA); Stephanie Willman Bordat (Morocco); Laura Nyirinkindi (Uganda).

In determining the GBC’s mandate, we took into account the ongoing debate about whether a UN VAW treaty will be conceived as its own stand-alone instrument or as a protocol to CEDAW. Aware that the outcome of this debate will likely be determinative of the treaty’s monitoring mechanism, the GBC nevertheless decided that its mandate would be to suggest ideas and proposals to discuss with the drafting committee regarding the governing body or bodies that will monitor implementation of a stand alone UN VAW treaty. Additionally, the GBC determined that its mandate at this stage does not include drafting and suggesting precise language to include in the treaty.

The GBC used the following three questions to guide its discussions about possible governing bodies that will monitor the implementation of an independent UN VAW treaty: What do we want to replicate from existing mechanisms? What pitfalls do we want to avoid? Where do we want to be forward-thinking?

B. *Scope of Research: Existing Relevant Governing Bodies and Mechanisms*

To fulfill its mandate, the GBC looked at the following existing governing bodies and monitoring mechanisms, and drew lessons that will be analyzed in the next section of this memo:

1. UN Human Rights Treaty Bodies
2. Inter-American Human Rights System (Belém do Pará Convention)
3. Council of Europe (Istanbul Convention)
4. African HR System
5. Asian Mechanisms
6. MENA Mechanisms
7. OECD National Contact Points
8. Non-Human Rights Treaties and Monitoring Mechanisms
9. National Human Rights Monitoring Mechanisms

C. *Preliminary Considerations*

A primary consideration for the GBC is the likely impact on monitoring mechanisms of having a protocol to CEDAW as opposed to a stand-alone treaty. A determination on this key matter will clarify whether a new monitoring/governing body will be created or whether the role of monitoring compliance with specific treaty terms will fall within the ambit of the CEDAW Committee. Upon consideration of this matter (see Annex 6 detailing pros and cons for all options considered by the committee), it is the GBC’s

¹ See Annex 1 – Committee Member Bios



view that a stand-alone treaty with its own independent monitoring body would be preferable. The recommendations detailed in the present memo stem from this point of view.

2. Summary of the Committee's Discussion of Treaty Content

The GBC had a series of larger committee discussions, a series of smaller memo drafting working sessions, which included an extensive research process, and conducted two specific consultations for inputs to inform this committee's process and recommendations.

The committee discussions included:

- the pros and cons of the current relevant prevailing text/treaty language;
- thoughts on the effectiveness of current international/national monitoring bodies;
- lessons learned from existing monitoring bodies;
- the identification of language and practices for the Drafting Committee to consider;
- how to think creatively about new monitoring/enforcement possibilities;
- a critical examination of the regional VAW frameworks including the Istanbul Convention, Belem Do Para, Maputo Protocol, The Asean framework, the MENA Framework;
- the examination of the monitoring activities that the treaty bodies perform (consideration of State party reports and issuing concluding observations, interpretations of the treaty (general comments), carrying out inquiries, consideration of communications, petitions etc.);
- a review and examination of the four types of non human rights treaties and monitoring mechanisms: arms control, environmental, the NAAEC and ILO conventions;
- a review and examination of the IAHR System/ Disabilities/OECD conventions & guidelines;
- a review and examination of the UN Human Rights Treaty Bodies;
- a review of national human rights monitoring bodies/national action plans;
- feedback on the Draft Treaty Outline circulated in June and identification of key priority areas that the committee wants to address;
- the development and execution of two sets of consultative questions on:
 - 1. pros and cons of convention vs. protocol with the chairs and memo drafters of all 15 committees,
 - 2. individual communications consultation with members of this committee.

3. Critical Analysis of Existing Relevant Governing Bodies and Monitoring Mechanisms

UN Human Rights Treaty Bodies



Assuming that this endeavor will result in a new and stand-alone UN treaty on VAW, the GBC has considered how a governing body similar to other UN human rights treaty bodies (namely, a Committee composed of independent experts) could carry out its monitoring functions. The following sections contain a description of the lessons learned from this analysis, paying particular attention to the following treaty monitoring functions and activities: 1) state reporting; 2) general comments; 3) individual communications; 4) State communications; 5) interim measures; 6) inquiry procedures; 7) participation of specialized agencies; 8) conference of States Parties, and 9) national implementation and monitoring mechanisms.

1) State reporting - The GBC recommends adopting a state reporting mechanism similar to those described in Articles 35 and 36 of the Convention on the Rights of Persons with Disabilities (CRPD) and in Articles 73 and 74 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). Article 36.2 CRPD allows the treaty body to review state compliance with the treaty even when the State Party has not submitted the required report. Article 36.4 CRPD also requires States Parties to widely disseminate locally the State's report and the Committee's recommendations. The treaty should mention that the Committee has the authority to issue reporting guidelines. This reporting process should also be guided and informed by the 2012 report on treaty bodies drafted by the UN High Commissioner for Human Rights.²

2) General comments – Like any other UN human rights treaty body, the Committee should have the authority to interpret the provisions of the VAW treaty in the form of “general comments.”

3) Individual communications – The GBC is of the view that the governing body should be able to consider individual communications alleging violations of the rights set forth in the VAW treaty by State Parties. The GBC understands that there is some debate regarding such individual complaint mechanisms before UN treaty bodies, and therefore is inviting other stakeholders to discuss the following considerations: (a) whether a mechanism of individual communications is desirable, and if so (b) whether such a mechanism should be integrated into the text of the treaty or in an optional protocol.

The GBC's view is that an individual communications mechanism should be integrated into the text of the treaty itself, as opposed to being contained in an optional protocol. Although there is some degree of risk that the mandatory acceptance of an individual communications mechanism upon ratification may discourage some states from becoming parties to the treaty, this risk is outweighed by the benefits entailed as regards strengthening the enforcement procedures. A plausible alternative would be to allow States to opt out of this individual communications mechanism by submitting a declaration to that effect. In the event that an “opt out” option is favored, the treaty should still require States Parties to allow individuals to bring such claims locally, the States' reports should include information about these individual cases, and civil society should be invited to provide information about these cases to the Committee's attention.

² See, Navya Pillay, *Strengthening the United Nations human rights treaty body system. A report by the United Nations High Commissioner for Human Rights* (2012), available at <http://www2.ohchr.org/english/bodies/HRTD/docs/HCREportTBSstrengthening.pdf>.



4) State communications – Although no State has ever used such provisions, the GBC recommends that the treaty include language that allows for State Parties to complain to the relevant treaty body (Committee) about alleged violations of the treaty by another State Party.

5) Interim measures – The treaty should allow the Committee to adopt interim measures (essentially a stay of proceedings) in urgent cases to preserve a situation until the Committee can make a final decision on a given matter before it.

6) Inquiry procedures – The text of the treaty should allow the Committee to initiate inquiries (investigations) if it has received reliable information containing well-founded indications of serious or systematic violations of the conventions in a State party.³

7) Participation of specialized agencies – The treaty should allow the Committee to consult with and invite the participation of other UN specialized agencies through inter-agency reporting mechanisms.⁴

8) Conference of States Parties – The treaty should allow for States Parties to meet regularly in Conference of States Parties to consider matters regarding the implementation of the treaty, assess strengths and weaknesses in implementation, share information and data, and facilitate technical assistance.

9) National implementation and monitoring mechanisms – The GBC recommends the adoption of language that requires States Parties to create or designate national entities in charge of implementing and monitoring compliance with the VAW treaty. The language from Article 33 of the CRPD is illustrative of the GBC’s thoughts on this matter.

In addition, the GBC recommends that the treaty require States Parties to develop their own **action plans** to implement and monitor compliance with the treaty. The reporting mechanism described above would complement these national monitoring mechanisms by providing some sort of external auditing of local implementation.

Inter-American Human Rights System (Belém do Pará Convention)

The Belém do Pará Convention is a stand-alone treaty within the Inter-American Human Rights System that focuses specifically on VAW.⁵ As such, the lessons learned from its monitoring mechanisms are highly valuable. In essence, the treaty requires States Parties to submit reports to the Inter-American Commission of Women. However, in 2004, states wanted to develop a follow-up mechanism to these reports and created MESECVI, which is a process composed of the following two bodies: (1) a Conference of States Parties (the political organ, made up of State representatives that meet periodically to discuss best practices and issue guidelines and resolutions), and (2) a Committee of Experts (which is

³ See Art. 20 CAT; Art. 8 CEDAW Opt. Prot.; Art. 6 CRPD Opt. Prot.; Art. 33 CED; Art. 11 ICESCR Opt. Prot., and Art. 13 CRC Opt. Prot. on communications procedure.

⁴ See, e.g., Art. 38 CRPD.

⁵ OAS, Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belém do Pará”, available at www.oas.org/juridico/english/treaties/a-61.html.



more independent and receives reports and issues recommendations with the technical assistance of the Inter-American Commission of Women).⁶

The monitoring process of this Committee of Experts is similar to that of UN Treaty Bodies discussed in the previous section of this memo, which the GBC viewed favorably. The GBC also favorably views the idea of incorporating into a VAW treaty something similar to the Belém do Pará Conference of States Parties (a political organ that meets periodically).

An important lesson learned from the Belém do Pará treaty is that a new VAW treaty should explicitly mention which violations would be justiciable under an individual communications mechanism. Belém do Pará limits justiciability to a single article of the convention and is unclear as to which governing body has jurisdiction to hear individual communications.

*Council of Europe (Istanbul Convention)*⁷

Under the Istanbul Convention,⁸ States parties must submit an initial report based on a detailed questionnaire prepared by GREVIO. At the commencement of each subsequent monitoring round, GREVIO will choose the specific provisions of the Convention on which the evaluation procedure will be based and will send out a questionnaire accordingly. This should allow the aspect of state compliance chosen for monitoring to be analyzed in greater detail than would otherwise be the case. Also, it may enable GREVIO to carry out its work in a more efficient manner and help to avoid the considerable backlogs in the examination of reports which have caused substantial problems for the UN human rights treaty bodies. The Istanbul Convention encompasses detailed information on what will be expected of states parties in relation to the reporting procedure, which in itself is advantageous.

GREVIO must take due consideration of the existing information available from other regional and international bodies. This should help to ensure that the best possible use is made of any existing sources of information, in order to avoid unnecessary duplication of work. The involvement of civil society groups is also vital in terms of effectiveness.

Importantly the inquiry procedure has been incorporated into the main provisions of the Istanbul Convention and no reservations can be entered in respect of this aspect of the Convention.

⁶ OAS, MESECVI, “Statute of the mechanism to follow up on the implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women, “Convention of Belém do Pará”, approved at the First Conference of States Parties held in Washington D.C. on October 26, 2004, available at <http://www.oas.org/en/mesecevi/docs/MESECVI-BasicDocuments-EN.doc>.

⁷ See Annex 2 for more information on monitoring mechanisms in the Istanbul Convention.

⁸ See generally the Istanbul Convention website <http://www.coe.int/en/web/istanbul-convention/home>. The full text of the Convention can be found at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c>. For discussion of the Istanbul Convention as a whole, see Gormley L., ‘The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: a consolidation of existing international law, or a significant progression?’, (2014) *European Human Rights Law Review*, 606-617.

Although it is not yet clear precisely how the Committee of the Parties (comprised of representatives of the states parties) will operate, the existence of this body should help to ensure equal participation of all the states parties as regards the monitoring procedures of the Convention; and strengthen co-operation between the states parties themselves, and also between the states parties and GREVIO. It is also provided that national parliaments shall be invited to participate in monitoring implementation, and states parties must submit the reports of GREVIO to their national parliaments. These provisions have the advantage of emphasizing the important role of national parliaments in implementing human rights instruments, which, in many cases, requires legislative changes.

The capacity of GREVIO to adopt general recommendations is also important, due to the fact that, although these will not be legally binding, they should help to contribute to effective implementation by providing further guidance to states parties.

The main problem with the monitoring procedures however is that there is no individual communications mechanism.

African Human Rights System

Although the GBC looked at the monitoring mechanisms within the African human rights system, it found that most if not all of its monitoring functions are similar or identical to others described in this memo and therefore will not be analyzed or described separately here. These mechanisms include a Commission and a Court that, similar to those in the Inter-American System, can hear individual violations of applicable international law. The region also has a Special Rapporteur on VAW that resembles the Special Procedures found in the U.N. System and in the Rapporteurships in the Inter-American System.

Asian Human Rights Mechanisms⁹

The ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Rights of Women and Children (ACWC), along with the Asia Pacific Forum of National Human Rights Institutions (APF), provide the most comprehensive dialogue around human rights in the region, though they are incomplete in member representation from all Asian countries. These organizations do not have a binding convention or court, or specific mandate to receive and investigate complaints of human rights violations.

AICHR drafted the Declaration of the Elimination of Violence Against Women and Elimination of Violence against Children in ASEAN in October 2013, which aims to integrate legislation, policies and measures to prevent and eliminate VAW; strengthen, enact, and amend national legislations and mechanisms to eliminate VAW, enhance protection, services, etc, and to implement concluding observations from CEDAW; strengthen holistic, multi-disciplinary approach to promoting rights of women and gender-sensitive approach to eliminating VAW, and strengthen partnerships with international, regional, and national bodies. ACWC's mandate includes encouraging ASEAN Member States to collect and analyze sex disaggregated data; undertake periodic reviews of national legislation,

⁹ See Annex 3 for more information on human rights monitoring mechanisms in Asia.



policies, and practices related to the rights of women and children, and facilitate the sharing of experiences and good practices between ASEAN Member States in order to improve implementation of CEDAW and CRC. Finally, APF provides advice and expertise to members, governments, civil society on legislation to establish, re-establish or strengthen NHRIs, international accreditation of NHRIs and comparative analysis of legislative good practice, “best practice” models, or compliance with international standards for NHRIs set out in the Paris Principles, by providing training programs, capacity assessments, specialized programs, and dialogues.

The GBC favors the collaborative nature of APF insofar as it facilitates equitable dialogue and sharing of expertise between a strong civil society, national human rights institutes, state member national governments, intergovernmental bodies, and UN agencies, thereby promoting and supporting the implementation of international treaty commitments in domestic policy, legislation and practice.

*MENA Human Rights Mechanisms*¹⁰

The Committee appreciates the explicit recognition of women’s equality and rights in the Cairo Declaration of Human Rights in Islam and the Arab Charter on Human Rights, and also the vulnerability of women and girls living under foreign occupation. The NHRIs have potential to protect the rights of women and girls in the MENA region, which will be realized with the support of regional consortiums such as the Arab Network of National Human Rights Institutions and the Asia Pacific Forum. The monitoring and advocacy currently done by the Alkarama Foundation is an excellent model for civil society organizations to promote and protect human rights.

OECD National Contact Points

The OECD and the International Coordinating Committee of National Human Rights Institutions concluded a Memorandum of Understanding to promote respect of the OECD’s human rights guidelines for Multi National Enterprises. The GBC views such national implementation initiatives favorably and recommends that the treaty include text requiring States Parties to develop domestic mechanisms to ensure treaty compliance.

*Non-Human Rights Treaties and Monitoring Mechanisms*¹¹

There are many examples of non-human rights treaty monitoring bodies.¹² The Landmine Ban Treaty monitors state compliance through a system called Meetings of State Parties (MOP) and a five year

¹⁰ See Annex 4 for more information on human rights monitoring mechanisms in the MENA region.

¹¹ See Annex 5 for more information on non-human rights monitoring mechanisms.

¹² See generally, Barratt-Brown, Elizabeth P. "Building a monitoring and compliance regime under the Montreal protocol." *Yale J. Int'l L.* 16 (1991): 519; Exemptions, Essential-Use. "Montreal Protocol/MOP-24." *Environmental Policy and Law* 42.6 (2012): 324; International Campaign to Ban Land Mines website: <http://www.icbl.org/en-gb/home.aspx>; Landmine and Cluster Munition Monitor website: <http://www.the-monitor.org/en-gb/our-research/landmine-monitor.aspx>; ILO website: <http://www.ilo.org/global/lang--en/index.htm>; Montreal Protocol website: <http://ozone.unep.org/en/treaties-and-decisions/montreal-protocol-substances-deplete-ozone-layer>, and North American Agreement on Environmental Cooperation website: <http://www.ccc.org/about-us/NAAEC>.



Conference of State Parties (CSP). The main monitoring systems of the Montreal Ozone Protocol are through an implementation committee and a MOP that includes representation from NGO and UN agencies; annual state reports and the setting of action plans and performance targets. The North American Agreement on Environmental Cooperation (NAAEC) permits individual and NGO submissions alleging state non-compliance to its Secretariat. The International Labour Organisation's monitoring procedure consists of state reports, collective and state party reporting.

The GBC views favorably Meetings of States Parties or Conference of States Parties similar to those of the Land Mine Ban Treaty, the Montreal Ozone Protocol and the ILO, particularly as these enable civil society involvement with political actors. The individual communications mechanism under NAAEC is something the GBC also favors, insofar as it allows individuals to allege individual violations by states.

National Human Rights Monitoring Mechanisms

NHRIs could be a useful ally in rallying at the national and regional level for an instrument on violence against women if they were convinced of its importance and utility. The disadvantage is that since they are embedded within the UN too, they could fall prey to politicization if the UN system and critical actors were to block any moves on a new VAW instrument.

The NHRIs vary according to local contexts, with some having solid autonomy and others being more limited due to the state controlling resources and proscribing operational powers and mandates. However the independence of the NHRIs in some despotic countries has been tested by non-compliance or indifference from executive sections to the mandate and decisions of the NHRIs.

Many NHRIs lack the aspect of addressing individual complaints of victims of human rights abuses or violations. This denies victims an important avenue for access to justice and weakens the mandate of the NHRI to protect and promote human rights.

Due to the breadth of the thematic issues that they handle, in many cases NHRIs are challenged by competing demands and in contexts where they are under resourced both financially and materially, this presents significant capacity constraints. Many governments do not invest enough in building the capacities of the NHRIs especially those that are reluctant to see effective governance institutions. There is a temptation and tendency to relegate women's rights and gender issues to institutions such as dedicated ministries or councils handling women's rights, leading to an isolationist and gender blind approach to addressing human rights.

Because members of NHRIs are drawn from their national communities and societies, there is a danger that they may reflect and reinforce stereotypes and attitudes of the dominant societies.

While there may be challenges with the autonomy and operationalization of NHRIs, it is encouraging that there are almost twice as many NHRIs which have been accredited with the A status as the other categories. This is indicative of a growing willingness by states to establish human rights institutions that will protect and promote the rights of citizens. The NHRIs also link up to critical UN structures and processes and form a useful entry point into the UN system. Working with NHRIs and civil society to



protect women from violence and to lobby for the ratification of an enforceable instrument on VAW could have many benefits and it may be productive to explore meaningful engagement with NHRIs.

4. Recommendations

The GBC recommends adopting a treaty, rather than an optional protocol, that is supervised and monitored internationally by a committee of independent experts, and requires states to develop strong domestic implementation, enforcement, and monitoring mechanisms and action plans.

4.1 The international **monitoring mechanisms** should include:

- A state reporting mechanism. The committee should be given powers to issue reporting guidelines, and to publish its findings and state responses.
- The ability to interpret the provisions of the treaty in the form of general comments.
- A compulsory individual communications mechanism that does not require states to opt in (give consent) by ratifying a separate protocol or submitting a separate declaration.
- A state communications mechanism.
- The ability to adopt interim measures.
- A compulsory inquiry procedure to investigate alleged systematic violations.
- The participation of specialized UN agencies and bodies, as well as domestic and international civil society organizations.
- Clear guidelines on the justiciability of rights in the treaty.
- A separate political body comprised of representatives from the states parties and civil society organizations, a purpose of which should be to contribute towards implementation and to share good practices.

4.2 The treaty should additionally include provisions that aim to ensure **proper implementation and monitoring**. The GBC recommends that this could be achieved by the following:

- A requirement for states to establish a domestic body to implement and ensure compliance. The GBC recommends that consideration should be given to empower this domestic body to hear individual communications.
- The treaty should mention that States Parties must ensure the monitoring mechanisms have adequate resources both domestically and internationally.
- The treaty should ensure that technical and expert support is provided upon request by States Parties. Any financial penalties for non-compliance can be used to fund this.
- States should be required to undertake national action plans and to consult with civil society groups that address VAW.
- The use of questionnaires as regards reporting should be adopted along the lines of GREVIO in the Istanbul Convention or the General Survey used by the ILO. (This allows continued dialogue with the monitoring body to explore means of overcoming identified obstacles to implementation.)



Supporting Documents:

- I. Committee Bios - Annex 1
- II. Monitoring Mechanisms in the Istanbul Convention - Annex 2
- III. HR Monitoring Mechanisms in Asia - Annex 3

I. Annex 1

Committee Member BIOS:

(CHAIR) Francisco Rivera - Puerto Rico

Francisco J. Rivera Juaristi is a human rights attorney from Puerto Rico who specializes in the Inter-American Human Rights System. Prior to joining Santa Clara University School of Law (in California) as founding director of the law school's International Human Rights Clinic and as co-director of its Costa Rica and Geneva Summer Programs on Human Rights, Francisco was a senior staff attorney at the Inter-American Court of Human Rights of the Organization of American States seated in Costa Rica, where he was also director of that court's internship program. In the late 1990s, he also served as Executive Director of the Amnesty International Section in Puerto Rico. He has been a consultant for a number of non-governmental organizations (NGOs), as well as for the United Nations Development Fund (UNDP), the International Labor Organization (ILO), and the Inter-American Institute of Human Rights (IIHR). Francisco has worked on several cases and thematic hearings before the Inter-American Commission on Human Rights, has also submitted numerous amicus curiae briefs before the Inter-American Court of Human Rights, as well as stakeholder and shadow reports before the United Nations. He writes regularly for Corte IDH Blog on recent developments before the Inter-American Human Rights System.

(Memo Drafter) Ronagh McQuigg - Ireland

Ronagh did her Ph.D analysis on the effectiveness of international human rights law in relation to the issue of domestic violence. She then undertook professional training, and qualified as a solicitor in 2008. She joined the School of Law, Queen's University Belfast, as a lecturer in 2009. One of her primary research interests lies in examining domestic violence through the lens of human rights law, and she has published widely in this area, including a book entitled *International Human Rights Law and Domestic Violence* (2011, Routledge).

(Memo Drafter) Vanessa Bettinson - UK

Vanessa Bettinson is Reader in Law at De Montfort University, a Fellow of the Royal Society of Arts and co-founder of De Montfort University's Sexual Violence and Domestic Violence Research Network. As a director and trustee of women's charity New Dawn New Day and Leicester Women's Counselling Centre she is passionate about the empowerment of women and girls and combating all forms of violence against them. Vanessa's research focuses on legal and interdisciplinary approaches to domestic



violence/abuse and she has organised several national/international conferences and events that enable stronger networks between practitioners, researchers and students. Vanessa has published widely and is the co-editor of the book, 'Domestic Violence: Interdisciplinary perspectives on protection, prevention and intervention' (Palgrave, 2016).

(Memo Drafter) Laura Nyirinkindi - Uganda

Laura Nyirinkindi is a specialist in the area of Gender, Rule of Law and Development. She has extensive experience of over 12 years working in the thematic area of gender mainstreaming, equality, and rights based approach to development. Laura has developed extensive reference materials and trained in over 12 developing countries through partnership with development partners in the area of gender and human rights based approaches. Laura has strong research, training needs, analytical, presentation and report writing skills. She has undergone several courses on the use of highly participatory methodologies for trainers and also trains potential trainers in the development and use of these skills. She has worked with several UN Agencies in Africa and is well versed with the UN system and programmatic framework. Laura is the Director in Pro Initiatives Agency, a firm she founded, and has worked there from 1999 to date. She taught regional and international Law at Kampala International University until December 2007. She has been the Chairperson of the Board of Directors, Uganda Association of Women Lawyers (FIDA-Uganda, 2010-2014) and sits on the Board of the Legal Aid Clinic of the Law Development Centre.

(MEMBER) Stephanie Willman Bordat - Morocco

Stephanie is a common law and civil law trained attorney. As a Founding Partner at Mobilising for Rights Associates, she collaborates in the development, implementation and evaluation of multifaceted women's rights programs, including grassroots level human and legal rights education, legal accompaniment, monitoring and documentation of the justice system, action research, strategic litigation, national law reform and international advocacy. Stephanie has previously lived and worked on violence against women and family law issues with women's rights NGOs in France, Spain, England, the Netherlands, Pakistan, India, Egypt, Jordan, Yemen and Afghanistan. In the United States she worked as a sex worker outreach volunteer, sexual assault crisis counsellor, and appellate court law clerk. She speaks English, French, the Moroccan dialect of Arabic, and Spanish.

(MEMBER) Gulnara Mammadova - Azerbaijan

Gulnara Mammadova-Ochguder is a freelance consultant specialized in gender and women's rights with a focus on organizational change and capacity building. Since 2008 she has worked to build networks of women's rights advocates and facilitate organizational, institutional and policy change at NGO and governmental levels with support from organizations such as the European Union, World Bank, Global Fund for Women, Eurasia Foundation, Novib-Oxfam Netherlands, AWID, and local Azeri NGOs. Gulnara advocated for women in Azerbaijan and the CIS region through the UN Commission on the Status of Women and AWID forums, as well as the International Gender Policy Network. As Network Women's Program Coordinator, Gulnara helped establish the first Gender Informational Center, Center for Gender Research and Center of Empowering Education in Azerbaijan. Research conducted on reproductive health and rights was used to develop national legislation, and the capacity building and advocacy work on violence against women led to the Domestic Violence Law in Azerbaijan. Gulnara participated in the Central Asia and Caucasus regional program on elimination of violence against



women, which supported production of films highlighting discrimination against women. One of these films, 'Wishing for Seven Sons and One Daughter' received several local and international awards and has been used to advocate for new state programs and legislation, spark public debates on women's rights issues, training for scholars and NGOs, and promote research by government bodies.

(MEMBER) Shazia Choudhry - UK

Dr Shazia Choudhry is Reader in Law at Queen Mary, University of London. She is also a qualified solicitor and previously practised family law within the specialist legal aid sector at the beginning of her career. Her research interests lie in the fields of European and UK human rights law and in particular the interface of those fields with substantive areas of family law. Particular areas of interest include the impact of the Human Rights Act 1998 (HRA) and the European Convention on Human Rights (ECHR) on forced marriage and honour based violence, violence against women as a human rights issue and the effect of rights-based reasoning in the law relating to children. She has spoken and published widely on violence against women including two books, a monograph (with Herring) *European Human Rights and Family Law* (Hart, 2010) and, with Herring and Wallbank, *Rights, Gender and Family Law* (Routledge-Cavendish 2009), a collection which explores the links between gender and rights in a detailed and comprehensive way. She was appointed Specialist Adviser to the Joint Parliamentary Committee on Human Rights Inquiry into Violence against Women 2014, is a member of the Crown Prosecution Service's Consultation Group on Violence against Women and is an Expert Adviser for Women's Aid UK.

(MEMBER) Rhona Modesto San Pedro – Philippines

Judge Rhona San Pedro is a Commercial Court and Family Court Judge from the Philippines. She is a Professorial Lecturer of the Philippine Judicial Academy and a member of its Commercial Law Department and Committee on Curriculum Review and has lectured extensively on various topics both in the Philippines and abroad. Her work in Judicial Education finds roots in her being a Fellow of the Commonwealth Judicial Education Institute in Canada. She has sat as member of several Committees on Rules Revision such as those on Rules of Procedure for Intellectual Property Rights Cases, Rules of Civil Procedure and Continuous Trial. She was tapped by the USAID and American Bar Association to write a Manual on Corporate Rehabilitation Proceedings and on the Highlights of the New Rules of Procedure for Intellectual Property Rights Cases. Currently, she is co-writing a Help book on Trafficking in Persons, with the US DOJ as sponsor. In the field of Women's Rights, aside from her work on Trafficking, she has been invited by the UN-Women to lecture on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and on Avoiding Gender Stereotyping in Court Decisions and by UN-AIDS to lecture on Access to Medicine. She has served at all four levels of the judiciary, previously working as Court Attorney in both the Court of Appeals and the Supreme Court and was a first level court judge for 3 years. She has been a Judicial Excellence Awardee and 1 of 3 outstanding Judges for 2011.



II. Annex 2

From: Ronagh McQuigg
To: GBC memo drafting team
Date: June 2016
Re: Monitoring mechanisms in the Istanbul Convention

Istanbul Convention.

(a) Examples of current governing bodies and what they do.

The Istanbul Convention's monitoring body is the Group of experts on action against violence against women and domestic violence (GREVIO). The members of GREVIO are elected by the Committee of the Parties, which is comprised of representatives of the states parties. The main monitoring procedure is a reporting mechanism, along with an inquiry procedure.

(a) Types of mechanisms and processes used by governing bodies.

The primary monitoring process used by GREVIO is a reporting mechanism. States parties must submit an initial report based on a detailed questionnaire prepared by GREVIO. At the commencement of each subsequent monitoring round, GREVIO will choose the specific provisions of the Convention on which the evaluation procedure will be based and will send out a questionnaire accordingly. GREVIO may organise country visits if the information obtained from the reports is insufficient. GREVIO may receive information on the implementation of the Convention from non-governmental organisations and civil society, as well as from national institutions for the protection of human rights. GREVIO must also take due consideration of the existing information available from other regional and international bodies in areas falling within the scope of the Convention. There is an inquiry procedure which is broadly similar to that found in the Optional Protocol to CEDAW. In addition, GREVIO may adopt general recommendations on the implementation of the Convention.

(c) Concluding Comments - Pros & Cons of the various governing/monitoring bodies and mechanisms used.

As noted above, after the initial round of reporting, monitoring by GREVIO will focus on specific aspects of the compliance of states parties, instead of always examining the compliance of the state party with the whole of the Convention. This should allow the aspect of state compliance chosen for monitoring to be analysed in greater detail than would otherwise be the case. Also, it may enable GREVIO to carry out its work in a more efficient manner and help to avoid the considerable backlogs in the examination of reports which have caused substantial problems for the UN human rights treaty



bodies. The Istanbul Convention encompasses detailed information on what will be expected of states parties in relation to the reporting procedure, which in itself is advantageous. Ensuring that GREVIO must take due consideration of the existing information available from other regional and international bodies should help to ensure that the best possible use is made of any existing sources of information, in order to avoid unnecessary duplication of work. The involvement of civil society groups is also vital in terms of effectiveness.

Although the inquiry procedure is broadly similar to that found in the Optional Protocol to CEDAW, importantly the inquiry procedure has been incorporated into the main provisions of the Istanbul Convention and no reservations can be entered in respect of this aspect of the Convention.

Although it is not yet clear precisely how the Committee of the Parties will operate, the existence of this body should help to ensure equal participation of all the states parties as regards the monitoring procedures of the Convention; and strengthen co-operation between the states parties themselves, and also between the states parties and GREVIO. It is also provided that national parliaments shall be invited to participate in monitoring implementation, and states parties must submit the reports of GREVIO to their national parliaments. These provisions have the advantage of emphasising the important role of national parliaments in implementing human rights instruments, which, in many cases, requires legislative changes.

The capacity of GREVIO to adopt general recommendations is also important, due to the fact that, although these will not be legally binding, they should help to contribute to effective implementation by providing further guidance to states parties.

The main problem with the monitoring procedures however is that there is no individual communications mechanism.

(d) Brief recommendations - Proposal of final ideas.

In my view, the monitoring procedures for a global treaty on violence against women should, as with the Istanbul Convention, include a reporting mechanism and an inquiry procedure. The use of questionnaires as regards reporting would be advantageous for the reasons outlined above. As with GREVIO, provision should be made to ensure that the monitoring body takes into consideration any existing information available from other international and regional bodies, and the involvement of civil society groups is likewise essential. The inquiry procedure should not be optional for states parties. Similar to the Committee of the Parties, in addition to the independent treaty monitoring body, there should be a separate political body comprised of representatives from the states parties, a purpose of which should be to contribute towards implementation. The involvement of national parliaments would also be advantageous.

Unlike the Istanbul Convention however, a global treaty on violence against women should, in my view, encompass an individual communications mechanism. Such a mechanism should not be optional for

states parties.

Appendix.

Articles 66-70 of the Istanbul Convention. Chapter IX – Monitoring mechanism

Article 66 –Group of experts on action against violence against women and domestic violence

- 1 The Group of experts on action against violence against women and domestic violence (hereinafter referred to as “GREVIO”) shall monitor the implementation of this Convention by the Parties.
- 2 GREVIO shall be composed of a minimum of 10 members and a maximum 15 members, taking into account a gender and geographical balance as well as multidisciplinary expertise. Its members shall be elected by the Committee of the Parties from among candidates nominated by the Parties for a term of office of four years, renewable once, and chosen from among nationals of the Parties.
- 3 The initial election of 10 members shall be held within a period of one year following the entry into force of this Convention. The election of 5 additional members shall be held following the 25th ratification or accession.
- 4 The election of the members of GREVIO shall be based on the following principles:
 - a. they shall be chosen according to a transparent procedure from among persons of high moral character, known for their recognised competence in the fields of human rights, gender equality, violence against women and domestic violence, or assistance to and protection of victims, or having demonstrated professional experience in the areas covered by this Convention;
 - b. no two members of GREVIO may be nationals of the same State;
 - c. they should represent the main legal systems;
 - d. they should represent relevant actors and agencies in the field of violence against women and domestic violence;
 - e. they shall sit in their individual capacity and shall be independent and impartial in the exercise of their functions, and shall be available to carry out their duties in an effective manner.
5. The election procedure of the members of GREVIO shall be determined by the Committee of Ministers of the Council of Europe, after consulting with and obtaining the unanimous consent of the Parties, within a period of six months following the entry into force of this Convention.
6. GREVIO shall adopt its own rules of procedure.
7. Members of GREVIO, and other members of delegations carrying out the country visits as set forth in Article 68, paragraphs 9 and 14, shall enjoy the privileges and immunities established in the appendix to this Convention.



Article 67 – Committee of the Parties

- 1 The Committee of the Parties shall be composed of the representatives of the Parties to the Convention.
- 2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in order to elect the members of GREVIO. It shall subsequently meet whenever one third of the Parties, the President of the Committee of the Parties or the Secretary General so requests.
- 3 The Committee of the Parties shall adopt its own rules of procedure.

Article 68 – Procedure

- 1 Parties shall submit to the Secretary General of the Council of Europe, based on a questionnaire prepared by GREVIO, a report on legislative and other measures giving effect to the provisions of this Convention, for consideration by GREVIO.
- 2 GREVIO shall consider the report submitted in accordance with paragraph 1 with the representatives of the Party concerned.
- 3 Subsequent evaluation procedures shall be divided into rounds, the length of which is determined by GREVIO. At the beginning of each round GREVIO shall select the specific provisions on which the evaluation procedure shall be based and send out a questionnaire.⁴ GREVIO shall define the appropriate means to carry out this monitoring procedure. It may in particular adopt a questionnaire for each evaluation round, which shall serve as a basis for the evaluation procedure of the implementation by the Parties. This questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GREVIO.
5. GREVIO may receive information on the implementation of the Convention from non---governmental organisations and civil society, as well as from national institutions for the protection of human rights.
- 6 GREVIO shall take due consideration of the existing information available from other regional and international instruments and bodies in areas falling within the scope of this Convention.
- 7 When adopting a questionnaire for each evaluation round, GREVIO shall take due consideration of the existing data collection and research in the Parties as referred to in Article 11 of this Convention.
- 8 GREVIO may receive information on the implementation of the Convention from the Council of Europe Commissioner for Human Rights, the Parliamentary Assembly and relevant specialised bodies of the Council of Europe, as well as those established under other international instruments. Complaints presented to these bodies and their outcome will be made available to GREVIO.
- 9 GREVIO may subsidiarily organise, in co---operation with the national authorities and with the

assistance of independent national experts, country visits, if the information gained is insufficient or in cases provided for in paragraph 14. During these visits, GREVIO may be assisted by specialists in specific fields.

- 10 GREVIO shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments shall be taken into account by GREVIO when adopting its report.
- 11 On the basis of all the information received and the comments by the Parties, GREVIO shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of this Convention. This report and the conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of GREVIO shall be made public as from their adoption, together with eventual comments by the Party concerned.
- 12 Without prejudice to the procedure of paragraphs 1 to 8, the Committee of the Parties may adopt, on the basis of the report and conclusions of GREVIO, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GREVIO, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of this Convention.
- 13 If GREVIO receives reliable information indicating a situation where problems require immediate attention to prevent or limit the scale or number of serious violations of the Convention, it may request the urgent submission of a special report concerning measures taken to prevent a serious, massive or persistent pattern of violence against women.
- 14 Taking into account the information submitted by the Party concerned, as well as any other reliable information available to it, GREVIO may designate one or more of its members to conduct an inquiry and to report urgently to GREVIO. Where warranted and with the consent of the Party, the inquiry may include a visit to its territory.
- 15 After examining the findings of the inquiry referred to in paragraph 14, GREVIO shall transmit these findings to the Party concerned and, where appropriate, to the Committee of the Parties and the Committee of Ministers of the Council of Europe together with any comments and recommendations.

Article 69 – General recommendations

GREVIO may adopt, where appropriate, general recommendations on the implementation of this Convention.

Article 70 – Parliamentary involvement in monitoring

- 1 National parliaments shall be invited to participate in the monitoring of the measures taken for



the implementation of this Convention.

- 2 Parties shall submit the reports of GREVIO to their national parliaments.
- 3 The Parliamentary Assembly of the Council of Europe shall be invited to regularly take stock of the implementation of this Convention.

III. Annex 3

From: Natalie Eslick and Millicent Bogert

To: GBC memo drafting team

Date: July 2016

Re: HR Monitoring mechanisms in Asia

There are no Asia-wide instruments to promote and protect human rights, nor is there a single organization encompassing the entire Asia region focused solely on human rights. Human Rights protections are reliant on individual states. Indeed, governments of many Asian countries have historically viewed human rights as a Western imposition (and thinly veiled attempt to foster demand for democratization), valuing the individual over the community, the antithesis of Asian culture and national identity according to ‘Asian Values’ proponents.

The Association of Southeast Asian Nations (ASEAN) is an economic and geo-political organization of 10 southeast Asian countries focused on the promotion of economic growth, social progress and regional peace. It drafted the [ASEAN Human Rights Declaration](#) in 2012, which has been criticized for being essentially a regurgitation of the Universal Declaration of Human Rights¹ with an additional few articles devoted to women and children’s rights. ASEAN has made further inroads into the establishment of a human rights mechanism in the area, through the development of the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Rights of Women and Children (ACWC). However, both of these “have been instituted without a previous regional definition of rights”.²

Accordingly, ‘there is no explicit monitoring by the regional bodies of the situations in ASEAN countries, there is no explicit investigative power and process, there is no explicit on-site visit to appraise situations, there are no explicit procedures to accept complaints from victims and to offer related redress.’³

The Asia Pacific Forum of National Human Rights Instruments (APF) is “the closest that the Asia



Pacific region has come to a regional arrangement or machinery for the promotion and protection of human rights”⁴.

The ASEAN Commissions along with the APF provide the most comprehensive dialogue around human rights in the region, though they are incomplete in member representation from all Asian countries. These organizations do not have a binding convention or court, or specific mandate to receive and investigate complaints of human rights violations.

¹ Attilio Pisanò, ‘Human Rights and Sovereignty in the ASEAN Path towards a Human Rights Declaration’, *Human Rights Review* (2014)

² Attilio Pisanò (2016) ‘Towards an ASEAN human rights mechanism: the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children’, *The International Journal of Human Rights*, 20:3, 321--342 (p. 330)

³ Muntarbhorn, Unity in Connectivity, 174 in n2 p337

⁴ Cited in Andrea Durbach, Catherine Renshaw and Andrew Byrnes (2012) ‘“A tongue but no teeth?”: The emergence of a regional human rights mechanism in the Asia Pacific region’, *Sydney Law Review Vol 31:211* p.217 [ASEAN Intergovernmental Commission on Human Rights \(AICHR\)](http://aichr.org/)
<http://aichr.org/>

Structure:

- Established in 2009, has 10 members: Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam, Brunei
- One representative per state serving three-year terms, selected by nomination
- Acts as a consultative body that cooperates with civil society organizations, NGOs, national human rights institutions, and the UN, with a focus on awareness raising and education

Purpose:

- “1.4. To promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;
- 1.5. To enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights; and
- 1.6. To uphold human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties.”
- “6.8. The AICHR is the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN.”

Drafted the [Declaration on the Elimination of Violence Against Women and Elimination of Violence](#)



[Against Children in ASEAN](#) in October 2013 which aims to

- integrate legislation, policies and measures to prevent and eliminate VAW
- Strengthen, enact, and amend national legislations and mechanisms to eliminate VAW, enhance protection, services, etc, and to implement concluding obs from CEDAW
- Strengthen holistic, multi-disciplinary approach to promoting rights of women and gender-sensitive approach to eliminating VAW
- Strengthen partnerships with international, regional, and national bodies

The Declaration is unique in the ASEAN context in its direct involvement of CSOs, but despite this “expresses only generic commitments and does not provide for any monitoring mechanism. Additionally, none of the main proposals made by Amnesty International in a special briefing dating back to May 2013, aimed at amending, supplementing or improving the draft ACWC declaration, have been incorporated into the final version of the text adopted by ASEAN.”⁵

AICHR Five-year Work Plans:

- [2010-2015](#): Only mentioned women and girls in the context of conflict and disasters and human trafficking
- [2016-2020](#): “Drafting a policy that will protect women and girls against violence” listed as action item #9, to be completed in 2016

Criticisms

- “the AICHR was not established by an agreement which set up a regional human rights system. Therefore, the AICHR activities aimed at promoting and protecting human rights will not be focused on compliance with a regional human rights system, but simply on compliance with the international human rights law ... and the core human rights treaties ratified by ASEAN countries.”⁶
- Essentially an advisory body acting as a go between for ASEAN and the United Nations

⁵ See n2 p.336

⁶ Ibid p.328

- Lack of independent authority, but “never intended to be any independent watchdog... shall operate through consultation and consensus, with firm respect for the sovereign equality of all Member States”⁷

- Lack of transparency and failure to consult with civil society organizations
- Cannot accept complaints, communications or petitions from individuals, NGO’s or states, and cannot make recommendations to ASEAN states. Has to submit an annual report at the ASEAN Foreign Ministers Meetings⁸
- Expressive and ineffectual



- o “2.3. Recognition that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State”

ASEAN Commission on the Rights of Women and Children (ACWC)

<http://humanrightsinasean.info/asean-commission-rights-women-and-children/about.html>

Established in 2010, ACWC is an intergovernmental commission comprising 20 representatives, two from each of the ASEAN ten member states (one representing women, one representing children).

- Note that these are not independent experts, but representatives of the state that appointed them, and “can discretionarily be replaced by their governments”⁹

It is tasked with promoting and protecting the human rights and fundamental freedoms of women and children in ASEAN, via a normative framework represented by ratification of the Convention on the Elimination of Violence Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which it is designed to functionally complement rather than duplicate. “The CRC and CEDAW are the legal framework of ACWC which is intended to operate without a regional ASEAN definition of women’s and children’s rights.”¹⁰

Mandate (from website):

- Promote the implementation of international and ASEAN instruments on the rights of women and children.
- Advocate on behalf of women and children, especially the most vulnerable and marginalized, and encourage ASEAN Member States to improve their situation.
- Promote public awareness and education about the rights of women and children in ASEAN, including through promoting research on the situation and well-being of women and children.
- Assist, upon request by ASEAN Member States, in fulfilling their international human rights reporting obligations on women and child rights.
- Encourage ASEAN Member States to collect and analyze sex disaggregated data, and undertake periodic reviews of national legislation, policies, and practices related to the rights of women and children.
- Facilitate the sharing of experiences and good practices between ASEAN Member States in order to improve implementation of CEDAW and CRC.

⁷ Termsak Chalermpananupap, ‘Ten Facts about ASEAN Human Rights Cooperation’, 2010, p4, <http://www.asean.org/storage/images/archive/HLP--OtherDoc--1.pdf>

⁸ See n2 p.329

⁹ Ibid p.333

¹⁰ Ibid p.330



- Support the participation of ASEAN women and children in dialogue and consultation processes in ASEAN related to the promotion and protection of their rights.

Two specific functions:

1. Facilitate dialogue between international human rights instruments and ASEAN states on women and children’s rights via supporting states with UN human rights monitoring committees and procedures, primarily
 - a. assistance in implementation of these mechanisms mandates
 - b. assistance in preparing periodic reports
2. Supporting the ASEAN states in their policies in the field of women’s and children’s rights by developing national policies, programmes and strategies for the promotion and the prevention of violations of these rights, capacity building, technical assistance, training, research and sharing of good practices.¹¹

The ACWC Work Plan (2012-2016)¹² confirms the body is “mostly aimed at promoting rather than at protecting women’s and children’s rights”.¹³ There is no further work plan listed on the website, nor analysis of the progress of the plan to date.

Working Group for an ASEAN Human Rights Mechanism <http://www.aseanhrmech.org/>

Primary goal is to establish an intergovernmental human rights commission for ASEAN. It is a coalition of national working groups from ASEAN states which are composed of representatives of government institutions, parliamentary human rights committees, the academe, and NGOs. Working Group follows a step-by-step, constructive and consultative approach when it engages governments and other key players in the region.

Recommendations for a human rights mechanism:

- A declaration of principles
- A commission with monitoring, promotional, and recommendatory functions that may also receive complaints from states and/or individuals. It may cover all rights, or initially, be issue- specific where it focuses only on the rights of migrants or other vulnerable groups. Another option is having human rights commissions in all ASEAN countries. A mechanism can be born when they begin coordinating efforts.
- A court which could render binding decisions. Website does not appear to have been updated since 2014

Asia Pacific Forum of National Human Rights Institutions (APF)
<http://www.asiapacificforum.net/about/>



¹¹ Ibid p.332

¹² ACWC Work Plan 2012–2016 and Terms of Reference (2013) ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)
<http://humanrightsinasean.info/documents/3>

¹³ Ibid p.336

APF “has had a significant role in the dissemination of international human rights principles and practice in the Asia Pacific... has evolved into a key agent of human rights promotion and protection in the region.”¹⁴

The APF works deeply with civil society “The annual meeting of the APF, one of the largest regular human rights events in the region, brings together APF members and other NHRIs, United Nations agencies, national governments, NGOs and donors ‘in a cooperative setting to discuss and share expertise on the pressing human rights issues in the region’¹⁵

- Provides advice and expertise to members, governments, civil society on legislation to establish, re-establish or strengthen NHRIs, international accreditation of NHRIs and comparative analysis of legislative good practice, “best practice” models, or compliance with international standards for NHRIs set out in [Paris Principles](#), by providing training programs, capacity assessments, specialized programs, and dialogues.
- Major goal: [Promoting Gender Equality](#) with a focus on GBV and harassment, in addition to poverty, discrimination, and unequal access to services and participation in community life, and guided by [APF Gender Policy](#)
 - o As part of the [APF Regional Action Plan on the Human Rights of Women and Girls](#), members agree to:
 - ! “Monitor State party’s implementation of CEDAW and its Optional Protocol and engage in periodic examinations, reporting processes and development of general recommendations under the treaty...”
 - ! “Mainstream women’s and children’s issues in engagement with all Treaty Bodies and Special Procedure Mandate Holders to promote the human rights of women and girls and follow up the State’s implementation of recommendations relating to women and girl’s human rights”
 - ! Engage with intergovernmental bodies including AICHR, ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), League of Arab States, Pacific Island Forum Secretariat (PIFS), the South Asian Association for Regional Cooperation (SAARC) on issues relating to human rights of women and girls
 - ! Work with NGOs and other civil society organizations
 - ! “Encourage States to adopt and implement a national human rights action plan, which should mainstream and prioritize the rights of women...”
 - ! **“Promote the implementation of international treaty commitments into domestic**

¹⁴ See n4 p.212

¹⁵ Ibid p.233

IV. Annex 4

From: Millicent Bogert

To: GBC memo drafting team

Date: July 2016

Re: HR monitoring mechanisms in MENA region

MENA Human Rights Frameworks

There is a highly politicized debate about human rights and Islam, and the frameworks reviewed below reflect both a regional history with colonialism and an ongoing dialogue about the role of religion. For some, human rights are universal in that they exist outside any particular condition or setting: every human being has a set of rights. For others, rights come from God, and the secularization of human rights is itself a cultural and religious imposition. What, for example, constitutes freedom of expression versus defamation of religion?

The MENA region includes 19 countries: Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, and Yemen. In addition, the Gaza Strip and West Bank of Palestine are included by the Everywoman Everywhere Coalition.

Three human rights frameworks are applicable to the MENA region. However, it is important to note that none identify as specific to the MENA nations per se, which means that political divisions among nations in the region are reflected in the signatories to each framework. (Israel, for example, is not included.) All three were developed in what has been an ongoing response to the Universal Declaration of Human Rights, and, to some extent, additional treaties and protocols, including the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW).

The frameworks are reviewed below in chronological order.

1. [Universal Islamic Declaration of Human Rights](#), (UIDHR) Adopted by the *Islamic*



Council of Europe on 19 September 1981/21 Dhul Qaidah 1401.

Structure: Based on religious texts (the Qur'an and Sunnah), the UIDHR contains a Preamble and 23 Articles. The rights listed follow the basic human rights of secular instruments, but are framed within Shari'a law, and include criminal cases, marriage, inheritance, divorce, and economic activities, and supports freedom of religion based on traditional Islamic law.

Purpose: To acknowledge that human rights are an integral part of Islam and it is "obligatory on all Muslim governments and organs of society to implement them in letter and in spirit within the framework of that order." The Universal Islamic Declaration of Human Rights was compiled by Muslim scholars, jurists and representatives of Islamic movements based in Europe.

Key language includes a statement that "person" refers to both men and women.

Critique: Perhaps because it was drafted by religious representatives and is somewhat abstract with regard to modern life, the UIDHR does not appear to have been applied widely as a human rights instrument for governing bodies or civil society advocates.

2. [Cairo Declaration on Human Rights in Islam](#): (CDHRI) Passed by the Council of Foreign Ministers of the Organization of Islamic Conference (OIC) in 1990, and entered into force in 2008. Signed by all 57 member States of the OIC.

Structure: Understood to be a response to the Universal Declaration of Human Rights, and as such follows a similar structure (a Preamble and 25 Articles) and protects many of the same rights. The CDHRI "forbids discrimination; supports the preservation of human life, supports the protection of one's honor, family, and property; and affirms the human right to education, medical and social care, and a clean environment." (Kayaoğlu, 2012) Shari'a law is the sole authority.

Purpose: "Believing that fundamental rights and freedoms according to Islam are an integral part of the Islamic religion and that no one shall have the right as a matter of principle to abolish them either in whole or in part or to violate or ignore them in as much as they are binding divine commands," the Cairo Declaration was intended as a guide for Member States in upholding human rights consistent with Islam.

Key language: Article 6 states that "A) Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform, and has her own civil entity and financial independence, and the right to retain her name and lineage. B) The husband is responsible for the support and welfare of the family."

Article 13 specifies that both men and women, without discrimination, be paid fair wages for their work.

Article 3 protects non-combatants in situations of armed conflict, and Article 11 prohibits colonialism and supports the rights of colonized people to self-determination and freedom.



Critique: The CDHRI is considered by many human rights advocates to be more restrictive than the Universal Declaration of Human Rights in that it is based on a religious model. Freedoms of religion, speech and public participation are explicitly subordinate to Shari'a law. The religious model also leads to ambiguity, in that interpretations of the Quran and Shari'a differ.

3. [Arab Charter on Human Rights](#) (2004): Undertaken by the League of Arab States, originally in 1994. The most recent revision was done in 2004 and entered into force in 2008. Of the 22 Arab States in the League, 17 States have signed the Charter: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Palestine, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen.

Structure: Preamble and 53 Articles. Unlike UIDHR and CDHRI, the Charter includes an oversight body, the [Arab Human Rights Committee](#), established in 2009, and a process for compliance. State reports are to be submitted every three years, which the Committee reviews and makes recommendations as deemed appropriate. "Shadow reports" may be submitted by other stakeholders. Among its other committees, the League of Arab States also has an Arab Women's Committee.

Purpose: Reaffirmation of the Charter of the United Nations, the Universal Declaration of Human Rights and the provisions of the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the Cairo Declaration on Human Rights in Islam.

Key language: Article 3: "Each State party to the present Charter undertakes to ensure to all individuals subject to its jurisdiction the right to enjoy the rights and freedoms set forth herein, without distinction on grounds of race, colour, sex, language, religious belief, opinion, thought, national or social origin, wealth, birth or physical or mental disability." Further, "Men and women are equal in respect of human dignity, rights and obligations within the framework of the positive discrimination established in favour of women by the Islamic Shariah, other divine laws and by applicable laws and legal instruments. Accordingly, each State party pledges to take all the requisite measures to guarantee equal opportunities and effective equality between men and women in the enjoyment of all the rights set out in this Charter."

Article 24 lists civil rights of the individual to participate in the political process of the State.

Article 43 states that "Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the States parties or those set force in the international and regional human rights instruments which the states parties have adopted or ratified, including the rights of women, the rights of the child and the rights of persons belonging

to minorities.”

Critique: The *Charter* has been criticized by Arab civil society as falling short of international human rights standards, and the Committee for its lack of transparency and engagement with non-governmental organizations. Particularly since the 2011 Arab uprisings, civil society organizations have sought to promote human rights in the Arab region through the LAS. (NGO Law Monitor: League of Arab States, 2016)

Additional Instruments for Protecting Human Rights

In most MENA countries there is no legal framework on violence against women, nor is there a uniform institutional design to deal with gender issues across the MENA region. And despite regional frameworks, “discrimination against women continues to grow, either legally, through the non-application of laws, or as a result of the social and economic crises currently experienced by these countries.” (MENA-OECD Governance Programme, 2014)

- Of the 19 MENA countries, all except Iran have ratified or acceded to CEDAW, albeit with reservations. Most CEDAW reservations by countries in MENA are to all or parts of Article 2 (obligation to review and change constitutions, laws and policies – eight countries), Article 9 (abolition of discriminatory customs and traditions and of gender stereotyping – 11 countries); Article 15 (legal capacity and choice of residence and domicile – six countries); Article 16 (equality in the family – 13 countries) and Article 29 (arbitration of disputes over the application of treaty provisions – 14 countries). The preferred rationale for many of the reservations is conflict with religious law. (Freeman, 2011)
- The 1995 Beijing Platform for Action increased momentum to focus on women’s status within the League of Arab States. In 2000 the League held the first Arab Women’s Summit, out of which grew the new Arab Women’s Organization. Two Declarations advancing women’s rights came out in 2004:
 - o The Tunis Declaration expanded women’s participation in the political, economic, social, cultural and educational fields and aimed to reinforce women’s rights and status by promoting the family.
 - o The Arab Women’s Beirut Declaration established a framework and outline for the empowerment of women from 2005-15, following the ten- year review of the Beijing Platform for Action. The Beirut Declaration called for member states to review, update and amend discriminatory legislation and establish mechanisms to foster women’s equality and political participation, including dedicated ministries, councils, bodies and commissions. (Mura, 2014)

National Human Rights Institutions (NHRIs):

Twelve MENA countries have NHRIs, five of which have “A” status from the International Coordinating Committee of National Institutions for the Protecting and Promoting of Human Rights



(ICC) indicating compliance with 1993 Paris Principles: Egypt, Jordan, Morocco, Qatar, and Palestine. States with “B” status are Algeria, Bahrain, Iraq, Libya, Oman and Tunisia. Iran’s NHRI has a “C” rating, and Lebanon and

Yemen have initiated but not followed through with full implementation of an NHRI.

To successfully promote human rights, NHRIs must have independence and accountability, without which the population will not trust them. However, independence has depended on political will and, to some extent, the level of development of civil society within the country. Independence can be measured by institutional independence (for example, none in the MENA region originate in a constitutional mandate), independence of appointments and functional independence through management and financing. Among different models in the MENA region, such as a single ombudsperson and consultative commissions, the most effective is a human rights commission that has independent authority beyond just making recommendations. An effective human rights commission is able to conduct individual investigations and seek enforcement, as in Jordan. Greater independence leads to greater accountability, as effective NHRIs are both transparent and discharge their duties. (Assaf, 2013)

Although NHRIs in the region vary, there has been a consistent lack of trust by members of the public, largely due to the personnel selection process in the context of authoritarian regimes. Appointments are made by executive government, rather than parliament, and criteria are not transparent. The ineffectiveness of the NHRIs in Tunisia and Egypt arguably contributed to those countries’ revolutions through the NHRIs’ failure to address human rights violations. (Siniora)

Although individual NHRIs in the MENA region operate at varying levels of effectiveness, there is potential for these entities to monitor their governments’ actions on human rights and strengthen both the legislative frameworks and civil society engagement with human rights issues. There are key organizations helping build NHRI capacity in the region: the Arab Network of National Human Rights Institutions and the Asia Pacific Forum (to which four MENA states belong), which promote human rights by training and assisting NHRIs, as well as strengthening their coordination with international networks of other human rights institutions. In addition, the Alkarama Foundation advocates for human rights in the MENA region and includes Israel, which is unusual. Alkarama monitors individual cases, lobbies governments, submits reports in the Universal Periodic Review process, and evaluates NHRIs.

Conclusion

The three frameworks reviewed above contain explicit, substantive recognition of women’s rights. In particular, the CDHRI language regarding women’s right to retain her name and lineage is important, as is the protection for fair wages. The Arab Charter on Human Rights goes even farther, particularly in Article 3.

It should be noted, however, that as in many regions and individual States, women’s access to their rights



in the MENA region is determined as much by implementation and enforcement as by existing rights frameworks.

Although the League of Arab States has taken significant steps toward expanding rights and opportunities for women, progress has been slowed by a lack of monitoring and enforcement mechanisms, limited funding, and failure of political will. Strengthening these systems can help Arab women better access their human rights. (Mura, 2014)

The legal system in every country in the MENA region contains provisions which could be considered discriminatory against women from a human rights perspective... In nearly all of the countries examined, however, progress is stymied by the lack of democratic institutions, an independent judiciary, and freedoms of association and assembly.” (Freedom House, 2010)

Summary for Inclusion in GBC Memo:

The Committee appreciates the explicit recognition of women’s equality and rights in the Cairo Declaration of Human Rights in Islam and the Arab Charter on Human Rights, and also the vulnerability of women and girls living under foreign occupation. The NHRIs have potential to protect the rights of women and girls in the MENA region, which will be realized with the support of regional consortiums such as the Arab Network of National Human Rights Institutions and the Asia Pacific Forum. The monitoring and advocacy currently done by the Alkarama Foundation is an excellent model for civil society organizations to promote and protect human rights.

V. Annex 5

From: Vanessa Bettinson
To: GBC memo drafting team
Date: July 2016



Re: Non-human rights international monitoring mechanisms

Non-human rights international monitoring

Examples of current governing bodies and what they do.

There are many examples of non-human rights treaty monitoring bodies. The Landmine Ban Treaty monitors state compliance through a system called Meetings of state parties (MOP) and a five year Conference of State Parties (CSP). The main monitoring system of the Montreal Ozone Protocol is a MOP that includes representation from NGO and UN agencies; annual state reports and the setting of action plans and performance targets. The North American Agreement on Environmental Cooperation (NAAEC) permits individual and NGO submissions alleging state non-compliance to its Secretariat. The International Labour Organisation's monitoring procedure consists of state reports, collective and state party reporting.

Types of mechanisms and processes used by governing bodies. Land Mine Ban Treaty

The primary monitoring mechanism adopted under the Land Mine Ban Treaty is fact-finding missions by technical experts that produce reports and present at Meetings of state parties (MOP). Non-state parties are invited to the MOP as observers, as are relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross and relevant non-governmental organisations. The MOP will request compliance targets and ask the state to report back. There is a 5 year Conference of State Parties (CSP), which reviews the operation and status of the treaty. MOP and CSP are financed by the state parties and non-state parties participating in them.

Montreal Ozone Protocol (Ozone)

The central monitoring body under this Protocol is the Secretariat of the UN Environmental Programme which centralises data collection, monitoring and administration of a Multilateral Fund. The Fund is dedicated to the implementation of the Protocol. Compliance is reviewed by an Implementation Committee (IC). States are required to submit annual state reports to the Secretariat and may request technical support to implement treaty provisions. States must include NGO involvement in their work plans. The Secretariat can require the IC to review these reports. Complaints are received by other state parties to the Secretariat and reviewed by the IC. MOPs are held and attended by a Secretariat, related UN agencies, national government and non-governmental organisations. The MOP has a two stage process, a preparatory segment where issues are deliberated and decisions are prepared. The second stage is a high-level stage where decisions can be adopted. At the MOP matters of compliance are discussed and a plan of action with performance targets for states are set.

North American Agreement on Environmental Cooperation

A Commission for Environmental Cooperation with a council and secretariat to assist with implementation exists. Individuals or NGOs can file a submission to the secretariat alleging non-compliance and it may publish its findings and state response with the support of the Council.



The secretariat independently develops reports with the assistance of technical experts. These reports require approval from the council prior to publication. Where states persistently fail to comply with monitoring requests, a monetary penalty can result that contributes to an environmental improvement fund.

International Labour Organisation

The ILO has three bodies: the International Labour Conference (ILC); Governing Body (GB) and International Labour Office (ILO). The ILC meets annually, serving as a legislative body. The GB is an executive council, meets three times a year, decides on ILO policy, the agenda of the ILC and elects the Director-General. The ILO is a permanent secretariat which acts as a focal point for the activities at the ILO and states can apply to it for technical assistance in respect of implementation. Its work is scrutinized by the GB and is led by a Director-General. Regional meetings of the ILO member states are held periodically to examine matters of special interest to the regions.

The implementation process includes a regular system of supervision with member state reports examined by the Committee of Experts and non-governmental representatives in the ILO can make observations on them. The Committee publishes an in-depth annual General Survey on national law and practice on a subject chosen by the GB, which allows the Committee to identify obstacles to implementation.

A representations procedure permits associations of employers and workers to make a representation to the GB against any member state. A committee of the GB may be set up to examine the representation and the government's response, leading to a report with recommendations. Where the government's response is not considered satisfactory, the GB is entitled to publish the representation and the response. Where another member state makes a complaint against another to the ILC or the GB, the GB may form a Commission of Inquiry, to carry out a full investigation of the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations.

Concluding Comments – Pros and Cons of the various governing/monitoring bodies and mechanisms used.

Land Mine Ban Treaty – Inclusion of related organisations to MSP enables civil society involvement. Performance targets are clear, making it easier to assess whether they have been met. It is a drawback that several states have not signed the treaty as no reservations are permitted to it and it is questionable whether reduction of landmine use has occurred. The strong influence of one NGO over smaller charitable organisations is a concern.

Montreal Ozone protocol - Reporting rates are high as late submission by states means they lose eligibility for certain grace periods and funding assistance. This is a penalty for developing states, but less so for developed states. The express inclusion in the terms of the protocol for a fund dedicated



to the implementation of the protocol is advantageous. It is a universally ratified protocol and no reservations are permitted. MOP enable informed discussion and have a clearly defined two-stage agenda which separates the deliberation process from the decision-making stage. States work with NGOs to put together work plans and performance targets.

NAAEC – Individual and NGO submission is designed to promote information sharing among the public, and is not a dispute resolution mechanism or a means to compel a State to take certain action.

ILO – Its dedicated tripartite system in all of its main bodies enables social dialogue between civil society and states to put the treaty provisions and recommendations into action. This is achieved by enabling civil society to have a voice in the form ILO policy should take and enabling them to comment on state reports. The ILC acts as a forum to place political pressure on non-compliant states. The inclusion of financial arrangements in the terms of constitution is important, as is the provision of technical assistance.

We recommend the following:

Brief Recommendations

A treaty, rather than optional protocol, with its own monitoring mechanism.

The **monitoring mechanism** should include several means to assist implementation of the treaty. These means we suggest should include:

- A state reporting mechanism and a compulsory inquiry procedure led by a Committee.
- An individual communications mechanism, with no reservations permitted.
- This Committee should be given powers to issue reporting guidelines, publish its findings and state responses.
- In its deliberations the Committee should liaise with domestic and international NGOs and related UN bodies.
- The justiciability of rights in the treaty must be crystal clear.
- We also recommend in addition to the independent treaty monitoring body, there should be a separate political body comprised of representatives from the states parties, a purpose of which should be to contribute towards implementation.

The treaty should include provisions that aim to ensure **quality and compliance via the state reporting** process. We recommend that this could be achieved by the following:

- A requirement for states to establish a domestic body to implement and ensure compliance. We recommend that consideration should be given to empower this domestic body to hear individual communications.
- The treaty should mention that States Parties must ensure the monitoring mechanisms have adequate resources both domestically and internationally.



- The treaty should ensure that technical and expert support is provided upon request by state parties. Any financial penalties for non-compliance can be used to fund this.
- States should be required to undertake national action plans
- The use of questionnaires as regards reporting should be adopted along the lines of GRIEVO in the Istanbul Convention or the General Survey used by the ILO. *(This would place an expectation on states to explain its measures taken in respect of a selected topic, even where it has made reservations in relation to the matter. This allows continued dialogue with the monitoring body to explore means of overcoming identified obstacles to implementation.)*

We recommend the **sharing good practice**. This may be achieved by the adoption of a Conference of State Parties.

- These conferences should include participation of state parties, civil society including victims and civil society groups (domestic and international).
- National Action Plans, difficulties to universal implementation of key issues, formulation of guidelines could be considered at the conference.
- We also recommend increased regional engagement to be promoted by treaty terms that require state parties to hold Committee meetings in headquarters of regional bodies.
- The treaty should explicitly require that members be independent.

VI. Annex 6

Consultation from the Governing Bodies Committee’s memo drafting team regarding the monitoring consequences of a stand-alone treaty versus an optional protocol on violence against women

The memo drafting team of the Governing Bodies Committee (GBC) would like members of this Committee to form a united opinion on this matter and therefore request members to consider the analysis and questions presented in this document.

Questions:

Do you think that an optional protocol to CEDAW is preferable to a stand-alone treaty with a separate monitoring body?

Should a new monitoring/governing body be created or should the role of monitoring compliance with specific treaty terms fall within the ambit of the CEDAW Committee?

Why a new treaty and implications for monitoring/ governing body

As CEDAW focuses upon matters of discrimination it is a constricted instrument^[1] that in its infancy did not envisage broader application to areas of violence. The provisions it contains are expressed in



ambiguous language and do not make reference to violence against women, with Article 6 an exception to this.^[2] Everywoman Everywhere coalition believes that violence against women is not adequately prevented or legally protected under U.N. treaty law, other than by ‘soft law’ in the form of the CEDAW Committee’s Recommendations beginning with General Recommendation 19. Another example of UN consideration of VAW is the appointment of a UN Special Rapporteur on VAW, its causes and consequences since 1994.

The difficulty with holding states accountable for their policies that either directly or indirectly condones practices that amount to VAW is that soft law is non-binding on states. To address this, binding treaty provisions are required. However, we are not yet clear on whether this should be achieved only with a new discrete stand-alone treaty or alternatively an optional protocol. As the Expert Subcommittee: Governing Bodies this is a particularly relevant question that needs an answer. A determination on this key matter will clarify whether a new monitoring/governing body will be created or whether the role of monitoring compliance with specific treaty terms will fall within the ambit of the CEDAW Committee.

Benefits of a new treaty and new treaty monitoring body

The third UN Special Rapporteur on Violence Against Women Rashida Manjoo called for a specific treaty on the issue of violence against women and girls, noting that there are significant normative gaps created by the non-binding nature of the existing women’s human rights legal framework. One of the barriers she encountered towards the creation of a new treaty was the perception it would have negative implications for CEDAW. It is not entirely clear what these would be. It may be for example, an increase in the Committee’s workload or a belief that such a change would negate some of the far reaching gains which CEDAW and its Committee have made in respect of generating obligations on states for non-state actors’ behaviours, understanding discrimination broadly to incorporate violence (among others). For Manjoo a treaty specifying detailed provisions, with obligations upon states is essential to ‘address the normative gap on a human rights issue that is widespread, pervasive, systemic, systematic, cutting across geographic/race/class boundaries, is resisted by people who should know better. The understanding of violence against women as a human rights violation in and of itself, thereby requiring specificity in international law is a notion that is foreign to some people.’^[3]

A new treaty that stands on its own will be uninhibited by the limitations of CEDAW and equally a new monitoring body, separate from CEDAW will be free from the perceived drawbacks surrounding the Committee. This would allow the new treaty to proceed away from the dominance of political rhetoric and state centrality. It may be useful to reflect further on Manjoo’s argument that, ‘other human rights violations that are systemic and pervasive would not face a problem when discussions take place about a specific treaty. We need to acknowledge there is political reluctance to address women’s human rights issues, including violence against women, through a legal lens of State responsibility and accountability, which would move it beyond the political rhetoric that we currently observe.’^[4]



A new treaty would be able to restrict a state's ability to opt out of monitoring and compliance provisions, in a way that an Optional Protocol to CEDAW may not. This would assist with global implementation of new provisions. The value added by the Optional Protocol to CEDAW and its complaints' procedures that it introduced has led to greater participation of NGOs in the formation of the Committee's jurisprudence. This has led Reilly to suggest that the key role played by NGOs in the Committee case law underlies the Optional Protocol's 'potential not only as a redress route for particular individuals but also as a focus for wider mobilization around needed legal and policy reforms.'^[5]

However, the cases that have come before the CEDAW Committee have been dominated by cases from Europe (although not exclusively). A new stand-alone treaty and separate monitoring system could reduce the focus on European women and be more inclusive, were it to successfully limit state reservations that hamper CEDAW.

Disadvantages of a new treaty and separate governing body

A new treaty that creates a separate system from the CEDAW Committee will overlap with the work of the Committee. Furthermore the capabilities and experiences of the Committee have continuously developed over time, engaging with women's rights that are on the periphery of international law and positively communicating with states about how to address an individual woman's human rights, whilst expanding the dialogue concerning the wider women's population. Hodson refers to the periphery as matters of diversity and intersectionality, which other mainstream human rights bodies find difficult to connect with, remaining centric. The CEDAW Committee has therefore, been able to consider a wide range of issues that are relevant to all women and 'that have been largely overlooked by other international human rights tribunals.'^[6] In Hodson's view CEDAW must 'self-consciously ...travel to the periphery of rights and emphatically engage with marginal actors... Engaging more actively with the periphery would open CEDAW to the rich possibilities offered by women's rights and enable it to become a lioness with a roar that resonates.'^[7] An optional protocol could expand the Committee's mandate and give greater legitimacy to its jurisprudence and monitoring powers.

Whilst Manjoo favours a discrete new treaty, she does not reject an optional protocol as a suitable alternative. However, what is apparent from her view is that a separate monitoring body is essential.^[8] A disadvantage would be the cost of establishing a new monitoring body which could prevent states from ratifying a new treaty, making the optional protocol a more attractive prospect. McQuigg^[9] suggests that this concern may not be a deterrence to states, who have shown a willingness to ratify and sign treaties specifically dealing with violence against women in European and Inter-American Conventions.^[10] Clearly, any increase in CEDAW's workload to accommodate more detailed treaty provisions on violence against women would also involve further resources and financial commitments on states.

An optional protocol, which extends the CEDAW Committees' jurisdiction would enable the opportunity to amend or add to the existing enforcement mechanisms for women's human rights. This could include adding criteria governing penalties for state failure to comply with provisions.

A third way

Do you think there is a persuasive argument to support the creation of a detailed optional protocol that also creates a separate monitoring body from CEDAW Committee?

The GBC welcomes any comments on this very important issue. Please submit your comments directly to the GBC Char at FJRivera@scu.edu no later than **September 23, 2016**.

Vanessa Bettinson, on behalf of the memo drafting team of the Governing Bodies Committee.

[1] Hodson, Loveday. "Women's rights and the periphery: CEDAW's optional protocol." *European Journal of International Law* 25.2 (2014): 561-578.

[2] Manjoo, Rashida, and Daniela Nadj. "'Bridging the Divide': An Interview with Professor Rashida Manjoo, UN Special Rapporteur on Violence Against Women." *Feminist Legal Studies* 23.3 (2015): 329-347.

[3] See above at 343

[4] As above at 343

[5] N. Reilly. *Women's Human Rights: Seeking Gender Justice in a Globalizing Age* (2009) at 45

[6] Hodson, Loveday. "Women's rights and the periphery: CEDAW's optional protocol." *European Journal of International Law* 25.2 (2014): 561-578, at 577

[7] See above at 578

[8] Manjoo, Rashida, and Daniela Nadj. "'Bridging the Divide': An Interview with Professor Rashida Manjoo, UN Special Rapporteur on Violence Against Women." *Feminist Legal Studies* 23.3 (2015): 329-347, at 346.

[9] <https://theconversation.com/why-the-world-needs-a-un-treaty-to-combat-violence-against-women-53582>

[10] Council of Europe Convention on preventing and combating violence against women and domestic violence; Inter- American Convention on the Prevention, Punishment and Eradication of Violence Against Women

