

# The United Nations and the Promotion and Protection of Women's Human Rights

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## A Work in Progress

FLEUR VAN LEEUWEN

*Cet article examine les étapes entreprises par les Nations Unies depuis ses débuts en 1945 pour promouvoir et protéger les droits des femmes à l'intérieur de ses cadres et critique les stratégies qui sont inadéquates jusqu'au détriment des droits des femmes. Elle considère que spécialiser leurs droits lors de l'adoption par les Nations Unies a marginalisé leurs droits et transformé le système en place. Elle ajoute que si cette dernière stratégie avait été exécutée adéquatement et liée aux précédentes, la protection et la promotion pour les droits des femmes auraient été assurées à l'intérieur des Nations Unies.*

“All human beings, men *and* women, are equal in dignity and rights.” Thus reads Article 1 of the Universal Declaration of Human Rights (UDHR). It is clear that the international framework for the promotion and protection of human rights as set up by the United Nations (UN) shortly after the Second World War was intended to promote and protect the rights of all, men *and* women. Both the Charter of the UN of 1945, which provides the foundation of the international human rights system as we know it today, and the UDHR that was adopted three years later, recognize that *all* human beings have human rights for the simple reason of being human.<sup>1</sup> The Charter forbids discrimination on the basis of race, sex, language, or religion (UN Charter, Art. 1). Likewise, the UDHR lays down that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, including according to sex (UDHR Art. 2).

However, the aims to promote and protect the rights of *all* are not realized. The system was, and to some extent still is, androcentric. In the past, it was successfully argued by women's rights proponents that the international system

addresses only degrading events commonly identified with the lives of men, and not experiences common to the lives of women.<sup>2</sup> A study of the work of the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights shows that improvement has been made, but also that much still remains to be done (Van Leeuwen 246-251). Questions to be posed therefore are: What steps has the UN taken since its inception to promote and protect women's enjoyment of human rights within its human rights framework, and why have these strategies not (yet) led to the desired result?

This paper addresses these questions. It looks at the steps the UN has taken since its inception in 1945 to promote and protect women's rights within its human rights framework, and discusses the criticism of these strategies for being inadequate and, arguably, even detrimental to women's human rights. After this introduction, this paper starts by discussing the UN system for the promotion and protection of human rights as it was set up in 1945. As it was a time in which few if any women enjoyed equal rights (many women did not, for example, have the right to vote or to hold public office), the UN's first step was to grant women the same rights that men had. But, as will be shown, having the same rights as men did not necessarily mean that women's human rights were effectively promoted and protected. Abuses and constraints that characteristically affect women *because* they are women—like rape, domestic violence, and forced sterilization—were not addressed by the international human rights system, and discrimination against women persisted.

In order to remedy this deficiency of its human rights system, in 1979 the UN adopted the Convention on the

Elimination of All Forms of Discrimination against Women (the Women's Convention)—a convention that focuses solely on the enjoyment of human rights by women. This paper discusses this strategy of specialization of women's rights by the UN and shows that this second strategy also failed to deliver the desired result. For although women's rights were now expressly placed within the ambit of the international human rights framework, women's rights were still not addressed in the mainstream human rights system.<sup>3</sup> It was argued by feminist legal scholars that this strategy of specialization had led to the marginalization of women's human rights (Charlesworth "Not Waving" 1; Reanda 12; O'Hare 367-368).

In order to address this problem of marginalization of women's rights in the mainstream human rights ambit, in 1993 the UN instigated its most recent strategy to promote and protect women's rights within its human rights framework: gender mainstreaming, requiring a transformation of the mainstream human rights system. This strategy of transformation has thus far also failed to achieve the desired result, and more research is required. However, it is argued in this paper that when executed properly this latest strategy, taken together with the previous strategies, promises to offer effective promotion and protection of women's human rights in the UN human rights framework.

### **The First Step: Same Rights**

The Charter of the UN, adopted in 1945 by fifty-one States, provides the foundation of the international human rights system as we know it today. As noted previously, the Charter and the UDHR recognise that *all* human beings have human rights for the simple reason of being human (UN Charter, Art. 1, para. 3 and UDHR, Art. 2). The Declaration speaks purposefully when it holds in Article 1 that *all* human beings are born free and equal in dignity and rights.

Although reference was made to *all men* in the original draft of the document, it is clear that all parties involved in the drafting process agreed that women were just as entitled to the rights laid down in the Declaration as men. The original wording was heavily contested during the negotiations (Morsink 233). Some members of the drafting committee argued that since it was clear that both men and women should be able to enjoy human rights, the terminology of *all men* could be misleading. Mr. Koretsky, the Russian delegate, for example, held that the assumption that *all men* included *all persons* implied a historical reflection on the mastery of men over women (Morsink 233). He wanted the wording to be changed so as to make clear that *all* human beings were included.

Agreement was subsequently found amongst the members on reference to *all human beings* (Morsink 223-236).

The notion that both men *and* women should be able to enjoy their human rights is part and parcel of all the main international human rights instruments. Not only do the documents that compose the so-called Bill of Human Rights—the UDHR and the two Covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR)—refer explicitly to the principles of non-discrimination and equality, but also more specialized human rights treaties such as the UN Convention on the Rights of the Child and the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families lay down that States parties shall respect and ensure the rights as laid down therein without distinction of any kind. These documents thus grant human rights to women on an equal basis with men—i.e., women should have the same rights men have.

This notion of formal equality of men and women as it was codified by the UN in its human rights treaties did not appear out of thin air. For it was this idea of formal equality that was the tenet of the women's rights movement in the period shortly after the Second World War—the period when the Charter and subsequently the UDHR were adopted (Parisi 571-572). It was a time when only thirty of the original fifty-one UN Member States had given women equal voting rights or permitted them to hold public office. Hence, the most important precept of women's rights proponents at that time was that men and women were the same in rational ability and capacity for autonomy and self-determination. Their main goal was to achieve an equal status in law and hence for women to be accorded the same rights as men. Consequently, women's stated equality was based on the *sameness* of men and women, without attention to their *difference* (Parisi 572). This presumption of sameness is evident in the principles of non-discrimination and equality as laid down in the human rights documents that were drawn up after the inception of the UN.

The problem with this strategy lies in the fact that women and men are *de facto* not the same, as they do not live similar lives. From the moment of birth, human beings are differentiated according to sex, being either male or female. Sex is the first factor that defines a human being in society, and it accordingly places a human being in a maze of expectations, customs, practices, and constraints that stipulate his/her life. Since the biological and gender-related aspects of men and women differ, so too do their lives and their experiences. Although no such thing as *the woman experience* or *the man experience*

exists, and although social constructions of man and woman—and of masculinity and femininity—differ across locations, cultures, and time, it is possible to draw general distinctions between the lives of women and the lives of men.

The general picture of gender relations throughout the world portrays an asymmetry of power between men and women.<sup>5</sup> This asymmetry translates itself into certain issues that are characteristic of the lives of men, and others that are characteristic of the lives of women.

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The failure to take account of these differences in the concept of *sameness* expressed in the international human rights treaties references to non-discrimination and equality limits the UN human rights system's ability to tackle structures that perpetuate gender hierarchies. As noted, women were granted the same rights *as men*. The norms of the international human rights system reflected the lives and experiences of the (Western, white, heterosexual) male. They signify that when men have, for example, a right not to be arbitrarily detained, women also have a right not to be arbitrarily detained. This is, of course, only fair. But the problem is that such a provision—when applied in a traditional sense—serves women less than men.

Rather than arbitrary detention (*strictu sensu*), women are, for example, more often confronted with imprisonment in the family home or only being allowed to leave the house under male supervision. But these latter issues, issues that characteristically affect women because they are women, are not addressed by the mainstream human rights treaties.

Critics pointed out that degrading events commonly identified mainly with the lives of men were addressed in the wording and interpretation of the provisions of the human rights instruments. Acts of torture and ill treatment—for example during incommunicado detention—and the use of excessive force by security forces were violations cited in both the wording and the interpretation of the human rights treaties, but experiences like rape and domestic violence—events common to the lives of many women—were not covered by the protection of these provisions.<sup>6</sup> In reality, human rights

therefore originated as men's rights: the *male* experience was accepted as the norm, or, as Parisi notes, as the *human* experience.<sup>7</sup> Abuses, exclusions, and constraints that are more typical of women's lives were neither recognized nor addressed by the human rights instruments.

Although a first important step was made by granting women equal rights, such as the right to vote, the international human rights framework did not do what it was supposed to do: effectively promote and protect women's enjoyment of human rights.

### **The Commission on the Status of Women**

The disadvantaged position of women worldwide was of concern to many involved in establishing and recognizing women's human rights within the UN. Hence, in 1946, even before the adoption of the UDHR, the Economic and Social Council of the UN (ECOSOC)<sup>8</sup> established a specialized body to deal with "women's rights": the Commission on the Status of Women (CSW). Originally, the CSW functioned as a sub-commission to the former Commission on Human Rights (CHR).<sup>9</sup> The institutional structure, Parisi notes, "was the result of a compromise between those feminists who pushed for full incorporation into the existing human rights framework and those who thought that the establishment of a separate body would be the best way to ensure attention for women's rights issues" (572).

Later that same year, however, the CSW received the status of full-fledged Commission and therefore became an equal counterpart to the CHR. Amongst those who were against this shift in institutional structure was Eleanor Roosevelt, who at that time was chairperson of the CHR. Roosevelt and other opponents felt that the singling out of a group for *special* rights could lead to stigmatization, backlash, and marginalization. For them, the preferable alternative was to seek inclusion in the primary UN human rights body rather than to try to establish "separate but equal" human rights institutional mechanisms for women and men (Parisi 572-3). However, proponents of the shift considered this promotion in status for women's human rights to be of crucial importance.

It was Bodil Begtrup, the first Chairperson of the

sub-commission, who requested that ECOSOC provide the CSW with full commission status in May 1946. She noted that:

Women's problems have now for the first time in history to be studied internationally as such and to be given the social importance they ought to have. And it would be, in the opinion of this Sub-Commission of experts in this field, a tragedy to spoil this unique opportunity by confusing the wish and the facts. Some situations can be changed by laws, education, and public opinion, and the time seems to have come for happy changes in conditions of women all over the world. (UNDAW 1-2)

In June 1946, the sub-commission formally became the CSW, a body functioning directly under the ECOSOC. Its original tasks were to prepare recommendations and reports to the ECOSOC on the promotion of women's rights in political, economic, social, and educational fields and to make recommendations to the Council on urgent problems that required immediate attention, but this mandate has expanded over the years.<sup>10</sup> It is interesting to note that in its first years after coming into being, the CSW played an important role in the drafting process of the UDHR. The members of the CSW revised draft articles that were sent to them for comments and gender-sensitive language, and argued against references to *men* as a synonym for humanity and to phrases like "men are brothers".<sup>11</sup> Yet, in line with the tenet of the women's movement at the time, its focus was foremost on achieving equal rights for women and preventing sexist language in the Declaration (Morsink 255-6).

The CSW did not argue in favour of inclusion of provisions in the Declaration that would more clearly reflect the lives of women by referring, for example, to domestic violence, rape, trafficking, maternal mortality, or access to contraceptives. Rather it advocated for full equality of civil rights, including the right to dissolution of marriage, the right to guardianship, the right to keep one's nationality, and the right to own property (see UN doc. E/281/Rev.1 at 12). Naturally, in light of the status of women around the world at that time, this was an important step.

In the years to follow, the CSW was involved in promoting women's rights and equality by setting standards and formulating international conventions, and it conducted research to assess the status of women worldwide. In that capacity, for example, the Commission drafted the Convention on Political Rights of Women of 1952; the Convention on the Nationality of Married Women of 1957; and the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriage-

es of 1962 (Schöpp-Schilling 11-12). In 1963, the UN General Assembly (GA) requested that the Commission draft a declaration on the elimination of discrimination against women.<sup>12</sup> It was this Declaration that culminated sixteen years later in the Women's Convention, the text of which was prepared by working groups within the Commission.<sup>13</sup>

### The Second Step: Special Rights

*...Noting however that in various fields there still remains, in fact if not in law, considerable discrimination against women. —UN GA Resolution 1921 of 5 December 1963, preamble.*

In 1963, the UN GA requested that ECOSOC invite the CSW to prepare a draft declaration on the elimination of discrimination against women as it had noted that, despite the efforts of the UN, discrimination against women persisted ("Short History," 7). The Declaration was adopted by the GA in 1967 and enumerates eleven provisions that call upon States to, for example, take all appropriate measures to educate public opinion with regard to the eradication of prejudice and the abolition of customary and all other practices that are based on the idea of the inferiority of women, and to take all appropriate measures to combat all forms of traffic in women (UN GA resolution 2263 (XXII), articles 3 and 8).

Yet, despite the efforts of the GA and of various specialized agencies of the UN, it became clear in 1972 that existing treaties alone were not sufficient to adequately address discrimination against women (Schöpp-Schilling 11). The CSW recommended to both ECOSOC and the GA that 1975 should become "International Women's Year" to ensure that increased efforts were made to realize women's human rights (Schöpp-Schilling 11). The highlight of this "International Women's Year" was the First UN World Conference on Women, held in Mexico City. It was here that a World Plan of Action was adopted, which gave high priority to the preparation and adoption of the Convention on the Elimination of Discrimination Against Women, with effective procedures for its implementation (Report of the World Conference of the International Women's Year, para. 198).

It was the CSW that prepared the draft text of this convention. After lengthy negotiations in the CSW and within UN working groups of the Third Committee of the GA, the GA adopted the Women's Convention, or CEDAW, on 18 December 1979 (Schöpp-Schilling 12). The Women's Convention, contrary to the other mainstream human rights treaties, focuses on the elimination of all forms of discrimination against women, not as is standard in the

other human rights treaties, the elimination of discrimination on the ground of sex.<sup>14</sup> Article 1 of the Convention lays down that discrimination “is any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women—irrespective of their marital status, on a basis of equality of men and women—of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.” In its substantive articles, the Women’s Convention addresses

Human Rights), the Committee on the Elimination of Discrimination Against Women—the body that monitors the implementation of the Women’s Convention—was until recently meeting in New York and was serviced by the (former) UN Division for the Advancement of Women (DAW).<sup>16</sup> Although the adoption of the Women’s Convention meant that women’s rights were expressly placed in the ambit of international human rights, critics argued that the rights of women were still ignored by the mainstream human rights mechanisms. The claim

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various issues characteristic of the lives of women and their enjoyment of human rights. Article 12(2) of the Convention, for example, lays down that “States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”

The adoption of the Women’s Convention meant that specific rights for women were for the first time expressly placed within the realm of the international human rights framework, albeit in a specialized treaty. Hence, from then onwards, the UN human rights system aimed to promote and protect the enjoyment of human rights by women in two ways: through the principles of non-discrimination and equality in its mainstream human rights treaties, and through these principles in a women-specific human rights treaty.

Although the Women’s Convention was originally received as a big step forward in the promotion and protection of women’s human rights, it was also criticized. It was argued that the creation of a specific mechanism to deal exclusively with the enjoyment of human rights of women led to the marginalization of women’s rights.<sup>15</sup> For example, Hilary Charlesworth observes that the price of creating separate institutional mechanisms for women led to the building of a “women’s ghetto” with less power, resources, and priority than the mainstream human rights bodies (“Not Waving” 1). Her arguments are supported by the fact that unlike the other human rights monitoring bodies, which meet in Geneva and are serviced by the Office of the High Commissioner for Human Rights (and previously by the former Centre for

was made by feminist legal scholars and women’s rights proponents that the monitoring bodies of the other human rights treaties did not address blatant violations of women’s dignity as gross violations of human rights but left these issues to the specialized CEDAW to deal with (Byrnes 205-6).<sup>17</sup> As Charlesworth notes, the existence of special women’s institutions such as the Women’s Convention and CSW allowed comparable but male-dominated forums such as the (former) Commission on Human Rights and the Human Rights Committee (HRC) to claim a general mandate that carried greater prestige and power than CEDAW (Charlesworth “Transforming the United Nations” 446). The effect of this was that women’s interests were ghettoised: the creation of “women’s institutions” meant that mainstream human rights bodies and institutions tended to downplay the application of human rights norms to women on the implicit assumption that women’s rights were beyond their concern (Charlesworth “Transforming the United Nations” 446).<sup>18</sup>

As is clear from the above, the criticism was that the mainstream human rights instruments still did not pay attention to women’s rights or, to phrase it differently, to situations that affected the enjoyment of human rights by women. Consequently, women’s human rights were still the poor cousins of the “real” human rights. Thus although, or, as some say, because there was now a body in the UN human rights system that dealt exclusively with women’s human rights, women’s human rights were still not fully promoted and protected by the international system (Byrnes 205-6; Gallagher 285; Johnstone 151; Charlesworth “Not Waving” 12; Reanda 12; O’Hare 367-8).

### The Third Step: Transformation of the Mainstream

*The concept of human rights, like all vibrant visions, is not static or the property of any group; rather, its meaning expands as people reconceive of their needs and hopes in relation to it. In this spirit, feminists redefine human rights abuses to include the degradation and violation of women. The specific experiences of women must be added to traditional approaches to human rights in order to make women more visible and to transform the concept and practice of human rights in our culture so that it takes better account of women's lives.*

—Charlotte Bunch (“Women’s Rights as Human Rights” 487)

As mentioned, the first World Conference on Women was held in Mexico City in 1975. This conference was followed by the second World Conference on Women five years later in Copenhagen. And then, in 1985, the World Conference to review and appraise the achievements of the “United Nations Decade for Women: Equality, Development, and Peace” was held in Nairobi. At these conferences concerns were voiced about the effect of special development aid policies for women.<sup>19</sup> Charlesworth observes that the prevailing approach to women and development aid was criticized at these forums for being inadequate, as it identified women as a special interest group within the development sphere needing particular accommodation. Hence, the specialization of women’s issues in regards to development aid was criticized. Strategies were proposed that encouraged the integration of women into the existing structures of development, i.e., so called “mainstreaming” of women’s issues (Charlesworth “Not Waving” 2). The Nairobi Conference recognized that women’s equality was not an isolated issue and that a woman’s perspective and involvement was required on *all* issues.

The criticism voiced at these conferences regarding the specialisation of women’s issues in development also held true for the international human rights framework, for, as discussed above women’s issues were only addressed by a specialized women’s committee (CEDAW) and not by the mainstream human rights bodies. It is therefore not surprising that this new trend in the development sector of “mainstreaming” women was also proposed as a strategy for equality in human rights by the women’s movement at the World Conference on Human Rights held in Vienna in 1993. The Vienna Conference proved to be a landmark event regarding public recognition of the lack of attention of the mainstream international human rights system for human rights of women. Although the focus of this World Conference was originally on human

rights in general, especially on their universal character, and not on women’s rights, a strong lobby of women’s rights proponents managed to place the issue of women’s human rights on the agenda (see Friedman 313-4). At the Vienna Conference, the working group on “integration of women’s rights into the human rights agenda” made it unequivocally clear to the participating States that much of what women experience as everyday abuse in their lives—in the family, in violation of their bodies, and in terms of economic and political deprivation—was still largely kept outside the realm of the international human rights community (Bunch “Strengthening” 33). This despite the fact that it was common knowledge that women were regularly subjected to battering, torture, humiliation, starvation, sexual harassment and exploitation, forced marriages and pregnancy, compulsory heterosexuality, mutilation, and even murder because of being female (Bunch “Strengthening” 33; Boyle 91-92).

The 171 States represented at the Vienna Conference acknowledged this deficiency of the international system and stated in their final declaration and programme of action that the human rights of women and of the girl child were an inalienable, integral and indivisible part of universal human rights (Vienna Declaration and Programme of Action, part 1, para. 18). They acknowledged that the human rights of women had to be integrated into the mainstream of United Nations system-wide activity and that these issues had to be regularly and systematically addressed throughout relevant United Nations bodies and mechanisms. (Vienna Declaration and Programme of Action, part 2, para. 37).<sup>20</sup> Moreover, in this Vienna Declaration and Programme of Action of 1993, the states call upon the monitoring bodies of the international human rights treaties to include the status and human rights of women in their deliberations and findings (part 2, para. 42).

The call made at the Vienna Conference for integration of the status and human rights of women is one transformation of the mainstream international human rights system. The monitoring bodies were not only requested to pay attention to issues that affect women’s enjoyment of human rights, but also to formulate obligations that effectively address these issues, to identify a possible link between these issues and discrimination of women and address it, and to do so in an integral manner—meaning in a manner that does not marginalize these “women’s issues” (Van Leeuwen).<sup>21</sup> As Charlotte Bunch notes in this respect, the concept and practice of human rights needed to be transformed so as to take better account of women’s lives (“Women’s Rights as Human Rights” 487).

The author of this paper conducted a study to examine whether the mainstream international human rights

bodies had, in the years after the Vienna Declaration and Programme of Action, complied with this call. The study consisted of an analysis of the work of the HRC and the Committee on Economic, Social, and Cultural Rights (CESCR) in regards to matters that affect women's physical integrity.<sup>22</sup> Its results point out that, overall, the work of the HRC and the CESCR reflects compliance with three of the four necessary elements for transformation: the two Committees seem to make good use of the possibilities within their mandates to address issues that affect

the Committees for addressing certain matters. Although there are strong indications that the work of NGOs plays a significant role, one can also question to what extent, for example, the gender, nationality, or background of individual Committee members affects the attention paid by the human rights monitoring bodies to issues that affect women's enjoyment of human rights. Further research can point to hitches in the process of including the status and human rights of women, and indicate ways these might be addressed and overcome.

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**Although the HRC and the CESCR are on the right track, more needs to be done for the international human rights system to effectively promote and protect women's human rights in the mainstream. The strategy of transforming the mainstream is not yet complete. But this does not mean that the strategy of transformation has failed.**

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women's physical integrity; they formulate obligations for States parties that in general take into account the gender-specific form, circumstances, and consequences of these human rights abuses; and, moreover, these matters are addressed in an integrated manner. However, save for a few exceptions, the HRC and the CESCR do not link specific experiences of women to discrimination of women (see Van Leeuwen). Hence, the HRC and the CESCR address the symptoms, but not the root cause, of human rights abuses and constraints that typically affect women's enjoyment of human rights. The study therefore shows that, although the HRC and the CESCR are on the right track, more needs to be done for the international human rights system to effectively promote and protect women's human rights in the mainstream. The strategy of transforming the mainstream is not yet complete.

But this does not mean that the strategy of transformation has failed. After all, the HRC and the CESCR are frequently addressing issues that characteristically affect the enjoyment of human rights by women and formulate obligations for States that address these issues. Rather, the study shows that continued steps need to be taken to carry on the process of transformation.<sup>23</sup> More information is needed to aid in this work. The study did not encompass the work of all mainstream human rights bodies and further research is required to determine whether other monitoring bodies, like the Committee against Torture and the Committee on the Elimination of Racial Discrimination, have also taken the call of the 1993 Vienna Conference to "integrate" women's human rights into their deliberations and findings to heart. A second important question relates to the motivation of

### **Final Remarks**

Since its inception in 1945, the UN has made considerable progress in the promotion and protection of women's human rights. Although it started in its early years with granting women equal rights—like the right to vote and the right to hold public office—it failed to address situations that characteristically hinder women in their enjoyment of human rights. Nowadays the UN human rights monitoring bodies recognize, *inter alia*, that women have a right to maternal health care, that States have the obligation to prosecute and punish all forms of violence against women, that women should have access to contraceptives, and that trafficking in women should be eliminated (Van Leeuwen 235-246). But, as noted, more than seventy years after the UN laid down its aim to promote and protect the rights of all, there is also room for improvement, as the system still does not fully and effectively promote and protect women's enjoyment of human rights.

While the full transformation of the mainstream recognition of women's human rights is not in sight, it is clear that the promotion and protection of women's human rights can be effective. The commitment to women's human rights made in 1993 at the World Conference on Human Rights in Vienna is not a short-term assignment for the human rights monitoring bodies; it is *not* a matter of adding and stirring women's experiences into the big bowl of international human rights. Rather, it is a process that will be ongoing for as long as gender inequality exists. It is a process that requires the commitment of everyone involved in order to continue to transform the international system and to ensure that it fully accommodates

and responds to human rights abuses and constraints that are typical of women's lives, now and in the future.

In this process, the role of CEDAW should not be discarded. Transforming the mainstream human rights system will likely only be successful if there is also attention for women's rights by a specialized committee. In this regard, it should be noted that when the Vienna Conference called for transformation in 1993, it also intended to strengthen the Women's Convention. The Declaration and Programme of Action of the World Conference on Human Rights lays down that "The United Nations should encourage the goal of universal ratification by all States of the Convention on the Elimination of All Forms of Discrimination against Women by the year 2000. Ways and means of addressing the particularly large number of reservations to the Convention should be encouraged" (Part 2, para. 39).

The intention of the Vienna Conference was clearly to follow a two-track approach in addressing human rights of women: by the mainstream *and* by a specialized monitoring body.<sup>24</sup> There is widespread agreement among women's rights scholars and activists that the human rights of women can best be promoted and protected, at the international legal level, through a combination of mainstream and specialist institutions and procedures.<sup>25</sup> It would be interesting in this regard to study the relation between the work of CEDAW and that of the mainstream human rights bodies in the promotion and protection of women's human rights. What is the added value of CEDAW? What can the mainstream human rights bodies learn from CEDAW?

The story of the UN and the promotion and protection of women's human rights is not finished. It is a work in progress. But in the last sixty-five years the system has, step by step, come a long way.

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*Fleur van Leeuwen LL.M., Ph.D. is a human rights researcher and lecturer specialising in women's human rights. She is currently a visiting researcher at Bogazici University in Istanbul, Turkey and is an affiliated researcher at Atria—Institute on Gender Equality and Women's History in Amsterdam, the Netherlands. Fleur previously worked—inter alia—at the Netherlands Institute of Human Rights of Utrecht University, the Netherlands and at Koç University in Istanbul, Turkey. Fleur's work on women's human rights can be found at fleurvanleeuwen.academia.edu.*

## Endnotes

<sup>1</sup>The Charter of the United Nations (UN) was signed on 26 June 1945, in San Francisco, at the conclusion of the UN Conference on International Organization, and came into force on 24 October 1945.

<sup>2</sup>See, for example, Bunch ("Transforming" 13; "Women's Rights" 487); O'Hare (368-371); Copelon (116-117); Cook (*Human Rights* 3-4; "Women's International" 231); Charlesworth ("What Are Women's International Human Rights?" 59-60; "Human Rights as Men's Rights" 111); Peterson and Parisi (132); Gallagher (283); Okin (34-35); Sullivan (126); Charlesworth, Chinkin, and Wright (625); Binion (513, 515).

<sup>3</sup>"Mainstream" refers in this context to those human rights treaties that do not focus specifically on the enjoyment of human rights *by women*.

<sup>4</sup>See Art. 2, para. 1 and Art. 3 International Covenant on Civil and Political Rights (ICCPR); and Art. 2, para. 2 and Art. 3 International Covenant on Economic, Social and Cultural Rights (ICESCR). With regard to the specialized treaties see, for example, Art. 2, para. 1 of the International Convention on the Rights of the Child; and Art. 1, para. 1 of the International Convention on the Rights of All Migrant Workers and Members of Their Families. See on the matter also Pentikäinen (17).

<sup>5</sup>See, for example, Bunch ("Transforming" 13); the *1999 World Survey on the Role of Women* (ix); Marshall (42).

<sup>6</sup>See, for example, Bunch ("Transforming Human Rights" 13); O'Hare (368-371); Copelon (116-117).

<sup>7</sup>See, for example, also Peterson and Parisi (141); Loenen (255-257); Goldschmidt (13-17).

<sup>8</sup>The Economic and Social Council (ECOSOC) is an authoritative body in the UN system that serves as the central forum for discussing international economic and social issues. ECOSOC formulates policy recommendations addressed to member States and the UN system.

<sup>9</sup>Following the 2005 report "In Larger Freedom," by former UN Secretary General Kofi Annan, the UN Commission on Human Rights (CHR) was replaced by the Human Rights Council. See UN doc. A/59/2005, para. 181-183; and UN doc. A/RES/60/251 of 2006, which establishes the Human Rights Council.

<sup>10</sup>See, for example, ECOSOC resolution 11 (II), UN doc. E/RES/11 (II), para. 1 and ECOSOC resolution 1987/22, UN doc. E/RES/1987/22, para. 1. See also "Short History."

<sup>11</sup>Morsink argues that the lack of sexism in the Universal Declaration is primarily due to the aggressive lobbying of Begtrup and the steady pressure of the Soviet delegation (231). Gender refers here to the social construction of differences of men and women and ideas of masculinity and femininity: "the excess cultural baggage associated

with biological sex.” See also Charlesworth (“Feminist Methods,” 379).

<sup>12</sup>UN GA Resolution 1921 of 5 December 1963, UN doc. A/RES/1921(XVIII).

<sup>13</sup>Declaration on the Elimination of Discrimination against Women, UN GA resolution 2263 (XXII), UN doc. A/RES/48/104. For a more elaborate overview of the work of the CSW see also “Short History.”

<sup>14</sup>See on this matter also Holtmaat (7); Loenen (268-70).

<sup>15</sup>See, for example, Byrnes (205-206); Gallagher (285); Johnstone (151); Charlesworth and Chinkin (218); Charlesworth (“Not Waving” 1; “Transforming” 445-6); Reanda (12).

<sup>16</sup>Nowadays UN Women. Since January 2008, CEDAW is serviced by the OHCHR and meets both in Geneva and New York. See UN doc. A/RES/62/218.

<sup>17</sup>Reanda moreover, speaks of a “ghettoization” of questions relating to women; the concerns of women will be relegated to mechanisms with generally less resources and power than the mainstream human rights mechanisms.

<sup>18</sup>See, also, O’Hare, (367-368); Charlesworth (“What Are Women’s International Human Rights?” 59).

<sup>19</sup>For a more elaborate summary of the activities of the women’s rights movement at these conferences see, for example, Friedman; Zinsser; Van Den Brink.

<sup>20</sup>This call was a repetition of the statement made that same year by the CHR in its resolution 1993/46 of 1993, UN doc. E/CN.4/RES/1993/46.

<sup>21</sup>The call for transformation is sometimes understood as a call for “gendermainstreaming.” But gendermainstreaming and transformation, or integration of the status and human rights of women, as requested at the World Conference on Human Rights in 1993, are not one and the same. As Van den Brink notes in her dissertation of 2006 integration of human rights of women can be considered to be an important component of gender mainstreaming, but the concept of gender mainstreaming is broader and reaches beyond the scope of equal enjoyment of human rights: it requires, Van den Brink notes, the integration of gender in all areas of policy making and execution (37-38). The policy of gendermainstreaming, reaching beyond the scope of promotion and protection of women’s human rights, will not be discussed in this paper.

<sup>22</sup>See, for the study and its results, Van Leeuwen.

<sup>23</sup>Besides addressing the lack of attention of the HRC and the CESCR for discrimination against women as a root cause of human rights violations, also some other suggestions for improvement were made in the conclusions of the study on the work of the HRC and the CESCR. See Van Leeuwen (235-246).

<sup>24</sup>See also the report of the expert group meeting on the development of guidelines for the integration of a gender

perspective into human rights activities and programmes, UN doc. E/CN.4/1996/105, para. 24.

<sup>25</sup>See, for example, Gallagher (331); Mertus and Goldberg (207).

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