

- the right to the highest standard attainable of physical and mental health, and
- the right to just and favourable conditions of work.

*The Convention covers public and private acts*

9. The Convention applies to violence perpetrated by public authorities. Such acts of violence may also breach that State's obligations under general international human rights law, and under other Conventions, in addition to being a breach of this Convention.

10. It should be emphasised, however, that discrimination under the Convention is not restricted to actions by or on behalf of governments (see Articles 2.e, 2.f and 5). For example, under Article 2.e the Convention calls on States to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights, or to investigate and punish acts of violence, and to provide compensation.

11. States Parties should take appropriate and effective measures to overcome all forms of gender based violence, whether by public or private act.

*Absence of Complaints in International Fora*

There appear to have been virtually no cases at the international level in which violence against women has been explicitly raised by complainants. The closest instance seems to be *X and Y v Netherlands*,<sup>205</sup> a case under the European Convention in which a challenge was made to Netherlands law under which for various technical reasons a criminal prosecution could not be brought against a person who had sexually abused a mentally handicapped woman.

In that case, the European Court and Commission held that the failure of Netherlands law to provide for the possibility of criminal proceedings for this type of sexual violation while providing such remedies for others was a failure to fulfil its obligation to ensure that persons in the victim's position could enjoy the right to respect for their private life guaranteed by the Convention. In so holding, the court stated its view that, while the object of the guarantee of the right to privacy was 'essentially that of protecting the individual against arbitrary interference by public authorities', it did not stop there; it may impose positive obligations on the State which 'may involve the adoption of measures designed to ensure respect for private life even in the sphere of the relations of individuals between themselves'.

In view of this approach to positive obligations, one must ask why it is that there have there been no international cases in which women have alleged violations against States whose legal systems fail to make marital rape a crime or which provide inadequate administrative and legal preventive and remedial measures for rape and acts of violence committed against women. A number of possible explanations suggest themselves. One is that many of the groups active in combatting violence against women may know little about the international procedures that are available to them. A second reason may be that these international procedures are largely ineffectual in terms of producing practical results which benefit those whose rights are being violated or, at least, that there

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205 European Court of Human Rights, Judgment of 26 March 1985, Ser A, No 91, 8 EHRR 235, 81 ILR 103.

are more productive ways in which human, financial and material resources can be utilised than in pursuing international complaint procedures. It may also be that the track record of these institutions to date in cases involving issues other than fairly straightforward discrimination is not so promising that one could presume that the outcome of any such case would serve women's interests.

If such cases were brought, what sort of positive steps could be required of a State internationally to ensure that it carries out its obligation to ensure women's rights to freedom from violation of their bodily integrity? Plainly they would include the requirement that a State have in place criminal legislation or some appropriate substitute to punish serious violations of women's physical integrity. They would presumably also include an obligation on State officials to take active steps to protect women against such violence where that is reasonably feasible, as well as punishing those who commit such crimes. Thus far, we are in well-charted territory internationally.

There appears to be no reason why the obligation could not be extended further to impose on the State an obligation to undertake major education and training programmes for women and men in relation to domestic violence or even to do something about some of the social structures which promote violence against women (assuming one can reach agreement on what the causes of the violence are). These requirements would involve an extension beyond the range of measures which is normally suggested as appropriate in cases involving infringements of the right to physical integrity. Nonetheless, they have parallels in obligations imposed by the Racial Discrimination Convention and the Women's Discrimination Convention and the types of measures which States undertake to adopt in the area of economic and social rights.

There are, of course, other problems which need to be addressed in this context, among them the ambiguity of the role of the State from a feminist perspective and the dangers of imposing duties on a State where the performance of those duties may encroach upon the enjoyment of other rights which are valuable for women. Nonetheless, the issues need to be further explored.

#### *Conclusion*

This paper has attempted to survey some of the current issues of concern to those who are seeking to ensure that major violations of women's human dignity are recognised by the international human rights community as violations of human rights in the technical sense and that the institutions concerned with the promotion of human rights give greater attention to these issues in their work.

There are many issues which still need further detailed examination as part of this effort. They include more concerted efforts to identify the role of sex and gender in constituting all human rights violations of which women are the victims, further in-depth examination of the extent to which human rights violations against women are dealt with within the 'mainstream' (and what is excluded and why), and further consideration of the reasons for the apparent lack of receptivity to these issues in order to develop strategic responses. In particular, more attention needs to be given to the development in the law of State responsibility arising out of the acts of private individuals and to explore how those developments may be turned to advantage in furthering the promotion of the human rights of women internationally.

One suspects that the permeability of the 'mainstream' to these issues may be limited; this makes it all the more important not just to infiltrate or utilise the 'mainstream', but also to strengthen those existing institutions which address the problems facing women – and to increase the awareness, in both directions – of the work being done in the 'mainstream' and 'on the margins'.

## MAINSTREAMING GENDER WITHIN THE INTERNATIONAL FRAMEWORK<sup>206</sup>

Jane Connors<sup>207</sup>

### 1. Introduction

During this decade, the approach of international advocacy for the advancement of women has shifted significantly. Whereas during the period of the United Nations Decade for Women and throughout the first five years after the agreement of the Nairobi Forward-Looking Strategies for the Advancement of Women, advocacy for women's equality with men was situated squarely within the context of advocacy for development, increasingly, since 1990, advocacy for women's advancement has taken the form of claims for the 'human rights of women'.

A number of reasons underlie this shift in approach. First, the framework of human rights offers direct practical advantages for women. Unlike the framework of development, the framework of human rights law provides a forum for asserting individual claims of human rights violation and thus allows individuals, and sometimes groups, to seek relief and remedies through international, regional or, where such exist, national human rights mechanisms.

Second, and more importantly,<sup>208</sup> the framework of human rights has an important political meaning. The language of international human rights allows the legitimate claims of women to be articulated with a moral authority, seriousness and importance that other approaches do not. It is a language that is recognised by the powerful and a discourse which stimulates popular response.

Human rights speak in broad terms about the fundamental entitlement of all human beings to live in dignity and in conditions of social justice. The approach of human rights provides a foundation from which to mount a set of demands premised on the intrinsic worth of women. Claims based on human rights require no justification, with claimants entitled to human rights as of right. Unlike other approaches, entitlement is not predicated on the achievement of some other end, such as sustainable development or effective population or environment policies. Again, the human rights approach resists a tendency to defend values on a cost effective basis. Rather, realisation of the entitlements of human rights is, in the words of the Programme of Action of the International Conference on Population and Development, a highly important end in itself.<sup>209</sup>

The human rights approach offers other advantages. Unlike other approaches to women's claims, an approach based on human rights promises the engagement of the responsibility of the State in a way that is internationally recognised and acknowledged. Where claims fulfil the definition of internationally guaranteed

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206 1995 Conference Paper, previously unpublished.

207 At the time of writing, School of Oriental and African Studies, University of London; now United Nations, Division for the Advancement of Women.

208 As Andrew Byrnes points out in 'Towards More Effective Enforcement of Women's Human Rights Through the Use of International Human Rights Law and Procedures' in Rebecca J Cook (ed), *Human Rights of Women: National and International Perspectives* (University of Pennsylvania Press, 1994), pp 189–227 esp, p 192: 'recourse to international procedures is likely to have a very limited direct impact in redressing violations of human rights. [It] follows ... that any use of international procedures must form part of a broader political strategy.'

209 International Conference on Population and Development, Programme of Action, Chapter IV, 4.1.

human rights, their denial or violation immediately raises the question, both at national and international level, of the legal responsibility of the State. Women's claims, thus, when conceived of as human rights, are elevated from the realms of State and international promises premised on good faith and moral obligation, to a level of binding legal obligation, requiring immediate national and international recognition and implementation and, in the case of violation, urgent response. Women's claims, when conceived of as human rights, become fundamental and immutable obligations.

Advocacy for women's advancement rooted in the framework of human rights – an approach often described as the 'human rights of women' – although recent – has been repaid by impressive gains. Over the past three years, the international community has shown greater awareness of the gender implications of human rights, acknowledged some of the specific concerns of women to be issues of human rights and facilitated the introduction of new measures to protect and advance those rights.

Nevertheless, significant gaps remain. Primary among these is that although gender is now clearly part of the agenda in mainstream international human rights thinking, it is not completely within the mainstream of that thinking. Second, advances in human rights thinking relating to the concerns of women have so far been narrowly confined and have focused predominantly on the issue of gender-based violence against women and, to a lesser extent, reproductive health. Third, while there has been some progress in bringing consideration of the human rights of women into the mainstream of the international framework, which I have chosen to define as the United Nations system, this progress so far has been limited, in the main, to the United Nations Human Rights Programme, which, in essence, is comprised of the Centre for Human Rights and the various human rights bodies and mechanisms serviced by that Centre. Within the United Nations Human Rights Programme itself progress has been mixed, with some bodies and mechanisms showing greater understanding of the meaning of bringing the human rights of women into mainstream human rights work.

The mainstreaming of the human rights of women within the international framework, therefore, poses two challenges:

- how best to move the human rights of women from the agenda of the United Nations Human Rights Programme into the mainstream of the work of that Programme; and
- how best to ensure that the human rights of women are part of the approach to women's concerns throughout the entire UN system.

What follows seeks to provide a context for addressing these challenges. Divided into three sections, it begins with a definition of the 'human rights of women' as currently understood. It then moves on to assess the progress that has been made in mainstreaming of the human rights of women within the international framework so far. Finally, it points to obstacles to further mainstreaming.

## *2. The human rights of women*

In 1993, the Vienna Declaration and Programme of Action, the final document of the Second World Conference on Human Rights, declared the human rights of women and the girl-child as an 'inalienable, integral and indivisible part of human rights'.<sup>210</sup> By virtue of the Vienna Document the international

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210 Paragraph 18 of the Vienna Declaration.

community made clear that the human rights of women and the girl child are part of human rights, but did not go further to define the human rights of women and the girl child.

Although there are a handful of international instruments which elaborate human rights which are particular to women,<sup>211</sup> there are no separate human rights for women and men. Rather, human rights instruments prescribe that the rights they define are available to all, irrespective of 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'.<sup>212</sup> The general norm of non-discrimination on the basis of sex, guaranteeing women equal rights with men, is found in United Nations human rights treaties,<sup>213</sup> conventions concluded by the International Labour Organisation (ILO)<sup>214</sup> and in the Convention Against Discrimination in Education 1960 elaborated by the United Nations Economic, Social and Cultural Organisation (UNESCO).

Detailed explanation of the specific meaning of discrimination against women is to be found in the Convention on the Elimination of All Forms of Discrimination Against Women. This Convention is the definitive legal instrument requiring respect for and the observance of the human rights of women. It is universal in reach and comprehensive in scope, binding States Parties, of which there are now 151, with the legal duty of eliminating all forms of discrimination against women in civil, political, economic, social and cultural fields.

While all human rights apply equally to women and men, with the full and equal participation of women in political, civil, economic, social and cultural life at the national, regional and international levels and the eradication of all forms of discrimination on the grounds of sex constituting priority objectives of the international community, the *de facto* situation of women predicates that some human rights are of particular importance for them.

The Vienna Declaration and Programme of Action made clear that women are subject to violations of their human rights in all spheres, but it highlighted certain violations as gender specific. Gender-based violence, sexual harassment, exploitation and trafficking in women and forms of violence specifically directed against women in situations of armed conflict<sup>215</sup> were described as human rights violations particular to women. Certain human rights – to health, education, equality in access and participation in decision-making<sup>216</sup> – were also isolated as having singular importance for women.

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211 For example, the 1902 Hague Conventions concerning conflicts of national laws concerning marriage, divorce and the Guardianship of Minors; the International Agreement for the Suppression of the White Slave Traffic 1904, The International Convention for the Suppression of the White Slave Traffic 1910, the International Convention to Combat the Traffic in Women and Children, 1910, the International Convention for the Suppression of Traffic in Women of Full Age 1933; ILO Conventions No 3, relating to the Employment of Women Before and After Childbirth and No 45 relating to the employment of women in underground work in mines of all kinds; the Convention on the Political Rights of Women 1952; the Convention on the Nationality of Married Women 1957.

212 Article 2(1) of the Universal Declaration of Human Rights.

213 Article 3 of the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights; Article 2(1) of the Convention on the Rights of the Child.

214 ILO Conventions No 100, 111 and 156.

215 Paragraph 18 of the Declaration; para 38 of the Programme of Action.

216 Paragraphs 41 and 43 of the Programme of Action.

The human rights implications of gender-based violence against women were further clarified by the Declaration on the Elimination of Violence Against Women, which categorises such violence as an issue of human rights generally and one of sex discrimination and inequality in particular.<sup>217</sup> The importance of the right to health and reproductive choice for women was underscored by the Programme of Action of the International Conference on Population and Development.<sup>218</sup> Most recently, the Beijing Declaration and Programme for Action confirmed women's rights as human rights and the human rights of women and the girl child as an inalienable, integral and indivisible part of all human rights and fundamental freedoms.<sup>219</sup> The Programme for Action underlined the human rights implications of gender-based violence against women, particularly in armed conflict.<sup>220</sup> It also focused on violations of the human rights of women resulting in refugee flows and the vulnerability of refugee women to further violations of their human rights.<sup>221</sup>

In light of the conclusions of the Second World Conference on Human Rights and international consensus since that time, including the conclusions of the Fourth World Conference on Women, 'the human rights of women' must be taken to encompass those defined universal human rights to which women are entitled by virtue of their equal access with men, but as mediated by gender. 'The human rights of women', thus, predicates an understanding that women are denied enshrined human rights in many different ways. They are denied economic, social, cultural, civil and political rights in the same way that men are denied those rights. As victims of discrimination on the basis of sex, women are denied these rights on a basis of equality with men. They are also denied human rights in ways that are particular to them because of their gender. This denial takes two forms. Women are disproportionately victims of gender-specific abuses, the most obvious and egregious examples being the myriad forms of gender-based violence. Further, women are denied enjoyment of enshrined rights by social and economic factors that affect them more than men. Their reproductive role and their almost total responsibility for young children and the elderly impacts on their enjoyment of many enshrined rights in ways that do not affect men. The right to life for women requires greater attention to reproductive health; the right to work for women includes greater attention to facilities for child care. Their economic inequality, similarly, impacts on their enjoyment of enshrined rights in many ways that do not affect men.

### *3. Mainstreaming the human rights of women*

Mainstreaming means bringing about desired change by influencing decisions at the highest levels. Mainstreaming of the human rights of women within the international framework aims to introduce a qualitative change in the approach of that framework to women.<sup>222</sup> It aims to ensure that the concerns of women feature as priority concerns within all parts of the framework. Moreover, it aims to ensure that the concerns of women are defined as issues of human rights so that the claims of women are construed as valid human rights claims.

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217 GA Res 48/104.

218 See, in particular Principle 3, Chapter IV and paras 8.19–8.27.

219 Platform for Action, paras 213–216.

220 Platform for Action, paras 133–136.

221 *Ibid*, para 226.

222 'Technical Assistance and Women: From Mainstreaming Towards Institutional Accountability', E/CN.6/1995/6, para 9.

Mainstreaming of the human rights women within the international framework involves two levels of action. First, guaranteeing that the United Nations Human Rights Programme brings the human rights of women into the mainstream of human rights work and second, guaranteeing throughout the rest of the UN system, women's concerns are viewed as issues of human rights and, accordingly, priorities for action.

The following section outlines progress in mainstreaming the human rights of women within the United Nations system. It reviews, first, the Human Rights Programme, where there has been some progress in mainstreaming. Mainstreaming of the human rights of women in the balance of the system, where progress has been less marked is then considered.

*(i) Mainstreaming within the United Nations Human Rights Programme*

Effective mainstreaming of the human rights of women requires the Human Rights Programme to take account of gender-specific abuses and treat these as violations of human rights and, also, to understand the gender dimensions of human rights generally. Impressive progress has been made within the Programme with respect to the first requirement,<sup>223</sup> but progress with respect to the second requirement has been slower. With respect to progress with regard to the first requirement, further, the shift in terms of policy has been greater than in terms of application.<sup>224</sup>

Reference has already been made to the conclusions of the United Nations World Conference on Human Rights which significantly expanded the international human rights agenda to include gender-specific violations and identified particular examples of gender-specific examples as human rights abuses. The Conference also called for the equal status of women and the human rights of women to be integrated into the mainstream of United Nations system-wide activity.<sup>225</sup> One of the specific mandates of the Conference was that the human rights of women should form an integral part of United Nations human rights activities. To this end, it urged treaty-monitoring bodies to include the status of women and the human rights of women in their deliberations and findings, making use of gender-specific data and welcomed resolution 1993/46, adopted by the 49th Session of the Commission on Human Rights, which had encouraged human rights rapporteurs and working groups to take account of gender in their work. The theme of integration of gender into the mainstream human rights programme has been further underlined in a series of resolutions of the Commission on Human Rights<sup>226</sup> the Commission on the Status of Women<sup>227</sup> and the General Assembly.<sup>228</sup>

Concrete progress in mainstreaming the human rights of women into the United Nations Human Rights Programme was made in March 1994 by the United

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223 The extent to which gender concerns have been included in the activities of the United Nations human rights mechanisms, Report by the Secretary-General, A/Conf.177/9, 21 August 1995.

224 Similar conclusions have been made with respect to mainstreaming women in technical assistance: see E/CN.6/1995/6 and mainstreaming gender throughout the United Nations: see E/CN.6/1885/Add.10.

225 The Vienna Declaration and Programme of Action, UN Doc A/Conf.157/23 (1993); para 18 of the Declaration; paras 36–44 of the Programme of Action.

226 1994/45; 1994/53; 1995/86.

227 37/4; 38/2; 39/5.

228 GA Res 49.161.

Nations Commission on Human Rights when it agreed to appoint a Special Rapporteur on Violence against women, including its causes and consequences.<sup>229</sup> Until the appointment of the Special Rapporteur on Violence against women, the Human Rights Programme, which clearly took the view that the parallel 'women's rights programme', comprised of the Commission on the Status of Women and the Committee on the Elimination of Discrimination Against Women, had institutional responsibility for the human rights of women, had devoted little attention to the human rights of women. Women who suffered violations of enshrined human rights in the same ways as men and women whose enjoyment of enshrined rights was unequal with that of men because of discrimination on the basis of sex had received some attention within the human rights programme.<sup>230</sup> In addition, the Human Rights Committee in its General Comment 18(7) had sought to give guidance on the meaning of discrimination on the basis of sex in the enjoyment of civil and political rights.

Some sustained attention to the human rights of women within the Human Rights Programme had been paid by the Subcommission on the Prevention of Discrimination and the Protection of Minorities, which initially appointed a working group and then a special rapporteur on traditional practices affecting the health of women and children and has adopted a plan of action directed at eradication of these practices.<sup>231</sup> Further progress within the Programme can be seen by the decision of the Subcommission to consider the human rights of woman and the girl child under every relevant item of its agenda and in all relevant studies and by its appointment of a special rapporteur on 'systematic rape, sexual slavery and slavery-like practices during wartime, including internal conflict'.

Progress can also be seen in the approach of some of the treaty bodies. In 1990 the Economic, Social and Cultural Rights Committee revised its reporting guidelines to require minimal specific coverage of the position of women in their enjoyment of rights guaranteed by the Covenant and a number of its general comments on the content of rights, particularly more recently, have shown an awareness of the gender dimension of those rights.<sup>232</sup>

At its October/November 1994 Session, the Human Rights Committee decided to consider the possibility of updating its General Comment relating to the equal rights of men and women and it agreed that the lists of issues to be taken up in the consideration of States Parties reports should include more concrete and detailed information on the equal status and the human rights of women. During its session in March/April 1995, it amended its guidelines for the preparation of

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229 Res 1994/45.

230 Andrew Byrnes, 'Women, Feminism and International Human Rights Law: Methodological Myopia, Fundamental Flaws or Meaningful Marginalisation? Some Current Issues', 12 *Australian Yearbook of International Law* 205 (extracted, *supra*). For examples of how the human rights of women have been considered by the mainstream programme see the various decisions of the Human Rights Committee under the First Optional Protocol which concern discrimination against women, for example *Aumeeruddy-Cziffra v Mauritius* Communication No 35/1978; *Broeks v Netherlands* Communication No 172/1984; *Ato del Alvellanal v Peru* Communication No 202/1986.

231 E/CN4/Sub.2/1994/10/Add 1.

232 General comment 4(1991) on the right to adequate housing; General comment 5 (1994) concerning persons with disabilities; see also, draft general comment on the economic, social and cultural rights of the elderly (E.C.12/1994/WP.16).



initial and periodic reports so as to request States Parties to provide gender-specific information.

The youngest treaty body, the Committee on the Rights of the Child has, since its first meeting in 1991, incorporated issues of gender into its analysis. This has been facilitated by the fact that its Convention, the Convention on the Rights of the Child, is the only treaty which avoids gender-inclusive language, by employing both the female and male pronoun, and by the fact that although the rights enshrined in the Convention are available to female and male children equally, some articles have greater relevance for the girl child. The Committee's reporting guidelines require States Parties to include in their reports gender disaggregated information and statistical data and indicators with respect to the enjoyment of rights established by the Convention. During the consideration of reports, the Committee has raised issues of early marriage, maternal health care, early pregnancy, family planning education and services, adverse health practices, the denial of educational opportunities for girls, as well as sexual and other abuses. These concerns, as well as suggestions for measures of prevention and rehabilitation, are reflected in the concluding observations adopted by the Committee. Moreover, in its regular discussion days, the Committee on the Rights of the Child has examined the particular problems of the girl child. Early in 1995, for example, in preparation for the Fourth World Conference on Women, the Committee comprehensively discussed the girl child.

Since August 1984, the Secretary-General of the United Nations has periodically convened a meeting of persons chairing the various treaty bodies. At their fifth meeting in 1994, the chairpersons emphasised the necessity of adequate meeting and time and resourcing for the Committee on the Elimination of Discrimination against Women, suggesting that it should, like all the other human rights treaty bodies, be based at the Human Rights Centre and thereby be integrated into the mainstream of other United Nations Human Rights activities. Reiterating that all human rights contained in international instruments apply fully to women, they urged treaty bodies to closely monitor the enjoyment by women of those rights and suggested the development of a common strategy by the treaty bodies to achieve this objective, which would include the amendment of reporting guidelines to include incorporate information on women, including gender-disaggregated statistical data.<sup>233</sup> Their sixth meeting in September 1995 was devoted to the exploration of ways of more effectively monitoring the human rights of women within the treaty supervision system.

Some evidence of mainstreaming of the human rights of women can also be seen in the work of the non-treaty mechanisms. In 1993, the report of the special rapporteur on the situation of human rights in the former Yugoslavia reported systematic rapes of women and requested a team of medical experts to investigate allegations of rape and make detailed recommendations for action.<sup>234</sup> In his analysis of patterns of torture, the special rapporteur on the situation of human rights in occupied Kuwait examined the use of gender specific methods of torture, identifying women as a category among torture victims and recognising 'sexual torture' as a method of torture.<sup>235</sup>

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233 Note by the Secretary-General, *Effective Implementation of International Instruments on Human Rights, Including Reporting Obligations under International Instruments on Human Rights*, A/49/537 (19 October 1994), paras 19, 20, 49, 50.

234 1993 Report, para 552 and UN Doc E/CN4/1993/50 Annex II.

235 UN Doc E/CN4/1992/26, paras 105, 111, 181, 182.

Since the 1993 resolution of the Commission on Human Rights directing special rapporteurs and working groups of the Commission and the Subcommission to regularly and systematically to include in their reports available information on human rights violations affecting women<sup>236</sup> 'more progress has been made'.<sup>237</sup> Statistics relating to women detained were included in the report of the Working Group on Enforced or Involuntary Disappearances<sup>238</sup> and the Working Group on Arbitrary detention now provides a gender-disaggregated breakdown of the cases it has dealt with.<sup>239</sup> Similarly, the most recent report of the Special Rapporteur on Torture in response to resolution 1994/37 of the Commission on Human Rights, inviting him to examine questions concerning torture directed disproportionately or primarily against women, conditions conducive to such torture and to make appropriate recommendations, examines methods of torture involving sexual abuse, which he describes as a common means of torture in some countries and which he describes as 'essentially gender-based'.<sup>240</sup> Again, the special rapporteur on extra-judicial, summary or arbitrary executions has specifically reported on female victims.<sup>241</sup>

The increased gender-awareness and growing appreciation of the human rights of women by the treaty bodies and other human rights mechanisms marks a significant step towards mainstreaming the human rights of women within the United Nations Human Rights Programme. However, it is important to note that not all treaty bodies and mechanisms have to date addressed the human rights of women. Although the Committee on the Elimination of Racial Discrimination has decided one communication from a woman under its optional communication procedure concerning discrimination on the basis of race,<sup>242</sup> there is, as yet, no evidence of gender analysis apparent in its questions during the reporting process or in its general recommendations. Similarly, the Committee on Torture has exhibited little awareness of the gender dimensions of its Convention. Specific mention has been made above of the other human rights mechanisms that have addressed gender in their work. Suffice to say, these are the minority of the working groups and thematic and country rapporteurs of the Commission and Subcommission. Moreover, there is some evidence of resistance to the mainstreaming of the human rights of women by these mechanisms.<sup>243</sup>

Progress in the mainstreaming of the human rights of women within the Human Rights Programme is determined not only by whether the human rights of

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236 1993/46.

237 CHR Res 1994/53 calling for thematic special rapporteurs and working groups to include in their reports gender-disaggregated data and to address the characteristics and practices of human rights violations under the mandates that are specifically or primarily directed at women, or to which women are particularly vulnerable, has also affected the approach of these mechanisms.

238 UN Doc E/CN4/1994/260.

239 UN Doc E/CN4/1994/27, Annexes V and VI and UN Doc/ECN4/1995/31/Annex II.

240 E/CN4/1995/34, paras 15–24 and 333–338.

241 UN Doc C/CN4/1994/7, paras 715–716; UN Doc E/CN4/1995/34.

242 *Yilmaz Dogan v The Netherlands Communication* No 1/1984.

243 'Integration of the Human Rights of Women into the activities of the human rights bodies and mechanisms' HR/GENEVA/1995/EGP/BP.1, p 15: 'There is a lack of understanding on (sic) the issues of integration of women's rights into the mainstream of United Nations system-wide human rights activities. This was reflected at a recent meeting of the special rapporteurs, representatives, experts and chairmen (sic) of working groups.'

women are addressed or acknowledged within the mainstream human rights mechanisms, but also by the nature of the inclusion within the mainstream.

There are two comments which can be made about the nature of the inclusion of the human rights of women within the mainstream of the human rights programme. First, and not surprisingly because of the lobbying surrounding the elaboration of the Declaration on the Elimination of Violence Against Women and the establishment of the Special Rapporteur on Violence, mainstream mechanisms have shown themselves to be amenable to the view that gender-based violence is an issue of the human rights of women and, accordingly, have been willing to address forms of violence against women and girl-children as questions of human rights. So far, however, these mechanisms have not begun to employ gendered analysis of human rights norms in a pro-active manner to promote pro-woman policies and practices.

Second, inclusion of the human rights of women by these mechanisms has not had an apparent analytical basis, but has, rather, taken the form of considering whether women are an affected group – an approach which can be described as ‘just add women’. There has been little analysis of why women do or do not feature in the work of the relevant mechanism and no real examination of the economic and social characteristics which might explain the presence or absence of women. A notable exception in this context is the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions who has twice reflected on why the victims he deals with during the course of his work are disproportionately male. As he points out women continue to play a small role in the political and economic life of many countries. The under-representation of women in positions of influence, for example in political parties or trade unions, or in professions such as law or journalism, means that they are also less exposed to acts of violence at the hands of governments that may perceive them as a threat. On the other hand, in areas where women are actively participating in public life, they do not seem to be in a different position from their male counterparts.<sup>244</sup> This reflection is interesting in that it represents a high level of gender awareness in a mainstream mechanism, thereby testifying to success in attempts to mainstream the human rights of women. It is also interesting in that it reveals the limits of these attempts at mainstreaming, indicating that the vulnerability of women to ‘execution’, which is extrajudicial, summary or arbitrary outside the traditional public sphere has not been encompassed within the mandate of the rapporteur, either at an official level or by the rapporteur personally.

Efforts to mainstream the human rights of women within the United Nations Programme of Human Rights have not been confined to human rights mechanisms, but have extended into the secretariat of the Human Rights Centre and into its work. In 1994, a focal point on women’s issues was established in the office of the Secretary-General for Human Rights to deal with matters relating to the human rights of women within the Centre for Human Rights as well as system-wide. The focal point also advises the Assistant Secretary-General for Human Rights and the High Commissioner for Human Rights on measures to be taken to integrate gender concerns within human rights activities. The Centre has amended its Plan of Activities for the Implementation of the Vienna Declaration and Programme of Action to incorporate activities related to the human rights of women and in 1995, prepared, with the Division for the Advancement of

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244 UN Doc E/CN4/1997/7, para 716; UN Doc E/CN4/1995/61, para 415.