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*Creating an enabling environment for women's participation in
development through legal and regulatory frameworks that provide
women's equal access to rights and opportunities in the field of
education, work and health –*

Challenges and recommendations, and the role of women's NGOs

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

“Although a necessary condition for achieving gender equality, the limited impact of anti-discrimination and equal opportunities measures points to the systemic nature of gender-based inequalities, and the need for a systemic solution.

That solution lies in applying an integrated approach to institutional change aimed at addressing the contradictions and tensions generated at the interface between the household, the community and employment structures.”

OECD report, 1991

1. The context of legal frameworks

The legal and regulatory frameworks are an important part of the set of interrelated and interdependent systemic conditions for the promotion of gender equality. The effectiveness of these frameworks for achieving real gender equality tends to be assessed both separately and in conjunction with the other elements of the enabling environment. In a way the legal and regulatory acts are a cross-cutting element since the policies, the institutional mechanisms, the resources, etc. are also shaped and “formatted” in a legal form in view of their enforceability. But when issues like women’s rights, development, eradication of poverty and women’s participation in the development of the society are at stake, we have to abandon the rigid, purely legal constructions and opt for a more thorough gender analysis and assessment. Because, if the legal regulation of gender equality might be regarded as a solution, it cannot be isolated, namely, from the level and extent of gender stereotypes in a given society, from the processes of restructuring of the economy, of the social relations and social reproduction in many Southern and Eastern countries, from the level of sovereignty of the state to decide about the allocation of its resources, from the existing or non-existent mechanisms and institutions, from the diversity and capacity of the civil society in a given country. All these factors may represent an enabling environment for the laws and regulation but their combined effect may also hinder the implementation of the legal frameworks.

The Beijing Declaration and Platform for Action (BPFA), the outcome of the twenty-third special session of the General Assembly (Beijing plus 5 outcome), the Millennium Declaration and the 2005 World Summit outcome represent a viable base for the development of national legislation, in the field of gender equality in education, work and health included. Although not legally binding, they complement the universal and regional legal instruments, which are transposed in the national legal system through the dualistic or monistic approaches. Moreover, a trend exists that these and other *soft law* documents are being even more used since the 90s as guiding principles for national legislation. The emergence of *soft law* as a basis for international benchmarking and national regulation can be perceived as a strength and a potential for reaching broader consensus on human rights and human development issues. In addition, it can be interpreted as an even stronger commitment of governments, as they measure their progress towards instruments that are not legally binding. On the other hand, this trend may indicate the insufficiency of the existing legal instruments, their inadequate implementation at national level, as well as the weakness of the treaty bodies system and the ILO system for engaging the responsibility of states. Furthermore, international documents that are more consensus-oriented and rely on self-control, also in the field of gender equality and women’s rights, imply less opportunities for “justiciability” of women’s rights, both at national and international levels. The

“proliferation” of relevant but non binding documents as part of the UN agenda may be questioned also in the context of the development of the WTO legal system imposing strict obligations and respective sanctions to governments. The WTO agenda affects seriously fundamental human rights and it has to be counterbalanced by a stronger human rights legal system on the international and national arena.

2. Main characteristics of legal and regulatory frameworks in the fields of education, health and work

These considerations of the context in terms of the need for an environment for national laws and regulations and the necessity for stronger and binding human rights norms is fully valid for the regulation of women’s access and participation in education, health and work. Prior to examining the challenges and the enabling environment of the legal framework itself, the main characteristics of a model legal regulation will be presented.

The three interrelated areas that correspond to three fundamental and complex economic, social and cultural rights are essential for women’s participation in the development of society. The legal frameworks in the field are strongly inspired by Articles 10, 11 and 12 of CEDAW and the BPFA and the above-mentioned outcome documents. In the field of work the national legal frameworks have been shaped by the ILO Conventions, and namely C 100- Equal remuneration Convention, C 111- Discrimination/Employment and Occupation/ Convention, C 156 – Workers with Family Responsibilities Convention and C 183- Maternity Protection Convention. Equal treatment of women and men in employment and social security fields is a priority for regulation by EU standards as well.

Out of these sets of documents, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the broadest and the farthest-reaching in terms of full access and participation of women and full enjoyment of their rights. As the most universally recognized standard (180 ratifications, accessions and successions), CEDAW can be the guiding document for the achievement of full and real equality and for the elimination of all forms of discrimination of women in the respective fields, including the worst forms of systemic and structural discrimination. The preamble of CEDAW states that discrimination against women violates the principles of equality of rights and respect for human dignity is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, and hampers the growth of prosperity of society and the family. Further on it says that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women in all fields. All fields of discrimination identified and classified later on in the Convention are exactly such obstacles and impediments that the countries undertake to remove in all spheres with all possible measures. And this is because the reality of development is related to the dynamics and mechanisms of the equality of men and women, which, in turn, become a prerequisite for achieving peace. This is the reason why development is given a central position in the classical UN trio “equality-development-peace”. Actually, CEDAW is evidence of the fact that the issue of the interdependence between women’s rights and development has been a subject of discussion within the UN since the 70s.

A fundamental contribution of CEDAW, which has impacted national legal frameworks as well, is the obligation of governments to eliminate discrimination of women in both the public and private spheres. States, the society and its different elements, families, households are institutions which are socially and culturally determined. They are, subsequently, also gendered institutions. The inequality of men and women within the process of development has not been a result solely of the prejudices expressed in male attitudes towards women. We need to look beyond the private sphere, and, instead, analyze the institutional and the institutionalized roots of power organized by men and wielded in such a way, so as to maintain their privileges. The gender stereotypes in the private and public sphere permeate all the social fabric and mutually reinforce each other. The approach of CEDAW is that any well-directed development policy and gender equality legislation should consider and acknowledge the relationships of inequality between men and women, their different interests, problems, and needs, stemming from gender differentiation of labor both in the private and in the public sphere. Legal and regulatory measures should address also the existing gender stereotypes and, more specifically, those related to the division and stereotyped assessment of productive and reproductive work. This will be the only guarantee for effectiveness of the legislation for the inclusion of women in the process of development, especially in countries transitioning towards a modern and democratic society, like most of Southern and Eastern countries.

CEDAW contains another essential guiding principle for achieving substantive equality- the broad definition and possibility to use temporary special measures within the meaning of Art. 4 of CEDAW.

The Optional Protocol to CEDAW is a real break-through in the international universal human rights system, which has to be further explored, and which can bring positive developments of the national laws and practices in the field of women's equal access to education, work and health. The procedure of the Optional Protocol and the respective practice of the Committee will make a unique opportunity and an important test for "justiciability" of economic and social rights. Their effect may go beyond CEDAW and impact the implementation of the ICESCR and other human rights instruments.

During these last ten years the commitment to CEDAW was reinforced by the recommendations of the BPFA, which brought considerable legal developments in the different countries in the world in terms of women's equal access to education, health and work. A broad range of legal frameworks were developed all over the world and results can be observed at different levels, like in the field of violence against women, of institutional mechanisms for the advancement of women. But how far-reaching is the progress in terms of implementation of the laws and regulations, in terms of substantive equality, namely in the field of education, work and health? Why did these otherwise positive legal developments not bring real results? Part of the possible answers will be addressed in the section on challenges and obstacles to the legal frameworks.

I will now focus on the intersection and interrelation of the three fields and on the main developments in the respective legislation. Education, work and health of women are closely linked. Education and training enable women to hold a better position on the labour market, to detain stronger bargaining power, to be promoted, to participate in economic, social and political decision-making, to be informed about health and family planning issues, and to break through gender stereotypes. The full realization of the right to work promotes the economic independence

of women, enhances their bargaining power at home, in their communities and in public, ensures a decent living for them, their children and their families, gives access to additional education and training, to promotion, to social security and also to participation in the economic and social development and decision-making. The access to education and the full realization of the right to work empower women to renegotiate their roles and tasks at the household and community level. Women's health and reproductive rights are interconnected with the special protection of women in labour legislation and with specific forms of discrimination in the labour market, "justified" by their reproductive role. The right to work ensures the right to social security and medical insurance, the latter being the basis for covering the increased need of health services for elderly women. Health, including sexual and reproductive health, and freedom from violence is a prerequisite for the exercise of the other rights and for the realization of the full potential of women. The full access to and realization of these three fundamental human rights will contribute to the eradication of poverty among women and will empower women, their children and future generations of women to actively participate in development. Enhanced participation of women in education and work and enhanced protection of women's health is a prerequisite for the elimination of violence against women in all its forms, and namely, domestic violence and trafficking in women. It is important to stress that ensuring gender equality in legislation and policies related to education, work and health also means striking the right balance between the productive and reproductive roles of both men and women.¹

The good examples of legislation in the field of education, work and health propose solutions to the issues identified in Articles 10, 11 and 12 of CEDAW and in the respective paragraphs of the BPFA.

3. Equal access to education as capacity-building for development and for overcoming stereotypes

The best models of legislation include the universal access to education, training and vocational training in the Constitution, and also at any other legal and regulatory level. Legislation should be perceived as just an element of a comprehensive policy of states for equal access and opportunities of women in education. The access to education is closely linked with the future professional realization of women in the labour market. In some countries in Europe, like in Eastern Europe, for example, statistics show that women, compared to men, are more often unemployed after the completion of a higher educational degree. So, where needed, legal and regulatory measures should ensure access to the labour market of young women and other groups of women with less bargaining power and from vulnerable groups. Laws and regulations ensuring the access to education, training and retraining of women throughout the whole life-cycle are essential. They are in response to the specific needs of women as mothers and care-takers in the family. These measures should be balanced and should provide such rights also to men who decide to assume care functions. It is important to use the realization of the right to education (including education as one of the main elements of the mechanisms and criteria for

¹ For example, in Chapter 4 of the Program for Action of the International Conference on Population and Development / Cairo-1994/, devoted to gender equality, equity, and empowerment of women, one of the main goals is equality and equity on the basis of a harmonious partnership between men and women both in production and in reproduction, as well as granting women the opportunity to realize their full potential.

job assessment) in order to reduce the gender pay gap-one of the most sensitive areas of gender equality. Laws and regulations for “desegregation” of education should be adopted and applied in order to balance the participation of women and men in all the social spheres, including the increased access of women to technical education and high technologies and the promotion of access of men to traditional female spheres as education, health, and care activities. These opportunities can be provided through legal measures providing for balanced participation of women and men in the different forms and curricula of education. The quota principle in education should be used very carefully in this respect as just one of the temporary measures, since its overemphasizing may turn into a form of discrimination. Temporary special measures can be introduced for increasing participation of women in university education and science- a field where they are underrepresented. A gender quota can be introduced by law for ensuring the gender balance in decision-making in this sphere. The best realization of gender equality in the right to education is achieved in countries where temporary special measures are introduced for the equal participation of women and men in political life.

The best models of legislation contain as well the ban of sexual harassment in the educational institutions as another guarantee for gender equality.

All the mentioned legal measures can be introduced through comprehensive anti-discrimination or gender equality legislation. We witnessed an increased number of states, especially in Europe, but also in Eurasia and other parts of the world, which adopted such legislation. The equal access to education can be ensured also through appropriate provisions in special laws on education and training. The preference of the gender experts and women’s groups goes to the comprehensive gender equality laws which can combine the anti-discrimination approach with the specific gender equality measures and institutional mechanisms. In all the cases the model laws contain a ban both of direct and indirect discrimination, possibilities for affirmative action and for the reversal of the burden of proof in cases of (gender) discrimination.

Education is a sphere very closely linked to gender stereotypes, both in terms of equal access to education and content of education. CEDAW requires prompt action of States in this respect (Art. 5a). Therefore, the successful examples of laws and regulations should include the change of the content of textbooks and other educational materials, as well as educational methodology in the direction of the elimination of the gender stereotypes. Introducing gender education in schools is another tool and a long-term strategy for achieving gender equality in education and breaking through gender stereotypes. There have been many examples and good practices in this field during the last ten years. The best ones are based on a state/local government involvement with stable legal and/or regulatory framework. With regard to implementing obligations under Art. 5a of CEDAW, legal guarantees against multiple discrimination should be put in place, and regulations at local level could be recommended and encouraged.

Despite the declared universal nature of women’s rights and the refusal of the concept of cultural relativism by the Beijing Declaration and BPFA, many girls and women from different communities and ethnic and religious minorities in the world do not have any power to “negotiate” their access to education. They are denied the legally recognized access to education and suffer the burden of gender stereotypes, cultural and customary practices in their own families. Many of them are confined for life to heavy and care work in the household and the community. Their access to education is initially impaired or they drop-out at an initial phase, so

their potential in this field is lost. For example, Roma women in Bulgaria are in an uneven position compared to Roma men in relation to access to education, which is also due to the early drop-outs due to marriages and pregnancies.² Here we face the limitations of the legal frameworks, which have to be combined with special strategies, policies and programmes, also based on other international documents (as the Millennium Declaration and the 2005 World Summit outcome document) in order to curb the trend of exclusion of girls and women from access to education. Some laws and regulations could create incentives and propose temporary special measures for promoting education of girls and women from specific communities. No legal measures can be effective, though, if not combined with policies and programmes for combating negative traditional attitudes, marginalization and social exclusion of the communities themselves.

In order to ensure the implementation and sustainability of the legislative and policy measures, stable and progressive budgetary commitments should be made at national and local levels. Furthermore, governments should protect equal access to education from the potential risks related to restructuring and privatization of the education sector.

4. The right to work for women within global restructuring

The main elements for ensuring equality in the right to work stem from constitutions, labour laws and employment and employment promotion laws, as well as social security legislation. Additional guarantees against discrimination may be contained in comprehensive anti-discrimination or special equal opportunities laws. In most countries equal access to the right to work is formally guaranteed for women in terms of equal access to employment, fair and adequate working conditions, protection of health and reproductive functions at work, the right to pregnancy and maternity leave, equal access to promotion and vocational training, equal remuneration for work of equal value, equal criteria for the evaluation of work, equal rights in social security. The sphere of labour rights is by far the most regulated but the most dynamic and problematic when it comes to implementation and achievement of substantive equality. Hence, additional legal and policy guarantees are needed in order to ensure equal opportunities. The best models of legal and regulatory frameworks should address some of the key challenges women face in the field of employment:

- As a result of the global trends of trade liberalization, women seem to be the winners of the process as far as the phenomenon of “feminisation of employment” is concerned. But in fact, they become one of the most flexible elements of the labour market, which can be subjected to deregulation, informalisation, lowering of the social and labour standards and costs, standards of gender equality included.³ The law should ensure guarantees against exploitation and

² Dimova, L., Roma - new challenges, ASA Agency, 2004, and UNDP report, Roma in Central and Eastern Europe, 2003

³ According to the German expert Christa Wichterich, this pulls the vast majority of women into three sectors of the labour markets: 1. The female labour force has been the main comparative advantage in the new export-oriented, labour intensive industries, services and agricultural sectors in countries of the South and Eastern Europe; 2. Women are the main actors in the informalisation of employment, as the majority of female jobs are part-time, temporary, home-based, or selfemployed, meaning they are low-paid and precarious; 3. Informal, invisible and low-paid jobs in particular in the service sector of urban areas are taken up to a large extent by migrants from rural areas, the South or Eastern Europe. At the same time, due to competition of imports of cheap consumer goods or of subsidised agricultural products from the North, many women lose their livelihood in agriculture and local industries. In the course of the merciless competition in the world market, export production is again and again moved to ever “cheaper” regions, and women workers lose their jobs very fast.

discrimination of women, responsibilities should be envisioned at national and local level for all private actors involved in the process of liberalization acting on a given territory. Companies should be kept accountable for the observance of labour, social and gender equality standards beyond their codes of conduct. Alternatives for employment of women from the most vulnerable groups should be provided, as well as a decent level of unemployment benefits. Governments should ensure social and social security benefits also for women in the informal sector, which is growing and encompassing more and more women. In the recent report of UNIFEM, "Progress of World's Women 2005", this tendency is clearly identified, and women's informal employment is perceived as a key pathway to reducing poverty and strengthening women's economic security. National and local governments should enact legal frameworks which ensure recognition and decent work for women informal workers.

- In terms of part-time work and other flexible forms of women's work, an assessment of the share of the women's part-time work versus similar work of men should be made by governments, including also the quality of the work. The result may indicate the existence of overt or indirect discrimination of women and the reinforcement of gender stereotypes. In such cases respective legal and regulatory measures should be taken. For example, in the EU, 33% of employed women are part-time workers, whereas only 6% of employed men work part-time.

- Another aspect of the global restructuring that affects the nature and safeguards of women's work is the liberalization and privatization of public services. It affects both women as employed in the services sector and as "absorbers" of the shrinking of the public services. As a result, they assume an additional burden in relation to their reproductive and care work in the household and in the community. The increased care work restricts the time and potential for paid work. Additional legal safeguards should be adopted in case of liberalization of public services in female dominated sectors. Opportunities for additional and alternative care facilities should be considered, and the value of the reproductive work of women should be legally recognized and counted.

- A more "classical" challenge for the legal regulation is the issue of equal pay. The guarantee for equal pay declared in the law is far from sufficient. In order to elaborate the respective criteria and mechanisms for comparing the value and identifying the elements of the different types of work, a thorough research and additional legal and regulatory work is needed. Best practices of such work exist in countries like Canada, the Czech Republic, etc. They can provide the basis for the elimination of vertical and horizontal gender segregation of labour (or occupational segregation by sex), the gender pay gap being one of the most pressing gender inequality issues.⁴ This gap entails one of the main elements of inequality in the field of social security.

- Legal and regulatory frameworks need to provide for a balance and the regular review of the protective measures for women in order to avoid overprotection and reproduction of gender stereotypes. In relation to that, laws and policies should ensure the guarantees for combining professional and family responsibilities both for women and men. Part of these measures could be also affirmative action for fathers and men in the field of paternity leave and other care work.

⁴ The gender pay gap in the EU for 2004 is 20%, despite the enforcement of the Equal Pay Directive.

- Other measures for ensuring gender equality in employment could be legal protection against sexual harassment, employment promotion for groups of women at risk and vulnerable in the labour market, affirmative action for women from minorities, affirmative action for loans and credits for some vulnerable groups of women, enacting effective legal mechanisms for enforcement of employment and social rights of women, adopting temporary special measures for women's increased participation in economic and social decision-making, etc. An inseparable part of the legal measures are the policies and programmes on women's employment, on combining work and family responsibilities and sharing family responsibilities between women and men. The legal and policy part should be supported by strong budgetary commitments.

5. Equal access to health as part of women's dignity and identity

The legal, regulatory and policy frameworks should ensure equal access of women to quality and affordable health care, including reproductive health services, based on the life-cycle approach. A model legal system should be based on the respect of dignity and identity of women, the pure anti-discrimination and equal opportunities approach being largely insufficient. Women should be consulted and listened to, their freedoms should be respected, they entitlements-fulfilled. It is essential that the legislative system regulating health care (Constitution, health, reproductive health and abortion laws, patients' laws, etc.) perceive women not as means but as ends. As Rebecca Cook insists⁵, women should not be simply considered as means in the process of reproduction and as targets in the process of fertility control. Equal access to health for women means that women are at the centre of the process, especially of the reproductive health care system.

On the basis of these assumptions, the main challenges for the legal regulation of women's access to health are as follows:

- The complexity of the right to health should be taken into account as it encompasses also other social rights of women, as the right to adequate food and nutrition, right to housing, right to water, which are interrelated and closely linked to the adequate standard of living. In fact, poverty is the factor that directly impacts on the health of women, and respectively on children's health. Therefore, all measures necessary for curbing poverty and for improving the standard of living provide the basis for equal access to health. Availability and affordability of the health services are also part of the right to health and the issue of human dignity. The governments should enact legal safeguards against the negative effects of the restructuring of the health system, of the health reforms, which are part of the liberalization of public services. This is so also because women are among the main users of the health system and are most affected by the restructuring. As Christa Wichterich notes, "the process of cutting down of the public sector and investment in the private sector brings about a polarization of the provisions and a two-class system within the social services: on the one hand the profit-oriented, well equipped and well staffed service providers which charge a high price, on the other hand the public welfare system understaffed and poorly equipped". As part of the progressive realization of the right to health, increased budgetary commitments at national and local level should guarantee equal access of women to health services.

- An important set of provisions should guarantee the right of women to reproductive self-determination and free choice of maternity, which is related to their right to respect for private

⁵ Rebecca Cook, Bernard Dickens and Mahmoud Fathalla, *Reproductive health and human rights*, 2003

and family life. Legal guarantees should ensure for them the widest available range of safe and effective family planning and contraceptive methods and essential obstetric care. The free choice of maternity should be recognized by law and not only in the regulatory acts containing provisions about unwanted pregnancy and abortion and women should benefit from confidentiality. Legal and informed choice of abortion and sterilization should be available both for women and men. Legal regulations should include explicitly screening for and diagnosis and treatment of reproductive tract infections, cervical and breast cancers, of STDs both for women and men. In respect to their reproductive health, women and men should have their right to benefit from technological and scientific progress recognized. Special provisions in the laws related to medical insurance have to ensure the coverage of essential reproductive health services for women.

- Essential for the equal participation of women in the development of the society are the legal guarantees for protection against all forms of violence, more specifically against sexual violence and honour-related violence (HRV). The development of substantive criminal and criminal procedure provisions should ensure effective protection of women in all spheres. For this purpose, quick civil remedies are provided in many special laws and other legislation against domestic violence. They follow the guidelines for model legislation of the UN Special Rapporteur on Violence against Women. For the effective protection of women against HRV (female genital mutilation (FGM) being one of its worst forms), legislative measures should be combined with the enforcement of policies and programmes for working with specific communities to modify traditional attitudes and practices, which are harmful to women.

- Other possible fields of legal regulation for ensuring women's full access to health are the right to consultation and information about their health and health care opportunities, special protection of adolescent health and reproductive health, the right to be informed about the risks of HIV infection, the right to be treated at an affordable price for this disease, including the right to privacy and non-discrimination in that respect. There should be legal guarantees for equal participation of women in decision-making concerning the realization of the right to health.

6. Some cross-cutting challenges and opportunities for reinforcement of the legal and regulatory frameworks in the field of education, work and health, and the role of women's NGOs

- *Substantive equality for pursuing women's identity v. Equal treatment and non-discrimination measures*

The national legal and regulatory frameworks should not limit themselves to prohibiting direct and indirect discrimination but should go further in the direction of the implementation of the obligations deriving by CEDAW. In addition to the general ban of discrimination and the possibility for applying affirmative action contained in CEDAW, its Art. 5a provides the key element for achieving substantive equality - the obligation for combating the dominant gender ideology and traditional gender stereotypes.

This concept for achieving real equality, developed in detail by Rikki Holtmaat⁶, should be fully applied to the national frameworks in order to tackle systemic or structural gender discrimination.

Instead of the formal equality and individual rights approach, R. Holtmaat is in favour of the strategy of social support (positive action) and the strategy for social and cultural change in the field of gender equality. If this strategy is not applied systematically, gender differences and stereotypes will be reproduced and the equal opportunities legislation will have an adverse effect. The emergence of gender inequalities during the transition in the countries of Eastern Europe is one striking illustration of the adverse effect of the formal equal treatment contained in their past legislation. In Bulgaria, for example, despite half a century of communist propaganda and equality legislation the deepest patriarchal attitudes in society remained intact and reproduced inequalities.

Therefore, there should be a critical review as to whether law and policy remain based on stereotyped role models and traditional ideas of masculinity and femininity. Concrete measures in the field could be not only media, information and education campaigns, but also rethinking the concept of paid labour, which is constructed based on the traditional roles of men and women, balancing the special protection measures for women, validating and counting of the contribution of women in the household, adopting measures to facilitate the combination of paid and care work both for women and men, affirmative action for paternity leave, encouraging cross-vocational training in typical female and male-dominated areas, etc. Economic independence of women and full enjoyment of their rights could not be achieved as long as stereotyped, exposing and offensive images of women are circulated through media, advertisements and pornography.

- *Adopting legal safeguards against the negative impact of macroeconomic policies*

The effectiveness of the national legal frameworks of gender equality can be impaired by the neo-liberal macroeconomic policies promoted at national and international level. In addition to the creation of an unfavourable environment for the realization of the right to education, right to work and right to health for women, restructuring and trade liberalization contribute to the deepening of the gender stereotypes and the division between productive and reproductive roles of the two sexes. Furthermore, these policies continuously restrict the financial sovereignty of the state to allocate resources for social rights and gender equality. The negative impact on women's rights is visible in many countries as a result of the trade agreements like GATS, NAMA, and AA (Agreement on Agriculture). The consequences for the implementation of the legal frameworks are more than obvious. Therefore, more coherence should be sought at international and national levels between the WTO and the UN agenda. The necessary legal safeguards should be applied for countering the negative impact of macroeconomic policies. More specifically, the governments should support and implement the resolution of the UN Sub-Commission on the Promotion and Protection of Human Rights, which called for an assessment of the impact of GATS.

- *Mobilizing financial resources for the implementation of women's rights*

⁶ Rikki Holtmaat, *Towards Different Law and Public Policy*, 2004

Legal frameworks on women's rights cannot be enacted without the implementation of the respective budgetary and financial commitments of the governments. These commitments are translated into national and local budgets and in development aid for Southern countries. Related to these issues are tools like participatory budgets and gender budgeting, which can facilitate the implementation of the laws in the field of social rights and gender equality.

- *Supplementing legal and regulatory frameworks with institutional mechanisms and the gender mainstreaming approach*

Legal regulations in the field of equal access of women to education, work and health cannot be implemented without the appropriate institutional framework for gender equality and for the advancement of women. In many countries such institutions were established as a result of the recommendations of the BPFA. Although most of them are still under-staffed and under-resourced, they mark one of the main achievements of the BPFA and outcome document. The institutional machinery of gender equality conducts "...an active and visible policy of mainstreaming a gender perspective into all policies and programmes...", which is a cross-cutting approach applied in the process of elaboration, enforcement and monitoring the legislation. According to the BPFA, gender mainstreaming should be applied, namely, to issues related to unequal access to education opportunities, issues related to unequal access to adequate health services and to the economic potential and the economic independence of women.

Comment [HA1]:

Of relevance for the implementation of the laws and regulations in the field of equal access are the institutional mechanisms and bodies established by law for ensuring equal treatment, including of men and women. Such bodies are created in many countries as part of the human rights machinery or separately, under laws on equal opportunities, and they can consider claims for violations of the principle of equal treatment. The development of their practice is especially relevant in the field of the right to work, where employers most often violate women's rights. Based mainly on the anti-discrimination and equal treatment criteria, these mechanisms cannot be applied successfully in cases of non-compliance of the state with the obligation to implement the right to health and the right to education for women.

- *Women in decision-making about education, work and health*

In order to elaborate effective legislative and regulatory frameworks, women's perspectives have to be taken into account. Therefore, at the different levels of decision-making, a fair participation of women should be ensured and maintained. Enhancing the participation of women at all levels of economic, social and political decision-making should be a permanent task, in parallel with the development of legislation on equal opportunities and the respective institutional mechanisms.

- *The role of women's NGOs and "the wind of the South"*

Women's NGOs are an essential element in society for conceptualization, elaboration and implementation of legal and regulatory frameworks. These organizations and their international

networks are the driving forces of the international “legislative” process for equal treatment and women’s rights. Another important function is raising awareness and disseminating information about women’s rights. In this way, they play a crucial role in the empowerment of women for participation in the development of their community and of society as a whole.

The following women’s NGO strategies have proven to be among the most effective: pro-active research for identifying legislative gaps or needs for legislative changes; monitoring the implementation of the legislation and of the international commitments of governments; information about women’s rights and support of individual women in case of violation of their rights; mobilizing women for participation in development initiatives at local level; initiating activities with local authorities for improving social conditions of women at local level; empowering women from specific communities and work with these communities for protection of women’s rights; publications, work with the media and concrete activities for countering gender stereotypes; educational activities among women, institutions and other organizations, educational programmes in schools and other educational institutions; providing concrete services to women- developing skills, training for work, providing health services, psychological and legal services for women whose rights are violated; creating models for gender budgeting initiatives, etc.

Maintaining their freedom, independence and flexibility are essential for the effectiveness of women’s NGOs. In order to ensure the sustainability of their work, they need to be supported by the state and local authorities. A good balance should be kept between international and national funding. New forms of partnerships between the NGOs and local authorities and between the NGOs and private actors should be sought, explored and developed.

My assessment is that women’s NGOs will continue to play an essential role in identifying relevant social issues through exploring the impact of the new economic processes on women. The concepts developed by feminist economists and women’s networks focused on trade, development and macro-economic policies influenced the national and international agenda related to these policies. Networks from the South are particularly successful in that respect.

Women’s NGOs from the South are very close to women’s needs and basic rights and have to be listened to. People from the South, and especially women from the South, are most affected by the violations of their fundamental rights, the right to education, to work and to health included. They have to fight day after day, generation after generation for their own survival, for the survival of their families and of their communities. They have to overcome enormous obstacles in order to participate in the building and the development of their society. They have experience, they developed skills and knowledge, they have strategies to share. And they have to be listened to.

My opinion is that in order to find sustainable solutions in the field of equal access to education, to work and to employment for women, we have to turn to the lessons learnt from the South. And I will conclude with a message of Corinne Kummar D’ Souza from India :

“Listen to the wind...especially to the wind from the South: the South of the civilizations of Asia, Africa and Latin America; the South with the voices and the wisdom of women .”