



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

### Concluding observations on the combined seventh and eighth periodic reports of Hungary adopted by the Committee at its fifty fourth session (11 February – 1 March 2013)

1. The Committee considered combined seventh and eight periodic reports of Hungary (CEDAW/C/HUN/7-8) at its 1105th and 1106th meetings on 14 February 2013 (CEDAW/C/SR.1105 and 1106). The Committee's list of issues and questions is contained in CEDAW/C/HUN/Q/7-8, and the responses of the Government of Hungary are contained in CEDAW/C/HUN/Q/7-8/Add.1 and CEDAW/C/HUN/Q/7-8/Add.1/Corr.1.

#### A. Introduction

2. The Committee expresses its appreciation to the State party for its combined seventh and eight periodic reports, which included information on the implementation of the recommendations contained in the Committee's previous concluding observations (CEDAW/C/HUN/CO/6). However the report is lacking sex disaggregated data in many areas under the Convention and in particular, disaggregate data on women belonging to disadvantage groups. The Committee expresses its appreciation to the State party for its oral presentation, the written replies to the list of issues and questions raised by its pre-session working group, and the further clarification to the questions posed orally by the Committee.

3. The Committee commends the State party for its large delegation, which was headed by Ms. Erika Asztalosné Zupcsán, the Deputy State Secretary responsible for Social Affairs at the Ministry of Human Resources, and which included representatives of different Government ministries and departments, the judiciary and the Office of the General Prosecutor. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee.

#### B. Positive aspects

4. The Committee welcomes with appreciation the decision of the Parliament in September 2012, to include domestic violence as a specific crime in its new Criminal Code.

5. The Committee notes the measures adopted by the State party to improve the framework to prevent and combat trafficking in human beings, in particular:

(a) Resolution 1018/2008 (III. 26.) on the national strategy against human trafficking for the period from 2008 to 2012;

(b) The appointment of a National Coordinator against human trafficking and the establishment of the national coordination mechanism.

6. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2010, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2010 as well as its accession to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 2012.

## **C. Principal areas of concern and recommendations**

### **Parliament**

7. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of government. It invites the State party to encourage its Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the State party's next reporting process under the Convention.**

### **Definition of equality and non-discrimination**

8. The Committee notes that the Fundamental Law recognizes the general principle of non-discrimination and provides a legal basis for the introduction of temporary special measures. The Committee also notes the explanation of the State Party during the constructive dialogue that increasing population is the main priority of the State party's policy. The Committee is, however, concerned that this orientation may represent a regressive approach to gender issues. The Committee is further concerned that this orientation increases prevalence of gender stereotypes by portraying women mainly, if not exclusively, into the role of mothers and care-givers. The Committee welcomes the mandatory application of the gender impact assessment of every legal initiative but is concerned that the legislation adopted recently lacks a gender perspective in conformity with the Convention. The Committee also noted the widespread privatization of health, education and other social services in the State Party and is concerned that this may hinder the enjoyment of rights under the Convention.

9. **The Committee urges the State party to:**

a) **Review its family and gender equality policies to ensure that the former do not restrict the full enjoyment by women of their right to non-discrimination and equality;**

b) **Introduce in its legislation the concept of discrimination on the grounds of intersecting factors and ensure appropriate remedies for victims of such discrimination;**

c) **Carry out systematically gender impact assessments of current and proposed laws and ensure that the new legislative framework fully respects the Convention and does not bring a regression in its implementation;**

d) **Ensure that the policy of privatization of health, education and other services, does not deprive women of continuous access to good quality basic services in the field of economic, social and cultural rights.**

**Visibility of the Convention, the Optional Protocol and the Committee's general recommendations**

10. While noting that the Convention, its Optional Protocol and the Committee's general recommendations have been translated into Hungarian, the Committee remains concerned about the lack of awareness among the legal profession and women themselves about the Convention. The Committee welcomes the information that the Convention forms an integral part of the domestic law of the State party and that specific training addressing issues such as domestic violence and trafficking in human beings was provided to judges and prosecutors. The Committee is concerned, however, about the absence of information on court cases where the Convention has been directly applied or invoked and the fact that training for judges on the Convention is not part of mandatory training neither it is systematic nor comprehensive for all members of the judiciary.

**11. The Committee recommends that the State party establish a sustainable strategy to disseminate the Convention and raise awareness among women, especially women in disadvantaged groups, about their rights under the Convention and the communications and inquiry procedures provided by its Optional Protocol. The Committee calls upon the State party to ensure that the Convention and the Committee's views under the Optional Protocol, as well as the Committee's general recommendations, are made an integral part of legal education and training for all judges, lawyers and prosecutors with a view to enabling them to directly apply the provisions of the Convention and interpret national legal provisions in light of the Convention.**

**Legal complaint mechanisms**

12. The Committee is concerned about the insufficient provision of human, financial and technical resources for the Equal Treatment Authority and the lack of effective remedies in cases of discrimination. The Committee, while noting the establishment of the Commissioner for Fundamental Rights (CFR) in the State party, is concerned about its limited mandate with regard to addressing complaints of all forms of discrimination against women, including against women belonging to disadvantaged groups.

**13. The Committee recommends that the State party:**

**(a) Allocate adequate human, financial and technical resources to the Equal Treatment Authority as well as adopt measures to facilitate access to its complaint mechanisms by all women, particularly women of disadvantaged groups, and introduce follow up mechanisms with regard to its decisions on concrete petitions; and**

**(b) Ensure that the mandate of the Commissioner for Fundamental Rights (CFR) clearly covers the duty to promote and protect the rights of all women and to protect them from all forms of discrimination including by receiving complaints and providing remedies in cases of violation.**

**National machinery for the advancement of women**

14. The Committee notes with concern the absence of partnerships with the various women's non-governmental organizations in implementing the Convention and regrets that no information was provided on involvement of human rights and women's organizations in the preparation of the report. The Committee is concerned about the limited financial and human resources of the Department of Family Policy and the delay in the creation of the Council for Social Equality among Women and Men. The Committee notes with concern the decision of the State party to adopt a new strategy on gender equality rather than accelerating the implementation of the National Strategy for the Promotion of Gender Equality 2010-2021.

15. The Committee, recalling its general recommendation No. 6 (1988) and the guidance provided in the Beijing Platform for Action, in particular regarding the necessary conditions for the effective functioning of national machinery, recommends that the State party:

(a) Strengthen the cooperation with various women's NGOs in implementing and monitoring the implementation of the Convention, including by developing participatory mechanisms and holding wide consultations with women in adopting a new strategy on gender equality;

(b) Ensure the necessary financial, technical and human resources of the Department of Family Policy of the Ministry of Human Resources to discharge its mandate and to complete the establishment of the envisaged entities for the advancement of women in particular, the Council for Social Equality among Women and Men; and

(c) Take into account the present concluding observations in the formulation and adoption of the new strategy on gender equality and its action plans.

#### **Temporary special measures**

16. The Committee, while noting that the Fundamental Law and the Equal Treatment Act provide a legal basis for introducing temporary special measures, is concerned that some references to "positive discrimination" and quotas in the report of the State party indicate the lack of a clear understanding of article 4, paragraph 1, of the Convention which aims at accelerating the achievement of substantive equality of women within a specific timeframe, as clarified by the Committee's general recommendation No. 25 (2004).

17. The Committee recommends that the State Party apply temporary special measures to:

(a) Promote the equal participation of women in public and political life and decision-making by means of concrete result-oriented measures, such as quotas and timetables; and

(b) Facilitate access to education and employment for women in rural areas, Roma women and women with disabilities.

#### **Stereotypes and discriminatory practices**

18. While noting the implementation of some measures in the field of education and media to address stereotypes, the Committee is concerned about the persistence of stereotyped division of gender roles in family and society as well as the support of such roles throughout the States party's policies and priorities through the priority given to increasing population. The Committee notes with concern that prejudices emanated from gender and ethnicity significantly affect the enjoyment of rights under the Convention by women belonging to disadvantaged groups such as Roma women and women with disabilities.

19. The Committee calls on the State Party to:

(a) Implement a comprehensive programme with measurable targets, aimed at women and men, girls and boys, to overcome stereotypical attitudes about the roles and responsibilities of women and men in the family and in society, focusing particular attention on the elimination of prejudices against women of disadvantaged groups, particularly the Roma women and women with disabilities; and

(b) Adopt the necessary steps to adequately include non-discrimination and gender equality in educational policies, in particular the National Core Curriculum

**and related documents, as well as in basic and continuing education for teachers and health-care professionals and other service providers.**

#### **Violence against women**

20. While welcoming the announcement of the State party to criminalize domestic violence in the Criminal Code, the Committee remains concerned about the lack of specific provisions related to other forms of violence such as economic and psychological violence and stalking. The Committee notes the Act LXXII of 2009 on restraining orders related to violence among relatives and is concerned that such orders are not provided on a long term basis and do not cover relationships between unmarried partners. The Committee is also concerned about the lack of information on the number of investigations, prosecutions and convictions in cases of violence against women, as well as about inefficiencies of the redress mechanism for victims of violence. The Committee is also concerned about the insufficient number of shelters specifically dedicated to women victims of violence. The Committee is further concerned about the lack of information on different types of violence against women with disabilities, Roma women, older women as well as the absence of specific measures to prevent violence against them. While noting the new provisions on rape in the Criminal Code, the Committee remains concerned about the use of violence and threats as well as the use of coercion, which continue to be elements of the statutory definition of rape rather than the lack of voluntary consent by the victim. The Committee is further concerned that rape cases are underreported due to inadequate health care providers support to women victims of rape and provision of medical and forensic examination.

**21. In accordance with its general recommendation No. 19 (1992) on violence against women and the recommendations contained in its previous concluding observations, the Committee urges the State party to:**

**(a) Adopt law on domestic violence and criminalize different types of violence against women, including economic and psychological violence and stalking;**

**(b) Amend its legislation concerning restraining orders with a view to providing adequate protection to victims in all types of cohabitation and extend the duration of a restraining orders;**

**(c) Provide mandatory training to the legal profession on the strict application of legal provisions dealing with violence against women and train police officers on standardized procedures to deal with women victims of violence;**

**(d) Provide adequate assistance and protection to women victims of violence and their children, by increasing the number and capacity of State supported shelters, specifically those dedicated to women victims of violence, and adequate geographical distribution, as well as by strengthening cooperation with and funding to NGOs providing shelter, assistance, support and rehabilitation to victims;**

**(e) Encourage women to report acts of domestic and sexual violence, by de-stigmatizing victims and raising awareness about the criminal nature of such acts;**

**(f) Collect statistical data on all forms of violence against women disaggregated by sex and age as well as on relationship between the victims and the perpetrators in cases of domestic and sexual violence against women;**

**(g) Amend its Criminal Code to ensure that rape is defined on the basis of the lack of voluntary consent of the victim;**

**(h) Ensure appropriate and easily accessible health care services for women victims of rape combined with immediate medical and forensic examination to collect the evidence needed for prosecution of perpetrators; and**

- (i) **Ratify as soon as possible the Council of Europe Convention on preventing and combating violence against women and domestic violence.**

**Trafficking and exploitation of prostitution**

22. While noting a more comprehensive definition of trafficking in human beings in the Criminal Code as well as the adoption of a national mechanism for identification of victims, the Committee remains concerned about the insufficient number of shelters for women who are victims of trafficking as well as their limited access to justice and to adequate remedies, including compensation. The Committee observes with concern the information on stigmatization of children victims of sexual exploitation. The Committee is also concerned about discrimination against women sex workers and the lack of State party's action aimed at ensuring safe working conditions and exit programmes for those wishing to leave this activity.

23. **The Committee recommends that the State party:**

(a) **Consider including in its new strategy against trafficking in human beings for the period 2013-2016 measures to address the root causes of trafficking in women and girls;**

(b) **Increase the number of State-run temporary shelters for women victims of trafficking and enhance the responsiveness of territorial centres to their needs;**

(c) **Provide adequate assistance and protection to all women victims of trafficking in human beings, including by ensuring legal aid for victims and their reintegration into the society;**

(d) **Ensure that children in prostitution are not treated as offenders but as victims; and**

(e) **Adopt measures aimed at preventing discrimination against sex workers and ensure that legislation on their rights to safe working conditions is guaranteed at national and local levels.**

(f) **Ratify the Council of Europe Convention on Action against Trafficking in Human Beings (2005).**

**Participation in political and public life**

24. While noting the increasing participation of women in the judiciary and the foreign service, the Committee is concerned about the underrepresentation of women in senior positions in the Government as well as their representation in Parliament. It notes with concern that the proposed Quota Act was rejected by Parliament and no other measures have been undertaken to address the situation. The Committee expresses concern at statements made by male politicians in public debates in Parliament that discriminate against women and reinforce gender stereotypes.

25. **The Committee recommends that the State party:**

(a) **Introduce temporary special measures such as, gender quotas for candidates for elections nominated by political parties and a gender parity system for political appointments, with a view to ensuring the equal representation of women and men in elected and appointed political bodies, including in decision-making positions; and**

(b) **Apply the gender impact assessments to its electoral legislation, including laws concerning political parties and their financing, with a view to make electoral legislation and related laws more conducive to equality of women in political life.**

## Education

26. While noting women's high level of education, the Committee remains concerned that women and girls continue to choose traditionally female-dominated fields of education, such as social sciences and humanities, and that they are underrepresented in technical and vocational training. The Committee also notes that women are overrepresented as teachers but it regrets that no data are provided on women holding decision-making positions in schools and faculties. While noting the Strategic Plan of the Roma Integration Decade Program, the Committee is concerned about the lack of information on the situation of Roma girls in the education system. The Committee is further concerned that educational programmes aimed at strengthening family life skills reinforce traditional gender stereotypes.

27. **The Committee recommends that the State party:**

**(a) Intensify its efforts aimed at diversifying academic and vocational choices for women and men and take further measures to encourage women and men to choose non-traditional fields of education and careers;**

**(b) Adopt a system to collect disaggregated relevant statistical data regarding the situation of Roma girls in the education system that allows the State party to measure the results of its programmes and resource allocation;**

**(c) Eliminate segregation of Roma girls in the educational system and provide them with equal access to quality education at all levels; and**

**(d) Ensure that educational programmes on family life skills adequately address the principle of non-discrimination and substantive equality of women and men as well as the prevailing stereotypes against women.**

## Employment

28. The Committee is concerned about the lack of a gender perspective in its legislation and policies related to the labour market. It notes with concern that participation of women in the labour market remains low and that only few steps have been taken to entitle women to reconcile work and family life. On the contrary dismissal protection for mothers of small children seems to have been reduced. The Committee also notes the increased gender pay gap although the new Labour Code includes numerous criteria to effectively guarantee equal remuneration for work of equal value. The Committee notes with concern that Roma women and migrant women are almost excluded from the labour market. It is also concerned about the absence of guidelines for public and private employers in order to ensure that women with disabilities have adequate access to employment, including through the necessary reasonable accommodation.

29. **The Committee recommends that the State party:**

**(a) Further intensify necessary measures and introduce temporary special measures, with time-bound targets and indicators, to ensure substantive equality of women and men in the labour market, promote employment of women, eliminate occupational segregation, and close the gender wage gap;**

**(b) Establish mechanisms to conduct job evaluations in accordance with ILO standards both in the public and private sectors, adopt measures to redress discrimination against women at work as well as provide measures for promoting the reconciliation of work and family life;**

**(c) Further develop, in consultation with women with disabilities and their organizations, comprehensive criteria to provide reasonable accommodation at the work place;**

**(d) Establish mechanisms to ensure increased and effective access of Roma women and migrant women into the labour market, including through application of temporary special measures; and**

**(e) Undertake comprehensive strategies including programmes, in partnership with the business sector, in order to combat gender stereotypes and promote women's access to non-traditional jobs.**

### **Health**

30. The Committee notes the State party's statement that the new article in the Fundamental Law protecting life from the moment of conception will not be used to restrict the present legislation and the access of women to abortion. The Committee is concerned: about campaigns, including recent poster campaign, supported by the State Party that stigmatize abortion and seek to negatively influence the public view on abortion and contraception; the limited access to emergency contraceptives; the subjection of women who want surgical abortion to mandatory bias counseling and three-day medically unnecessary waiting period; and at the increasing resort to conscientious objection by health professionals in the absence of adequate regulatory framework. The Committee is also concerned at the limited access to modern, efficient methods of contraception, and at the lack of choice for women to give birth at home or in the hospital, due to various obstacles, including the non-recognition of midwives as independent professionals.

31. **The Committee urges the State Party to:**

**(a) Cease all negative interference with women's sexual and reproductive rights including by ending campaigns that stigmatize abortion and seek to negatively influence the public view on abortion and contraception;**

**(b) Provide adequate access to family planning services and affordable contraceptives, including emergency contraception, to all women including women with disabilities, Roma women, women living with HIV/AIDS and migrant and refugee women, i.e. by covering costs of range of modern contraceptives under the public health insurance and eliminating the prescription requirement for emergency contraception;**

**(c) Ensure access to safe abortion without subjecting women to mandatory counselling and medically unnecessary waiting period as recommended by WHO;**

**(d) Establish adequate regulatory framework and monitoring mechanism of the practice of conscientious objection by health professionals and ensure that conscientious objection is accompanied by information to women about existing alternatives and that it remains a personal decision rather than an institutionalized practice; and**

**(e) Ensure women's choice to give birth at home or in the hospital by recognizing trained midwives as independent professionals, elaborating legal framework and guidelines on security of home deliveries, and providing training of obstetricians.**

32. The Committee also notes with concern the limited access to and inadequate quality of sexual and reproductive health services for women with disabilities, women with low income, Roma women, women living in rural areas and women living with HIV/AIDS, also in view of their privatization. The Committee remains concerned that women with disabilities face sterilization without their free and informed consent, and are excluded from gynecological and breast screening tests. The Committee is further concerned at the absence or insufficient quality of education on sexual and reproductive health and rights in the regular school curricula.

33. **The Committee urges the State party to:**

a) **Improve the quality and increase accessibility of sexual and reproductive health services, in particular to women with disabilities, women with low income, Roma women, women living in rural areas, and ensure that women living with HIV/AIDS or suffering from sexually transmitted diseases have access to health services;**

b) **Eliminate forced sterilization of women with disabilities by training health professionals, raising their awareness toward their own prejudices, and repeal or amend Act CLIV of 1997 which enables doctors to perform forced sterilizations on very wide grounds, contrary to international health standards on free and informed consent of persons with disabilities; and**

c) **Ensure adequate and continuous age and gender-sensitive education on sexual and reproductive health and rights in primary and secondary schools by properly trained teachers.**

#### **Economic and social benefits**

34. The Committee notes with concern that women and households headed by women are disproportionately affected by poverty and that women's pensions and social benefits are, on average, lower than those received by men. It also notes with concern the absence of statistical data on the situation of women in the informal economy and the barriers to women's entrepreneurship.

35. **The Committee recommends that the State party:**

(a) **Strengthen the use of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004), to improve the economic status of women affected by poverty;**

(b) **Conduct research and collect disaggregated data to assess the economic situation of women with a view to adopting efficient public policies and programmes to improve their economic situation;**

(c) **Review its pension and social benefits schemes in order to ensure equal access to women and men and extend their coverage to women working in the informal economy;**

(d) **Further strengthen its efforts to promote women's entrepreneurship through special programmes, training, loans and counselling and adopt indicators to measure the progress in the implementation of such programmes and measures.**

#### **Disadvantaged groups of women**

36. The Committee is deeply concerned that women belonging to ethnic minorities, such as Roma women and women with disabilities, are subjected to multiple discrimination and exclusion, in the absence of a comprehensive plan of action aimed at protecting their rights and improving their living conditions. It notes with concern that Roma women are disproportionately affected by poverty and a low standard of living and that they have limited access to health services, education and employment, especially in rural areas. The Committee is also concerned about the lack of disaggregated data on the situation of Roma women, women with disabilities, older women and refugee women. It also notes with concern that asylum seeking and migrant women in reception centres receive inadequate assistance and are often confined to such centres for prolonged periods.

37. The Committee urges the State Party to:

(a) Include specific components in public policies and budgets to address the needs of women belonging to minorities, including Roma women and women with disabilities, in order to eliminate all forms of discrimination against them;

(b) Ensure that migrant and asylum-seeking women receive adequate assistance, and are not subjected to prolonged administrative detention and that they benefit from integration policies as well as family reunification measures; and

(c) Collect disaggregated data on the situation of women facing multiple forms of discrimination, in particular older women, women with disabilities, women belonging to minorities, including Roma women.

#### **Marriage and family relations**

38. The Committee notes that the definition of family in the Act CCXI of 2011 on the protection of families is very narrow as it only includes relationships based on a marriage which is contrary to the views expressed by the Constitutional Court. The Committee is concerned that children under 16 years can get married upon obtaining authorization from the Court of Guardians..

39. The Committee recommends that the State party:

(a) Amend its law in line with the Constitutional Court's view that the definition of family is too narrow and ensure that further amendments of the relevant laws will be in conformity with this as well as the Committee's General recommendation No. 21 (1994) on equality in marriage and family relations; and;

(b) Raise the legal age of marriage for women and men to 18 years and institute measures to prevent early marriages.

#### **Amendment to article 20, paragraph 1, of the Convention**

40. The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, without delay, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee..

#### **Beijing Declaration and Platform for Action**

41. The Committee calls upon the State party to utilize the Beijing Declaration and Platform for Action, in its efforts to implement the provisions of the Convention.

#### **Dissemination and implementation**

42. The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. It urges the State party to give priority attention to the implementation of the present Concluding Observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests the timely dissemination of the concluding observations, in the official language(s) of the State party, to the relevant state institutions at all levels (national, regional, local), in particular to the Government, the ministries, the Parliament/National Congress/Assembly and to the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organisations, universities and research institutions, media, etc. . It further recommends that its Concluding Observations be disseminated in an appropriate form at the local community level, to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the CEDAW

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**Convention, its Optional Protocol and jurisprudence, and the Committee's General Recommendations to all stakeholders..**

**Ratification of other treaties**

43. **The Committee notes that the adherence of the State party to seven of the major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the treaties to which it is not yet a party, i.e., the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

**Follow-up to concluding observations**

44. **The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 21 (a), (b) and (g); 31 (b), (c) and 33 (b) above.**

**Preparation of the next report**

45. **The Committee invites the State party to submit 9th periodic report in March 2017.**

46. **The Committee requests the State party to follow the “Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents” (HRI/MC/2006/3 and Corr.1)..**

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.