



Conceptual Guidelines for “Good Practices” Case Study Development

For the purposes of the “good practices” consultation and research project for the UNWGDAW, researchers and contributing individuals and organizations will seek to identify and develop case studies which demonstrate the process by which good laws (legislation or cases) come into being and/or become promising or good practices through the process of implementation. While the research project aims to further elucidate the principles of good practices through the case studies, initial research and consultations done in Phase 1 of the research project (Jan – July 2016) have led to the development of the current working framework found below. The initial framework found in the Phase 1 concept note has been separated into:

- a) elements of a “good law” for women, understood from a women’s human rights perspective, and;
- b) principles of “good practices” in the development and/or implementation of laws that have an impact on women’s de facto enjoyment of their rights.

The concept note has also been updated to be in line with these categories; please refer to it to understand the full context of the study.

For a good law to be considered as a component of a good practice, it has to be analyzed within the context of its development and implementation. The main purpose of this study is to look at a law in context to ascertain if it can be considered to be a core component of a promising or good practice in the process of eliminating discrimination against women and promoting women’s self-empowerment. While a law can only be considered a single component of a good practice rather than an end in itself, the law or court decision in question must fall in line with women’s human rights standards, and certain key elements make it possible for that law to grow into a good practice. Accordingly, for the purposes of case study exploration, the law or decision should meet at least a majority of these key standards as well as be situated within a process of creation and/or implementation that reflects the key principles of “good practices” as defined below. Not every single element and principle must be there in order for it to be considered a “good practice,” but a substantial proportion of these elements and principles should be evident, as well as the defining factor of how women’s enjoyment of their rights has been directly positively impacted by the law. This is not a system of indicators by which we will be ranking laws or practices, but rather a framework to help shape the lines of investigation. Practices for which not enough data is available to ascertain impact may still be considered “promising” if indicators (research, expert analysis) point to a strong potential for impact in the development and provisions of that law/decision. No doubt participating researchers and organizations will identify additional principles through the process of developing detailed case studies and the “good practices” framework will be expanded through the process of investigation. The research and preparation of case studies should seek to address the presence or



absence of these various factors, and this framework should shape the research questions asked in case study development.

Note: for the purposes of this project, “law” is understood very widely to include, depending on the context and type of legal system:

- Constitutional or charter provisions
- Federal legislation
- Provincial, state, municipal/local laws or ordinances
- Case law
- Recommendations and decisions by human rights mechanisms at the international, regional, national, state/provincial level
- Decisions by traditional authorities or other bodies in contexts with plural legal systems

Elements of a good law for women

1. Complies with international human rights norms and standards and is appropriate to local context
2. Is grounded in the international women’s human rights framework and CEDAW’s core principles of a) substantive equality, b) non-discrimination and c) state obligation to respect, protect and fulfill women’s human rights
3. Is embedded within a guarantee of constitutional equality or within the framework of other legislation that promotes equality
4. Has an intersectional approach; it takes into account intersectional or multiple forms of discrimination against women
5. Is drafted in a way which facilitates legal literacy and ensures the correct interpretation of the law to promote women’s substantive equality
6. Contains measures for supporting a significant achievement in terms of eliminating discrimination and promoting de facto gender equality, at least in some area of women’s/a group of women’s lives.
7. Includes comprehensive implementation mechanisms, including: sufficient budget; protocols and procedures to ensure impact and responsiveness, including mechanisms for monitoring, revision or modification as needed to ensure impact and effectiveness
8. Includes comprehensive measures and gender-sensitive mechanisms to support redress in case of violation or lack of due diligence in implementation, including reparation, restitution, rehabilitation and reintegration, symbolic recognition, and guarantees of non-repetition.¹

¹ Elements of the right to remedy as articulated in the report of the Special Rapporteur on VAW on reparations: A/HRC/14/22



Principles of good practice in the process of development and implementation of a law

1. Responsive: Responds to a problem or issue that is understood by women's CSOs and/or experts in the field of women's human rights as causing or aggravating discrimination against all women or specific groups of women
2. Context-appropriate: Takes into account regional and cultural diversity, intersectional discrimination and diversity amongst women, as well the historical and structural context of discrimination
3. Participatory
 - Meaningfully involves multiple stakeholders (scholars, gender experts, NHRIs, civil society/women's organizations, the subjects of the law, government officials, etc.) in the entire process of development, implementation and evaluation of the law
 - Engages non-government stakeholders without transferring responsibility for implementation onto civil society or private actors
4. Educational: Includes training, education and awareness-raising to ensure comprehension of the law and the attendant rights and responsibilities of: (1) state actors, with a special focus on those in charge of implementation; (2) rights-holders; and (3) the general public
5. Impactful: has had a demonstrable impact on the elimination of discrimination against women and the promotion of de facto gender equality, at least in some area of women's/a group of women's lives
6. Adaptable: Monitoring mechanisms allow for adjustments in implementation needed as result of changing contexts and/or feedback on the impacts or lack thereof
7. Sustainable: Implementation of law must have sustainable structural or institutionalized mechanisms to ensure ongoing impact
8. Transferable: Has transferable elements or principles relevant to cultivating good practices in other contexts, or can be seen to be partially or fully replicable in other contexts