

# 「消除對婦女一切形式歧視公約」第 30 號一般性建議

葉德蘭（臺灣大學外國語文學系）

標題：關於婦女在預防衝突、衝突及衝突後局勢中的作用的第 30 號  
一般性建議

文件號：聯合國文件 CEDAW/C/GC/30 (2013)

## 第 30 號一般性建議內容目次

項目	重點
導言：1-3 段	<ul style="list-style-type: none"><li>• 主要宗旨和目的 (1)</li><li>• 時時保障 + 充分納入 + 男女影響不同(2)</li><li>• 兩大內容(3)</li></ul>
一般性建議的適用範圍： 4-7 段	<ul style="list-style-type: none"><li>• 情境(4)</li><li>• 身份(5)</li><li>• 角色(6)</li><li>• 交叉性及生命週期法 (7)</li></ul>
《公約》對預防衝突、衝突 及衝突後局勢的適用	<ul style="list-style-type: none"><li>• 《公約》的域內和域外適用(8-12)</li><li>• 《公約》對國家和非國家行為體的適用 (13-18)</li><li>• 《公約》與國際人道主義法、難民法和刑法的互補性(19-24)</li><li>• 《公約》與安全理事會關於婦女、和平與安全的議程(25-28)</li></ul>
《公約》與預防衝突、衝突 及衝突後局勢：29-81 段	<ul style="list-style-type: none"><li>• 婦女與預防衝突 (29-33)</li><li>• 處於衝突及衝突後情況中的婦女(34-81)</li></ul>
結論：82-87 段	<ul style="list-style-type: none"><li>• 監測和報告 (82-86)</li><li>• 批准或加入條約情況 (87)</li></ul>

聯合國人權理事會消除對婦女歧視委員會(Committee on the Elimination of Discrimination Against Women, UN Council of Human Rights, 以下簡稱「CEDAW 委員會」)於 2013 年 10 月 18 日正式通過建立《關於婦女在預防衝突、衝突及衝突後局勢中的作用的第 30 號一般性建議》<sup>1</sup>，作為《消除對婦女一切形式歧視公約》(The Convention on the Elimination of all Forms of Discrimination Against Women, 以下簡稱 CEDAW 或《公約》)締約國履行此一特定議題之國家義務的指導原則，以回應當前全球變遷中女性的處境與需求，完整(comprehensive)、明確(clear)定義出與此一主題相關之《公約》各項條文所指涉的締約國義務範圍，並建議各國國內可以執行之務實策略及具體作法<sup>2</sup>。在更廣的全球性別平等及女性權益整體進程上，第 31 號一般性建議代表了一項新的里程碑：自 2000 年起受到各方廣泛關注的「女性、和平與安全(Women, Peace and Security)」議程(agenda)，於是正式融入具約束力的國際人權法體制。

## 壹、背景及概述：

自二十世紀兩次世界大戰(World Wars)之後，全球各地仍然戰亂不斷，雖僅為地區性甚或國內武裝衝突，死傷者大部分反是平民<sup>3</sup>。1991 年瑞典烏普薩拉大學(Uppsala University)研究首先指出，1988 到 1989 年發生了 36 起重大武裝衝突中，90%的受害者(包括罹難者及流離失所者)為平民，其後諸多學界研究已將近二十年各個戰爭死亡人數中平民比例估算在 40%到 80%，相較於第一次世界大戰傷亡平民不過佔總數 10-20%之比重，的確差距很大，亦說明現今武裝衝突實際受害者絕大多數均為平民，而其中大部分為女性與兒童<sup>4</sup>。

---

<sup>1</sup> CEDAW 委員會第 56 屆會(2013 年 10 月 18 日 - 9 月 30 日)報告(UN 文件編號 CEDAW/C/2013/III/CRP)，(2013 年 7 月 19 日上網)。

<sup>2</sup> CEDAW 委員會主席(chair) Silvia Pimental 於 2011 年 7 月 29 日第 49 屆會結束後之談話，"UN Committee for Women Meets to Discuss Gender Equality, Women in Conflict," (2011 年 8 月 2 日)。

<sup>3</sup> 根據《日內瓦關於保護國際性武裝衝突者公約議定書》第 50 條，"平民"乃指不屬於武裝部隊，包括不屬於民兵和志願部隊以及在軍事交火或部屬期間公開攜帶武裝自行反抗的一般人民。

<sup>4</sup> 詳見 Roberts, Adam. (2011). 'The Civilian in Modern War' in Hew Strachan and Sibylle Scheipers

## 一、戰亂中女性

根據這些數據及各國現場經驗，平民傷亡遽增趨勢日益受到重視<sup>5</sup>，許多國際組織及公民社會團體更積極由其在歐洲南斯拉夫半島及非洲盧安達(Rwanda)等地第一線人道救援工作經驗發現：女性在武裝衝突中受害程度及人數遠高於當地整體人口比例，例如女性被排除在戰爭或維和決策階層之外，其安定社會秩序之角色與貢獻不僅未受肯認，高比例女性甚至因其性別及嚴重社會性別不平等而遭到性暴力或成為難民等<sup>6</sup>。這些關注反映在 1993 年世界人權會議結論文件《維也納宣言(The Vienna Declaration)》及 1995 年第四次世界婦女大會結論文件《北京宣言和行動綱領(The Beijing Declaration and Platform of Action)》(以下簡稱 BPfA)中，並在後者中成為十二重大關切領域之一。

聯合國婦女地位委員會(UN Committee on the Status of Women)在 1998 年商定結論(II)「婦女與武裝衝突」中，即要求各國政府採取行動回應受武裝衝突影響婦女的具體需要，並加強婦女參與維持和平、締造和平、衝突前和衝突後決策、預防衝突、衝突後解決和重建過程中<sup>7</sup>。然政府間委員會商定結論之強制性有限，各項宣言亦不具國際法約束力，真正握有指揮維和部隊及止戰弭爭權限的國際機構，仍在聯合國安全理事會(UN Security Council，以下簡稱安理會)，但女性與和平、安全的關係要得到此一當今全球和平主要治理機構的重視則有賴於其 2000 年 10 月 31 日通過之第 1325 號決議。

---

(ed.), *The Changing Character of War*, Oxford: Oxford University Press: pp.357-80。

<sup>5</sup>例如：1991 年起《斯德哥爾摩國際和平研究所(SIPRI)年鑑》、1996 年聯合國兒童基金會(UNICEF)報告、1998 年《人類發展報告(Human Development Report)》等均提及此一趨勢。

<sup>6</sup> Thematic Briefing on Women and Armed Conflict between the CEDAW Committee and NGOs,

<http://admin.iwraw->

[ap.org/plugins/tinyMCE/plugins/moxiemanager/data/files/Organization%3EActivities%3Eiwraw%20Asia%20Pacific%20Reports/3%20CEDAW\\_Lunch\\_3%20Briefing\\_on\\_Women\\_in\\_Armed\\_Conflict\\_FINALE.pdf](http://admin.iwraw-ap.org/plugins/tinyMCE/plugins/moxiemanager/data/files/Organization%3EActivities%3Eiwraw%20Asia%20Pacific%20Reports/3%20CEDAW_Lunch_3%20Briefing_on_Women_in_Armed_Conflict_FINALE.pdf) (2011 年 3 月 19 日上網)

<sup>7</sup> 詳見聯合國婦女地位委員會 1998 年第 42 屆會商定結論(II)「婦女與武裝衝突」

[http://www.unwomen.org/~media/headquarters/attachments/sections/csw/42/csw42\\_ii\\_e\\_final.pdf](http://www.unwomen.org/~media/headquarters/attachments/sections/csw/42/csw42_ii_e_final.pdf) (2013 年 7 月 19 日上網)

## 二、國際社會「女性、和平與安全」議程

聯合國安全理事會第 1325 號「女性、和平與安全(Women, Peace and Security)」決議實為草根非政府組織、國際公民社會以及聯合國內部部分組織<sup>8</sup>三方面通力合作，共同提出草案，歷經兩整天討論才獲通過，是該會第一個在全球安全討論中關注女性參與及性別觀點的規範性準則，自此「女性、和平與安全」面向正式作為聯合國安全理事會的工作內容之一，讓國際社會正視女性在和平、安全議題中角色、地位與貢獻，不論在預防衝突、衝突中的維安及衝突後重建三類工作過程中的參與與保護，均不可或缺。此一劃時代的重要決議，亦可視為安全、和平領域之性別主流化的成績，其後安理會亦陸續通過了 7 個決議<sup>9</sup>，持續關注此一議題<sup>10</sup>。其中第 1820 號決議確立性暴力作為戰爭策略及其與國際和平之重要相關性，要求保護衝突地區女性並懲治這些嚴重人權侵犯行為。

然而，這些聯合國安全理事會決議在實踐上並未發揮其應有的功能。安理會決議雖對聯合國會員國有約束力，但早期通過的決議缺乏監督課責機制，只能呼籲衝突各方尊重國際法<sup>11</sup>，即使聯合國及北歐、西歐國家予以相當程度重視<sup>12</sup>，全球其他非處戰亂會員國仍未普遍將之視為優先議程，尤其是許多武裝團體並非聯合國成員，除道德喊話外無從要求起，僅能倚賴外交談判協商。因此，2005 年第 1325 號決議成立 5 周年前後，國際非政府組織開始建議各國政府於其國內各層面實踐第 1325 號決議，並以國家行動計畫(National Action Plan)結合

---

<sup>8</sup> 超過 200 個非政府組織皆參與此一倡議，幾個重要國際非政府組織並組成 the NGO Working Group on Women, Peace and Security，包括國際婦女和平自由聯盟(Women's International League for Peace and Freedom)，國際特赦組織(Amnesty International)，海牙呼籲和平(Hague Appeal for Peace)等，聯合國婦女基金(UNIFEM)亦積極支持，詳見 Funmi Oloisakin, Karen Barnes, Eka Ikpe (ed.) (2011), *Women, Peace and Security; Translating Policy into Practice*. New York: Routledge.

<sup>9</sup> 第 1820(2008)，1888(2009)，1889(2009)，1960(2010)，及 2106、2122(2013)號決議，最近者為第 2242 號決議，2015 年 10 月 13 日通過。

<sup>10</sup> 2015 年 8 月聯合國與非洲聯盟於蘇丹達夫地區聯合行動(UNAMID)出版報告指出，三分之一的人權違犯案例皆有性暴力。

<sup>11</sup> 安理會第 1325 號決議中即已提到 CEDAW 保護女性人權義務。

<sup>12</sup> 北歐國家早於十年前訂定國家行動計畫，如丹麥、瑞典均已進入第三期計畫執行中，歐盟亦於 2008 年級通過 *Comprehensive EU Approach to the Implementation of UNSCR 1325 and 1820* 等文書。協助歐盟會員國執行這些決議。

施政與外交為具體作法，希望能夠由各國安全體系做起，改善女性在戰亂、和平及安全中的參與和性別觀點受重視程度。2010年聯合國秘書長在其對女性參與和平建構報告<sup>13</sup>中亦對聯合國內部要求各個組織施行七點行動計畫(7-point Action Plan)<sup>14</sup>，於維和相關工作中納入性別觀點並提高女性參與；對外則呼籲各國建立國家行動計畫，並提出施行指標以供各國試用。可惜的是，不論公民社會如何努力，國家行動計畫實需要各國政府及領導者高度政治意願方能達成<sup>15</sup>，至今十五年來亦僅52國<sup>16</sup>有之，而對試用指標更是無甚意願，究其原因，仍在缺少國際法公約之正式監督機制，包括定期國家報告及國內法效力等<sup>17</sup>；因此近年來國際女性團體開始積極推動「女性、和平與安全」議程與有「女性人權憲章」之稱的《消除對婦女一切形式歧視公約》之連結<sup>18</sup>，認識到唯有以「一般性建議」形式正式進入國際人權公約體系最能發揮此議程之影響力，並於2009年1月21日於紐約向CEDAW委員會簡報全球女性與武裝衝突相關情勢，正式建議CEDAW委員會起草一般性建議來處理此一嚴重的對婦女人權之侵犯狀況<sup>19</sup>。

### 三、CEDAW 委員會對衝突中女性人權之關注

---

<sup>13</sup> Report of the Secretary-General on Women's Participation in Peacebuilding (UN 文件編號 A/65/354-S/2010/466), available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20S%202010%20466.pdf> (2014年7月19日上網)

<sup>14</sup> 詳見 [http://www.un.org/en/peacebuilding/pbso/pdf/seven\\_point\\_action\\_plan.pdf](http://www.un.org/en/peacebuilding/pbso/pdf/seven_point_action_plan.pdf)

<sup>15</sup> 詳見 GNWP, Ensuring Accountability to UNSCR 1325 and 1820: Using CEDAW, <http://www.gnwp.org/what-we-do/local-legislative-advocacy/CEDAW-with-UNSCR-1325-and-1820>. (2013年7月19日上網)

<sup>16</sup> 本文完稿之際，最新成立國家為日本(2015年9月30日)，其後成立者請見 Peace Women 網站 (<http://www.peacewomen.org/member-states>)。

<sup>17</sup> 縱然聯合國安全理事會根據其第2122號決議(UNSCR/2122)於2015年進行了全球執行第1325號等決議之高級別檢查，獨立專家小組並於同年10月提出報告，但僅是對會員國要求填報，並無約束或懲處。

<sup>18</sup> 地區性及國際性會議如非洲“1325 in 2020: Looking Forward...Looking Back”高級別論壇及瑞典舉辦之“Stockholm International Conference 10 Years with 1325 – What Now?”會議中皆呼籲以《公約》強化第1325號決議之執行。

<sup>19</sup> Thematic Briefing on Women and Armed Conflict between the CEDAW Committee and NGOs, <http://admin.iwraw-ap.org/plugins/tinyMCE/plugins/moxiemanager/data/files/Organization%3EActivities%3Eiwraw%20Asia%20Pacific%20Reports/3%20CEDAW%20Lunch%20Briefing%20on%20Women%20in%20Armed%20Conflict%20FINAL.pdf> (2011年3月19日上網)

CEDAW 委員會早自 1990 年初期，即已注意到女性在戰亂中各種人權遭受侵害(包括性暴力等)的事實，近十年來在其對克羅埃西亞、盧安達等國國家報告之結論意見中均提請該國政府要以積極行動保障武裝衝突中的女性人權<sup>20</sup>，並在 2009 年《國際人權條約締約國提交報告的形式和內容匯編》<sup>21</sup>中，明白要求各國於其國家報告酌情說明「女性、和平、安全相關進程」；每四年與締約國建設性對話時，CEDAW 委員會委員亦持續提出「女性、和平與安全」議題相關詢問，以擴大、加強《公約》在衝突中/後地區之執行，持續促進性別平等。

事實上，《公約》與「女性、和平與安全」議程已有多處交叉，正如 CEDAW 委員會 2010 年第 46 屆會就第 1325 號決議十周年發表的聲明所言：

「(本委員會)重申(reaffirm)對此決議精神之承諾(Commitment)及其與公約之緊密連結(Integral link)。」<sup>22</sup>

此一連結就在於二者共同關注女性主體性參與之正面貢獻，以及防治現實世界中一切暴力侵害女性行為需要具管轄權的公權力介入防治，包括：

- (一) 要求所有領域、所有層級之女性決策參與；
- (二) 強調法律上的男女平等及法治中對婦女及女童之保障；

---

<sup>20</sup> CEDAW 委員會最早在 2007 年第 38 屆會對塞爾維亞國家報告及 2008 年第 40 屆會對黎巴內國家報告之結論意見中建議(recommend)該國建置第 1325 號決議之執行行動計畫，並納入《公約》第 4/1、7、8 條之考量。在 2008 年第 46 屆會審查緬甸(Myanmar)國家報告結論意見中第一次一併提及第 1325 及當年才成立的 1820 號二項決議，並建議該國政府成立行動計畫，同時納入《公約》第 2、4/1、5、7、8 條的考量，以充分執行此二決議。CEDAW 委員會最早明文提及第 1325 號決議是在 2004 年第 31 屆會對孟加拉(Bangladesh)國家報告中讚許該國於輪值安理會主席時提出並獲通過該決議。「女性、和平及安全」議程之重要係出現在 2006 年第 35 屆會報告中。在對波士尼亞及 Herzegovina 之專題分析文中，委員會說明了第 1325 號決議對執行《公約》有支援及強化公用，並在其對波士尼亞及 Herzegovina 國家報告結論意見中要求(urge)該國確保女性持續充分參與和平進程，以符合聯合國安理會第 1325 號決議。

<sup>21</sup> Compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties. (UN 文件編號 HRI/GEN/2/Rev.6) 原文全文詳見 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=HRI%20GEN%202%20Rev.6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=HRI%20GEN%202%20Rev.6&Lang=en)

<sup>22</sup> 作者自譯。原文全文詳見

[http://www2.ohchr.org/english/bodies/cedaw/docs/statements/Statement\\_SCR\\_1325.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/statements/Statement_SCR_1325.pdf) 或 [http://www.ohchr.org/Documents/HRBodies/CEDAW/Statements/Statement\\_SCR\\_1325.pdf](http://www.ohchr.org/Documents/HRBodies/CEDAW/Statements/Statement_SCR_1325.pdf) (2011 年 3 月 19 日上網)

- (三) 承認女性獨特之生命經驗與負擔源自社會文化系統性之(傳統)歧視；
- (四) 認為對女性暴力和歧視阻礙了女性發展，並使其無法掙脫在社會/人際關係中劣勢位置；
- (五) 要求維安系統和人員保護婦女及女童免於基於性別的暴力及歧視；
- (六) 確保女性經驗、需求及觀點納入政治、法律、社會決策，以達到公義、和平。

CEDAW 委員會此一聲明，亦隱然已為未來可能之一般性建議埋下伏筆：

「在安全理事會第 1325 號決議成立十周年之際，委員會強調《公約》與該決議之間存在的協同作用(synergy)，並重申為締約國提供該決議相關之具體策略指導(Concrete Strategic Guidance)之決心(determination)。」<sup>23</sup>

果不其然，同年(2010年)10月4-22日第47屆會中，CEDAW 委員會便正式決定開始啟動關於女性與衝突的一般性建議起草過程。2011年7月18日(第49屆會期中)就起草小組諮詢相關學者、專家完成之 concept note 內容，舉行了為期一天的「一般性討論(general Discussion)」，聽取各方意見，除 CEDAW 委員會委員外，聯合國機構代表(如聯合國促進性別平等和增強婦女權能署(UN Women)，以下簡稱「聯合國婦女署」)<sup>24</sup>、特別專家(「如暴力侵害婦女、其原因和後果問題特別報告員」，「衝突中性暴力問題秘書長特別代表<sup>25</sup>」)，重要國際非政府組織(如 GNWP, International Alert, IWRAWAP, WILPF<sup>26</sup>)

<sup>23</sup> 作者自譯。原文全文參見同上。

<sup>24</sup> 全稱為 United Nations Entity for Gender Equality and Women's Empowerment。

<sup>25</sup> 全稱分別為 Special Rapporteur on Violence against Women，Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict。

<sup>26</sup> GNWP 全稱為 Global Network of Women Peacebuilders，IWRAWAP 全稱為 International Women's Rights Action Watch Asia Pacific，WILPF 全稱為 Women's International League for Peace

均與會發言，針對未來一般性建議包涵之議題、範圍、參考、作法等，提出各自看法。

2012 年則將草案交付全球區域諮商，包括美洲、非洲、中東等地，亞洲地區於 2012 年 3 月 27-28 日泰國曼谷舉行。最後由起草小組和秘書單位(人權高級專員辦公室 Office of United Nations High Commissioner for Human Rights)將廣納各項意見後的協商結果形成一般性建議最終草案版本，方提交 CEDAW 委員會，並於 2013 年 10 月 18 日通過，是為第 57 屆會第一項決定，《關於婦女在預防衝突、衝突及衝突後局勢中的作用的第 30 號一般性建議》(CEDAW/C/GC/30)於焉正式成立。

表：「女性、和平與安全」議程納入 CEDAW 公約十年進程

年 度	2004	2006	2007	2008	2009	2010(7 月)	2010(10 月)
	以第 25 號一般性建議執行 1325。 (提高婦女地位司主任 Carolyn Hannan，4 月 5 日，日內瓦)	衝突後地區國家報告結論意見納入。 [2007 起，和平地區國家報告亦納入]	UNIFEM 出版手冊 (CEDAW and Security Council Resolution 1325: A Quick Guide)	委員會要求國家報告酌情放入；「考慮利用一系列可能的措施，例如配額、基準、指標和獎勵辦法。」(A/63/28 No.182) [2009：載明於《國際人權條約締約國提交報告的形式和內容匯編》(HRI/GEN/2/Rev.6)]	國際非政府組織向 CEDAW 簡報站論中女性處境及未來展望(1 月 21 日，日內瓦)	委員會發表第 1325 號決議十周年紀念聲明，說明二者共通及相融處	1 委員會第 47 屆會決定建立一般性建議 (Decision 47/1)

年 度	2011(1 月)	2011(7 月)	2012	2013	2014	2015(3 月)	2015(10 月)
	相關工作小組成員確定並開始運作。	委員會第49屆會期間舉行全天「一般討論 (General Discussion)」(7月18日, 日內瓦)	全球分5區域進行分區諮詢會議。	10月18日委員會第56屆會通過第30號一般性建議, 同日聯合國安全理事會通過第2122號決議。	UNWomen 出版指導手冊 ( Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security)	委員會主席發布公開信, 對「全球執行第1325號決議高級別檢查」提出《公約》觀點之建議。	「CEDAW 與第1325號決議間互補」論壇 (安理會第1325號決議15週年活動之一) (10月12日, 紐約)

## 貳、第 30 號一般性建議之內容重點：

本號一般性建議確立了《公約》應實施於一切形式衝突及衝突後情境，並責成締約國要努力達成相關的《公約》「重要目標」，包括在衝突之前、中、後「任何時候」，「都要保護婦女的人權」，「促進實質性別平等」，亦要求締約國「確保將婦女的多種經歷充分納入所有建設和平、建立和平和重建過程」之中(一般性建議 30/2)。不僅將衝突情境中的女性權益明訂為《公約》實踐目標之一，也同時將對婦女及女童在衝突影響地區實際生活中的各項人權保障措施，如保護、尊重和實現等面向，納入 CEDAW 國際法框架的報告及課責機制。

有鑑於婦女及女童在武裝衝突中常為受害最深之群體，以及她們常在預防衝突及復原重建的和平過程中遭受輕忽、排除，甚至性別歧視、暴力，CEDAW 委員會通過的第 30 號一般性建議之「宗旨和目的」即在提供「關於立法、政策和其他適當措施的權威指導」，以「確保」

締約國「全面遵守《公約》規定」的義務(一般性建議 30/1、3)，委員會並在全文之始即提出重視武裝衝突對男女造成之「不同影響」以及女性在衝突前、中、後的正面貢獻，並且關切締約國的報告要「提供足夠資訊」(一般性建議 30/2、3)。

在闡明規範性詮釋及具體可行作法時，第 30 號一般性建議強調《公約》各條文彼此相輔相成，所以「處於衝突及衝突後情況中的婦女」(一般性建議 30/四. B)部分之各領域皆同時援引數條《公約》條文，最多可至七條，其中常見重複者如第一、二、三、十五條均出現了四次，這正說明了《公約》概述式條文不僅可在不同領域中交錯通用，處理特定領域問題時也不能只用該領域專屬條文，如選舉相關事宜原來多於第七條及第 23 號一般性建議(政治和公共生活)處討論，第 30 號一般性建議則特別著力於選舉制度及施行不利女性參與甚或排擠歧視女性之底層原因，要求締約國改變《公約》第一至五(a)條中的「結構性不平等」，以改革選舉運作及其結果影響(一般性建議 30/79)，不再僅限於《公約》第七條。

以下就第 30 號一般性建議各項內容重點分三方面敘述：(一)擴展《公約》適用範圍；(二)「女性、和平與安全」議題正式納入國際人權法體系；(三)強調女性主體能動性及其在衝突前、中、後之參與及賦權。

### 一、擴展《公約》適用範圍：

CEDAW 一向要求締約國不得以任何理由延遲《公約》之執行，在第 28 號一般性建議第 11 段明文指出：「締約國的義務不因政治事件或自然災害導致武裝衝突或緊急狀態而停止」。第 30 號一般性建議則將《公約》實施範圍根據先前一般性建議進一步擴展到多種其他國家、社會危機之時，以及治權所及之國土外領域，更重要的是，包括了非國家行為體。前兩項擴展《公約》執行之時空情境的解釋，雖曾在之前的 CEDAW 一般性建議中出現，第 30 號一般性建議則提出了

更為具體細項建議以「指導(Guide)締約國」(一般性建議 30/3)履行其義務。

(一) 由平時到危急：

較之於先前之一般性定義僅籠統提到武裝衝突或緊急狀態，第 30 號一般性建議明確列舉了「國際及非國際武裝衝突」、外國或「其他形式佔領」、「長期和低劣度內亂」、「政治紛爭、族裔和種族暴力」、「緊急狀態和鎮壓大規模起義、反恐戰爭和有組織犯罪」等危機局勢中的女性人權議題(一般性建議 30/4)，還包括「境內流離失所、無國籍狀態及難民抵抗遣返進程的鬥爭」等情境(一般性建議 30/5)。因此，並未處於戰爭或衝突狀態的締約國，亦能以第 30 號一般性建議為處理難民、緊急狀態或有組織犯罪等情境之女性人權施行準則，特別是國內維安體系，如軍隊、警察在其中任何行動應考量《公約》尊重、保護及實現女性權利之要求，以符合締約國國家義務。此處 CEDAW 委員會明白列出的各種危急情境，皆是過去曾被締約國用來當作是國家緊急狀態而無法顧及女性人權的理由；然而女性權益及其需求往往在「公共緊急狀態(public emergencies)」(30/19)下受到有意或無意之忽略，其影響更是容易使不成比例的女性居於劣勢，不僅離實質性別平等的可能越來越遠，連女性當下的需求與權益也無法維護。是以 CEDAW 委員會在本建議中羅列多項國家、社會之危難情況(一般性建議 30/4,5)，就是希望各締約國政府在任何時候都持續執行《公約》，維護婦女及女童的人權。這不僅延續了第 28 號一般性建議的要求，還進一步擴展了《公約》適用情境，並要求符合其他國際人道主義法等的規範，因為這些國際法與《公約》「同時適用」，「提供相互補充」(30/20)，充分顯現《公約》與其他國際法之密切連結。

## (二) 由國內到域外：

《公約》的執行成果報告向以締約國境內政策及進程為主，然在第 28 號一般性建議第 12 段即已說明締約國的義務還適用於在其有效控制下的「域外」(extraterritorial)地區，以及對不在其境內的「影響人權的一切行為負有責任」(一般性建議 30/8)，例如在非締約國管轄權所及之處的人道主義援助或其他捐助、援助及其影響。此一要求也並不新，實乃符合目前國際人權公約執行趨勢(一般性建議 30/11)。這些在締約國境外，可能亦非其國民或公民的女性，只要受 CEDAW 締約國管轄就仍然在該國《公約》國家義務範圍之內(一般性建議 30/9、10)，而僱傭軍、被管理當局拘留的人員，雙邊或多邊援助的人員，參與和平或談判進行的人員等，亦均適用 CEDAW(一般性建議 30/9)，特別是《公約》第二條(e)款關於消除公共或私營行為體歧視的規定。在第 28 號一般性建議中，已明訂確實「適用於在域外運營的國家公司的行為」(一般性建議 28/36)，本一般性建議更明確指出締約國對境外運作之本國私營安保公司及其他減輕衝突或促進經濟、貿易等商業機構亦皆要以《公約》標準來要求及監督，並建立相關機制，方不致因其「行動」而「導致女性權利受到侵犯」(一般性建議 30/10)。CEDAW 委員會在本一般性建議中，將「域外適用」另列為一子項標題，顯然意在較第 28 號一般性建議更為強調並具體闡釋締約國在域外執行《公約》的義務範圍，不僅包括維和、援外行動，與在其有效控制區域內的所有人員「影響人權的一切行為」(一般性建議 30/8)，即使是該國參與國際組織或政府間組織成員之行動亦不例外(一般性建議 30/12)，更及於該國「非國家行為體」在域外營運的一切活動，即使不在該國控制區域亦然(一般性建議 30/10)。至於其他各項公約如有域外義務條

款者<sup>27</sup>，締約國在履行這些義務時，CEDAW《公約》的域外適用亦要求該國一併遵守 CEDAW(一般性建議 30/11)。

### (三) 由締約國到非國家行為體

國際人權公約一般以締約國為義務執行及受監督對象，CEDAW 亦是如此，但國際法中「還載有約束非國家行為體 (Non-state actors, as parties to an armed conflict) 的相關義務」(一般性建議 30/16)，例如《1949 年日內瓦四公約》及其《附加議定書》等。在第 30 號一般性建議中 CEDAW 委員會明言其立場為：「非國家行為體有義務尊重國際人權」(一般性建議 30/16)，並且直接向非國家行為體呼籲，敦促武裝團體尊重《公約》所載之婦女權利，以及「禁止所有形式性別暴力」(一般性建議 30/18)。此一少見於人權公約體系之作法，正反映出減損女性權利及基於性別的暴力乃是當今普遍存在的衝突相關人權違犯情況，其嚴重性使得國際社會不得不啟動一切可能對之有所協助的攸關方來共同關切並有所作為，因此 CEDAW 委員會列出各種涉入衝突或危急狀態之內部或外來的非國家行為體，如「武裝團體、准軍事部隊、公司、私營軍事承包商、有組織犯罪團體和治安維持者」(一般性建議 30/13)，敦促他們保護婦女和尊重人權，亦即延伸擴大了《公約》的適用對象，以確保女性在實際日常生活中的安全與尊嚴。

## 二、將「女性、和平與安全」議程正式納入國際人權法體系

---

<sup>27</sup> 「國際法規定締約國也需承擔域外國際合作的義務，如關於身心障礙婦女(《身心障礙人權利公約》第三十二條)、武裝衝突中的女孩(《兒童權利公約》第二十四條第四款及其頭兩個任擇議定書)和不加區別地享受經濟、社會及文化權利(《經濟、社會、文化權利國際公約》第二條第一款、第十一條第一款、第二十二條和第二十三條)的條約法。在此類情況下，《公約》的域外適用要求各國在履行這些義務時遵守《公約》」(一般性建議30/11)。

在諸多國際公民社會團體及政府間組織殷切期待下，第 30 號一般性建議的成立代表「女性、和平與安全」議程正式透過 CEDAW 進入了國際人權公約機制，這意味著此議程不但自此具有國際法效力，在施行原則及監督程序上，亦均需按照人權公約體制既定規範運作，是以 CEDAW 委員會要求將其落實在「實施《公約》及其《任擇議定書》的更寬泛框架內」(30/26)。

#### (一) 原則方面：

CEDAW 委員會就《公約》施行上的要求，向以「實質平等」，「盡職義務」，「相互交叉性」，「生命週期法」等原則為主，由於安全理事會一系列決議之「關切領域在《公約》的實質條款中都可以找到相應的表述」(30/26)，這些《公約》原則現在也適用於第 30 號一般性建議之「女性、安全與和平」相關推動作為。

##### 1. 實質平等(Substantive Equality)：

女性與男性不僅在國家安全、和平相關法律及政府措施中應得到平等的機會、待遇，實際執行維安的過程與結果也要評估質與量的平等(一般性建議 23/48, 50, 一般性建議 24/9)。特別是採用「暫行特別措施(Temporary Special Measures)」來矯正婦女受到歷史性的長期歧視在維持和平、安全方面而造成不同性別間之資源、權力、處境差異不均的現實，以公權力轉化「底層結構」中「根深蒂固」的性別歧視(一般性建議 30/77)並創造友善女性在維和及衝突前、中、後之參與及發展的環境與機制，加速達成性別平等(一般性建議 25/38)<sup>28</sup>，例如調查安全、和平相關違法事件時「採用對性別問題有敏感認識的做法」等(一般性建議 30/17(d))，讓受害女性得到更實際的支持。CEDAW 委員會主席亦在其 2015 年公開信中函請

---

<sup>28</sup> 聯合國婦女地位司主任 Carolyn Hannan 於 2004 年即倡議以 CEDAW 第 25 號一般性建議強調之暫行特別措施來增進女性參與預防衝突與解決衝突。"Affirmative Action and Security Council Resolution 1325 (2000), (2014.4.15)

安全理事會於其全球高級別檢查中採用《公約》實質平等模式來評估衝突及後衝突地區對女性之影響和人權享有等實際狀況<sup>29</sup>。

## 2. 盡職義務(Due Diligence Obligation)：

盡職(Due Diligence)在防治對女性暴力作為中一直是重要的概念，在本建議中則視之為締約國履行義務之一(一般性建議 30/3、15)。盡職義務係指政府應採取積極行動(positive action)來預防和保護女性免於暴力，懲治加害人，以及補償受害者。第 30 號一般性建議第 15 段中則指盡職義務包括「防止、調查、懲治和確保糾正」，無論是個人或實體(entities)「有損《公約》所規定的權利的行為」，並要求締約國「提供足夠的行政和財政支助」以執行《公約》(30/15)，於任何時候皆然。

在女性權益相關的國際文書中，盡職概念早在 CEDAW 委員會於 1992 發佈之第 19 號一般性建議中即已出現，呼籲締約國以盡職行動來預防與回應對婦女的暴力行為；1993 年聯合國《消除對婦女暴力宣言》中(第 4 條(c)款)更以此為標準，來檢視(assess)政府是否盡到義務，而 1995 年《北京行動綱領》亦重申此一要求(第 125 段(b))。邁入新世紀後，盡職準則出現於多項國際人權公約一般性建議<sup>30</sup>及聯合國文件中，「聯合國暴力侵害婦女、其原因及後果問題特別報告員」更先後提交相關報告，詳述各國政府應如何以具體措施達成盡職標準(standard)<sup>31</sup>。CEDAW 委員會在 2005 年審理 Ms. A.T.v. Hungary

<sup>29</sup> 2015 年 3 月 6 日於 CEDAW 委員會第 60 屆會議期間，主席 Yoko Hayashi(林 楊子)具名寫信給「全球檢查執行第 1325 號決議(Global Study on the Implementation of Resolution 1325(2000))」召集人，提供《公約》觀點之建議。

<sup>30</sup> 例如 2006 年“Integration of the Human Rights of Women and the Gender Perspective: Violence against Women. The Due Diligence Standard as a tool for the Elimination of VAW.” E/CN.4/2006/61; CEDAW 第 28 號一般性建議亦提到類似的內涵。

<sup>31</sup> 例如 2013 年 Annual Report of the Special Rapporteur on violence against women, its causes and consequences 即以 due diligence standard 為主題闡釋國家消除對婦女暴力之責任，詳見 [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A\\_HRC\\_23\\_49\\_English.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_49_English.pdf) (UN 文件編號 A/HRC/23/49)。

案件的決議中，發現該國政府並未盡到第 2、5、16 條下的國家義務，意即並未積極、有效預防對 A.T.女士之暴力，亦未於事後周延保護她<sup>32</sup>，其實就是未盡盡職義務的內涵。2008 年人權理事會將此概念具化，並於其中納入性別觀點應用在鼓勵企業採用評估其人權影響的「保護、尊重和救濟」框架，(HRC Resolution 8/7)；又於 2011 年出版「企業與人權指導原則」深入探討國家人權義務包涵第三方行動後果之課責，其中亦提到企業引起或容許發生之性/別暴力為是侵犯人權行為，國家義務及企業社會責任均要加以處理。

### 3. 相互交叉性(Intersectionality)及生命週期法(Life-Cycle Approach)：

本一般性建議第 7 段重申了 CEDAW 施行的兩個原則：相互交叉性及生命週期法。CEDAW 委員會發佈之第 28 號一般性建議第 18 段明定「相互交叉性(intersectionality)」是「理解」《公約》「第 2 條所載列締約國一般義務範圍的基本概念」(一般性建議 8/18)，因為「以性或性別為由」去歧視女性，與其他「種族、族裔、宗教或信仰、健康狀況、年齡、階級種性、性取向和性別認同等」因素息息相關，而且對婦女造成的「影響程度或方式可能不同於對男性的影響」，因此締約國要消除對女性「相關綜合負面影響」(一般性建議 28/18)。第 30 號一般性建議則有三處明文指出在衝突下及後對不同群體女性之影響包括「具體風險」及「特殊需求」，要求締約國要注意並解決，如身心障礙女性、老年婦女、女孩、寡婦、女戶主、孕婦、感染愛滋病(毒)的婦女、農村婦女、原住民婦女等(一般性建議 30/57(b))，亦正視女性的「衝突經歷與國籍方面的歧視」交叉在一起時造成的「無國籍狀態」(一般性建議 30/58)。

---

<sup>32</sup>詳見 Communication No. 2/2003, Ms. A.T. v. Hungary, Views adopted on 2005.01.26.

生命週期法(life cycle approach)為 CEDAW 委員會檢視各締約國國家義務面向之一，係指《公約》每一實質條文均適用於「婦女生命的所有階段」(一般性建議 27/15)，自嬰兒至老年的女性人權皆須由政府努力促進、保護及實現。CEDAW 委員會近十五年來通過之一般性建議屢屢提醒此一概念，如 1999 年 CEDAW 第 24 號一般性建議要求「締約國實施全面的國家策略，促進婦女生命週期整體的保健」(一般性建議 24/29)；又如 2010 年第 27 號一般性建議明文將婦女生命分為「童年、青少年、成年、老年」，認為「唯有藉由生命週期，承認和著眼婦女生命不同階段及各階段對高齡婦女享有人權的影響，方能實現婦女的充分發展和進步(一般性建議 27/15)；2010 年第 28 號一般性建議也要求締約國「應頒布法律，禁止對《公約》所規定的各領域及婦女的全生命週期及加以歧視」(一般性建議 28/31)。第 30 號一般性建議便據此規範締約國「還必須滿足受衝突影響女孩」的權利和「因基於性別的歧視造成的」其在預防衝突及衝突中、後之「獨特需求」(一般性建議 30/7)；雖然此處僅特別指出女孩階段，「鑒於《公約》採用生命週期法」(一般性建議 30/7)，女性在所有人生階段的權利和獨特需求均不應在任何處理「緊急狀態」或「組織犯罪」等情況(一般性建議 30/4)時受到忽略。

## (二) 程序方面：

透過建立一般性建議而將「女性、和平與安全」議程正式納入國際人權法體系意味著不但結合了相關人權公約原則概念，在締約國執行公務上如預防衝突、重建和平、維持安全等要考量這些人權基準，也意味著一併進入了要求各國監督、課責、定期報告等國際人權運作機制。

### 1. 報告要求

CEDAW 委員會自 2008 年開始要求締約國根據《公約》第 18 條(a)每四年提交國家報告時要「酌情(when applicable)」放入「婦女、和平與安全」相關執行情形，並「考慮利用一系列可能的措施，例如配額、基準、指標和獎勵辦法」，來促進女性參與和平進程<sup>33</sup>。在 2009 年 6 月公布的《國際人權條約締約國提交報告的形式和內容匯編》(HRI/GEN/2/Rev.6)中亦納入此項要求，以亟思彌補「女性、和平與安全」系列決議長久缺乏監督機制而可能流於官樣文章之缺失。然而 CEDAW 委員會注意到過去雖已多方鼓勵，很少締約國在定期報告中提供全方位資訊，只提到一般女性，亦未分開緊急狀態或衝突中女性獨特需求或困境；CEDAW 委員會與處在戰亂中、後締約國對話時，有些國家還會躲在自訂的「武裝衝突」定義之後或否認該國領土中存在「武裝衝突」以閃避責任<sup>34</sup>。

第 30 號一般性建議通過後，正式將「女性、和平與安全」議程納入 CEDAW 機制，此一難題迎刃而解，不僅包括安理會系列決議的執行，也包括聯合國就此議程設置之各種標準或指標的達成(一般性建議 30/84)。這意味著締約國將安全理事會相關決議執行情形寫入定期 CEDAW 國家報告時，應將「女性、和平與安全」議程與反恐和反暴力極端主義(violent extremism)「綜合統一起來」(S/RES/2242/11)，以開展包容性前端預防工作(inclusive upstream prevention efforts)(S/RES/2242/13)，如訓練青年和宗教、文化領袖等，還要包括 2015 年制定的「婦女參與和平與安全及人道主義行動全球加速文書」(Global Acceleration Instrument on Women's Engagement in Peace and Security and Humanitarian Affairs)在各國國內之落實進展(S/RES/2242)。此外，締約國在和平、安

---

<sup>33</sup> UN Doc. No., A/63/38，詳見 Note by the Secretariat(CEDAW/SP/2008/INF/1\*)

<sup>34</sup> CEDAW 委員會委員 Pramila Patten 於 2011 年 7 月 26 日紐約演講稿，詳見：

<https://www.ngocsw.org/archive/general/cedaw-luncheon-july-26th-2011-remarks-by-pramila-patten>

全領域中性別主流化之實踐做為亦須納入國家報告，如關於女性、安全與和平的性別統計資料和長期趨勢分析等(一般性建議 30/83)。在第 30 號一般性建議「結論」部分，CEDAW 委員會就「監測和報告」部分(一般性建議 30/82)提出具體建議，認為締約國在其定期國家報告中應(should)包含下列資訊：

- 1) 已實施的法律框架、政策和方案：說明如何藉其以「確保在預防衝突、衝突期間及衝突後局勢中的婦女的人權」(一般性建議 30/83)。
- 2) 性別統計資料和長期趨勢：締約國「應收集、分析」關於「女性、和平與安全」議程相關的數據並公布之(make available)(一般性建議 30/83)。
- 3) 境內、域外及參與國際組織行動：締約國「應述及」在相關領域所採取的各項行動(一般性建議 30/83)。
- 4) 聯合國安全理事會相關決議執行情況：締約國就第 1325、1820、1888、1889、1960、2016、2122、2242 等號決議提供執行資料，並具體報告所有相關的商定(agreed)基準(benchmarks)或指標(indicators)(一般性建議 30/84)達成狀況。

這些要求，在聯合國婦女署 2015 出版的《指導手冊》(Guidebook on CEDAW General Recommendation No.30 and the UN Security Council Resolutions on Women, Peace and Security)<sup>35</sup>中轉化為建議締約國提出定期國家報告時可以回應之 11 大項共計 44 個問題，亦可作為參考。

## 2. 審查問責

---

<sup>35</sup> 作者為 Catherine O'Rourke 及 Aisling Swaine, 詳見：  
<http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/guidebook-cedawgeneralrecommendation30-womenpeacesecurity-en.pdf>

2013 年 CEDAW 委員會第 56 屆會通過第 30 號一般性建議後，緊接著在 CEDAW 委員會第 57 屆會(2014 年 2 月)中，伊拉克及獅子山共和國 (Sierra Leone) 即於其國家報告中提供了運用第 30 號一般性建議來監督「女性、和平與安全」議程相關決議之在地實施情形；在與委員會對話時，伊拉克國家代表亦提到第 30 號一般性建議有助於該國制定「女性、和平與安全」國家行動計畫之過程。同年第 58 屆會 (2014 年 6 月 30 日到 7 月 18 日) 中，CEDAW 委員會再次敦促各締約國應於國家報告加入第 30 號一般性建議所要求之內容，並包括族群或社區暴力和性別歧視情況；委員會也以此一般性建議究責於敘利亞政府，認為應於其所轄地區加強執行安全理事會「女性、和平與安全」相關決議<sup>36</sup>。

由此「女性、和平與安全」議程正式進入 CEDAW 公約監督機制，與其他主題如教育、工作、健康、婚姻等並列為 CEDAW 國家報告所應涵蓋的領域，相信也會是未來數年 CEDAW 委員會審閱各締約國報告的重點之一。透過第 30 號一般性建議，CEDAW 委員會得以要求締約國於定期國家報告中提交「女性、和平與安全」議題相關統計資料與具體行動執行結果，以在國際人權體系內，加強對女性在預防衝突、衝突中、後之參與與人權保障之監督與課責。就我國國情而言，建立及維持和平、預防衝突發生及緊急狀態等面向中的女性參與和實際影響，仍具有相當空間可進一步施行本一般性建議內容。

### 三、強調女性主體能動性及其在衝突前、中、後之參與及賦權

CEDAW 委員會為第 30 號一般性建議命名時，其中文譯文就明白表示出婦女在預防衝突及非常狀態中後的「作用」是此一般性建議的焦點，在《導言》(Introduction)中亦說明「要...確保將婦女的多種經歷

---

<sup>36</sup> The Global Network of Women Peacebuilders 2014 Annual Report.詳見：  
[http://gnwp.org/sites/default/files/resource-field\\_media/2014%20GNWP%20Annual%20Report.pdf](http://gnwp.org/sites/default/files/resource-field_media/2014%20GNWP%20Annual%20Report.pdf)

充分納入所有建設和平、建立和平和重建進程」，並「一再」「關切」「婦女被排斥在預防衝突的努力」之外(一般性建議 30/2、30)。2011年起草此一般性建議工作小組召集人 Parmila Patten 女士在紐約對「國際非政府婦女地位委員會(NGO Committee on the Status of Women)」演講中，特別著重於女性領導力、充分參與及獨特貢獻的安全理事會第 1325 號決議，亦即某一程度反映出草案工作小組對此一國際政治框架之重視；在之後頒布的第 30 號一般性建議第 6 段中，指出女性在衝突中、後的角色，其中消極者三，積極者五，亦可顯示 CEDAW 委員會強調女性之主體能動性與多樣貢獻(一般性建議 30/6)。而在屬於第 1325 號決議直系後續強調女性領導及參與的安理會第 2122 號決議於紐約通過的同一天(2013 年 10 月 18 日)，在日內瓦的 CEDAW 委員會通過了第 30 號一般性建議，此一巧合，是否某一程度反映出委員會對女性主體能動性之重視，耐人尋味。

事實上，在第 30 號一般性建議中，CEDAW 委員認為女性參與和能力是「創造一個持久民主、和平及性別平等社會的先決條件」(一般性建議 30/42)，並在多處要求確保女性之平等參與及訓練，強調女性做為「積極分子(active agency)」可以發揮的作用(一般性建議 30/6, 45)，以及滿足「因基於性別的歧視造成的...獨特需求」(一般性建議 30/7)，包括領導知能(一般性建議 30/30, 42)及經濟技術發展(一般性建議 30/68)。預防衝突方面，委員會建議締約國不僅要「支持」婦女所做出的努力(一般性建議 30/33(a))，還要「確保」婦女「平等參與...」(一般性建議 30/33(b))。

在衝突、中後期間，委員會建議締約國要確保「不限制」女性參與(一般性建議 30/46(a))及女性在「所有決策層級的代表性」，如維安、司法部門(一般性建議 30/46(b))的平等參與；在國際談判和調解中，「要有婦女代表」(一般性建議 30/47(a))「平等參與」(一般性建議 30/69(d))，並且「確保婦女平等參與解除武裝、復原和重返社會的所有階段」，包括「建立國家機構」、「設計和實施方案(69(d))」，以及「平

等且有意義地參與「憲法起草進程」(一般性建議 30/71)。在實際策略上，第 30 號一般性建議強調採行「暫行特別措施」(一般性建議 30/44,71,72,73)以「加速實現事實上的平等」，並建議締約國在新憲法中規定之(一般性建議 30/73(c))，如使用選舉配額(一般性建議 30/73(d))及確保婦女參與各級過渡司法機制(一般性建議 30/46(b),81(e,f))等具體方法來取得「實質性進展」(一般性建議 30/72)。

對於婦女充分、平等、有意義的參與建議的另一面，則是強化女性在衝突前、中、後之增能，包括生計機會等經濟方面賦權訓練(一般性建議 30/52(b), 57(h),68)，領導力培訓(一般性建議 30/46(d))，維持正規教育及學校基礎建設(一般性建議 30/52(a))，或由其他國家提供「技術援助」來促進「有效參與」(一般性建議 30/47(b))；委員會並且注意到上述提供的內容可能「帶有性別陳規定型觀念」、或「僅限傳統女性領域」(一般性建議 30/58)，或上學途中遭遇暴力(一般性建議 30/34)等問題接阻礙了女性發展，且無助於消除「在底層結構方面的性歧視和性別歧視」以「從而實現實質性別平等」(一般性建議 30/77)，因此締約國同時「要力求改變」「結構性不平等」(一般性建議 30/79)。

### 結語：

CEDAW 第 30 號一般性建議說明了《公約》如何在受到衝突影響地區及預防衝突之政策、措施中適用，把「女性、和平與安全」議程正式納入國際人權法體系。2015 年安全理事會特別提出對此一般性建議的注意，並敦促更多國家批准或加入 CEDAW(第 2242 號決議)，而安理會所委託的「女性、和平與安全」全球高級別檢查報告亦採納了 CEDAW 委員會的建議，並相當重視第 30 號一般性建議未來對推動實質性別平等的正面影響。聯合國其他機構如婦女署，也積極推動訓練活動以增加各方對 CEDAW 委員會第 30 號一般性建議的認識。另一方面，性別主流化通常難以深入的緊急救災、國家安全等領域，亦因

著本一般性建議中要求這些領域之資料收集、分析，而可能有機會改善其中性別主流化的實踐。本一般性建議不僅具體指導締約國執行《公約》義務之範圍、作法，就其實質內容及內涵而言，已經結合了聯合國系統的三大柱石(和平安全、發展和人權)於性別平等推動進程之中，可以藉此促進更廣層級的國際跨部門合作，確實是一項意義非凡的里程碑。

### 參、一般性建議各點重要內容提示 (含中英文內容對照)

第 30 號一般性建議對受衝突影響情境下各領域如何落實《公約》要求，可分為十一個重要主題，每一主題說明後各自列出具體建議(見下表)，其中二主題領域，女性國籍及婚姻家庭，並未在安理會決議中出現，適足以補強「女性、和平與安全」議程在這些面向的女性人權考量。以下就一般性建議中每一條款<sup>37</sup>分別列出重點及須注意之處。

---

<sup>37</sup> 《公約》正式締約國又是聯合國會員國，亦需接受人權理事會普遍定期檢查(The Universal Period Review)及特別程序(Special Procedures)，如專案工作小組或特派員之訪視。

表：《公約》第 30 號一般性建議在衝突中、後局勢之重要主題：

主題	第 30 號建議	公約條款
1. 性別暴力	34-37 段	1-3 , 5a, GR19
2. 販運(性剝削)	39-41 段	6
3. 參與	42-47 段	7, 8
4, 教育、工作、健康、偏鄉婦女	48-52 段	10-12, 14
5.流離失所、難民和尋求庇護者	53-57 段	1-3, 15
6.國籍和無國籍狀態	58-61 段	1-3, 9
7.婚姻和家庭關係	62-65 段	15, 16
8.安全部門改革以及解除武裝、復員	66-69 段	(NEW)
9.憲法和選舉改革	70-73 段	1-5a,7,15
10.訴諸法律的機會	38(a,b,c,f) , 74-81 段	1-3,5a,15

#### 肆、相關法規或措施檢視案例說明

【說明】CEDAW 委員會第 25 號一般性建議指出：間接歧視婦女的情況，可能發生在法律、政策和計畫看似性別中立、實際上卻對婦女產生不利影響時；性別中立的法律、政策和計畫可能非意圖地使過去歧視婦女的後果存續，也可能非故意地以男性生活方式為典型而未考量到婦女有別於男性的生活經驗。以下案例說明透過法律實施的結果，檢視實質平等是否達成。

<b>案例</b>	<p><b>女性力量參與 88 水災重建</b></p> <p>莫拉克風災後，行政院於 9 月 3 日公布「莫拉克颱風災後重建推動委員會」，我們看到委員會 37 名委員中，女性僅有二位官方代表，分別是雲林縣長蘇治芬和台東縣長鄭麗貞，其餘全是男性，顯示中央政府依然重視男性主導的決策思惟。</p> <p>反觀，各重建部落社區內，我們卻目睹參與重建的女性身影穿梭不停，有的是部落自救會組織代表、有的是公益團體執行者、有的則是社工員、還有許許多多的志工……，她們傾聽受災鄉民心聲，協助解決問題，支持鄉民安全重返家園之路。</p> <p>【98 年 10 月 19 日第 304 期網氏女性電子報焦點話題 <a href="http://forum.yam.org.tw/bongchhi/old/light/light302-0.htm">http://forum.yam.org.tw/bongchhi/old/light/light302-0.htm</a>】</p> <p><b>陽剛才能救援？</b></p> <p>我們在災區的工作現場也發現，因為婦女與現實的貼近，她們會針對在地的需求提出反映（如托育，共食等照顧工作），</p>
-----------	--

	<p>她們操作出來的救援模式因為具彈性、分殊化且貼近在地脈絡、能呼應個別差異，服務到自己與族人的需求。</p> <p>相對於婦女細緻及耐心地投入，政府的救災方式卻是陽剛、官僚化的，各單位只想辦法完成自己單位的任務，沒有統合起來工作，也無法以「部落」或「家庭」為中心來進行救援服務。舉例來說，在災後的情境中，行政院決定安置地點，教育處主責學童教育，社會處主管社服補助，勞工處提供八八零工就業專案，各單位工作各司其職，在不同的時間點上各自作主，不考慮協調工作，導致部落／家庭被分割成不同區塊「被救援」。結果是：安置的地點沒有考慮部落的整體性及相對應的交通設施；教育部／處決定孩童八月底無論如何要正常上課，自行決定了上課地點；而行政院長決定把災民安置於營區，這使得孩童上學的地方離安置的營區至少需一小時以上的車程。</p> <p>【99年8月31日性別平等教育季刊第51期，林津如，陽剛才能救援？災難論述中（被）噤聲的女性觀點（頁16-19）】</p>
<p><b>主要爭議點</b></p>	<p>女性參與決策、危急情境中女性需求及性別平等觀點</p>
<p><b>我國現行法規或措施</b></p>	<p>1. 災害防救法</p> <p>第 7 條 中央災害防救會報置召集人、副召集人各一人，分別由行政院院長、副院長兼任；委員若干人，由行政院院長就政務委員、秘書長、有關機關首長及具有災害防救學識經驗之專家、學者派兼或聘兼之。</p> <p>第 27 條 四、受災民眾臨時收容、社會救助及弱勢族群特殊保護措施。</p>

	<p>五、受災兒童及少年、學生之應急照顧。</p> <p>2. 莫拉克颱風災後重建特別條例（103年08月29日廢止）</p> <p>3. 行政院莫拉克颱風災後重建推動委員會暫行組織規程（103年08月29日廢止）</p>
<p>相 關 CEDAW 條 文及一般 性建議</p>	<p>第 1 條</p> <p>「對婦女的歧視」一詞指因性別而作的任何區別、排斥或限制，其影響或其目的足以妨礙或否定婦女不論已婚未婚在男女平等的基礎上認識、享有或行使在政治、經濟、社會、文化、公民或任何其他方面的人權和基本自由。</p> <p>第 7 條</p> <p>締約各國應採取一切適當措施，消除在本國政治和公共生活中對婦女的歧視，特別應保證婦女在與男子平等的條件下：</p> <p>（b）參加政府政策的制訂及其執行，並擔任各級政府公職，執行一切公務。</p> <p>第 23 號一般性建議</p> <p>16. 《北京行動綱領》強調的關鍵問題，係婦女在普遍參與政治和公共生活方面，存在著法律與事實或權利與現實之間的差距。研究結果指出，如果婦女參與的比例能達到30%至35%（一般稱為「臨界人數」），就會對政治方式和決策內容產生實際的影響，使政治生活充滿新的活力。</p> <p>第 28 號一般性建議</p> <p>31. …締約國有義務採取步驟，修改、廢除構成對婦女歧視的現行法律、規章、習俗和慣例。特定族群的婦女，包括被剝奪自由、難民、尋求庇護者和遷徙婦女、無國籍婦女、同性戀婦女、身心障礙婦女、人口販運的女性受害者、喪偶和</p>

	<p>高齡婦女等，尤其易受到民法和刑法、規章和習慣法和慣例的歧視。</p> <p>第 30 號一般性建議</p> <p>4. …本建議還涵蓋其他令人關切的情況，如根據國際人道主義法不一定歸類為武裝衝突但導致嚴重侵犯婦女權利，同時令委員會特別關切的國內動亂、長期和低烈度內亂、政治紛爭、族裔和種族暴力、緊急狀態和鎮壓大規模起義、反恐戰爭和有組織犯罪。</p> <p>5. 這種局勢與如下危機密切相關：境內流離失所、無國籍狀態及難民抵抗遣返進程的鬥爭。在這方面，委員會重申其在第 28 號一般性建議裡提出的意見，即締約國繼續對其影響在其領土內或在其有效控制下、甚至不在其領土內但在其有效控制下的公民和非公民、境內流離失所者、難民、尋求庇護者和無國籍人員人權的一切行為負責。</p>
<p><b>討論</b></p>	<ol style="list-style-type: none"> <li>1. 中央委員會依「災害防救法」組成，(「莫拉克颱風災後重建推動委員會」依「莫拉克颱風災後重建特別條例」及「行政院莫拉克颱風災後重建推動委員會暫行組織規程」組成)，行政部門代表、災區縣市首長、災民代表和學者、專家及民間代表四大類別中，沒有任何性別比例規定，如何確保性別平等觀點不受忽視？</li> <li>2. 現行「災害防救法」及其他辦法仍然不見任何與性別相關考量，並未將 88 風災現場經驗納入，如何在未來的緊急狀態中確保女性人權、繼續執行《公約》並促進實質性別平等呢？</li> <li>3. 目前救災及重建工作中的經驗及發展出來的模式，是否符合 CEDAW 第 30 號一般性建議的要求？</li> </ol>

伍、建議配合此一般性號建議需檢視的法規：

(一) 安全和平：

組織	法規名稱	全國法規資料庫連結
國家安全會議	國家安全會議組織法 國家安全會議處務規程  國家安全局處務規程	<a href="http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=A0010021">http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=A0010021</a>  <a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;t=A1A2E1F1&amp;k1=%E5%9C%8B%E5%AE%B6%E5%AE%89%E5%85%A8%E6%9C%83%E8%AD%B0%E8%99%95%E5%8B%99%E8%A6%8F%E7%A8%8B">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;t=A1A2E1F1&amp;k1=%E5%9C%8B%E5%AE%B6%E5%AE%89%E5%85%A8%E6%9C%83%E8%AD%B0%E8%99%95%E5%8B%99%E8%A6%8F%E7%A8%8B</a>  <a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%9c%8b%e5%ae%b6%e5%ae%89%e5%85%a8%e5%b1%80&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%9c%8b%e5%ae%b6%e5%ae%89%e5%85%a8%e5%b1%80&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1</a>
國防部	國防法  國防部參謀本部處務規程	<a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%9c%8b%e9%98%b2&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%9c%8b%e9%98%b2&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1</a>  <a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1</a>

		<a href="#">=%e5%8f%8d%e6%81%90&amp;t= =E1F1A1A2&amp;fei=0&amp;TPage= 1</a>
內政部入出國及移民署	入出國及移民法	<a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%85%a7%e4%ba%82&amp;t=&lt;br/&gt;=E1F1A1A2&amp;fei=0&amp;TPage=&lt;br/&gt;1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1= =%e5%85%a7%e4%ba%82&amp;t= =E1F1A1A2&amp;fei=0&amp;TPage= 1</a>
行政院大陸委員會	臺灣地區與大陸地區人民關係條例	<a href="http://law.moj.gov.tw/LawClasses/LawContent.aspx?PCODE=Q0010001">http://law.moj.gov.tw/LawClasses/LawContent.aspx?PCODE=Q0010001</a>
行政院大陸委員會	行政院大陸委員會組織條例	<a href="http://law.moj.gov.tw/LawClasses/LawContent.aspx?PCODE=Q0000001">http://law.moj.gov.tw/LawClasses/LawContent.aspx?PCODE=Q0000001</a>
反恐相關單位	反恐相關法規， 如法務部調查局處務規程、外交部處務規程、內政部警政署保安警察第一總隊辦事細則	<a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%8f%8d%e6%81%90&amp;t=&lt;br/&gt;=E1F1A1A2&amp;fei=0&amp;TPage=&lt;br/&gt;1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1= =%e5%8f%8d%e6%81%90&amp;t= =E1F1A1A2&amp;fei=0&amp;TPage= 1</a> <a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%8f%8d%e6%81%90&amp;t=&lt;br/&gt;=E1F1A1A2&amp;fei=0&amp;TPage=&lt;br/&gt;1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1= =%e5%8f%8d%e6%81%90&amp;t= =E1F1A1A2&amp;fei=0&amp;TPage= 1</a>

		<a href="http://law.moj.gov.tw/LawClass/LawContentIf.aspx?PCODE=D0010013">http://law.moj.gov.tw/LawClass/LawContentIf.aspx?PCODE=D0010013</a>
--	--	---

(二) 危機救災：消防署、海巡署

法規名稱	全國法規資料庫連結
災害防救法	<a href="http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0120014">http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0120014</a>
消防法	<a href="http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0120001">http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0120001</a>
內政部消防署組織條例	<a href="http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0000069">http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0000069</a>
海岸巡防法	<a href="http://law.moj.gov.tw/LawClass/LawContentIf.aspx?PCODE=D0090009">http://law.moj.gov.tw/LawClass/LawContentIf.aspx?PCODE=D0090009</a>
海洋委員會 海巡署組織法	<a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?P=A&amp;k1=%e6%b5%b7%e5%b7%a1%e7%bd%b2&amp;t=E1F1A1&amp;TPage=1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?P=A&amp;k1=%e6%b5%b7%e5%b7%a1%e7%bd%b2&amp;t=E1F1A1&amp;TPage=1</a>

(三) 組織犯罪：警政署

法規名稱	全國法規資料庫連結
------	-----------

社會秩序維護法	<a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e7%a4%be%e6%9c%83%e7%a7%a9%e5%ba%8f%e7%b6%ad%e8%ad%b7%e6%b3%95&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e7%a4%be%e6%9c%83%e7%a7%a9%e5%ba%8f%e7%b6%ad%e8%ad%b7%e6%b3%95&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1</a>
組織犯罪防制條例	<a href="http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=C0000013">http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=C0000013</a>
內政部警政署處務規程	<a href="http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%85%a7%e4%ba%82&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1">http://law.moj.gov.tw/Law/LawSearchResult.aspx?p=A&amp;k1=%e5%85%a7%e4%ba%82&amp;t=E1F1A1A2&amp;fei=0&amp;TPage=1</a>
內政部警政署組織法	<a href="http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0000159">http://law.moj.gov.tw/LawClass/LawContent.aspx?PCODE=D0000159</a>

第 30 號一般性建議中英版本對照表

中文	英文	重點
<p><b>I. 導言</b></p>	<p><b>I. Introduction</b></p>	
<p>消除對婦女歧視委員會在 2010 年第四十七屆會議上根據《消除對婦女一切形式歧視公約》第二十一條做出決定，就婦女在預防衝突、衝突及衝突後局勢中的作用通過一項一般性建議。本一般性建議的主要宗旨和目的是，向締約國提供關於立法、政策和其他適當措施的權威指導，以期確保全面遵守《公約》規定的保護、尊重和實現婦女人權的義務。本一般性建議還借鑒了以前通過的一般性建議所述的原則。</p>	<p>The Committee on the Elimination of Discrimination against Women decided at its forty-seventh session, in 2010, pursuant to article 21 of the Convention on the Elimination of All Forms of Discrimination against Women, to adopt a general recommendation on women in conflict prevention, conflict and post-conflict situations. The primary aim and purpose of the general recommendation is to provide authoritative guidance to States parties on legislative, policy and other appropriate measures to ensure full compliance with their obligations under the Convention to protect, respect and fulfil women's human rights. It also builds upon principles articulated in previously adopted general recommendations.</p>	<p>本一般性建議主要宗旨和目的</p>
<p>在任何時候都要保護婦女人權，在衝突</p>	<p>Protecting women's human rights at all times, advancing substantive gender equality before, during and after conflict and ensuring that</p>	<p>敘明《公約》與主題之過去/既存關聯： 1) 重要目標(3)</p>

<p>前、衝突期間和衝突後都要促進實質性性別平等及確保將婦女的多種經歷充分納入所有建設和平、建立和平和重建進程，這些都是《公約》的重要目標。委員會重申，締約國有義務在衝突或緊急狀態期間在其領土或有效控制地區，甚至不在該締約國領土範圍內的有效控制地區，對公民和非公民不加區別地繼續適用《公約》。委員會一再表示關切衝突對男女兩性造成的不同影響及婦女被排斥在預防衝突的努力、衝突後過渡和重建進程之外；委員會還關切，締約國的報告未就《公約》在此類局勢</p>	<p>women’s diverse experiences are fully integrated into all peacebuilding, peacemaking, and reconstruction processes are important objectives of the Convention. The Committee reiterates that States parties’ obligations continue to apply during conflict or states of emergency without discrimination between citizens and non-citizens within their territory or effective control, even if not situated within the territory of the State party. The Committee has repeatedly expressed concern about the gendered impacts of conflict and women’s exclusion from conflict prevention efforts, post-conflict transition and reconstruction processes and the fact that reports of States parties do not provide sufficient information on the application of the Convention in such situations.</p>	<p>2) 締約國義務—有效控制地區、非公民</p> <p>3) 委員會之關切：</p> <ul style="list-style-type: none"> <li>- 衝突中女性影響、遭排除</li> <li>- 締約國報告不足</li> </ul>
---	---	---

<p>中的適用提供足夠資訊。</p>		
<p>本一般性建議具體指導締約國如何就個人或實體損害《公約》所規定的權利的行為履行其盡職義務，並就非國家行為體如何對待受衝突影響地區的婦女權利提出建議。</p>	<p>The general recommendation specifically guides States parties on the implementation of their obligation of due diligence in respect of acts of private individuals or entities that impair the rights enshrined in the Convention, and makes suggestions as to how non-State actors can address women’s rights in conflict-affected areas.</p>	<p>本一般性建議內容重點有二：</p> <ol style="list-style-type: none"> <li>1) 締約國盡職義務</li> <li>2) 非國家行為體對待女性建議</li> </ol>
<p><b>I II. 一般性建議的適用範圍</b></p>	<p><b>II. Scope of the general recommendation</b></p>	
<p>本一般性建議涵蓋《公約》對預防衝突、國際及非國際武裝衝突、外國佔領局勢，以及其他形式佔領和衝突後階段的適用。此外，本建議還涵蓋其他令人關切的情況，如根據國際人道主義法不一定歸類為武裝衝突但導致嚴重侵犯婦女權利，同時令委員會特別關切</p>	<p>The general recommendation covers the application of the Convention to conflict prevention, international and non-international armed conflicts, situations of foreign occupation, as well as other forms of occupation and the post-conflict phase. In addition, the recommendation covers other situations of concern, such as internal disturbances, protracted and low-intensity civil strife, political strife, ethnic and communal violence, states of emergency and suppression of mass uprisings, war against terrorism and organized crime, that may not necessarily be classified as armed conflict under international humanitarian law and which result in serious violations of women’s rights and are of particular concern to the Committee. For the purpose of this general recommendation, the phases of conflict and post-conflict have at times been divided as</p>	<p>本一般性建議涵蓋範圍：</p> <ol style="list-style-type: none"> <li>1) 情境： <ul style="list-style-type: none"> <li>① 衝突 <ul style="list-style-type: none"> <li>- 武裝衝突</li> <li>- 外國佔領</li> <li>- 衝突後非線性迴圈</li> </ul> </li> <li>② 其他 <ul style="list-style-type: none"> <li>- 國內動亂、長期和低烈度內亂、政治紛爭、族裔和種族暴力、緊急狀態和鎮壓大</li> </ul> </li> </ul> </li> </ol>

<p>的國內動亂、長期和低烈度內亂、政治紛爭、族裔和種族暴力、緊急狀態和鎮壓大規模起義、反恐戰爭和有組織犯罪。為本建議的目的，有時會劃分衝突階段和衝突後階段，因為在處理婦女和女孩的人權問題時，這兩個階段可能會有不同的挑戰和機遇。但是，委員會注意到從衝突過渡到衝突後往往不是線性過程，而可能會出現停止衝突而後又重新陷入衝突的情況，這種迴圈可能會持續很長時間。</p>	<p>they can encompass different challenges and opportunities for addressing the human rights of women and girls. However, the Committee notes that the transition from conflict to post-conflict is often not linear and can involve cessations of conflict and then slippages back into conflict – a cycle that can continue for long periods of time.</p>	<p>規模起義、反恐戰爭和有組織犯罪。</p>
<p>這種局勢與如下危機密切相關：境內流離失所、無國籍狀態及難民抵抗遣返進程的鬥爭。在這方面，委員</p>	<p>Such situations are closely linked to crises of internal displacement, statelessness and the struggle of refugee populations with repatriation processes. In that respect, the Committee reiterates its observation in general recommendation No. 28 (2010) that States parties continue to be responsible for all their actions</p>	<p>2) 身分：①女性身分：公民/分公民/境內流離失所者/無國籍人員/難民</p>

<p>會重申其在第 28 號一般性建議裡提出的意見，即締約國繼續對其影響在其領土內或在其有效控制下、甚至不在其領土內但在其有效控制下的公民和非公民、境內流離失所者、難民、尋求庇護者和無國籍人員人權的一切行為負責。</p>	<p>affecting the human rights of citizens and non-citizens, internally displaced persons, refugees, asylum-seekers and stateless persons, within their territory or effective control, even if not situated within their territory.</p>	
<p>婦女不是一個同質群體，她們的衝突經歷和在衝突後情況下的具體需求也各不相同。婦女不是消極的旁觀者，也不僅是受害者或被攻擊目標。婦女一直發揮並將繼續發揮她們作為戰士、有組織民間社會的成員、人權維護者、抵抗運動成員及作為正式和非正式建設</p>	<p>Women are not a homogenous group and their experiences of conflict and specific needs in post-conflict contexts are diverse. Women are not passive bystanders or only victims or targets. They have historically and continue to have a role as combatants, as part of organized civil society, human rights defenders, members of resistance movements and as active agents in both formal and informal peacebuilding and recovery processes. States parties must address all aspects of their obligations under the Convention to eliminate discrimination against women.</p>	<p>肯認女性多樣角色與其自主能動發會的作用，締約國必須消除其中歧視。</p>

<p>和平和恢復進程中的積極分子的作用。締約國必須履行其根據《公約》承擔的義務的各個方面，以消除對婦女的歧視。</p>		
<p>正如第 28 號一般性建議指出的，對婦女的歧視還因相互交叉的各種形式歧視而加劇。鑒於《公約》採用生命週期法，因此締約國還必須滿足受衝突影響女孩因基於性別的歧視造成的權利和獨特需求。</p>	<p>Discrimination against women is also compounded by intersecting forms of discrimination as noted in general recommendation No. 28 (2010). As the Convention reflects a life-cycle approach, States parties are also required to address the rights and distinct needs of conflict-affected girls that arise from gender-based discrimination.</p>	<p>肯認消除歧視要注意交叉性及生命週期法</p>
<p><b>I III. 《公約》對預防衝突、衝突及衝突後局勢的適用</b></p>	<p><b>III. Application of the Convention to conflict prevention, conflict and post-conflict situations</b></p>	
<p><b>A. 《公約》的域內和域外適用</b></p>	<p><b>A. Territorial and extraterritorial application of the Convention</b></p>	
<p>委員會重申第 28 號一般性建議，即締約國的義務還適用於</p>	<p>The Committee reiterates general recommendation No. 28 (2010) to the effect that the obligations of States parties also apply extraterritorially to persons within their effective</p>	<p>締約國《公約》義務： 1) 域外有效控制下人員(GR28)</p>

<p>域外在其有效控制下，即使不在其境內的人員，締約國對其影響人權的一切行為負有責任，不管受影響者是否在其境內。</p>	<p>control, even if not situated within the territory, and that States parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.</p>	
<p>在衝突及衝突後局勢中，締約國在行使域內或域外管轄權時，不管是單獨行使，例如，採取單邊軍事行動，或是作為國際或政府間組織或聯盟的成員行使，例如，作為國際維持和平部隊的組成部分，都必須適用《公約》及其他國際人權和人道主義法。 《公約》適用於範圍廣泛的情況，包括一國行使管轄權的情況，如作為外國領土的佔領當局和其他形式的管理當局，例</p>	<p>In conflict and post-conflict situations, States parties are bound to apply the Convention and other international human rights and humanitarian law when they exercise territorial or extraterritorial jurisdiction, whether individually, for example in unilateral military action, or as members of international or intergovernmental organizations and coalitions, for example as part of an international peacekeeping force. The Convention applies to a wide range of situations, including wherever a State exercises jurisdiction, such as occupation and other forms of administration of foreign territory, for example United Nations administration of territory; to national contingents that form part of an international peacekeeping or peace -enforcement operation; to persons detained by agents of a State, such as the military or mercenaries, outside its territory; to lawful or unlawful military actions in another State; to bilateral or multilateral donor assistance for conflict prevention and humanitarian aid, mitigation or post-conflict reconstruction; in involvement as third parties in peace or negotiation processes; and in the formation of trade agreements with conflict-</p>	<p>2) 單國或多國聯合行使管轄權時(列舉 5 種情況：</p> <ul style="list-style-type: none"> <li>- 單國管理當局</li> <li>- 國際維和部隊</li> <li>- 另一國中軍事行動</li> <li>- 捐助、援助</li> <li>- 和談協力方</li> <li>- 貿易協定訂定方</li> </ul>

<p>如聯合國的領土管理當局；作為國際維持和平或執行和平行動組成部分的國家特遣隊；被一國代理人，如軍方或僱傭軍，在該國境外拘留的人員；在另一國內的合法或非法軍事行動；為預防衝突和人道主義援助、減輕衝突或衝突後重建而進行的雙邊或多邊捐助援助；作為協力廠商參與和平或談判進程；以及與受衝突影響國家訂立貿易協定。</p>	<p>affected countries.</p>	
<p>《公約》還要求締約國監管在其有效控制下在域外運營的本國非國家行為體的活動。委員會在其第 28 號一般性建議中重申，《公約》第二條(e)款關</p>	<p>The Convention also requires States parties to regulate the activities of domestic non-State actors, within their effective control, who operate extraterritorially. The Committee reaffirmed in its general recommendation No. 28 (2010) the requirement in article 2 (e) of the Convention to eliminate discrimination by any public or private actor, which extends to acts of national corporations operating extraterritorially. That would include cases in which national</p>	<p>3) 本國非國家行為體的活動(《公約》地 2 條(e))</p> <ul style="list-style-type: none"> <li>- 在其有效控制下</li> <li>- 域外</li> </ul>

<p>於消除任何公共或私營行為體的歧視的規定，“適用於在域外運營的國家公司的行為”。這將包括國家公司在受衝突影響地區的活動導致婦女權利受到侵犯的情況和要求為在衝突地區運營的私營安保公司及其他承包商建立問責制和監督機制的情況。</p>	<p>corporations extend loans to projects in conflict-affected areas that lead to forced evictions and CEDAW/C/GC/30 4/24 which call for the establishment of accountability and oversight mechanisms for private security and other contractors operating in conflict zones.</p>	
<p>還有一些情況是，國際法規定締約國也需承擔域外國際合作的義務，如關於身心障礙婦女(《身心障礙人權利公約》第三十二條)、武裝衝突中的女孩(《兒童權利公約》第二十四條第四款及其頭兩個任擇議定書)和不加區別地享受經濟、社會及</p>	<p>There may be cases in which States parties also have extraterritorial obligations of international cooperation, as set out in international law, such as treaty law on women with disabilities (art. 32 of the Convention on the Rights of Persons with Disabilities), girls in armed conflict (art. 24 (4) of the Convention on the Rights of the Child and the first two optional protocols thereto) and the non-discriminatory enjoyment of economic, social and cultural rights (arts. 2 (1), 11 (1), 22 and 23 of the International Covenant on Economic, Social and Cultural Rights). In such cases, the extraterritorial application of the Convention requires States to comply with the Convention in implementing those obligations.</p>	<p>4) 其他公約域外義務履行時</p> <ul style="list-style-type: none"> <li>- 《身心障礙者權利公約》第 32 條</li> <li>- 《兒童》權利公約第 24 條第 4 款及第 1.2.任擇議定書</li> <li>- 《經濟、社會、文化公約》第 2 條第 1 款，第 11 條第 1 款、第 12, 23 條。</li> </ul>

<p>文化權利(《經濟、社會、文化權利國際公約》第二條第一款、第十一條第一款、第二十二條和第二十三條)的條約法。在此類情況下,《公約》的域外適用要求各國在履行這些義務時遵守《公約》。</p>		
<p>委員會建議締約國:</p> <p>(a) 在行使域內或域外管轄權時,不管是單獨行動還是作為國際或政府間組織或聯盟的成員行動,都全面適用《公約》及其他國際人權文書和人道主義法;</p> <p>(b) 監管在其有效控制下在域外運營的所有國內非國家行為體的活動,並確保這類行為體充分尊重《公約》;</p>	<p>The Committee recommends that the State parties:</p> <p>(a) Apply the Convention and other international human rights instruments and humanitarian law comprehensively in the exercise of territorial or extraterritorial jurisdiction whether acting individually or as members of international or intergovernmental organizations and coalitions;</p> <p>(b) Regulate the activities of all domestic non-State actors, within their effective control, who operate extraterritorially and ensure full respect of the Convention by them;</p> <p>(c) Respect, protect and fulfil the rights guaranteed by the Convention, which applies extraterritorially, as occupying power, in situations of foreign occupation.</p>	<p>委員會提出 3 項建議:</p> <p>(a) 全面適用國際人權文書和人道主義法</p> <p>(b) 監管國內非國家行為體域外活動並確保其尊重《公約》</p> <p>(c) 作為佔領外國者仍適用其國家義務</p>

<p>(c) 在外國佔領情況下，《公約》的域外適用要求佔領國尊重、保護和履行《公約》所保障的各項權利。</p>		
<p><b>B. 《公約》對國家和非國家行為體的適用</b></p>	<p><b>B. Application of the Convention to State and non-State actors</b></p>	
<p>婦女在預防衝突、衝突及衝突後進程中的權利受到各個行為體的影響，包括單獨行動的國家(例如其境內發生衝突的國家、捲入衝突區域層面的鄰國或參與單邊跨境軍事行動的國家);以及作為國際或政府間組織和聯盟成員採取行動的國家(例如向國際維持和平部隊提供部隊或作為捐助方通過國際金融機構提供資金</p>	<p>Women’s rights in conflict prevention, conflict and post-conflict processes are affected by various actors, including States acting individually (e.g., as the State within whose borders the conflict arises, neighbouring States involved in the regional dimensions of the conflict or States involved in unilateral cross-border military manoeuvres) as well as States acting as members of international or intergovernmental organizations (e.g., by contributing to international peacekeeping forces or as donors giving money through international financial institutions to support peace processes) and coalitions and non-State actors, such as armed groups, paramilitaries, corporations, private military contractors, organized criminal groups and vigilantes. In conflict and post-conflict contexts, State institutions are often weakened or certain government functions may be performed by other Governments, intergovernmental organizations or even non-State groups. The Committee stresses that, in such cases, there may</p>	<p>列舉</p> <ol style="list-style-type: none"> <li>1) 國家在單/多國行動之情況</li> <li>2) 非國家行為體，</li> </ol> <p>並明定非國家行為體行使政府職能時，亦有《公約》相關義務。</p>

<p>以支援和平進程)及非國家行為體，如武裝團體、准軍事部隊、公司、私營軍事承包商、有組織犯罪團體和治安維持者。在衝突及衝突後情況下，國家機構常常被削弱或由別國政府、政府間組織、甚至由非國家團體行使某些政府職能。委員會強調，在此類情況下，《公約》就所涉各類行為體規定了同時適用且相互補充的整套義務。</p>	<p>be simultaneous and complementary sets of obligations under the Convention for a range of involved actors.</p>	
<p>如果一個非國家行為體的行為或不行為按國際法可歸咎於國家，此時就引起了國家在《公約》下的責任。當締約國在預防衝突、衝突或衝突後進程中作為國際組</p>	<p>State responsibility under the Convention also arises if a non-State actor's acts or omission may be attributed to the State under international law. When a State party is acting as a member of an international organization in conflict prevention, conflict or post-conflict processes, the State party remains responsible for its obligations under the Convention within its territory and extraterritorially and also has a responsibility to adopt measures to ensure that the policies and decisions of those organizations conform to its</p>	<p>明定 非國家行為體導致後果可歸溯於國家時，則引起國家義務</p>

<p>織成員行事時，該締約國仍要對其根據《公約》承擔的域內和域外義務負責，同時還有責任採取措施，確保這些組織的政策和決定符合其根據《公約》承擔的義務。</p>	<p>obligations under the Convention.</p>	
<p>委員會還一再強調，《公約》要求締約國監管承擔保護責任的非國家行為體，各國必須盡職盡責，防止、調查、懲治和確保糾正個人或實體有損《公約》所規定的權利的行為。委員會在其第 19 號和第 28 號一般性建議中闡述了在保護婦女免遭暴力和歧視侵害方面的盡職義務，並強調，除了憲法和立法措施外，締約國還必須為</p>	<p>The Committee has also repeatedly stressed that the Convention requires States parties to regulate non-State actors under the duty to protect, such that States must exercise due diligence to prevent, investigate, punish and ensure redress for the acts of private individuals or entities that impair the rights enshrined in the Convention. In its general recommendations Nos. 19 (1992) and 28 (2010), the Committee has outlined due diligence obligations in protecting women from violence and discrimination, emphasizing that, alongside constitutional and legislative measures, States parties must also provide adequate administrative and financial support for the implementation of the Convention.</p>	<p>明定締約國國家義務中盡職原則及於其控管之非國家行動體(GR19, 28)</p>

<p>執行《公約》提供足夠的行政和財政支助。</p>		
<p>除了要求締約國監管非國家行為體外，國際法還載有約束非國家行為體的相關義務，如武裝衝突中的各方(例如叛亂分子和叛亂團體)的相關義務，例如《1949年日內瓦四公約》共同條款第三條和1949年8月12日《日內瓦四公約關於保護非國際性武裝衝突受害者的附加議定書》所規定的相應義務。根據國際人權法，雖然非國家行為體不能成為《公約》締約方，但委員會注意到，在某些情況下，特別是當一個具有可識別政治架構的武裝團體對領土和人口行</p>	<p>In addition to requiring States parties to regulate non-State actors, international humanitarian law contains relevant obligations that bind non-State actors, as parties to an armed conflict (e.g., insurgents and rebel groups) such as in common article 3 of the Geneva Conventions of 1949 and the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts. Under international human rights law, although non-State actors cannot become parties to the Convention, the Committee notes that under certain circumstances, in particular where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights. The Committee emphasizes that gross violations of human rights and serious violations of humanitarian law could entail individual criminal responsibility, including for members and leaders of non-State armed groups and private military contractors.</p>	<p>其他國際法對非國家行為體約束義務；非國家行為體有義務尊重國際人權，否則可導致刑事責任。</p>

<p>使明顯控制時，非國家行為體有義務尊重國際人權。委員會強調，嚴重侵犯人權和嚴重違反人道主義法行為可導致產生個人包括非國家武裝團體成員和領導人及私營軍事承包商的刑事責任。</p>		
<p>委員會建議締約國：</p> <p>(a) 作為其盡職義務的一部分，確保糾正個人或實體的行為；</p> <p>(b) 絕不為安撫恐怖分子、個人或武裝團體等非國家行為體而接受任何形式減少對婦女權利保護的做法；</p> <p>(c) 與非國家行為體接觸，以防止其在受衝突影響地區的活動構成踐踏人權行為，特別是</p>	<p>The Committee recommends that States parties:</p> <p>(a) Ensure redress for the acts of private individuals or entities, as part of their due diligence obligation;</p> <p>(b) Reject all forms of rollbacks in women’s rights protections in order to appease non-State actors such as terrorists, private individuals or armed groups;</p> <p>(c) Engage with non-State actors to prevent human rights abuses related to their activities in conflict-affected areas, in particular all forms of gender-based violence; provide adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to gender-based violence; and establish an effective accountability mechanism;</p> <p>(d) Use gender-sensitive practices (e.g., use of female police officers) in the investigation of violations during and after conflict to ensure that violations by State and non-State actors are</p>	<p>委員會提出 4 項建議：</p> <p>(a) 盡職義務，確保糾正</p> <p>(b) 不為安撫而減少女性權益</p> <p>(c) 與非國家行為體共同預防踐踏人權行為，特別是性別暴力，並建立問責機制</p> <p>(d) 調查犯法行為須具性別敏感並確保查明及解決。</p>

<p>所有形式的性別暴力；充分協助國家公司評估和解決侵犯婦女權利的高度風險，以及建立有效的問責機制；</p> <p>(d) 在衝突期間和之後對違法行為進行調查時採用對性別問題有敏感認識的做法(例如，雇用女警官)，以確保查明並解決國家和非國家行為體的違法行為。</p>	<p>identified and addressed.</p>	
<p>委員會還敦促非國家行為體，如武裝團體：</p> <p>(a) 根據《公約》的規定，尊重處於衝突及衝突後局勢中的婦女的權利；</p> <p>(b) 承諾遵守關於人權及禁止所有形式性別暴力的行為守則。</p>	<p>The Committee also urges non-State actors such as armed groups:</p> <p>(a) To respect women’s rights in conflict and post-conflict situations, in line with the Convention;</p> <p>(b) To commit themselves to abide by codes of conduct on human rights and the prohibition of all forms of gender-based violence.</p>	<p>委員會敦促非國家行為體</p> <p>(a) 尊重《公約》女性人權</p> <p>(b) 承諾遵守人權及禁止性別暴力行為守則。</p>
<p><b>C. 《公約》與國際人</b></p>	<p><b>C. Complementarity of the Convention and international humanitarian, refugee and</b></p>	

<p>道主義 法、難民 法和刑法 的互補性</p>	<p><b>criminal law</b></p>	
<p>在所有危機局勢中，不管是非國際性或是國際性武裝衝突、公共緊急事件或外國佔領或其他令人關切的情況，例如政治動亂，婦女的權利都要得到國際法制度的保證，這種制度由《公約》及國際人道主義法、難民法和刑法規定的相互補充的保護所構成。</p>	<p>In all crisis situations, whether non-international or international armed conflict, public emergencies or foreign occupation or other situations of concern, such as political strife, women's rights are guaranteed by an international law regime that consists of complementary protections under the Convention and international humanitarian, refugee and criminal law.</p>	<p>在所有危機局勢中，國際法制保證女性人權，</p>
<p>在符合非國際性或國際武裝衝突的門檻定義的局勢中，《公約》和國際人道主義法同時適用，它們提供的不同保護相互補充而不是相互排斥。根據國際人道主義法，受武裝衝突影響的婦女有權</p>	<p>In situations that meet the threshold definition of non-international or international armed conflict, the Convention and international humanitarian law apply concurrently and their different protections are complementary, not mutually exclusive. Under international humanitarian law, women affected by armed conflicts are entitled to general protections that apply to both women and men and to some limited specific protections, primarily protection against rape, forced prostitution and any other form of indecent assault; priority in distribution of relief</p>	<p>國際人道主義法對女性一般性及限制性保護同時適用，與《公約》互補不斥。</p>

<p>獲得同時適用於男女的一般性保護和具有一定限制的具體保護，主要防範強姦、強迫賣淫及任何其他形式的猥褻；向處於國際武裝衝突中的孕婦、產婦和哺乳期婦女優先分配救濟物資；被拘留時與男子分開關押並由婦女直接監管；以及保護孕婦或有受扶養子女或年幼子女的婦女免受死刑。</p>	<p>consignment to expectant mothers, maternity cases and nursing mothers in international armed conflict; detention in separate quarters from men and under the immediate supervision of women; and protection from the death penalty for pregnant women or mothers of dependent or young children.</p>	
<p>國際人道主義法還對佔領國規定了同時適用《公約》和其他國際人權法的義務。國際人道主義法還禁止一國將其部分平民遷移進其所佔領的領土。根據國際人道主義法，處於佔領局勢中的婦女有權受到一般性保護和</p>	<p>International humanitarian law also imposes obligations upon occupying powers that apply concurrently with the Convention and other international human rights law. International humanitarian law also prohibits a State from transferring part of its own civilian population into the territory that it occupies. Under international humanitarian law, women under occupation are entitled to general protections and the following specific protections: protection against rape, forced prostitution or any other form of indecent assault; free passage of consignments of essential clothing intended for expectant mothers and maternity cases; safety or neutralized zones that may be established to shield the civilian</p>	<p>佔領國對其佔領下女性保護義務。</p>

<p>以下具體保護：防範強姦、強迫賣淫或任何其他形式的猥褻；向孕婦和產婦提供的必備衣服等貨物自由通行；建立安全或中立區以保護平民，尤其包括孕婦和帶著 7 歲以下兒童的婦女；以及被拘留時與男子分開關押並由婦女直接監管。被拘留女性平民必須要有衛生便利設施並由婦女負責搜身。</p>	<p>population, including in particular expectant mothers and mothers of children under 7 years of age; and detention in separate quarters from men and under the immediate supervision of women. Women civilian internees must receive sanitary conveniences and be searched by women.</p>	
<p>關於禁止歧視婦女的《公約》條款增強和補充了對處於許多情況下的難民、流離失所和無國籍婦女和女孩的國際法律保護制度，尤其是在相關國際協議缺乏明確的性別平等條款時更是如此，例如 1951 年</p>	<p>The provisions of the Convention prohibiting discrimination against women reinforce and complement the international legal protection regime for refugees, displaced and stateless women and girls in many settings, especially as explicit gender equality provisions are absent in relevant international agreements, notably the 1951 Convention relating to the status of refugees and its 1967 Protocol.</p>	<p>禁止歧視難民、流離失所和無國籍婦女及女孩。 [彌補相關公約未盡事宜]</p>

<p>《關於無國籍人地位的公約》及其 1967 年《議定書》。</p>		
<p>《公約》規定，締約國在防止、調查和懲治販運及性暴力和性別暴力方面的義務因國際刑事法而得到加強，包括國際法庭和混合刑事法庭的判例及《國際刑事法院羅馬規約》。根據相關判例和《羅馬規約》，在販運婦女和女孩過程中的奴役行為、強姦、性奴役、強迫賣淫、強迫懷孕、強制絕育或任何其他形式同樣嚴重的性暴力都可能構成戰爭罪、危害人類罪或酷刑行為，或構成種族滅絕行為。在解釋國際刑事法時，包括性別暴力的定義，特</p>	<p>Under the Convention, States parties' obligations to prevent, investigate and punish trafficking and sexual and gender-based violence are reinforced by international criminal law, including jurisprudence of the international and mixed criminal tribunals and the Rome Statute of the International Criminal Court, pursuant to which enslavement in the course of trafficking in women and girls, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity may constitute a war crime, a crime against humanity or an act of torture, or constitute an act of genocide. International criminal law, including, in particular, the definitions of gender-based violence, in particular sexual violence must also be interpreted consistently with the CEDAW/C/GC/30 7/24 Convention and other internationally recognized human rights instruments without adverse distinction as to gender.</p>	<p>國際刑事法加強了締約國在販運及性別暴力方面之《公約》義務執行，其不僅可能構成戰爭、滅族等重罪，且不得對性別做出不利區分。</p>

<p>別是性暴力，還必須與《公約》和其他國際公認的人權文書保持一致，不得對性別做出不利區分。</p>		
<p>委員會建議締約國：在履行《公約》規定的義務時，適當考慮國際人道主義法、難民法和刑法給予婦女和女孩的補充保護。</p>	<p>The Committee recommends that State parties: (a) Give due consideration to the complementary protections for women and girls stemming from international humanitarian, refugee and criminal law, when implementing their obligations under the Convention.</p>	<p>委員會建議給予女性其他國際法規範之補充保護。</p>
<p><b>D. 《公約》與安全理事會關於婦女、和平與安全的議程</b></p>	<p><b>D. Convention and the Security Council agenda on women, peace and security</b></p>	
<p>委員會認識到，安全理事會的各项專題決議，特別是第 <a href="#">1325(2000)</a> 號、第 <a href="#">1820(2008)</a> 號、第 <a href="#">1888(2009)</a> 號、第 <a href="#">1889(2009)</a> 號、第 <a href="#">1960(2010)</a> 號、第 <a href="#">2106(2013)</a> 號</p>	<p>The Committee recognizes that the various thematic resolutions of the Security Council, in particular 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010) and 2106 (2013), in addition to resolutions such as 1983 (2011), which provides specific guidance on the impact of HIV and AIDS on women in conflict and post-conflict contexts, are crucial political frameworks for advancing advocacy regarding women, peace and security.</p>	<p>承認安理會決議為推動相關議題關鍵政治框架</p>

<p>和第 <a href="#">2122(2013)</a> 號決議，以及就愛滋病毒和愛滋病對在衝突及衝突後情況下的婦女的影響提供具體指導的 <a href="#">第1983(2011)</a> 號決議，是推動宣傳婦女、和平與安全議題的關鍵政治框架。</p>		
<p>鑒於這些決議所涉及的所有關切領域在《公約》的實質性條款中都可以找到相應的表述，其執行必須以實質性平等模式為前提並涵蓋《公約》規定的所有權利。委員會重申需要採取協調和綜合方法，把落實安全理事會關於婦女、和平與安全的議程置於實施《公約》及其《任擇議定書》的更寬泛框架內。</p>	<p>As all the areas of concern addressed in those resolutions find expression in the substantive provisions of the Convention, their implementation must be premised on a model of substantive equality and cover all rights enshrined in the Convention. The Committee reiterates the need for a concerted and integrated approach that places the implementation of the Security Council agenda on women, peace and security into the broader framework of the implementation of the Convention and its Optional Protocol.</p>	<p>明定決議執行必須在以實質平等模式為前提的更廣《公約》框架中。</p>

<p>《公約》第十八條還載有一個報告程式，要求締約國報告其為在預防衝突、衝突及衝突後局勢中落實《公約》各項條款而採取的措施情況。在該報告程式中納入關於安全理事會承諾履行情況的資料，可能有利於鞏固《公約》和安理會的議程，進而能擴大、加強和落實性別平等。</p>	<p>The Convention contains a reporting procedure, under article 18, by which States parties are required to report on measures that they have adopted to implement the provisions of the Convention, including in conflict prevention, conflict and post-conflict situations. Using the reporting procedure to include information on the implementation of Security Council commitments can consolidate the Convention and the Council's agenda and therefore broaden, strengthen and operationalize gender equality.</p>	<p>要求締約國報告。</p>
<p>委員會建議締約國：</p> <p>(a) 確保用於執行安全理事會第 1325(2000)號決議和隨後各項決議的國家行動計畫和戰略符合《公約》規定；並且為其執行分配了充足預算；</p> <p>(b) 確保在履行安全理事會承諾時反映一種</p>	<p>The Committee recommends that States parties:</p> <p>(a) Ensure that national action plans and strategies to implement Security Council resolution 1325 (2000) and subsequent resolutions are compliant with the Convention, and that adequate budgets are allocated for their implementation;</p> <p>(b) Ensure that the implementation of Security Council commitments reflects a model of substantive equality and takes into account the impact of conflict and post-conflict contexts on all rights enshrined in the Convention, in addition to those violations concerning conflict-related gender-based violence, including sexual violence;</p> <p>(c) Cooperate with all United Nations networks, departments, agencies, funds and programmes in</p>	<p>委員會提出 4 項建議</p> <p>(a) 執行安理會決議及其國家行動計劃要符合《公約》規定，並分配充足預算</p> <p>(b) 反映實質平等模式反對女性人權之影響及性/別暴力之影響</p> <p>(c) 與所有單位網絡合作</p> <p>(d) 與民間社會及非政府組織合作。</p>

<p>實質性平等的模式並考慮到衝突及衝突後情況對《公約》規定的所有權利的影響，以及對與衝突有關的性別暴力，包括性暴力違法行為的影響；</p> <p>(c) 與涉及預防包括衝突預防、衝突、衝突解決及衝突後重建在內的所有衝突進程的所有聯合國網路、部門、機構、基金和方案合作，以落實《公約》的各項規定；</p> <p>(d) 加強與參與安全理事會婦女、和平與安全議程執行工作的民間社會和非政府組織的協作。</p>	<p>relation to the full spectrum of conflict processes, including conflict prevention, conflict, conflict resolution and post-conflict reconstruction to give effect to the provisions of the Convention;</p> <p>(d) Enhance collaboration with civil society and non-governmental organizations working on the implementation of the Security Council agenda on women, peace and security.</p>	
<p><b>I</b> <b>IV. 《公約》與預防衝突、衝突及衝突後局勢</b></p>	<p><b>IV. Convention and conflict prevention, conflict and post-conflict situations</b></p>	
<p><b>A. 婦女與預防衝突</b></p>	<p><b>A. Women and conflict prevention</b></p>	

<p>《公約》締約國必須側重於預防衝突和一切形式暴力行為。此類預防衝突工作包括建立有效的預警系統，以收集和分析開源資訊、預防性外交和調解，以及旨在解決衝突根源的預防性努力。另外還包括對武器貿易進行有力而有效的監管，對現有且往往是非法的常規武器包括小武器流通進行適當管制，預防將其用於實施或便利實施嚴重的性別暴力行為。性別暴力和歧視日益普遍與爆發衝突具有相關性。例如，性暴力事件迅速增加可作為衝突預警。因此，從長遠來看，為消除性別暴力所做的努力還有助於預防衝突、其升級和衝突後階段暴力</p>	<p>Obligations under the Convention require States parties to focus on the prevention of conflict and all forms of violence. Such conflict prevention includes effective early warning systems to collect and analyse open-source information, preventive diplomacy and mediation, and prevention efforts that tackle the root causes of conflict. It also includes robust and effective regulation of the arms trade, in addition to appropriate control over the circulation of existing and often illicit conventional arms, including small arms, to prevent their use to commit or facilitate serious acts of gender-based violence. There is a correlation between the increased prevalence of gender-based violence and discrimination and the outbreak of conflict. For example, rapid increases in the prevalence of sexual violence can serve as an early warning of conflict. Accordingly, efforts to eliminate gender-based violations also contribute in the long term to preventing conflict, its escalation and the recurrence of violence in the post-conflict phase.</p>	<p>締約國義務必須側重預防衝突及一切形式暴力。消除性別暴力有助預防衝突</p>
---	---	--

事件的復發。		
<p>儘管預防衝突對保護婦女權利非常重要，但在為預防衝突做出努力時往往認為婦女的經驗不能用於預測衝突而將其排除在外，因此婦女參與預防衝突的程度很低。委員會曾經指出，婦女在涉及預防性外交和全球性問題，如軍費開支和核裁軍的機構裡的參與度很低。除了不符合《公約》規定外，這種無視性別平等的預防衝突措施不可能適當預測和預防衝突。締約國只有把女性利益攸關方包括在內並對衝突進行性別因素的分析，才能制定出適當的應對措施。</p>	<p>The importance of conflict prevention for women's rights notwithstanding, conflict prevention efforts often exclude women's experiences as not relevant for predicting conflict, and women's participation in conflict prevention is low. The Committee has previously noted the low participation of women in institutions working on preventative diplomacy and on global issues such as military expenditure and nuclear disarmament. In addition to falling short of the Convention, such gender-blind conflict prevention measures cannot adequately predict and prevent conflict. It is only by including female stakeholders and using a gendered analysis of conflict that States parties can design appropriate responses.</p>	<p>包含女性經驗的衝突分析預防措施，才能預測/防衝突。</p>
《公約》要求，	The Convention requires that prevention policies	

<p>預防政策必須無歧視，為預防或減少衝突所做的努力既不應自動或不經意地傷及婦女，也不應造成或加劇性別不平等。中央政府或第三國在地方和平進程中採取的干預措施應尊重而不是削弱婦女在地方一級的領導力和維持和平作用。</p>	<p>be non-discriminatory and that efforts to prevent or mitigate conflict neither voluntarily or inadvertently harm women nor create or reinforce gender inequality. Interventions by centralized Governments or third-party States in local peace processes should respect rather than undermine women's leadership and peacekeeping roles at the local level.</p>	
<p>委員會曾經指出，無論是在衝突局勢還是在衝突後局勢中，常規武器的擴散，尤其是小武器，包括從合法貿易中流出的武器，對作為與衝突有關的性別暴力受害者、家庭暴力受害者以及作為抵抗運動中的抗議者和行為者的婦女來說，它們都有直接或</p>	<p>The Committee has previously noted that the proliferation of conventional arms, especially small arms, including diverted arms from the legal trade, can have a direct or indirect effect on women as victims of conflict-related gender-based violence, as victims of domestic violence and also as protestors or actors in resistance movements.</p>	<p>小型武器對女性的影響。</p>

者間接的影響。		
<p>委員會建議締約國：</p> <p>(a) 加強並支持婦女的正式和非正式預防衝突努力；</p> <p>(b) 確保婦女平等參與國家、區域和國際組織，平等參與為開展預防性外交而進行的非正式、地方或社區進程；</p> <p>(c) 建立預警系統和採取針對不同性別的安保措施，以預防性別暴力及其他侵犯婦女權利的行為加劇；</p> <p>(d) 在這類預警系統的成果管理框架中列入與性別相關的指標和基準；</p> <p>(e) 解決武器特別是小武器和非法武器國際轉讓對男女兩性造成的不同影響，包括通過批准和實施《武</p>	<p>The Committee recommends that States parties:</p> <p>(a) Reinforce and support women’s formal and informal conflict prevention efforts;</p> <p>(b) Ensure women’s equal participation in national, regional and international organizations, as well as in informal, local or community-based processes charged with preventive diplomacy;</p> <p>(c) Establish early warning systems and adopt gender-specific security measures to prevent the escalation of gender-based violence and other violations of women’s rights;</p> <p>(d) Include gender-related indicators and benchmarks in the early warning system’s result management framework;</p> <p>(e) Address the gendered impact of international transfers of arms, especially small and illicit arms including through the ratification and implementation of the Arms Trade Treaty (2013).</p>	<p>委員會提出 5 項建議</p> <p>(a) 加強並支持女性預防衝突</p> <p>(b) 確保女性平等參與</p> <p>(c) 建議預警系統及安保措施</p> <p>(d) 預警系統中列入性別相關指標</p> <p>(e) 解決小型武器及非法武器之影響</p>

器貿易條約》。		
<b>B. 處於衝突及衝突後情況中的婦女</b>	<b>B. Women in conflict and post-conflict contexts</b>	
<b>1. 性別暴力(第一條至第三條和第五條(a)款)</b>	<b>2. Gender-based violence (arts. 1-3 and 5 (a))</b>	
<p>暴力侵害婦女和女孩行為是《公約》所禁止的一種歧視形式，是侵犯人權的行為。衝突加劇了現有的性別不平等，把婦女置於更易遭受由國家和非國家行為體實施的各種形式性別暴力侵害的境地。與衝突相關的暴力隨處都會發生，例如，在家裡、拘留設施裡和安置境內流離失所婦女和難民的營地裡；隨時都會發生，例</p>	<p>Violence against women and girls is a form of discrimination prohibited by the Convention and is a violation of human rights. Conflicts exacerbate existing gender inequalities, placing women at a heightened risk of various forms of gender-based violence by both State and non-State actors. Conflict-related violence happens everywhere, such as in homes, detention facilities and camps for internally displaced women and refugees; it happens at any time, for instance while performing daily activities such as collecting water and firewood, going to school or work. There are multiple perpetrators of conflict-related gender-based violence and these may include members of government armed forces, paramilitary groups, non-State armed groups, peacekeeping personnel and civilians. Irrespective of the character of the armed conflict, duration or actors involved, women and girls are increasingly deliberately targeted for and subjected to various forms of violence and abuse, ranging from arbitrary killings, torture and mutilation, sexual</p>	<p>明定衝突中、後性別暴力是其是，並列舉多項情境。</p>

<p>如，在進行類似取水、打柴、上學或上班這類日常活動時。有各種各樣與衝突相關的性別暴力行為的施暴者，他們中可能有政府武裝部隊、准軍事團體、非國家武裝團體成員、維和人員和平民。無論武裝衝突具有何種性質、持續時間多長或參與的行為體是誰，婦女和女孩越來越成為蓄意針對的目標，遭受各種形式的暴力和虐待，從任意殺戮、酷刑和殘害、性暴力、強迫婚姻、強迫賣淫和強迫懷孕到被迫中斷懷孕和被迫絕育。</p>	<p>violence, forced marriage, forced prostitution and forced impregnation to forced termination of pregnancy and sterilization.</p>	
<p>毋庸置疑，武裝衝突對所有平民都產生不利影響，但婦女和女孩越來越成</p>	<p>It is indisputable that, while all civilians are adversely affected by armed conflict, women and girls are primarily and increasingly targeted by the use of sexual violence, “including as a tactic of war to humiliate, dominate, instil fear in, disperse</p>	<p>性暴力在衝突中成為戰爭策略，衝突後更劇，且不受查處。</p>

<p>為性暴力的主要攻擊對象， “包括將此作為一種戰爭策略，羞辱、統治、恐嚇、驅散和(或)強行遷移某個社區或族裔群體的平民成員”，而且這種形式的性暴力甚至在敵對行動停止後依然持續(見安全理事會第<a href="#">1820(2008)</a>號決議)。對於處在衝突後環境中的大多數婦女來說，暴力並不因正式停火或簽署和平協議而停止，反而常常在衝突後環境中加劇。委員會看到許多報告證實，雖然暴力形式和發生地點有變化，這意味著也許不再有國家支持的暴力，但是所有形式的性別暴力特別是性暴</p>	<p>and/or forcibly relocate civilian members of a community or ethnic group” and that this form of sexual violence persists even after the cessation of hostilities (Security Council resolution 1820 (2008)). For most women in post-conflict environments, the violence does not stop with the official ceasefire or the signing of the peace agreement and often increases in the post-conflict setting. The Committee acknowledges the many reports confirming that, while the forms and sites of violence change, which means that there may no longer be State-sponsored violence, all forms of gender-based violence, in particular sexual violence escalate in the post-conflict setting. The failure to prevent, investigate and punish all forms of gender-based violence, in addition to other factors such as ineffective disarmament, demobilization and reintegration processes, can also lead to further violence against women in post-conflict periods.</p>	
---	--	--

<p>力卻在衝突後情況下增多了。不預防、不調查和不懲治所有形式的性別暴力行為，再加上其他因素，如在解除武裝、復員和重返社會方面缺乏實效，同樣可能導致在衝突後時期發生新的侵害婦女的暴力事件。</p>		
<p>在衝突期間和之後，某些特定婦女和女孩群體特別易受暴力尤其是性暴力侵害，如境內流離失所和難民婦女；婦女人權維護者；具有不同種姓、族裔、民族、宗教身份或其他少數民族的婦女，因為她們往往作為其社區的標誌性代表而受到攻擊；寡婦以及身心障礙婦女。女性戰鬥員和軍隊裡的</p>	<p>During and after conflict specific groups of women and girls are at particular risk of violence, especially sexual violence, such as internally displaced and refugee women; women’s human rights defenders; women belonging to diverse caste, ethnic, national, religious or other minorities or identities who are often attacked as symbolic representatives of their community; widows; and women with disabilities. Female combatants and women in the military are also vulnerable to sexual assault and harassment by State and non-State armed groups and resistance movements.</p>	<p>列舉特別容易遭受性暴力之女性群體。</p>

<p>婦女同樣易受來自國家和非國家武裝團體和抵抗運動成員的性攻擊和性騷擾。</p>		
<p>性別暴力還導致多種其他侵犯人權的行為，如國家或非國家行為體對婦女權利維護者的襲擊，損害了婦女在政治和公共生活中的平等和有意義參與。與衝突相關的性別暴力對婦女造成的各種生理和心理後果，如性暴力導致的傷害、身心障礙、感染愛滋病毒風險增高和意外懷孕風險。性別暴力與愛滋病毒之間具有很強的關聯關係，包括作為戰爭武器通過強姦蓄意傳播愛滋病毒。</p>	<p>Gender-based violence also leads to multiple additional human rights violations, such as attacks on women's rights defenders by State and non-State, which undermine women's equal and meaningful participation in political and CEDAW/C/GC/30 10/24 public life. Conflict-related gender-based violence results in a vast range of physical and psychological consequences for women, such as injuries and disabilities, increased risk of HIV infection and risk of unwanted pregnancy resulting from sexual violence. There is a strong association between gender-based violence and HIV, including the deliberate transmission of HIV, used as a weapon of war, through rape.</p>	<p>性暴力導致其他侵犯女性人權行為，及身心後果。</p>
<p>委員會建議締</p>	<p>The Committee recommends that States parties:</p>	<p>委員會提出 7 項建</p>

<p>約國：</p> <p>(a) 禁止國家和非國家行為體實施一切形式性別暴力，包括通過立法、政策和議定書；</p> <p>(b) 預防、調查和懲治國家和非國家行為體實施的一切形式性別暴力，尤其是性暴力，並執行零容忍政策；</p> <p>(c) 確保婦女和女孩獲得訴諸法律的機會；採取對性別問題有敏感認識的調查程式來解決性別暴力特別是性暴力問題；對員警和軍人(包括維和人員)開展對性別問題有敏感認識的培訓並通過相關行為守則和協議；建設司法部門的能力，包括在過渡司法機制的情況下，以確保其</p>	<p>(a) Prohibit all forms of gender-based violence by State and non-State actors including through legislation, policies and protocols;</p> <p>(b) Prevent, investigate and punish all forms of gender-based violence, in particular sexual violence perpetrated by State and non-State actors; and implement a policy of zero tolerance;</p> <p>(c) Ensure women's and girls' access to justice; adopt gender-sensitive investigative procedures to address sexual and gender-based violence; conduct gender-sensitive training and adopt codes of conduct and protocols for the police, the military, including peacekeepers; build the capacity of the judiciary, including in the context of transitional justice mechanisms to ensure their independence, impartiality and integrity;</p> <p>(d) Collect and standardized data collection methods on the incidence and prevalence of gender-based violence, in particular sexual violence in different settings and against different categories of women;</p> <p>(e) Allocate adequate resources and adopt effective measures to ensure that victims of gender-based violence, in particular sexual violence have access to comprehensive medical treatment, mental health care and psychosocial support;</p> <p>(f) Develop and disseminate standard operating procedures and referral pathways to link security actors with service providers on gender-based violence, including one-stop shops offering medical, legal and psychosocial services for sexual violence survivors, multipurpose community centres that link immediate assistance</p>	<p>議：</p> <p>(a) 禁止一切形式性別暴力</p> <p>(b) 預防調查和懲治一切形式性別暴力</p> <p>(c) 調查及司法過程且性別敏感認識，且培訓相關軍警</p> <p>(d) 收集性別暴力資料</p> <p>(e) 分配充足資源及有效措施來支持受害者</p> <p>(f) 制定標準作業程序及一站式服務</p> <p>(g) 投資研究，回應女性受害者需求</p> <p>(h) 在國家級措施中包括性別暴力及愛滋病毒防治。</p>
---	---	--

<p>獨立、公正和廉潔；</p> <p>(d) 收集關於在不同情況下和針對不同類型婦女的性別暴力的發生率，特別是性暴力的發生率，和普及性的資料，並規範資料收集方法；</p> <p>(e) 分配充足的資源並採取有效措施，確保性別暴力特別是性暴力受害者有機會得到全面的醫療、心理保健和心理支援服務；</p> <p>(f) 制定並傳播標準作業程式和轉診途徑，以便把安保行為體與在性別暴力方面的服務提供者聯繫起來，包括向性暴力倖存者提供一站式住院治療、法律和心理服務，把即刻援助與經濟和社會賦權和融合</p>	<p>to economic and social empowerment and reintegration, and mobile clinics;</p> <p>(g) Invest in technical expertise and allocate resources to address the distinct needs of women and girls subject to violence, including the impact of sexual violence on their reproductive health.</p> <p>(h) Ensure that national responses include specific interventions linking and aligning the prevention and response to gender-based violence and HIV.</p>	
--	--	--

<p>聯繫在一起的多用途社區中心，以及流動診所；</p> <p>(g) 對技術專門知識進行投資，分配資源來應對易受暴力侵害的婦女和女孩的獨特需求，其中包括性暴力對其生殖健康的影響；</p> <p>(h) 確保在國家預防和應對措施中包含針對性別暴力和愛滋病毒的具體干預措施。</p>		
<p><b>2. 販運(第六條)</b></p>	<p><b>2. Trafficking (art. 6)</b></p>	
<p>在衝突期間和之後，由於政治、經濟和社會結構崩潰，暴力行為增多且好戰態度加強，販運婦女和女孩問題加劇，而這種販運行為構成基於性別的歧視。衝突和衝突後局勢可能會造成與戰爭</p>	<p>Trafficking in women and girls which constitutes gender-based discrimination, is exacerbated during and after the conflict, owing to the breakdown of political, economic and social structures, high levels of violence and increased militarism. Conflict and post-conflict situations develop particular war related demand structures for women's sexual, economic and military exploitation. Conflict-affected regions can be areas of origin, transit and destination with regard to trafficking in women and girls with the forms of trafficking varying by region, specific economic and political context and State and non-</p>	<p>販運婦女和女孩構成歧視，且造成各種剝削，在衝突中、後會加劇。</p>

<p>相關的對婦女性剝削、經濟剝削和軍事剝削的特殊需求結構。受衝突影響地區可能是販運婦女和女孩行為的起源地、過境地和目的地，販運形式因區域、具體經濟和政治背景及所涉國家和非國家行為體的不同而不同。生活在或從境內流離失所者或難民營返回或尋求生計的婦女和女孩特別容易被販運。</p>	<p>State actors involved. Women and girls living in or returning from camps for internally displaced persons or refugees or searching for livelihoods are particularly at risk of trafficking.</p>	
<p>當第三國通過採取攔截、驅逐或拘留等措施試圖限制來自受衝突影響地區的移民潮時也可能發生販運。限制婦女和女孩逃離衝突地區機會的限制性、針對性別或歧視性移徙政策可能使她</p>	<p>Trafficking may also occur when third-party countries seek to restrict migrant influxes out of conflict-affected areas through measures such as interdiction, expulsion or detention. Restrictive, sex-specific or discriminatory migration policies that limit opportunities for women and girls fleeing from conflict zones may heighten their vulnerability to exploitation and trafficking.</p>	<p>非交戰第三國限制移民潮或逃難女性易生販運。</p>

<p>們更易被剝削和販運。</p>		
<p>委員會建議締約國：</p> <p>(a) 預防、起訴和懲治發生在其管轄範圍內的販運及相關侵犯人權行為，不管實施者是公共權力機關還是私營行為體，並對婦女和女孩包括境內流離失所或難民婦女和女孩採取具體的保護措施；</p> <p>(b) 通過基於關於販運及性剝削和性虐待問題的國際人權標準的零容忍政策；該政策應針對國家軍隊、維和部隊、邊防員警、移民官員和人道主義行為體等群體，並就如何確認和保護弱勢婦女和女孩問題向這類群體提供對性別問題有</p>	<p>The Committee recommends that States parties:</p> <p>(a) Prevent, prosecute and punish trafficking and related human rights violations that occur under their jurisdiction, whether perpetrated by public authorities or private actors, and adopt specific protection measures for women and girls, including those internally displaced and refugees;</p> <p>(b) Adopt a policy of zero tolerance based on international human rights standards on trafficking and sexual exploitation and abuse, which also addresses national troops, peacekeeping forces; border police, immigration officials and humanitarian actors; and provide them with gender-sensitive training on how to identify and protect vulnerable women and girls;</p> <p>(c) Adopt a comprehensive gender-sensitive and rights-based migration policy that ensures that women and girls coming from conflict-affected areas are not subject to trafficking;</p> <p>(d) Adopt bilateral or regional agreements and other forms of cooperation to protect the rights of trafficked women and girls, and to facilitate prosecution of perpetrators.</p>	<p>委員會提出 4 項建議：</p> <p>(a) 管轄範圍之防治及保護</p> <p>(b) 採零容忍政策</p> <p>(c) 提供全面的劇性別敏感度和人權為基準的移民政策</p> <p>(d) 雙邊或區域合作</p>

<p>敏感認識的培訓；</p> <p>(c) 提供全面的對性別問題有敏感認識和基於權利的移民政策，確保來自受衝突影響地區的婦女和女孩不被販運；</p> <p>(d) 通過雙邊或區域協定和其他形式合作，以保護被販運婦女和女孩的權利，並為起訴犯罪者提供便利。</p>		
<p><b>3. 參與(第七條和第八條)</b></p>	<p><b>3. Participation (arts. 7-8)</b></p>	
<p>雖然婦女在衝突期間往往作為戶主、和平締造者、政治領袖和戰鬥人員發揮領導作用，但在衝突後和過渡時期以及恢復進程中她們的話語權則受到壓制和邊緣化，委員會對此一再表示關切。委員會重申，讓</p>	<p>While women often take on leadership roles during conflict as heads of households, peacemakers, political leaders and combatants, the Committee has repeatedly expressed concern that their voices are silenced and marginalized in postconflict and transition periods and recovery processes. The Committee reaffirms that the inclusion of a critical mass of women in international negotiations, peacekeeping activities, all levels of preventive diplomacy, mediation, humanitarian assistance, social reconciliation, peace negotiations at the national, regional and international levels as well as in the criminal justice system can make a difference. At</p>	<p>讓一定數量女性參與和談、調解、援助及司法系統。女性平等、有意義和有效地參與及領導，是創造持久和平、民主社會之先決條件。</p>

<p>一定數量的婦女參與國際談判、維和活動、各級預防性外交；國家、區域和國際各級的調解、人道主義援助、社會和解、和平談判和刑事司法系統，可能會產生明顯效果。在國家一級，婦女平等、有意義和有效地進入不同政府部門、婦女被任命擔任政府部門領導職務和婦女作為民間社會積極成員參與的能力，是創造一個持久民主、和平及性別平等社會的先決條件。</p>	<p>the national level, women's equal, meaningful and effective participation in the various branches of government, their appointment to leadership positions in government sectors and their ability to participate as active members of civil society are prerequisites for creating a society with lasting democracy, peace and gender equality</p>	
<p>衝突的直接結果可能為締約國提供了一次戰略機會，借此可通過立法和政策措施消除在本國政治和公共生活領域對婦女的歧視，</p>	<p>The immediate aftermath of conflict can provide a strategic opportunity for States parties to adopt legislative and policy measures to eliminate discrimination against women in the political and public life of the country and to ensure that women have equal opportunities to participate in the new, post-conflict structures of governance. However, in many cases, at the official cessation of hostilities, the promotion of gender equality</p>	<p>阻礙、排除女性參與原因在於根深蒂固的陳規定型。</p>

<p>並確保婦女有參與衝突後新的治理結構的平等機會。但在許多情形下，在敵對行動正式停止後，促進性別平等和婦女參與決策進程不會被視為優先事項，甚至被視為與穩定目標不相容而被擱置起來。由於根深蒂固的陳規定型觀念，婦女常常無法充分參與和介入正式的建立和平進程和衝突後重建及社會經濟發展；這反映在，國家和非國家團體通常由男性擔任領導人，而婦女除了遭受性別暴力侵害及其他形式歧視外還被排除在決策的所有方面之外。</p>	<p>and women's participation in decision-making processes is not seen as a priority and may even be side-lined as incompatible with stabilization goals. The full participation and involvement of women in formal peacemaking and post-conflict reconstruction and socioeconomic development are CEDAW/C/GC/30 12/24 often not realized on account of deeply entrenched stereotypes, reflected in the traditionally male leadership of State and non-State groups, which exclude women from all aspects of decision-making, in addition to gender-based violence and other forms of discrimination against women.</p>	
<p>締約國要履行確保婦女平等</p>	<p>The fulfilment of States parties' obligations to ensure women's equal representation in political</p>	<p>採取(暫行特別)措施確保女性參與，並消</p>

<p>參與政治和公共生活(第七條)及國際一級參與(第八條)的義務，就必須採取措施，包括第四條第一款規定的暫行特別措施，解決受衝突影響地區的範圍廣泛的性別歧視和不平等現象，以及消除阻礙實現婦女平等參與的具體和多重障礙，這些障礙與在流動性、安全、籌款、宣傳運動和技能方面與衝突相關的限制有關係。</p>	<p>and public life (art. 7) and at the international level (art. 8) requires measures, including temporary special measures under article 4 (1), to address this broader context of gender discrimination and inequality in conflictaffected areas, in addition to the specific and multiple barriers to women’s equal participation that are linked to additional conflict-related restrictions on mobility, security, fundraising, campaigning and technical skills.</p>	<p>除相關多重障礙。</p>
<p>履行這些義務尤其適用於境內發生敵對行動的締約國和參與建立和平進程的其他締約國，此類和平進程必須確保婦女在自己的機構裡有代表，並支援當地婦女參與和平進</p>	<p>The implementation of these obligations apply in particular to States parties on whose territory hostilities have occurred, in addition to other States parties involved in peacemaking processes that are required to ensure that women are represented in their own institutions and to support local women’s participation in peace processes. Their implementation, in conjunction with Security Council resolution 1325 (2000) on women, peace and security, guarantee women’s meaningful participation in processes relating to the prevention, management and resolution of</p>	<p>戰區國家尤其必須確保女性參與和平進程。</p>

<p>程。履行這些義務並配合著安全理事會關於婦女、和平與安全的第 <a href="#">1325(2000)</a> 號決議，保障了婦女有意義地參與預防、管理和解決衝突的相關進程。</p>	<p>conflicts.</p>	
<p>委員會建議締約國：</p> <p>(a) 確保立法、行政、管理及其他監管工具不限制婦女參與預防、管理和解決衝突；</p> <p>(b) 確保婦女在國家機構和機制所有決策層級的代表性，包括武裝部隊、員警、司法機構和負責處理衝突期間所犯罪行的過渡司法機制(司法和非司法)；</p> <p>(c) 確保婦女和關注婦女問題的民間社會組織及民間社會</p>	<p>The Committee recommends that States parties:</p> <p>(a) Ensure that legislative, executive, administrative and other regulatory instruments do not restrict women’s participation in the prevention, management and resolution of conflicts;</p> <p>(b) Ensure women’s equal representation at all decision-making levels in national institutions and mechanisms, including in the armed forces, police , justice institutions and the transitional justice mechanisms (judicial and non-judicial) dealing with crimes committed during the conflict;</p> <p>(c) Ensure that women and civil society organizations focused on women’s issues and representatives of civil society are included equally in all peace negotiations and post-conflict rebuilding and reconstruction efforts;</p> <p>(d) Provide leadership training to women in order to ensure their effective participation in the post-conflict political processes.</p>	<p>委員會提出 4 項建議：</p> <p>(a) 不可限制女性參與</p> <p>(b) 確保決策層級中的女性代表性</p> <p>(c) 確保民間社會參與</p> <p>(d) 培訓女性領導力</p>

<p>代表平等參與所有和平談判和衝突後重建努力；</p> <p>(d) 向婦女提供領導力培訓，以期確保其有效參與衝突後政治進程。</p>		
<p>委員會建議單獨或作為國際或政府間組織和聯盟成員參與解決衝突進程的第三國：</p> <p>(a) 要有婦女代表，包括高級別代表參與談判和調解活動；</p> <p>(b) 向解決衝突進程和向結束衝突的國家提供技術援助，以促進婦女有效參與。</p>	<p>The Committee recommends to third-party States participating in conflict resolution processes, either individually or as members of international organizations, to:</p> <p>(a) Include women in negotiation and mediation activities as delegates, including at senior levels;</p> <p>(b) Provide technical assistance on conflict-resolution processes to countries emerging from conflict so as to promote women’s effective participation.</p>	<p>委員會建議第三國：</p> <p>(a) 包括女性代表參與談判、調解</p> <p>(b) 提供技術援助，促進女性有效參與</p>
<p><b>獲得接受教育、就業和保健服務的機​​會以及農村婦女(第十條至第十二條、第十四條)</b></p>	<p><b>Access to education, employment and health, and rural women (arts. 10-12, 14)</b></p>	
<p>國家公共基礎設施和服務提供基礎設施徹</p>	<p>The total breakdown of State public and service provision infrastructure is one of the major and direct consequences of armed conflict, resulting in</p>	<p>因武裝衝突造成公共基礎崩潰，使女性最先受苦，責任加重。</p>

<p>底崩潰，是武裝衝突的一個主要直接後果，導致無法向民眾提供必要服務。在這種局勢中，婦女和女孩最先受苦，首當其衝地承受衝突的社會經濟層面惡果。在受衝突影響地區，學校因不安全而關閉，被國家和非國家武裝團體佔領或摧毀，所有這些阻礙了女孩上學。其他阻礙女孩接受教育的因素包括非國家行為體針對她們及其教師發動的定向襲擊和威脅，以及她們必須承擔的照看責任和家庭責任加重。</p>	<p>the lack of delivery of essential services to the population. In such situations, women and girls are at the front line of suffering, bearing the brunt of the socioeconomic dimensions. In conflict-affected areas, schools are closed owing to insecurity, occupied by State and non-State armed groups or destroyed, all of which impede girls' access to school. Other factors preventing girls' access to education include targeted attacks and threats to them and their teachers by non-State actors, as well as the additional caregiving and household responsibilities which they are obliged to take on.</p>	
<p>同樣，由於家庭生存的重擔落在婦女的肩上，她們被迫尋求其他生計來源。儘管在衝突期</p>	<p>Likewise, women are forced to look for alternative sources of livelihood as family survival comes to depend heavily on them. Even though during conflict women take on roles previously held by men in the formal employment sector, it is not uncommon for women, in the post-</p>	<p>女性負擔家計但不在中途後經濟規畫之中，故重建方案須包括女性</p>

<p>間婦女扮演過去男子在正規就業部門擔任的角色，但在衝突後環境中婦女失去正規部門的工作並返回家庭或進入非正規部門的情況也並不罕見。在衝突後環境中，產生就業機會是構建可持續衝突後經濟的重中之重；但是正規部門創造就業機會的倡議往往忽略婦女，因為它們傾向於注重將經濟機會給予復員男子。衝突後重建方案必須重視並支持婦女在非正規經濟領域和生產領域(多數經濟活動發生的領域)做出貢獻。</p>	<p>conflict settings, to lose formal-sector jobs and return to the household or to the informal sector during post-conflict settings. While in post-conflict settings, the generation of employment is a top priority for building a sustainable post-conflict economy, formal-sector employment generation initiatives tend to neglect women as they focus on economic opportunities for demobilized men. It is imperative that post-conflict reconstruction programmes value and support women's contributions in the informal and reproductive areas of the economy where most economic activity occurs.</p>	
<p>在受衝突影響地區，由於基礎設施不足和缺乏專業醫療服</p>	<p>In conflict affected areas access to essential services such as health care, including sexual and reproductive health services are disrupted due to inadequate infrastructure, lack of professional</p>	<p>衝突影響地區女性健康服務及愛滋病毒歧視</p>

<p>務人員、基本藥品及保健用品，獲得必要服務如包括性健康和生殖健康服務在內的保健服務的機會中斷了。因此，婦女和女孩因與衝突相關的性暴力而意外懷孕、遭受嚴重性傷害和生殖傷害及感染包括愛滋病毒和愛滋病在內的性傳染疾病的風險增大了。保健服務系統崩潰或遭到破壞，再加上婦女的行動和行動自由受到限制，進一步損害了第十二條第一款為婦女規定的平等保健機會。權力失衡和有害的性別規範使女孩和婦女更易受愛滋病毒感染，在衝突和衝突後環境下，這類因素就更</p>	<p>medical care workers, basic medicines and health care supplies. Consequently, women and girls are at a greater risk of unplanned pregnancy, severe sexual and reproductive injuries and contracting sexually transmitted infections, including HIV and AIDS, as a result of conflict-related sexual violence. The breakdown or destruction of health services, combined with restrictions on women's mobility and freedom of movement, further undermines women's equal access to health care, as guaranteed by article 12 (1). Power imbalances and harmful gender norms make girls and women disproportionately more vulnerable to HIV infection and these factors become more pronounced during conflict and post-conflict settings. HIV-related stigma and discrimination is also pervasive and have profound implications for HIV prevention, treatment, care and support, especially when combined with stigma associated with gender-based violence.</p>	
---	--	--

<p>為明顯了。與愛滋病毒相關的羞辱和歧視同樣很普遍，對愛滋病毒的預防、治療、看護和支助工作造成深遠影響，特別是同與性別暴力相關的恥辱聯繫在一起時更是如此。</p>		
<p>農村婦女受得不到充足的保健和社會服務以及獲取土地和自然資源不公平的影響往往過於嚴重。同樣，她們在衝突環境中的處境給她們就業和重返社會帶來了特別挑戰，原因常常是服務系統崩潰導致糧食安全無保障、住房不足、財產被剝奪和缺水而處境惡化。寡婦、身心障礙婦女、老年婦女、無家庭支助的單身女子</p>	<p>Rural women are often disproportionately affected by the lack of adequate health and social services and inequitable access to land and natural resources. Similarly, their situation in conflict settings presents particular challenges with regard to their employment and reintegration as it is often exacerbated by the breakdown of services, resulting in food insecurity, inadequate shelter, deprivation of property and lack of access to water. Widows, women with disabilities, older women, single women without family support and female-headed households are especially vulnerable to increased economic hardship owing to their disadvantaged situation, and often lack employment and means and opportunities for economic survival.</p>	<p>農村女性及其他容易困難加劇女性群體之不利處境</p>

<p>和女戶主家庭尤其容易受到經濟困難加劇的影響，這是因為她們處境不利且常常缺乏就業及經濟生存所需的手段和機會。</p>		
<p>委員會建議締約國：</p> <p>(a) 為受衝突影響過早輟學的女孩制定方案，以便她們能儘快重返校園/大學；參與對學校基礎設施的及時搶修和重建工作；採取措施阻止針對女孩及其老師的襲擊和威脅事件發生；以及確保立即調查、起訴和懲治此類暴力行為的犯罪者；</p> <p>(b) 確保經濟復蘇戰略促進將性別平等作為實現可持續衝突後經濟的必要前提條件，並</p>	<p>The Committee recommends that States parties:</p> <p>(a) Develop programmes for conflict-affected girls who leave school prematurely so that they can be reintegrated into schools/universities as soon as possible; engage in the prompt repair and reconstruction of school infrastructure; take measures to prevent the occurrence of attacks and threats against girls and their teachers; and ensure that perpetrators of such acts of violence are promptly investigated, prosecuted and punished;</p> <p>(b) Ensure that economic recovery strategies promote gender equality as a necessary precondition for a sustainable post-conflict economy, and target women working in both the formal and the informal employment sectors; design specific interventions to leverage opportunities for women's economic empowerment, in particular for rural women and other disadvantaged groups of women; ensure that women are involved in the design of those strategies and programmes and in their monitoring; and effectively address all barriers to women's equitable participation in those programmes;</p> <p>(c) Ensure that sexual and reproductive health care includes access to sexual and reproductive health</p>	<p>委員會提出 5 項建議：</p> <p>(a) 重返學校及防治對女性師生暴力</p> <p>(b) 經濟復甦策略要促進性別平等，並確保女性賦權和參與方案制定及監測執行狀況。</p> <p>(c) 確保性/生殖健康服務包括得知資訊、心理支持、計劃生育、孕產婦保健，安全流產及護理，防治愛滋病毒及其他性病，以及治療相關傷病。</p> <p>(d) 愛滋病毒防治</p> <p>(e) 協調活動，採取綜合做法，惠及偏鄉、弱勢群體</p>

<p>且確保這些戰略針對在正規和非正規就業部門工作的婦女；制定具體的干預措施，利用對婦女進行經濟賦權的機會，特別是針對農村婦女和其他弱勢婦女群體；同時確保婦女參與制定這些戰略和方案及參與監測其實施情況；以及有效消除阻礙婦女公平參與這些方案的一切障礙；</p> <p>(c) 確保性健康和生殖健康服務包括獲得性健康和生殖健康及權利資訊；社會心理支持；計劃生育服務，包括緊急避孕；孕產婦保健服務，包括產前護理、專業接生服務、預防母嬰垂直傳播和產科急診；安全流產</p>	<p>and rights information; psychosocial support; family planning services, including emergency contraception; maternal health services, including antenatal care, skilled delivery services, prevention of vertical transmission and emergency obstetric care; safe abortion services; post-abortion care; prevention and treatment of HIV/AIDS and other sexually transmitted infections, including post-exposure prophylaxis; and care to treat injuries such as fistula arising from sexual violence, complications of delivery or other reproductive health complications, among others;</p> <p>(d) Ensure that women and girls, including those who may be particularly vulnerable to HIV, have access to basic health services and information, including HIV prevention, treatment, care and support;</p> <p>(e) Coordinate all activities with stakeholders from the humanitarian and development communities to ensure a comprehensive approach that does not duplicate efforts in the fields of education, employment and health and reaches disadvantaged populations, including in remote and rural areas.</p>	
--	--	--

<p>服務；流產後護理；預防和治療愛滋病毒/愛滋病及其他性傳播感染，包括暴露後防護措施；以及治療因性暴力造成的傷害(如癩管病)、分娩併發症或其他生殖健康併發症等；</p> <p>(d) 確保婦女和女孩包括特別容易感染愛滋病毒的婦女和女孩有機會獲得基本保健服務和資訊，包括對愛滋病毒的預防、治理、看護和支助；</p> <p>(e) 協調與人道主義領域和發展領域利益攸關方的所有活動，以確保採取綜合方法，在教育、就業和保健領域不做重複努力，並惠及弱勢群體，包括在偏遠和農村地區的弱勢群體。</p>		
--	--	--

<p>流離失所、難民和尋求庇護者 (第一條至第三條和第十五條)</p>	<p><b>Displacement, refugees and asylum-seekers (arts. 1-3 and 15)</b></p>	
<p>委員會曾經指出，《公約》適用於流離失所週期的每個階段，被迫流離失所和無國籍狀態對婦女的影響往往不同於對男子的影響，其中包括性別歧視和暴力。境內和境外流離失所帶來了特定的性別層面問題，在流離失所週期的所有階段、在逃亡、安置和回返受衝突影響地區期間都會發生此類問題。在受衝突影響地區，婦女和女孩特別容易遭遇被迫境內流離失所。此外，她們在逃亡和流離失所階段以及在難民營環境內外常常遭受嚴重</p>	<p>The Committee has previously noted that the Convention applies at every stage of the displacement cycle and that situations of forced displacement and statelessness often affect women differently from men and include gender-based discrimination and violence. Internal and external displacement have specific gender dimensions that occur at all stages in the displacement cycle; during flight, settlement and return within conflict-affected areas, women and girls are especially vulnerable to forced displacement. In addition, they are often subjected to gross human rights violations during flight and in the displacement phase, as well as within and outside camp settings, including risks relating to sexual violence, trafficking and the recruitment of girls into armed forces and rebel groups.</p>	<p>指出流離失所週期中女性易遭受性別歧視及暴力與特定性別層面的問題。</p>

<p>侵犯人權行為的侵害，其中包括與性暴力、販運及將女孩招進武裝部隊和叛亂團體有關的風險。</p>		
<p>在衝突和衝突後環境中的流離失所婦女和女孩由於無法平等獲得教育、從事創收和技能培訓活動、生殖保健品質低劣、被排斥在決策進程之外且這種現象因男性主導的領導結構而更趨惡化、難民營佈局不合理及難民營和非難民營環境下的基礎設施不良，她們往往處於岌岌可危的生活條件下。這種極端貧困和不平等狀況可導致她們用性好處來換取金錢、住所、糧食或其他物品，從而使她</p>	<p>Displaced women live in precarious conditions in conflict and post-conflict environments due to their unequal access to education, income generation and skills training activities, poor reproductive health care, exclusion from decision-making processes which are exacerbated by male-dominated leadership structures, poor camp layout and infrastructure both in camp and non-camp settings. This situation of dire poverty and inequality can lead them to exchange sexual favours for money, shelter, food or other goods under circumstances that make them vulnerable to exploitation and violence as well as to HIV infection and other sexually transmitted diseases.</p>	<p>男性主導結構惡化了女性處境。</p>

<p>們處於易受剝削和暴力侵害及易受愛滋病毒和其他性傳染疾病感染的境地。</p>		
<p>難民婦女因其作為難民的經歷而與男性有不同和更多的需求。難民婦女面臨同境內流離失所婦女相同的援助和保護關注，因此可依靠相同的對性別問題有敏感認識的干預措施來解決她們的需求。委員會承認這些群體中的多樣性，她們可能面臨的特殊挑戰和她們的境內或境外流離失所處境造成的法律、社會及其他影響、向她們提供的國際援助中的差距和對她們的需求作出定向對策的必要性。</p>	<p>Refugee women have different and additional needs than men through their experience as refugees. Refugee women face similar assistance and protection concerns to internally displaced women and could therefore benefit from similar gender-sensitive interventions to address their needs. The Committee acknowledges the diversity within these groups, the particular challenges they may face and the legal, social and other implications of the context of their displacement (internal versus external), the gaps in the international assistance provided to them and the need for targeted responses to their needs</p>	<p>需要針對難民女性不同和更多的需求做出援助對策</p>

<p>在為與衝突相關的流離失所問題尋找持久解決辦法時經常排斥流離失所婦女的想法，這或者是因為她們依賴由不重視婦女話語權的家人或社區做出決定，或者是因為持久解決辦法作為將婦女排斥在外的衝突後進程的組成部分。此外，來自受衝突影響地區的尋求庇護婦女在申請庇護時可能遇到帶性別因素的障礙，原因是她們的敘述可能不符合傳統的迫害模式，而傳統的迫害模式大都是從男性角度闡釋的。</p>	<p>Searches for durable solutions following conflict-related displacement frequently exclude the perspective of displaced women, either because they rely on decision-making by a family member or community in which women's voices are marginalized or because durable solutions are set as part of post-conflict processes that exclude women. In addition, female asylum seekers from conflict-affected areas can face gendered barriers to asylum, as their narrative may not fit the traditional patterns of persecution, which have been largely articulated from a male perspective.</p>	<p>女性因性別而看法、話語不受重視，得依賴別人做決定，或因不合傳統男性敘述致尋求庇護受阻。</p>
<p>委員會建議締約國： (a) 採取必要的預防措施，確保流離失所婦女</p>	<p>The Committee recommends that States parties: (a) Take the preventive measures necessary to ensure protection against forced displacement, as well as the protection of the human rights of displaced women and girls, including access to</p>	<p>委員會提出 9 項建議： (a) 確保人權及保護 (b) 解決多重和交叉歧視影響之女性</p>

<p>和女孩在逃離、流離失所和持久解決情況下受到防止被迫流離失所的保護以及人權保護，包括獲得基本服務；</p> <p>(b) 解決易受多重和交叉歧視形式影響的不同的境內流離失所和難民婦女群體的具體風險和特殊需求，包括身心障礙婦女、老年婦女、女孩、寡婦、女戶主、孕婦、感染愛滋病毒/愛滋病的婦女、農村婦女、原住民婦女；在族裔、民族、性或宗教上屬於少數群體的婦女及婦女人權維護者；</p> <p>(c) 促進境內流離失所和難民婦女有意義地融入和參與所有決策進程，包括納入援助方</p>	<p>basic services, during flight, displacement and in the context of durable solutions;</p> <p>(b) Address the specific risks and particular needs of different groups of internally displaced and refugee women, subjected to multiple and intersecting forms of discrimination, including women with disabilities, older women, girls, widows, women who head households, pregnant women, women living with HIV/AIDS, rural women, indigenous women, women belonging to ethnic, national, sexual or religious minorities, and women human rights defenders;</p> <p>(c) Promote the meaningful inclusion and participation of internally displaced and refugee women in all decision-making processes, including in all aspects related to the planning and implementation of assistance programmes and camp management, decisions relating to the choice of durable solutions and processes related to post-conflict processes;</p> <p>(d) Provide protection and assistance for internally displaced and refugee women and girls, including by safeguarding them from gender-based violence, including forced and child marriage; ensure their equal access to services and health care and full participation in the distribution of supplies, as well as in the development and implementation of assistance programmes that take into account their specific needs; provide protection against the displacement of indigenous, rural and minority women with special dependency on land; and ensure education and income generation and skill training activities are available;</p>	<p>群體風險及需求</p> <p>(c) 促進參與所有決策進程</p> <p>(d) 提供婚姻、健康保護及教育、<b>創收</b>培訓</p> <p>(e) 防治性別暴力及問責機制</p> <p>(f) 調查、起訴性別歧視和暴力事件</p> <p>(g) 提供受害者醫療、法律援助及安全環境，並培訓相關人員</p> <p>(h) 以長期戰略增強女性權能領導力及參與，而能自做選擇</p> <p>(i) 解決大量難民湧入情況中女性保護和援助需求。</p>
--	--	---

<p>案規劃和實施以及難民營管理的所有方面；與選擇持久解決辦法相關的決定；以及與衝突後進程相關的進程；</p> <p>(d) 向境內流離失所和難民婦女和女孩提供保護和援助，包括保護她們免遭性別暴力包括強迫婚姻和童婚侵害；確保她們平等獲得服務和保健及充分參與物資分配以及制定和實施顧及其具體需求的援助方案；保護對土地具有特殊依賴性的原住民、農村和少數民族婦女免遭流離失所之苦；以及確保提供教育及開展創收和技能培訓活動；</p> <p>(e) 採取實際措施，保護和預防</p>	<p>(e) Adopt practical measures for the protection and prevention of gender-based violence, as well as mechanisms for accountability, in all displacement settings (whether in camps, settlements or out-of-camp settings);</p> <p>(f) Investigate and prosecute all instances of gender-based discrimination and violence that occur in all phases of the conflict-related displacement cycle;</p> <p>(g) Provide internally displaced and refugee women and girl victims of gender-based violence, including sexual violence with free and immediate access to medical services, legal assistance and a safe environment; provide access to female health-care providers and services, such as reproductive health care and appropriate counselling; and ensure that military and civilian authorities present in displacement contexts have received appropriate training on protection challenges, human rights and the needs of displaced women;</p> <p>(h) Ensure that immediate humanitarian assistance needs and protection requirements are complemented with long-term strategies in support of internally displaced and refugee women's socioeconomic rights and livelihood opportunities, enhanced leadership and participation in order to empower them to choose the durable solutions that suit their needs;</p> <p>(i) Ensure that all situations of massive influx of refugee and displaced populations, including women and girls are adequately addressed and that their protection and assistance needs are not impeded as a result of lack of clarity in the</p>	
--	---	--

<p>在所有流離失所環境中的性別暴力以及問責機制(無論是在難民營、安置點還是在難民營外環境)；</p> <p>(f) 調查並起訴所有發生在與衝突相關的流離失所週期各個階段的性別歧視和暴力事件；</p> <p>(g) 向遭受性別暴力(包括性暴力)侵害的境內流離失所和難民婦女和女孩提供免費和即時的醫療服務、法律援助和安全環境；使其有機會向女性保健工作者求診並獲得服務，如生殖保健和適當的諮詢；以及確保在流離失所背景下的軍事和民政當局獲得關於保護挑戰、人權和流離失所婦女需</p>	<p>mandates of international agencies or resource constraints.</p>	
--	--	--

<p>求的適當培訓；</p> <p>(h) 確保以長期戰略補充即時的人道主義援助需求和保護要求，從而支助境內流離失所和難民婦女的社會經濟權利和生計機會，增強領導力和參與程度，從而增強婦女的權能，使她們能選擇適合其需求的持久解決方案；</p> <p>(i) 確保充分解決包括婦女和女孩在內的難民和流離失所人口大量湧入的各種情況，並確保不能因為國際機構的任務不明確或資源約束而妨礙滿足她們的保護和援助需求。</p>		
<p><b>國籍和無國籍狀態(第一條至第三條和第九條)</b></p>	<p><b>Nationality and statelessness (arts. 1-3 and 9)</b></p>	
<p>衝突除了使境內流離失所者、</p>	<p>In addition to the heightened risks faced by internally displaced persons, refugees and asylum</p>	<p>衝突可能是無國籍狀態的原因和結果，使</p>

<p>難民和尋求庇護者面臨的風險加劇外，還可能是無國籍狀態的原因和後果，使婦女和女孩在私人領域和公共領域都處於特別易受各種形式虐待的境地。當婦女的衝突經歷與國籍權方面的歧視(如法律要求婦女在結婚或解除婚姻時改變國籍或拒絕給予婦女可將國籍傳給子女的能力)交叉在一起時，無國籍狀態就發生了。</p>	<p>seekers, conflict can also be both a cause and a consequence of statelessness, rendering women and girls particularly vulnerable to various forms of abuse in both the private and public domains. Statelessness can arise when a woman's experience of conflict intersects with discrimination with respect to nationality rights, such as laws that require women to change nationality upon marriage or its dissolution and that deny them the ability to pass on their nationality.</p>	<p>女性特別易受虐待。</p>
<p>婦女在下列情況下可能喪失國籍：因為沒有發放身份證和出生登記證等必要檔或此類證件在衝突中遺失或毀壞而在重新發放時又沒有使用她們的名字，因而</p>	<p>Women may be left stateless when they cannot prove nationality because necessary documents such as identity documents and birth registration are either not issued or are lost or destroyed in conflict and are not reissued in their names. Statelessness may also result in situations where women are denied the ability to pass on nationality to their children owing to gender discriminatory nationality laws.</p>	<p>列舉女性喪失國籍的各種情況。</p>

<p>無法證明自己的國籍。無國籍狀態還可能造成這種情況：因具有性別歧視的國籍法，婦女被剝奪將國籍傳給子女的能力。</p>		
<p>無國籍婦女和女孩在衝突發生時面臨的虐待風險增高，因為她們不享受公民身份賦予的保護，包括領事協助，還因為她們當中很多人無證件和/或屬於種族、宗教或語言上的少數群體。無國籍狀態還導致衝突後時期出現基本人權和自由被普遍剝奪現象。例如，婦女可能被剝奪獲得保健、就業和其他社會經濟及文化權利的機會，因為政府在面臨資源壓力日益增</p>	<p>There are heightened risks of abuse faced by stateless women and girls in times of conflict because they do not enjoy the protection that flows from citizenship, including consular assistance, and also because many are undocumented and/or belong to ethnic, religious or linguistic minority populations. Statelessness also results in the widespread denial of fundamental human rights and freedoms in post-conflict periods: women may be denied access to health care, employment and other socioeconomic and cultural rights as Governments restrict services to nationals in times of increased resource constraints. Women deprived of a nationality are also often excluded from political processes and from participating in the new government and governance of their country, in violation of articles 7 and 8 of the Convention.</p>	<p>無國籍女性受虐風險高，易會導致基本人權和自由被普遍剝奪，還往往被排除在政治進程外。</p>

<p>大時會將服務僅限於提供給國民。被剝奪國籍的婦女往往被排除在政治進程之外，無法參與本國的新政府和治理工作，這與《公約》第七和第八條的規定是相違背的。</p>		
<p>委員會建議締約國：</p> <p>(a) 確保為預防無國籍狀態而採取的措施適用於所有婦女和女孩並惠及特別容易因衝突而成為無國籍者的群體，如境內流離失所婦女、難民、尋求庇護者和被販運者；</p> <p>(b) 確保在衝突前、衝突期間和衝突後繼續實施保護無國籍婦女和女孩的措施；</p> <p>(c) 保證受衝突影響婦女和女</p>	<p>The Committee recommends that States parties:</p> <p>(a) Ensure that measures to prevent statelessness are applied to all women and girls and address populations that are particularly susceptible to being rendered stateless by conflict, such as female internally displaced persons, refugees, asylum seekers and trafficked persons;</p> <p>(b) Ensure that measures to protect stateless women and girls remain in place before, during and after conflict;</p> <p>(c) Guarantee conflict-affected women and girls equal rights to obtain documents necessary for the exercise of their legal rights and the right to have such documentation issued in their own names, and ensure the prompt issuance or replacement of documents without imposing unreasonable conditions, such as requiring displaced women and girls to return to their area of original residence to obtain documents;</p> <p>(d) Ensure individual documentation, including in post-conflict migration flows, of internally displaced women, refugee and asylum-seeking</p>	<p>委員會提出 4 項建議：</p> <p>(a) 預防無國籍狀態之措施適用所有女性</p> <p>(b) 衝突前、中、後繼續保護無國籍女性</p> <p>(c) 保證女性獲取證件的平等權利</p> <p>(d) 確保項女性發放個人證件，及婚姻、生產登記。</p>

<p>孩有獲取為行使其合法權利而必須具備的證件的平等權利，有權擁有以其本人名字發放的證件；並確保在不附加任何無理條件(如要求流離失所婦女和女孩返回其原居住地以獲取檔)的情況下及時發放或更換證件；</p> <p>(d) 確保向境內流離失所婦女、難民婦女、尋求庇護婦女及與家人失散和無人陪伴女孩發放個人證件，包括在衝突後移徙期間發放；以及確保及時、平等地對所有出生、結婚和離婚進行登記。</p>	<p>women and separated and unaccompanied girls, and ensure the timely and equal registration of all births, marriages and divorces.</p>	
<p><b>婚姻和家庭關係(第十五條至第十六條)</b></p>	<p><b>Marriage and family relations (arts. 15-16)</b></p>	
<p>婚姻和家庭關係中的不平等影響婦女在衝</p>	<p>Inequalities in marriage and family relations impact women’s experiences in conflict and post-conflict situations. In such situations, women and</p>	<p>強迫婚姻影響擇偶和自由締婚權力(第 16 條)</p>

<p>突和衝突後局勢中的經歷。在這種情況下，婦女和女孩可能被逼結婚以安撫武裝團體或因為婦女在衝突後致貧迫使她們為獲得經濟安全而結婚，影響了她們擇偶和自由締結婚姻的權利，而此項權利是第十六條第一款(a)項和第十六條第一款(b)項所保障的。在衝突期間，女孩特別易受強迫婚姻之害，而武裝團體卻越來越多地採用這種有害做法。由於貧窮和結婚可使女孩免遭強姦這一錯誤觀念的影響，家庭還強迫女孩結婚。</p>	<p>girls may be coerced into marriage to placate armed groups or because women's post-conflict poverty forces them to marry for financial security, affecting their rights to choose a spouse and enter freely into marriage, as guaranteed by article 16 (1) (a) and 16 (1) (b). During conflict girls are particularly susceptible to forced marriage, a harmful practice which is increasingly used by armed groups. Families also force girls into marriage due to poverty and a misconception that it may protect them against rape.</p>	<p>C.P. Prostitution</p>
<p>在衝突後局勢中，第十六條第一款(h)項所保障的平等獲得</p>	<p>Equal access to property, as guaranteed by article 16 (1) (h), is particularly critical in post-conflict situations, given that housing and land are crucial to recovery efforts, in particular for women in</p>	<p>保障平等獲得財產權</p>

<p>財產權尤其重要，因為住房和土地對經濟復蘇努力至關重要，對於女戶主家庭裡的婦女而言更是如此，而此類家庭數量在危機時期往往會因為家人分離和丈夫去世而增多。婦女獲得財產的機會有限而且不平等，這種現象在衝突後局勢中特別有害，因為已失去丈夫或男性近親的流離失所婦女返回自己的家園後會發現，她們對自己的土地沒有法定所有權，結果也就失去了謀生手段。</p>	<p>female-headed households, the number of which tends to rise in crisis owing to family separation and widowhood. Women's limited and unequal access to property becomes particularly damaging in post-conflict situations, especially when displaced women who have lost husbands or close male relatives return to their homes to find that they have no legal title to their land and, as a result, no means of earning a livelihood.</p>	
<p>對受衝突影響地區的婦女施行強迫懷孕、流產或絕育的行為侵犯了無數婦女的權利，包括第十六條第</p>	<p>Forced pregnancies, abortions or sterilization of women in conflict-affected areas violate a myriad of women's rights, including the right under article 16 (1) (e) to decide freely and responsibly on the number and spacing of their children.</p>	<p>強迫懷孕、流產或絕育侵犯多項女性人權</p>

<p>一款(c)項下的關於自由負責地決定子女人數和生育間隔的權利。</p>		
<p>委員會重申其第21和第29號一般性建議，並再建議締約國：</p> <p>(a) 預防、調查和懲治性別暴力行為，如對受衝突影響地區的婦女和女孩施行強迫婚姻、強迫懷孕、流產或絕育；</p> <p>(b) 通過對性別問題有敏感認識並認識到婦女在衝突後情況下在要回自己的繼承權和土地權時面臨的尤為不利因素的立法和政策，包括因為衝突而造成地契和其他檔遺失或毀壞。</p>	<p>The Committee reiterates its general recommendations No. 21 (1994) and No. 29 (2013) and further recommends that States parties:</p> <p>(a) Prevent, investigate and punish gender-based violations such as forced marriages, forced pregnancies, abortions or sterilization of women and girls in conflict-affected areas;</p> <p>(b) Adopt gender-sensitive legislation and policies that recognize the particular disadvantages that women face in claiming their right to inheritance as well as their land in post-conflict contexts, including the loss or destruction of land deeds and other documentation owing to conflict.</p>	<p>委員會重申第21、29號一般性建議並提出2項建議：</p> <p>(a) 防治性別暴力，包括強迫婚姻、懷孕、流產或絕育</p> <p>(b) 採行立法及政策具性別敏感度以肯認女性在繼承權與土地權時面臨之不利因素</p>
<p>安全部門改革以及解除武裝、復員和重返社會</p>	<p><b>Security sector reform and disarmament, demobilization and reintegration</b></p>	

<p>作為衝突後和過渡時期最先到位的安全舉措之一，解除武裝、復員和重返社會是更廣泛的安全部門改革框架的組成部分。儘管如此，在擬訂或實施解除武裝、復員和重返社會方案時卻很少與安全部門改革舉措進行協調。缺乏這方面的協調往往會損害婦女的權利，例如為了讓曾犯過基於性別的違法行為的前戰鬥人員到安全部門任職而同意赦免。由於安全部門改革和解除武裝、復員和重返社會舉措缺乏規劃和協調，婦女還不能擔任新建安全部門機構的職務。這種審查流程不足進一步阻礙</p>	<p>Disarmament, demobilization and reintegration, which is part of the broader security sector reform framework and is one of the first security initiatives, put in place in post-conflict and transition periods. This notwithstanding, disarmament, demobilization and reintegration programmes are rarely developed or implemented in coordination with security sector reform initiatives. This lack of coordination often undermines women's rights, such as when amnesties are granted in order to facilitate the reintegration of ex-combatants who have committed gender-based violations into security sector positions. Women are also excluded from positions within newly formed security sector institutions owing to a lack of planning and coordination in security sector reform and disarmament, demobilization and reintegration initiatives. The inadequate vetting processes further impedes gender-sensitive security sector reform, which is key to developing non-discriminatory, gender-responsive security sector institutions that address the security needs of women and girls, including disadvantaged groups.</p>	<p>缺乏協調以致損害女性人權</p>
---	--	---------------------

<p>了開展對性別問題有敏感認識的安全部門改革，而這種改革是建立無歧視、對性別問題有敏感認識、能滿足包括弱勢群體在內的婦女和女孩安全需求的安全部門機構的關鍵。</p>		
<p>衝突結束後，身為女性前戰鬥人員的婦女以及作為信使、廚師、醫務人員、護理人員和被強制勞動者及妻子而與武裝團體有牽連的婦女和女孩會面臨特殊挑戰。鑒於武裝團體傳統上是男性結構，解除武裝、復員和重返社會方案常常不會應對婦女和女孩的具體需求，也不會徵求她們的意見，並且還排斥她們。將女性前戰</p>	<p>At the end of conflict, women face particular challenges as female ex-combatants and women and girls associated with armed groups as messengers, cooks, medics, caregivers and forced labourers and wives. Disarmament, demobilization and reintegration programmes, given the traditionally male structure of armed groups, often do not respond to the distinct needs of women and girls, fail to consult them and also exclude them. It is not uncommon for female ex-combatants to be excluded from disarmament, demobilization and reintegration lists. Disarmament, demobilization and reintegration programmes also fail to recognize the status of girls associated with armed groups by characterising them as dependants rather than abductees, or by excluding those who did not have visible combatant roles. Many female combatants suffer sexual and gender-based violence, resulting in children born of rape, high levels of sexually transmitted diseases, rejection or stigmatization by families and other trauma. Disarmament,</p>	<p>衝突後解除武裝、復員和重返社會方案排除女性前戰鬥人員及有牽連女性，亦不應對其具體需求，尤其是性暴力受害者之心理創傷。</p>

<p>鬥人員排除在解除武裝、復員和重返社會名單之外並不罕見。這類方案還不認可與武裝團體有牽連的女孩的地位，把她們認定為受扶養人而不是被綁架者或把不擔任明顯戰鬥角色的女孩排除在外。許多女性戰鬥人員遭受了性別暴力特別是性暴力的侵害，造成的結果有：因被強姦而成為母親、性傳播疾病感染率高、被家庭排斥或被羞辱及其他創傷。解除武裝、復員和重返社會方案常常不顧此類經歷和她們經歷的心理創傷。因此，她們無法成功地重新融入家庭和社區生活。</p>	<p>demobilization and reintegration programmes often fail to address their experiences as well as the psychological trauma they have undergone. As a result they are unable to successfully reintegrate into family and community life.</p>	
<p>即使婦女和女</p>	<p>Even when women and girls are included in</p>	<p>即使納入女性，仍帶</p>

<p>孩被納入解除武裝、復員和重返社會進程，對她們的支援也不夠及帶有性別陳規定型觀念，並且由於提供的技術發展僅限於傳統女性領域而限制了其經濟賦權。解除武裝、復員和重返社會方案還未能處理婦女和女孩在衝突和衝突後局勢中經歷的心理創傷。因此，這會導致更多的侵權行為發生，原因是婦女的社會恥辱、孤立和經濟失能迫使一些婦女繼續遭受剝削(如受到其捕獲者的剝削)，或者如果她們迫不得已從事非法活動為其自身及其受養人提供生計，則會迫使她們受到新的剝削。</p>	<p>disarmament, demobilization and reintegration processes, the support is inadequate, gender stereotyped and limits their economic empowerment by providing skills development only in traditionally female fields. Disarmament, demobilization and reintegration programmes also fail to deal with the psychosocial trauma that women and girls experience in conflict and post-conflict situations. That in turn can cause further rights violations, given that women's social stigma, isolation and economic disempowerment can force some women to remain in exploitative situations (such as with their captors) or force them into new ones if they have to turn to illicit activities to provide for themselves and their dependants.</p>	<p>有性別刻板印象，培訓限於傳統女性領域而影響其經濟發展能力。</p>
--	--	--------------------------------------

<p>委員會建議締約國：</p> <p>(a) 與安全部門改革協調並在其框架內制定和實施解除武裝、復員和重返社會方案；</p> <p>(b) 開展對性別問題有敏感認識並促進性別平等的安全部門改革，以建立具有代表性的安全部門機構，處理不同婦女經歷的安全問題和優先事項，與婦女及婦女組織保持聯繫；</p> <p>(c) 確保安全部門改革受到包容性監督和帶懲罰的問責機制的約束，包括對前戰鬥人員進行審查；設立調查基於性別的違法行為的專門協定和單位；以及加強在監督安全部門方面的性別平等問題專門知</p>	<p>The Committee recommends that States parties:</p> <p>(a) Develop and implement disarmament, demobilization and reintegration programmes in coordination and within the framework of the security sector reform;</p> <p>(b) Undertake gender-sensitive and gender-responsive security sector reform that results in representative security sector institutions that address women’s different security experiences and priorities; liaise with women and women’s organizations;</p> <p>(c) Ensure that security sector reform is subject to inclusive oversight and accountability mechanisms with sanctions, which includes the vetting of ex-combatants; establish specialized protocols and units to investigate gender-based violations; and strengthen gender expertise and the role of women in oversight of the security sector,</p> <p>(d) Ensure women’s equal participation in all stages of disarmament, demobilization and reintegration, from negotiation of peace agreements and establishment of national institutions to the design and implementation of programmes;</p> <p>(e) Ensure that disarmament, demobilization and reintegration programmes specifically target female combatants and women and girls associated with armed groups as beneficiaries and that barriers to their equitable participation are CEDAW/C/GC/30 19/24 addressed; and ensure that psychosocial and other support services are provided to them;</p> <p>(f) Ensure that disarmament, demobilization and</p>	<p>委員會提出 6 項建議：</p> <p>(a) 與安全部門改革協調</p> <p>(b) 安全部門改革要劇性別敏感度並回應不同性別需求</p> <p>(c) 安全部門改革受到監督及問責機制的約束</p> <p>(d) 確保女性平等參與</p> <p>(e) 專門針對女性戰鬥人員和與武裝團體牽連女性之方案</p> <p>(f) 專門滿足女性不同年齡和性別特殊需求</p>
--	---	--

<p>識和婦女作用；</p> <p>(d) 確保婦女平等參與解除武裝、復員和重返社會的所有階段，從談判和平協定和建立國家機構到設計和實施方案；</p> <p>(e) 確保解除武裝、復員和重返社會方案專門針對女性戰鬥人員和與武裝團體有牽連的婦女和女孩，將其作為受益者並消除阻礙她們公平參與的障礙；以及確保向她們提供社會心理援助和其他支助服務；</p> <p>(f) 確保解除武裝、復員和重返社會進程專門滿足婦女的特別需求，以提供針對不同年齡和不同性別的解除武裝、復員和重返社會支助，包括解決年輕母親及其子</p>	<p>reintegration processes specifically address women's distinct needs in order to provide age and genderspecific disarmament, demobilization and reintegration support, including by addressing the specific concerns of young mothers and their children without targeting them excessively and exposing them to further stigma.</p>	
---	--	--

<p>女具體關切的問題，但又不專門針對他們和不使他們進一步遭受羞辱。</p>		
<p><b>憲法和選舉改革(第一條至第五條(a)款、第七條和第十五條)</b></p>	<p><b>Constitutional and electoral reform (arts. 1-5 (a), 7 and 15)</b></p>	
<p>衝突後選舉改革和憲法建設進程為在過渡時期及之後實現性別平等奠定基礎提供了關鍵機會。這些改革的進程和實質可以為婦女在衝突後時期參與社會、經濟和政治生活創造先例，並提供法律基礎，使婦女權利宣導者能要求在過渡時期中開展對性別問題有敏感認識的其他類型的改革。安全理事會第<a href="#">1325(2000)</a>號決議還強調在衝突後選舉和憲法改革中必須</p>	<p>The post-conflict electoral reform and constitution-building process represents a crucial opportunity to lay the foundations for gender equality in the transition period and beyond. Both the process and substance of these reforms can set a precedent for women’s participation in social, economic and political life in the post-conflict period, in addition to providing a legal base from which women’s rights advocates can demand other types of gender-responsive reform that unfolds in transitional periods. The importance of a gender perspective in post-conflict electoral and constitutional reform is also emphasized in Security Council resolution 1325 (2000).</p>	<p>衝突後選舉改革與立憲過程為實現性別平等奠定基礎</p>

<p>採取性別平等視角。</p>		
<p>在憲法起草進程中，婦女平等且有意義地參與，是將婦女權利納入憲法保障的根本。締約國必須確保，按照《公約》，新憲法規定男女平等和不歧視原則。為使婦女在與男子平等的基礎上享受其人權和基本自由，她們必須獲得一個平等的開端，具體方法是採取暫行特別措施加速實現事實上的平等。</p>	<p>During the constitution-drafting process, the equal and meaningful participation of women is fundamental for the inclusion of constitutional guarantees of women's rights. States parties must ensure that the new constitution enshrines the principle of equality between women and men and of non-discrimination, in line with the Convention. In order for women to enjoy their human rights and fundamental freedoms on an equal basis with men, it is important that they be given an equal start, through the adoption of temporary special measures to accelerate de facto equality</p>	<p>女性平等、有意義地參與憲法起草過程，可透過暫行特別措施來加速實現事實上的平等。</p>
<p>在衝突後背景下展開的選舉改革和憲法起草進程還對確保婦女的參與和促進性別平等構成了一系列獨特挑戰，原因是選舉制度的設計不總是性別中性的。為</p>	<p>Electoral reform and constitution-drafting processes in post-conflict contexts pose a set of unique challenges to ensuring women's participation and promoting gender equality, as the designs of electoral systems are not always gender-neutral. The electoral rules and procedures that determine which interest groups are represented on constitution-building bodies and other electoral bodies in the postconflict era are critical in guaranteeing the role of women in public and political life. Decisions on the choice</p>	<p>選舉制度不總是性別中立的，列舉多種要注意女性保障情況。</p>

<p>確定哪些利益團體可派代表參加衝突後時期的憲法建設機構和其他選舉機構而制定的選舉規則和程式在保障婦女在公共及政治生活中的作用方面至關重要。就選擇何種選舉制度所做的決定對於克服損害婦女參與的傳統性別偏見十分重要。如果不採取若干適當措施，包括建立對性別問題有敏感認識的選舉制度、採取暫行特別措施來促進婦女作為候選人參與、確保適當的選民登記制度和確保女選民和女性政治候選人不遭受國家或私人行為體的暴力行為侵害，要在實現婦女作為候</p>	<p>of electoral systems are important to overcome the traditional gender bias that undermines women's participation. Substantive progress towards the equal participation of women as candidates and voters as well as the holding of free and fair elections will not be possible unless a number of appropriate measures are taken, including a gender-responsive electoral system and the adoption of temporary special measures to enhance women's participation as candidates, ensure a proper voter's registration system and ensure that women voters and female political candidates are not subject to violence either by State or private actors.</p>	
---	---	--

<p>選人和選民平等參與以及舉行自由而公正的選舉方面取得實質性進展是不可能的。</p>		
<p>委員會建議締約國：</p> <p>(a) 確保婦女平等參與憲法起草進程，並為保障公眾參與和為這類進程獻計獻策而採用對性別問題有敏感認識的機制；</p> <p>(b) 確保憲法改革和其他立法改革包含《公約》規定的婦女人權並按照《公約》第一條禁止對婦女的歧視，包括在公共及私人領域的直接和間接歧視，以及載入禁止對婦女的一切形式歧視的條款；</p> <p>(c) 確保新憲法對暫行特別措施做出規定，適</p>	<p>The Committee recommends that States parties:</p> <p>(a) Ensure women’s equal participation in constitution-drafting processes and adopt gender-sensitive mechanisms for public participation and input into constitution-drafting processes;</p> <p>(b) Ensure that constitutional reform and other legislative reforms includes women’s human rights under the Convention and the prohibition of discrimination against women, which encompasses both direct and indirect discrimination in the public and private spheres, in line with article 1 of the Convention, and also includes provisions prohibiting all forms of discrimination against women;</p> <p>(c) Ensure that new constitutions provide for temporary special measures, apply to citizens and non-citizens, and guarantee that women’s human rights are not subject to derogation in states of emergency;</p> <p>(d) Ensure that electoral reforms incorporate the principle of gender equality, and guarantee women’s equal representation through the adoption of temporary special measures such as quotas, including for disadvantaged groups of women; adopt a proportional representation electoral system; regulate political parties; and mandate electoral management bodies to ensure compliance through sanctions;</p>	<p>委員會提出 6 項建議：</p> <p>(a) 確保女性平等參與憲法起草過程</p> <p>(b) 憲法及法律改革包含女性人權及禁止歧視條款</p> <p>(c) 暫行特別措施進入憲法</p> <p>(d) 選舉改革進程納入性別平等原則及各種做法</p> <p>(e) 確保女選民登記/投票率</p> <p>(f) 損害女性參與的一切形式暴力之零容忍政策，包括由國家或團體施行者。</p>

<p>用于公民和非公民，並保障婦女的人權在緊急狀態下不受減損；</p> <p>(d) 確保選舉改革進程納入性別平等原則，並通過採取配額等暫行特別措施，包括針對弱勢婦女群體，保障婦女的平等參與；採取比例代表制選舉制；對政黨進行監管；以及授權選舉管理機構通過制裁手段確保合規；</p> <p>(e) 確保女選民的登記率和投票率，例如適當時允許郵寄投票，並清除一切障礙，包括確保投票站數量足夠和容易到達；</p> <p>(f) 對損害婦女參與的一切形式暴力行為採取零容忍政策，包括國家和非國家團體針對</p>	<p>(e) Ensure the registration and voting of women voters, such as by allowing postal balloting, where appropriate, and removing all barriers, including by ensuring an adequate and accessible number of polling stations;</p> <p>(f) Adopt a zero-tolerance policy towards all forms of violence that undermine women's participation, including targeted violence by State and non - State groups against women campaigning for public office or women exercising their right to vote.</p>	
---	---	--

<p>競選公職的婦女或行使投票權的婦女實施定向暴力行為。</p>		
<p>訴諸法律的機會(第一條至第三條、第五條(a)款和第十五條)</p>	<p><b>Access to justice (arts. 1-3, 5 (a) and 15)</b></p>	
<p>當衝突即將結束時，社會就會面臨“處理以往的問題”這一複雜任務；這涉及必須讓侵犯人權者為其行為承擔責任、結束有罪不罰現象、恢復法治、通過伸張正義和相應的賠償來解決倖存者的所有需求問題。在衝突及衝突後局勢中，與獲得訴諸法律的機會相關的挑戰尤為嚴重和急迫，因為正式司法系統可能已蕩然無存或雖在運作但已無任何效率或實效可言。現有的司法系</p>	<p>When conflict comes to an end, society is confronted with the complex task of ‘dealing with the past’ and this involves the need to hold human rights violators accountable for their actions, putting an end to impunity, restoring the rule of law, addressing all the needs of survivors through the provision of justice accompanied by reparations. Challenges related to access to justice are especially aggravated and acute in conflict and post-conflict situations as formal justice systems may no longer exist or function with any level of efficiency or effectiveness. Existing justice systems may often be more likely to violate women’s rights than to protect them and this can deter victims from seeking justice. All barriers faced by women in accessing justice before the national courts prior to the conflict, such as legal, procedural, institutional, social and practical, and entrenched gender discrimination are exacerbated during conflict, persist during the post-conflict period and operate alongside the breakdown of the police and judicial structures to deny or hinder their access to justice.</p>	<p>轉型正義過程中女性訴諸法律面臨多種障礙</p>

<p>統往往更可能會侵犯婦女的權利而不是保護她們，這可能會阻止受害者尋求正義。婦女在衝突之前在爭取獲得向國家法院訴諸法律的機會時所面臨的所有障礙，例如法律、程式、體制、社會和實際障礙，及根深蒂固的性別歧視在衝突期間會更趨惡化，並在衝突後時期長期存在，再加上員警和司法結構的崩潰，從而剝奪或妨礙了婦女獲得訴諸法律的機會。</p>		
<p>在結束衝突後，過渡司法機制建立起來了，以解決在侵犯人權方面的遺留問題、應對衝突的根源原因、促進從衝突向民主治理過渡、使</p>	<p>In the aftermath of conflict, transitional justice mechanisms are established with the aim of addressing the legacy of human rights abuses, dealing with the root causes of the conflict, facilitating the transition from conflict to democratic governance, institutionalizing the State machinery designed to protect and advance fundamental human rights and freedoms, delivering justice and ensuring accountability for</p>	<p>以司法系統或臨時機制處理違反人權行為等戰時遺留問題</p>

<p>旨在保護和推進基本人權和自由的國家機制制度化、伸張正義並確保對所有違反人權和人道主義法的行為進行追責和確保這些行為不會再次發生。為實現以上多重目標，往往會建立臨時司法和/或非司法機制，包括真相調查委員會和混合法院，以取代運作不良的國家司法系統或作為對這類系統的補充。</p>	<p>all violations of human rights and humanitarian law and ensuring their non-repetition. To achieve these multiple objectives, temporary judicial and/or non-judicial mechanisms including truth commissions and hybrid courts are often instituted either to replace dysfunctional national judicial systems or to supplement them.</p>	
<p>發生在衝突期間的最過分和普遍的違法行為往往不被過渡司法機制懲罰，並在衝突後環境中變為“常態”。儘管作出了加強和/或補充國內司法系統的努力，但過渡司法機制卻忽視並繼</p>	<p>The most egregious and pervasive violations which have occurred during conflict, often remain unpunished in transitional justice mechanisms and are ‘normalized’ in the post-conflict environment. Despite efforts to strengthen and/or complement domestic justice systems, transitional justice mechanisms have and continue to fail women by not adequately delivering justice and reparations for all harms suffered, thereby entrenching the impunity enjoyed by perpetrators of women’s human rights violations. Transitional justice mechanisms have not succeeded in fully addressing the gendered impact of conflict and in</p>	<p>過渡時期有罪不罰日後成為”常態”，尤其是女性經、社、文人權常受忽視。</p>

<p>續忽視婦女，未充分伸張正義，也未對遭受的所有傷害做出賠償，從而使侵犯婦女人權者所享有的有罪不罰現象更趨牢固。過渡司法機制未成功地充分解決衝突對男女兩性造成的不同影響和考慮到在衝突期間發生的所有侵犯人權行為的相互依存性和相互關聯性。對大多數婦女而言，衝突後司法的優先事項不應局限於結束侵犯公民權利和政治權利的行為，還應包括結束侵犯包括經濟、社會及文化權利在內的所有權利的行為。</p>	<p>taking into account the interdependence and interrelatedness of all human rights violations which have occurred during conflict. For most women, post-conflict justice priorities should not be limited to ending violations of civil and political rights but should include violations of all rights including economic, social and cultural rights.</p>	
<p>締約國根據《公約》承擔的義務要求它們解決所有侵犯婦女</p>	<p>States parties' obligations under the Convention require them to address all violations of women's rights as well as the underlying structural sex and genderbased discrimination that underpinned such</p>	<p>締約國義務要求政府解決侵犯女性人權行為及其根源—底層結構的性/別歧視，可由</p>

<p>權利的問題及作為這類違法行為根源的在底層結構方面的性歧視和性別歧視。除了向在衝突期間遭受基於性別的違法行為侵害的婦女提供補救外，過渡司法機制還具有確保使婦女的生活發生變革的潛力。鑒於這類機制擔負著為新社會奠定基礎的重要作用，這就給締約國提供了一個獨特的機會，可利用這類機制打下基礎，消除妨礙婦女享受《公約》所規定的各項權利的先前就存在和根深蒂固的性歧視和性別歧視，從而實現實質性性別平等。</p>	<p>violations. Besides providing redress to women for gender-based violations suffered during conflict, transitional justice mechanisms have the potential to secure a transformative change in women's lives. Given their important role in laying the foundation for the new society, these mechanisms represent a unique opportunity for State parties to set the ground towards the achievement of substantive gender equality by addressing pre-existing and entrenched sex and gender-based discrimination which have impeded women's enjoyment of their rights under the Convention.</p>	<p>過渡司法機制改變，為新社會奠定基礎。</p>
<p>雖然國際法庭在認定和起訴基於性別的犯</p>	<p>Although international tribunals have contributed to recognizing and prosecuting gender-based crimes, a number of challenges remain to ensure</p>	<p>國際法庭及司法、和解進程中對女性參與人有程序性、制度性</p>

<p>罪方面做出了貢獻，但在確保婦女獲得訴諸法律的機會方面仍存在一些挑戰，許多程式、體制和社會障礙繼續阻礙她們參與國際司法進程。消極默認以往暴力行為的做法加強了沉默和羞辱文化。和解進程，例如真相與和解委員會，通常向女性倖存者提供一個在安全環境中處理其以往經歷的機會，並形成正式歷史記錄，但絕不應用這種方式來取代調查和起訴對婦女和女孩犯下侵犯人權罪的犯罪者。</p>	<p>women's access to justice and many procedural, institutional and social barriers continue to prevent them from participating in international justice processes. Passive acquiescence of past violence reinforces the culture of silence and stigmatization. Reconciliation processes, such as truth and reconciliation commissions often provide women survivors with an opportunity to deal with their past in a safe setting and constitute official historical records, however, they should never be used as a substitute for investigations into and prosecutions of perpetrators for human rights violations committed against women and girls.</p>	<p>及社會(文化)的阻礙。</p>
<p>委員會重申締約國的義務還要求它們確保婦女的補救權，包括為其根據《公約》規定的</p>	<p>The Committee reiterates that State parties obligations also require them to ensure women's right to a remedy, which encompasses the right to adequate and effective reparations for violations of their rights under the Convention. An assessment of the gender dimension of the harm</p>	<p>締約國義務要求補救女性權力受到侵犯，除足夠、有效賠償，還要改變結構性不平等以為預防。</p>

<p>權利受到侵犯而獲得足夠和有效賠償的權利。必須對所受傷害的性別層面進行分析，以確保就衝突期間所遭受的違法行為向婦女提供足夠、有效和迅速賠償，不管這種賠償是由國家或國際法院還是由行政賠償方案命令提供的。賠償措施不是要重建侵犯婦女權利之前存在的狀況，而是要力求改變導致發生侵犯婦女權利行為的結構性不平等、對婦女的具體需求作出回應並預防再發生這類侵權行為。</p>	<p>suffered is essential to ensure that women are provided with adequate, effective and prompt reparations for violations suffered during conflict, notwithstanding whether remedies are ordered by national or international courts or by administrative reparation programmes. Rather than re - establishing the situation that existed before the violations of women's rights, reparation measures should seek to transform the structural inequalities which led to the violations of women's rights, respond to women's specific needs and prevent their re-occurrence.</p>	
<p>在許多剛剛擺脫衝突的國家裡，現有非正式司法機制是婦女可加以利用的唯一代表正</p>	<p>In many countries emerging from conflict, existing informal justice mechanisms represent the only form of justice available for women and these can be a valuable tool in the aftermath of conflict. However, given that the processes and decisions of these mechanisms may discriminate</p>	<p>非正式司法機制可能歧視女性，須監督質疑。</p>

<p>義的形式，在衝突結束後，這類機制可以成為有價值的工具。但是，鑒於這類機制的程式和決定可能歧視婦女，因此必須仔細考慮其在促進向婦女提供訴諸法律的機會方面的作用，例如界定這類機制將處理的違法行為的類型和在正式司法系統裡對其決定進行質疑的可能性。</p>	<p>against women, it is critical to carefully consider their role in facilitating access to justice for women, such as defining the type of violations that they will be addressing and the possibility to challenge their decisions in the formal justice system.</p>	
<p>委員會建議締約國：</p> <p>(a) 確保對過渡時期司法機制採用包含司法和非司法機制的綜合方法，包括對性別問題有敏感認識並促進婦女權利的真相委員會和賠償做法；</p> <p>(b) 確保過渡時期司法機制在實質性方面保</p>	<p>The Committee recommends that States parties:</p> <p>(a) Ensure a comprehensive approach to transitional justice mechanisms that incorporates both judicial and non-judicial mechanisms, including truth commissions and reparations, which are gender sensitive and promote women's rights;</p> <p>(b) Ensure that substantive aspects of transitional justice mechanisms guarantee women's access to justice, by mandating bodies to address all gender-based violations and by rejecting amnesties for gender-based violations and by ensuring compliance with the recommendations and/or decisions issued by transitional justice mechanisms;</p>	<p>委員會提出 12 項建議：</p> <p>(a) 過渡時期司法機制要具性別敏感度、促進女性權益</p> <p>(b) 保證女性訴諸法律的機會，拒絕赦免基於性別的違法行為</p> <p>(c) 確保和解進程的支持不會導致侵犯人權，特別是性暴力行為</p> <p>(d) 重建法治及法律</p>

<p>證婦女訴諸法律的機會，具體方法是授權各機構處理一切基於性別的違法行為，拒絕赦免基於性別的違法行為，以及確保遵守過渡時期司法機制發佈的建議和/或決定；</p> <p>(c) 確保對和解進程的支援不會導致全盤赦免任何侵犯人權行為，尤其是對婦女和女孩的性暴力行為，並確保這類進程加強作出努力，打擊對這類犯罪的有罪不罰現象；</p> <p>(d) 確保在重建法治和進行法律改革時禁止對婦女的一切形式歧視，酌情設立刑事、民事和紀律制裁制度，並列入旨在保護婦女免遭任何歧視行為</p>	<p>(c) Ensure that support for reconciliation processes do not result in blanket amnesties for any human rights violations, especially sexual violence against women and girls and ensure that such processes reinforce its efforts to combat impunity for such crimes;</p> <p>(d) Ensure that all forms of discrimination against women are prohibited when re-establishing the rule of law, during legal reform and establish criminal, civil and disciplinary sanctions where appropriate; and include specific measures aimed at protecting women against any act of discrimination;</p> <p>(e) Ensure that women are involved in the design, operation and monitoring of transitional justice mechanisms at all levels so as to guarantee that their experience of the conflict is included, their particular needs and priorities are met and all violations suffered are addressed; and ensure their participation in the design of all reparations programmes.</p> <p>(f) Adopt the appropriate mechanisms to facilitate and encourage women's full collaboration and involvement in transitional justice mechanisms including by ensuring that their identity is protected during public hearings and their testimonies are taken by female professionals;</p> <p>(g) Provide effective and timely remedies that respond to the different types of violations experienced by women and ensure the provision of adequate and comprehensive reparations; address all gender-based violations, including sexual and reproductive rights violations, domestic and sexual enslavement, forced</p>	<p>改革時禁止對女性歧視，並列入具體措施</p> <p>(e) 女性參與過渡司法機制，包括賠償方案</p> <p>(f) 建立機制促進和鼓勵女性參與過渡司法機制</p> <p>(g) 提供有效、及時補救</p> <p>(h) 避免再次傷害和羞辱，確保男、女證詞同等權重</p> <p>(i) 打擊有罪不罰現象</p> <p>(j) 具體增強刑事問責制方法</p> <p>(k) 具體增強女性訴諸法律機會方法</p> <p>(l) 鼓勵非正式司法機制改革，以符合人權和性別平等標準</p>
---	---	--

<p>之害的具體措施；</p> <p>(e) 確保使婦女參與各級過渡司法機制的設計、運作和監測工作，從而保證借鑒她們的衝突經歷，滿足她們的特殊需求和優先事項，處理她們所遭受的所有違法事件，並確保使她們參與設計所有賠償方案；</p> <p>(f) 通過適當的機制促進和鼓勵婦女同過渡時期司法機制充分協作並參與其工作，包括確保在舉行公開聽證會期間保護她們的身份和確保由女性專業人員記錄她們的證詞；</p> <p>(g) 針對婦女所經歷的不同類型的違法行為提供有效和及時的補救，並確保提供足夠和</p>	<p>marriage and forced displacement, in addition to sexual violence, as well as violations of economic, social and cultural rights;</p> <p>(h) Adopt gender-sensitive procedures in order to avoid revictimization and stigmatization; establish special protection units and gender desks in police stations; undertake investigations confidentially and sensitively; and ensure that during investigations and trials equal weight is given to the testimony of women and girls in comparison to those of men;</p> <p>(i) Combat impunity for violations of women's rights and that all human rights violations are properly investigated, prosecuted and punished by bringing perpetrators to justice;</p> <p>(j) Enhance criminal accountability including by ensuring the independence, impartiality and integrity of the judicial system; strengthening the capacity of security, medical and judicial personnel to collect and preserve forensic evidence related to sexual violence in conflict and post-conflict contexts; and enhancing collaboration with other justice systems including the International Criminal Court;</p> <p>(k) Enhance women's access to justice including through the provision of legal aid; establishment of specialized courts, such as domestic violence and family courts, providing mobile courts for camps and settlement settings as well as for remote areas; and ensure adequate protection measures for victims and witnesses, including non-disclosure of identity and the provision of shelters;</p> <p>(l) Engage directly with informal justice</p>	
--	---	--

<p>全面賠償；處理所有基於性別的違法事件，包括侵犯性權利和生殖權利事件、家庭奴役和性奴役、強迫婚姻和強迫流離失所，以及性暴力和侵犯經濟、社會及文化權利的事件；</p> <p>(h) 通過對性別問題有敏感認識的程式，以避免發生再次傷害和羞辱；在所有警察局建立專門保護單位和性別平等問題科室；以保密和具有敏感認識的方式開展調查；以及確保在調查和審判期間給予婦女和女孩的證詞與男子的證詞以同等權重；</p> <p>(i) 打擊對侵犯婦女權利行為的有罪不罰現象，並確保適當調查、起訴和懲</p>	<p>mechanisms and encourage appropriate reforms, where necessary, in order to bring these processes in line with human rights and gender equality standards, and to ensure that women are not discriminated against.</p>	
--	--	--

治一切侵犯人權的行為，將犯罪者繩之以法；

(j) 增強刑事問責制，具體方法是：確保司法系統的獨立、公正和廉潔；加強安全、醫療及司法人員在收集和保存與衝突及衝突後情況下的性暴力相關的法證證據的能力；以及增強與包括國際刑事法院在內的其他司法系統的協作；

(k) 增強婦女獲得訴諸法律的機會，具體方法是：提供法律援助；設立專門法院，例如家庭暴力和家庭法院，就難民營和安置點情況及偏遠地區提供流動法院；以及確保對受害者和證人採取足夠保護措施，包括不披露身份和

<p>提供住處；</p> <p>(1) 直接接觸非正式司法機制並在必要時鼓勵進行適當改革，以使這類進程符合人權和性別平等標準，並確保婦女不受歧視。</p>		
<p><b>V. 結論</b></p>	<p><b>V. Conclusion</b></p>	
<p>除了上文所提建議之外，委員會還向締約國提出如下建議。</p>	<p>In addition to those made above, the Committee makes the recommendations to States parties set out below.</p>	<p>其他建議</p>
<p><b>監測和報告</b></p>	<p><b>Monitoring and reporting</b></p>	
<p>締約國應報告它們為確保在預防衝突、衝突期間及衝突後局勢中的婦女的人權而實施的法律框架、政策和方案。締約國應收集、分析和提供按性別分列的關於婦女、和平與安全問題的統計資料和長期趨勢。締約國的報告應述及其國內和在其領土外但在其管轄</p>	<p>States parties should report on the legal framework, policies and programmes that they have implemented to ensure the human rights of women in conflict prevention, conflict and post-conflict. States parties should collect, analyse and make available sex-disaggregated statistics, in addition to trends over time, concerning women, peace and security. States parties' reports should address actions inside and outside their territory in areas under their jurisdiction, in addition to their actions taken individually and as members of international organizations as they concern women and conflict prevention, conflict and post-conflict situations.</p>	<p>締約國應報告相關法律、政策和方案，性別統計及分析，包括域外活動。</p>

<p>地區內的行動， 以及其單獨和 作為國際或政 府間組織和聯 盟成員就婦女 問題和預防衝 突、衝突期間及 衝突後局勢所 採取的行動。</p>		
<p>締約國將就安 全理事會關於 婦女、和平與安 全的議程的執 行情況，特別是 第 <a href="#">1325(2000)</a> 號、第 <a href="#">1820(2008)</a> 號、 第 <a href="#">1888(2009)</a> 號、第 <a href="#">1889(2009)</a> 號、 第 <a href="#">1960(2010)</a> 號、第 <a href="#">2106(2013)</a> 號和 第 <a href="#">2122(2013)</a> 號 決議的執行情 況提供資料，包 括就所有商定的 聯合國基準 或作為該議程 組成部分而擬 訂的指標的遵 守情況提出具 體報告。</p>	<p>States parties are to provide information on the implementation of the Security Council agenda on women, peace and security, in particular resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010) and 2106 (2013), including by specifically reporting on compliance with any agreed United Nations benchmarks or indicators developed as part of that agenda.</p>	<p>締約國報告應包括安 全理事會相關決議執 行情形。</p>
<p>委員會還歡迎</p>	<p>The Committee also welcomes submissions from</p>	<p>歡迎管理外國領土聯</p>

<p>參與管理外國領土的聯合國相關特派團就所管理領土內與預防衝突、衝突期間及衝突後情況相關的婦女權利狀況提交報告。</p>	<p>relevant United Nations missions involved in the administration of foreign territories on the situation of women's rights in territories under administration insofar as they pertain to conflict prevention, conflict and post-conflict.</p>	<p>合國相關特派團提交報告</p>
<p>按照《公約》第二十二條的規定，委員會請各專門機構就在預防衝突、衝突期間及衝突後情況下執行《公約》的情況提交報告。</p>	<p>Pursuant to article 22 of the Convention, the Committee invites specialized agencies to submit reports on the implementation of the Convention in conflict prevention, conflict and post-conflict settings.</p>	<p>邀請各專門機構就《公約》執行情況提交報告</p>
<p><b>批准或加入條約情況</b></p>	<p><b>Treaty ratification or accession</b></p>	
<p>鼓勵締約國批准與在預防衝突、衝突期間及衝突後保護婦女權利相關的所有國際文書，包括： (a) 《消除對婦女一切形式歧視公約任擇議定書》(1999年)； (b) 《關於兒童捲入武裝衝突的兒童權利公</p>	<p>States parties are encouraged to ratify all international instruments relevant to the protection of women's rights in conflict prevention, conflict and post-conflict, including: (a) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999); (b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000); (c) Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (1977); Protocol additional to the Geneva Conventions of</p>	<p>鼓勵締約國批准或加入其他相關條約</p>

<p>約任擇議定書》(2000年)；</p> <p>(c) 《1949年8月12日日內瓦四公約關於保護國際性武裝衝突受害者的附加議定書》(1977年)；《1949年8月12日日內瓦四公約關於保護非國際性武裝衝突受害者的附加議定書》(1977年)；</p> <p>(d) 《關於難民地位的公約》(1951年)及其《議定書》(1967年)；</p> <p>(e) 《關於無國籍人地位的公約》(1954年)和《減少無國籍狀態公約》(1961年)；</p> <p>(f) 《聯合國打擊跨國有組織犯罪公約關於預防、禁止和懲治販運人口特別是婦女和兒童行為的補充議定書》(2000</p>	<p>12 August 1949, and relating to the protection of victims of non-international armed conflicts (1977);</p> <p>(d) Convention relating to the Status of Refugees (1951) and its Protocol (1967);</p> <p>(e) Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961);</p> <p>(f) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000);</p> <p>(g) Rome Statute of the International Criminal Court (1998);</p> <p>(h) The Arms Trade Treaty (2013).</p>	
---	--	--

<p>年)； (g) 《國際刑事 法院羅馬規約》 (1998 年)； (h) 《武器貿易 條約》(2013 年)。</p>		
---	--	--